

# Mapping the New Commons

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## **I. Introduction**

This paper is a guide to the rapidly growing area of research and activity I call “new commons.” Simply put, new commons (NC) are various types of shared resources that have recently evolved or have been recognized as commons. They are commons without pre-existing rules or clear institutional arrangements. The paper introduces a map that outlines the NC resource sectors and identifies some of the salient questions that this new area of research raises. In addition, it examines the relationship between new commons and traditional common-pool resources and common property regimes.

This overview includes a survey of the physical resources, the user communities, the literature, and some of the major collective action activities. Tacking new commons over several years has demonstrated that this vast arena is inhabited by heterogeneous groups from divergent disciplines, political interests, and geographical regions that are increasingly finding the term “commons” crucial in addressing issues of social dilemmas, degradation, and sustainability of a wide variety of shared resources. The resource sectors include scientific knowledge, voluntary associations, climate change, community gardens, wikipeidias, cultural treasures, plant seeds, and the electromagnetic spectrum. All of these new resource sectors and communities require rigorous study and analysis in order to better grasp the institutional nature of these beasts. This map is designed to serve as an introductory reference guide for future scholarly work.

### **A. Background**

For the past eighteen years I have had the unique privilege of professionally surveying the international, interdisciplinary literature on the commons. To gather this information, I subscribe to publication alert services. I also search bibliographic databases such as Web of Knowledge, Lexis-Nexis, Worldcat, and Academic Search. This is not completely satisfactory, in the sense that the majority of hits are in English and are from Northern/Western publications. Several times a year, therefore, I do special online searches specifically on African, Asian, Latin American, and foreign language publications (mainly Spanish, French, Italian, and German).

In the early 1990s—when the International Association for the Study of Common Property (IASCP, now IASC= the International Association for the Study of the

Commons) was still in its infancy and I was just beginning my work on building a commons library—I began noticing that every once in a while I could come across a work on the commons that was outside the traditional commons sectors. Most all of the research within IASCP was centered on the sectors agriculture, fisheries, forests, grazing lands, wildlife, land tenure and use, water and irrigation systems, and village organization. Some of the works that deviated outside these sectors were Oakerson’s (1978) and Waller’s (1986) works on roads; Baden and Fort’s (1980) and Shepsle’s (1983) articles on budgets as commons; Soroos’s prolific publications on the radio spectrum and global commons (1982, 1988, 1997, 2001, 2005); Hiatt’s work on medical commons (1975, 1985); Illich’s essay on silence as commons (1983); and Vincent Ostrom’s (1968) piece on the atmospheric commons in 1968. In 1995, IASCP for the first time expanded its focus to nontraditional commons with its conference theme “Reinventing the Commons.” For the first time, a substantial number of papers deviated outside the natural resource sectors in the exploration of commons issues. Nevertheless, it has become (gradually) apparent that there are other literatures on the commons—separate from the IASCP corpus of works—that deserve our attention.

In 1988, legal scholar Justin Hughes wrote:

Even in a vast wilderness, an individual should not be permitted to claim certain physical goods a property because their extraction from the common will not leave ‘as good and as many’ for the remaining individuals. The ‘New World’ prior to its colonization may have been as close to a Lockean common as human history records, yet it is easy to make a list of things which the society could not allow to be appropriated as private property: the Amazon, St. Lawrence, and Ohio Rivers, the Cumberland Pass, or the St. George’s Bank fisheries.

As with Hughes, many legal scholars urge the “the common good” aspect of common property. In the early to mid-1990s, distinct new commons literatures were developing, particularly in the areas of intellectual property rights and volunteerism. Litman (1990), Boyle (1992), Merges (1996) and others began analyzing the intellectual public domain as a commons. The legal community increasingly invoked the “commons” as an argument against the expansion of intellectual property rights and increasing legal ambiguities in the advent of the online digital environment.<sup>1</sup> At the same time, Brin

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<sup>1</sup> See Hess 2000 and Hess and Ostrom (2003) for further discussions of this topic.

(1995), Henderson (1995), Hess (1995), Kollock and Smith (1996), and Huberman and Lukose (1997) and others began applying the language of the commons to various aspects of the Internet. In addition, Roger Lohmann's (1992) work equating the nonprofit sector with the commons was quite influential and made important inroads in understanding the collaborative nature of philanthropy.

Both outside and within the academy, there is a growing number of people today who think of commons as a movement. Dyer-Witford (2001) presents the premise "that 'the commons' is today emerging as a crucial concept for activists and thinkers involved in myriad mobilizations around the planet." Much of this reflects the work of neighborhood communities and environmental associations. The commons "movement" is particularly visible on the web. This literature documents a new way of looking at what is shared or *should be* shared in the world around us. It focuses on collective action and the importance of understanding who shares what, how we share it, and how we sustain commons for future generations. The fastest way to tune into commons movements of all kinds is to peruse two websites devoted to new commons and collective action:

Onthecommons.org<sup>2</sup> and Cooperation Commons.<sup>3</sup>

When I first began writing about this phenomenon in 2000, I referred to this literature as "nontraditional CPRs or common-pool resources." I now prefer "new commons" for two reasons. First, it indicates that there is something different about this kind of commons. Second, it challenges us to think about the general term "commons"—a term frequently applied yet rarely defined.

The difficulty in writing about new commons is its seemingly limitless diversity. New commons can be a revolutionary movement in Mexico,<sup>4</sup> the second enclosure movement (Boyle 2003b, Evans 2005), smartmobs (see Footnote 12; Rheingold 2002), increasingly vocal neighborhood associations, online peer production (Benkler 2004), or new types of markets (Barnes 2006). The rise of new commons signals alarmed reactions to increasing commodification, privatization, and corporatization, untamed globalization, and unresponsive governments. The new commons "movement" is charged with

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<sup>2</sup> <http://www.onthecommons.org>

<sup>3</sup> <http://www.cooperationcommons.com/>

<sup>4</sup> See "The Revolution of the New Commons," [http://www.inmotionmagazine.com/global/gest\\_int\\_4.html](http://www.inmotionmagazine.com/global/gest_int_4.html)

electrical currents beckoning citizens of the world to develop new forms of self-governance, collaboration, and collective action. An online naturalist,<sup>5</sup> writing about “American Commons,” urges readers:

Don’t trust anyone who wants to take something that we all share and profit from equally and give it to someone else to profit from exclusively. Our parks, waterways, and aquifers, our North American flora and fauna, our fresh water and fresh air (at least what’s left of it) represent our shared natural heritage.

There are many different ways that new commons evolve or come into being. Some evolve from new technologies that have enabled the capture of previously uncapturable public goods, such as the Internet, genetic data, outer space, deep seas, and the electromagnetic spectrum. Protected areas can be examples of new commons. Berge (2006) describes enacted legislation in Norway that converts private land into a protected area, thus taking away private owners’ freedom to use the land as they choose in order to protect the beauty and health of the landscape for the commons. Berge (2003) pointed out that “an understanding of traditional commons and how the new values to be protected are different from and interact with the old values will be important to achieve sustainability of resource use within the protected areas.”

Other types of new commons are publicly shared resources that have been reconceptualized as commons, such as street trees, sidewalks, playgrounds, urban gardens, hospitals, and tourist areas. New commons also can be natural resources for which there are new uses or new institutions, such as landscapes, protected areas, the control of agricultural pests, or ocean waters used as surfing lanes.

Clearly, many of these commons sectors on the map have varying degrees of legitimacy for academic study. My aim is to document the growing use of the word commons, the many ways it has become employed, and its crucial importance in the lives of thousands, if not millions of people, who know nothing of the economic definition of “common-pool resources” nor the legal meaning of “common property.” I leave it to future scholarship to evaluate the importance and legitimacy of all these new types of commons. I hope this paper makes the case that the trend toward new ways of applying the commons to contemporary sectors, communities, and issues deserves our attention.

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<sup>5</sup> Mike Bergan at <http://10000birds.com/the-american-commons.htm>

## **B. The Purpose of This Paper**

The purpose of this paper is threefold:

- 1) to identify the various new commons<sup>6</sup> sectors and sub-sectors and representative collective-action communities involved in new commons;
- 2) to survey the ways commoners, practitioners, and scholars discover and then conceptualize the commons. I call the discovery patterns “entrypoints” that can be thought of as catalysts that change one’s conception of a resource as a private, government-owned, or open access resource into a *commons*. The entrypoints reveal how the notion that a particular resource or group was a commons might have arisen; and
- 3) to attempt a viable definition of the new commons. It briefly surveys various definitions given by some of the authors of recent literature and attempts to discern connecting threads. This is not an easy assignment, since new commons are usually not analyzed in terms of property rights or economic goods as with much of the traditional commons literature. There is no general usage for the term “commons.” And, indeed, authors of the new commons take carte blanche in their use of the term. Besides the commons, what exactly is “new” in “new commons?” The last part of the paper will discuss some of the challenges of new commons research.

## **C. Overview of the Map (Figure 1)**

The specific sectors and subsectors delineated on the map will be discussed more fully in section III. The main sectors are: cultural commons; neighborhood commons; knowledge commons; social commons; infrastructure commons; market commons; and global commons. By “sector,” I mean the resource type. Most sectors and subsectors have a specific physicality to them. A few are social groups and collective action. The arbitrariness of the sectors is readily apparent. There is frequent overlap from one sector to another. Cultural commons and neighborhood commons are often intricately related and could easily be one large sector. The knowledge commons can relate to all of the sectors in some way. Having separate sectors, however, makes it easier to talk about them.

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<sup>6</sup> Most of the documents selected are journal articles, published books or chapters in books, as well as some well-established websites. All of the references in the paper, as well as many more, are contained in Hess (2007) where there are usually abstracts and, when possible, URLs to the full documents.

## II. Entrypoints into the New Commons

How do people arrive at the commons? What are the triggers that lead to the naming of a resource a commons? What I saw repeatedly in reviewing works on new commons were disparate meanings and uses of “the commons” as a descriptor of a resource, movement, or phenomenon. Yet, they all had a sense of “sharing” and joint ownership. Six common entrypoints are: (A.) the need to *protect* a shared resource from enclosure, privatization, or commodification; (B.) the observation or action of peer-production and mass collaboration primarily in electronic media; (C.) evidence of new types of tragedies of the commons; (D.) the desire to build civic education and commons-like thinking; and (E.) identification of new or evolving types of commons within traditional commons; and (F.) rediscovery of the commons.

### A. Protecting the Commons

From land, water and other natural resources, to media and the broadcast and digital spectrums, to scientific discovery and medical breakthroughs, and to politics itself, a broad range of the American commons is undergoing a powerful shift toward private and corporate control. (Bill Moyers 2004)

Borrowing from the 500+ year enclosure movements of northern Europe, enclosure in new commons is the gradual or sudden decrease of accessibility of a particular resource. The reasons for enclosure are many: privatization, commercialization, new legislation, increased scarcity through overconsumption, which can be brought about from new populations, natural disaster, neglect, etc. Enclosure is particularly visible where new technologies have created the ability to capture recently uncapturable public goods. This has been the case with outer space, deep seas, Antarctica, the human genome, and indigenous arts. Information technologies combined with new legislation expanding copyright and the definition of what is patentable enable the enclosure of previously openly accessible areas of information—just as barbed wire made the open range enclosable.

A strikingly large body of work around types of enclosure is the “Who owns?” literature. These are works that call into question the privatization or commodification of shared resources, such as academic work (McSherry 2002); America (Jacobs 1998);

biodiversity (Gepts 2004); culture (Clerc 2002; Scafidi 2005); public art (Kleiman 2005); ideas (D. Evans 2002); information (Branscomb 1994); life (Magnus 2002); native culture (M. Brown 2003); scientific data (R. Elliott 2005); the airwaves (Snider 2002); the environment (Hill and Miener 1998); the sky (Barnes 2001); the village (Peleikis 2003); and water (Barlow and Clarke 2002). See also the website *Who Owns Native Culture?* <http://www.williams.edu/go/native/index.htm> .

Some of the most influential writers in the new commons have been inspired by their reactions to types of enclosures (Benkler 1999; Bollier 2001, 2002a&b; Boyle 2002, 2003a&b; Lessig 2001, 2004b; Shiva 2000, 2001, 2002; Shiva and Brand 2005; Soroos 1997). Some focus on increasing corporatization (Klein 2001; Rowe 2007). Many write about the enclosing aspects of globalization and predatory corporations—enclosure through copyright expansion, overpatenting and anticommons.

Among the many works on enclosure are those on enclosure of ideas (Boyle, 2003a&b; Lessig 2001; May 2000; Poynder 2003); of the public domain (Benkler 1999; E. Lee 2003; Pessach 2003); of culture (Lessig 2004b); of the tradition of open science (Shiva 2002; Kennedy 2001; Trigg 2004); of the academy (Bowers 2006a&b; Bollier 2002a); enclosure in libraries (Campbell 2005; Kranich 2007); enclosure of the cultural commons (McCann 2002, 2005; Kirtsoglou and Theodossopoulos 2004 ); and enclosure by markets (Bollier 2001; Bollier and Rowe 2006; Rowe 2007).

Understanding new commons in relation to traditional commons can help tease out the NCs institutional design. Berge (2003) pointed out that “an understanding of traditional commons and how the new values to be protected are different from and interact with the old values will be important to achieve sustainability of resource use within the protected areas.”

## **B. Collective Action, Peer-Production, and Mass Collaboration**

... production is ‘commons-based’ when no one uses exclusive rights to organize effort or capture its value, and when cooperation is achieved through social mechanisms other than price signals or managerial directions. Large-scale instances of such cooperation are peer production. (Benkler 2004: 1,110)

Strategies to combat new enclosure may also involve collective action and building collaborative, self-governing networks. The open access movement is a reaction



to enclosure by journal prices as well as a collective action movement to actively build a knowledge commons (See Clarke 2007). It is also created by the capability of a new technology. The recently developed Science Commons—an outgrowth of Creative Commons—informs users that *the goal is to encourage stakeholders to create—through standardized licenses and other means—areas of free access and inquiry; a ‘science commons’ built out of private agreements, not imposed from above.*

This is also the entrypoint for many of the online mass collaboration projects such as Wikipedia, Del.icio.us, FOSS, the Public Library of Science, and digital libraries, such as the Digital Library of the Commons <http://dlc.dlib.indiana.edu> .

In *Smart Mobs*, Rheingold (2002) documents international examples of *mobile and pervasive technologies of cooperation [that] make new kinds of collective action possible*. This type of mass collective action illustrates unprecedented cooperation and scale in a commons. In many of the collective action commons we can detect a persistent type of *commons-like thinking*: a belief in the common good and working toward shared outcomes based on voluntary participation and reciprocity.

### **C. Tragedy of the Commons**

*Since 1968, when Garrett Hardin published his famous article ‘Tragedy of the Commons’ in the journal Science, there has been significant interest in understanding how to manage commons appropriately, particularly in environmental fields. An important distinction between natural resource commons and FOSS commons is that the ‘tragedy’ to be avoided in natural resources is over-harvesting and the potential destruction of the resource. In FOSS commons the ‘tragedy’ to be avoided is project abandonment and a ‘dead’ project. Institutions—defined as informal norms, more formalized rules, and governance structures—are mechanisms that have been shown to help overcome tragedies in some environmental commons situations.* (Schweik and English 2007)

Garrett Hardin’s 1968 article “The Tragedy of the Commons” has had an enormous influence on the study of the commons and still exerts a high amount of influence. His metaphor of peasants sharing an open access field—each acting in their own self-interest, putting as many sheep to graze in the field as possible until the land is completely degraded—has taken on the level of urban folklore.<sup>7</sup> As Ostrom and many

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<sup>7</sup> The obverse of the TOC is Carol Rose’s (1986) “Comedy of the Commons” thesis that some commercial property, such as roads and waterways, have infinite returns of scale—in sharing the resources, they not only can enhance the wealth of the resource users but also increase their

others have pointed out, commons are not open access; people do communicate; people are able to self-govern resources; and people can and often do act for the common good or for the good of the resource. Hardin is a pessimist when it comes to human collaboration. But the metaphor is still useful in pointing out threats to unmanaged commons and open access resources, as well as demonstrating the need for rules and participatory management of shared resources.

The tragedy of the commons (TOC) has been an entrypoint in almost every sector of the new commons. Daniels (2007: 518) gives a good overview of some of the applications of the TOC:

The tragedy of the commons is increasingly used to explain diverse non-environmental problems as well, including the ability of developing countries to raise and collect taxes (Berkowitz and Li 2000); the prevalence of telemarketing (Ayres and Funk 2003); administration of the criminal justice system (Pritchard 1997); the provision of health care (Gochfeld, Burger, and Goldstein 2001); and United States drug policy (Rasmussen and Benson 1994); among others. Certainly the broad application of the theory not only grows out of Hardin's piercing insight but also out of the realization that commons are almost everywhere we look.

Indeed, we find discussions of the TOC in every new commons sector:

- *Cultural commons*: tourism (Neves-Graca 2004; Pintassilgo and Albino Silva 2007; Holden 2005); sports (Nazer 2004)
- *Infrastructure commons* (Coughlin 1994; Kramer 2005; Montanye 2001; Zdarsky, Martinovic, and Schmitt 2006)
- *Knowledge commons* (Bailey and Tierney 2002; J. R. Brown 2000; Carlsson 2001; David 2000, 2001; Eisenberg 1998; Fennell 2004; Greco and Floridi 2004; Ghosh 2007a; Gupta 1997; Hunter 2003; Mireles 2004; Schweik and English 2007; Sim, Lum, and Malone-Lee 2002; Triggle and Miller 2002; Turner 1993; Udell 2004; Wagner 2004; Rankin, Bargum and Kokko 2007)
- *Medical and Health commons* (Baquero and Campost 2003; Foster and Grundmann 2006; Lewis 2004)
- *Neighborhood commons*: urban (Lee and Webster 2006); public space (Blackmar 2006; Headington 2003; Machan 2001; McGovern 2002); law enforcement (Krebs, Sever, and Clear 1999); sidewalks (Kettles 2004); housing (West and Morris 2003)
- *Markets* (Brook 2001)
- *Global Commons* (Clancy 1998; Meyerson 1998; Park 1999; Soroos 2005)

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sociability. Rose posits that there are many such comedies in contemporary life where people share resources. Rose's article has been quite influential (sited by over 250 articles in Lexis-Nexis 6-2008) but it has not spawned a whole literature like the TOC.

A more complete list of applications of the TOC can be found at Hess (2007). See also the Garrett Hardin website at <http://www.garretthardinsociety.org/info/links.html>.

#### **D. Teaching the Commons**

There is a smaller group that comes to the commons by a sense of duty, even urgency, to awaken the American people to the notion of our shared resources. This seems to be a particularly American theme. Korten (2004) writes that “creating a world that works for all is integral to the American Experiment.” Educators such as Bowers (2006a&b) and J.R. Brown (2000) passionately argue for educational reforms that would make the renewal of the cultural and educational commons a central focus of education.

Friedland and Boyte (2000) write, “though these civic dimensions of the commons have eroded in recent decades, they survive here and there as a powerful memory. . . . Sometimes in recent years the commons understood as a civic site has proven a potent force for reform.”

Rowe (2001) urges we wake up and start noticing the commons lest one day soon they be taken away. David Bollier (2002b) in *Silent Theft* urges us to reclaim “a narrative of the commons;” that we need to reevaluate what should be commodified and what should remain a commons.

In *Teaching the Commons*, Theobald (1997) argues that vital, self-governing communities rather than self-interested individuals represent the greatest hope for American democracy. He “lays out an institutional foundation that would turn the cultivation of civic virtue into an educational goal every bit as important and attainable as education for success in the economic market.”

Peter Levine has written extensively on the civic commons (Levine 2002a&b, 2003, 2007a&b; Gastil and Levine 2005). A very interesting and useful text for business managers was put out by the Institute for the Future in 2005 (Saveri et al.). The authors explore emerging fields of knowledge and practice, looking for ways to think about two key business questions: “How can new insights about the dynamics of cooperation help us identify new and lucrative models for organizing production and wealth creation that leverage win–win dynamics; and How can organizations enhance their creativity and

grow potential innovation with cooperation-based strategic models?” The authors draw heavily from the commons and collective action literature of Ostrom and colleagues.

### **E. Identification of New or Evolving Types of Commons within Traditional Commons**

Other types of new commons are new institutions within traditional commons. There have been some researchers who applied commons analysis to new types of commons resources in years past, but they were generally few and far between. Indeed, a number of the points on the new commons map are of studies that apply traditional commons analysis.<sup>8</sup> New commons as new institutional arrangements within traditional commons include: forests (Ghate 2000); grazing (K. Brown 2003; Williamson, Brunckhorst, and Kelly 2003; land tenure and use (Olwig 2003; Schmitz and Willott 2003); wildlife (Popper and Popper 2006). Examples include budgets (Baden and Fort 1980; Shepsle 1983); snowmobiles (Anttila and Stern 2005); policing and highways (Benson 1994; Hutchinson and O’Connor 2005); sports (Bird and Wagner 1997); landscapes (Healy 1995; Hopf 2006); roads (Oakerson 1978, Waller 1986); sidewalk vending (Kettles 2004); surfing (Rider 1998); street trees (Steed and Fisher 2007). Some of these works are by economists applying commons-analysis, game theory or experiments to study social dilemmas to shared resources other than traditional commons (Antilla and Stern 2005; Baden and Fort 1980; Bird and Wagner 1997; Kettles 2004; Rider 1998). These authors are inevitably acquainted with traditional commons theory and literature and demonstrate parallels between the old and the new.

### **F. Rediscovery of the Commons**

This is closely akin to C. Teaching the Commons. Scott Russell Sanders (2006) has adopted the notion of the commons as our “common wealth:” *We need a story that measures wealth not by the amount of property or money in private hands but by the condition of the commons.* This writing is aimed at the general public and can have great appeal. Some of it comes dangerously close to “romancing the commons.” Rowe (2002) writes “A commons has a quality of just being there. Generally the rules for use are traditional and social, as opposed to formal and legalistic.... Another attribute of a

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<sup>8</sup> Drawing on the tragedy of the commons, institutional analysis, game theory, prisoner’s dilemma, property rights analysis, and so forth.

commons is an absence of advertising.... The commons is a prolific source of serendipity...” Lessig often waxes romantic: “Central park is a commons: an extraordinary resource of peacefulness in the center of a city that is anything but; an escape, and refuge, that anyone can take (take, or use) without the permission of anyone else”(1999a). This is an emotional application of the commons and fits well with god, mother, and apple pie.

Certainly the above six entrypoints are not the only ways people become aware of the commons. They are observed trends in the literature thus far surveyed. I’m not aware of any studies that look as this question of entry into the commons, perhaps because traditional commons, for the most part, are pre-existing institutions. The different modes of entry may be one of the areas that distinguishes new commons from traditional.

### III. The Map and Its Sectors

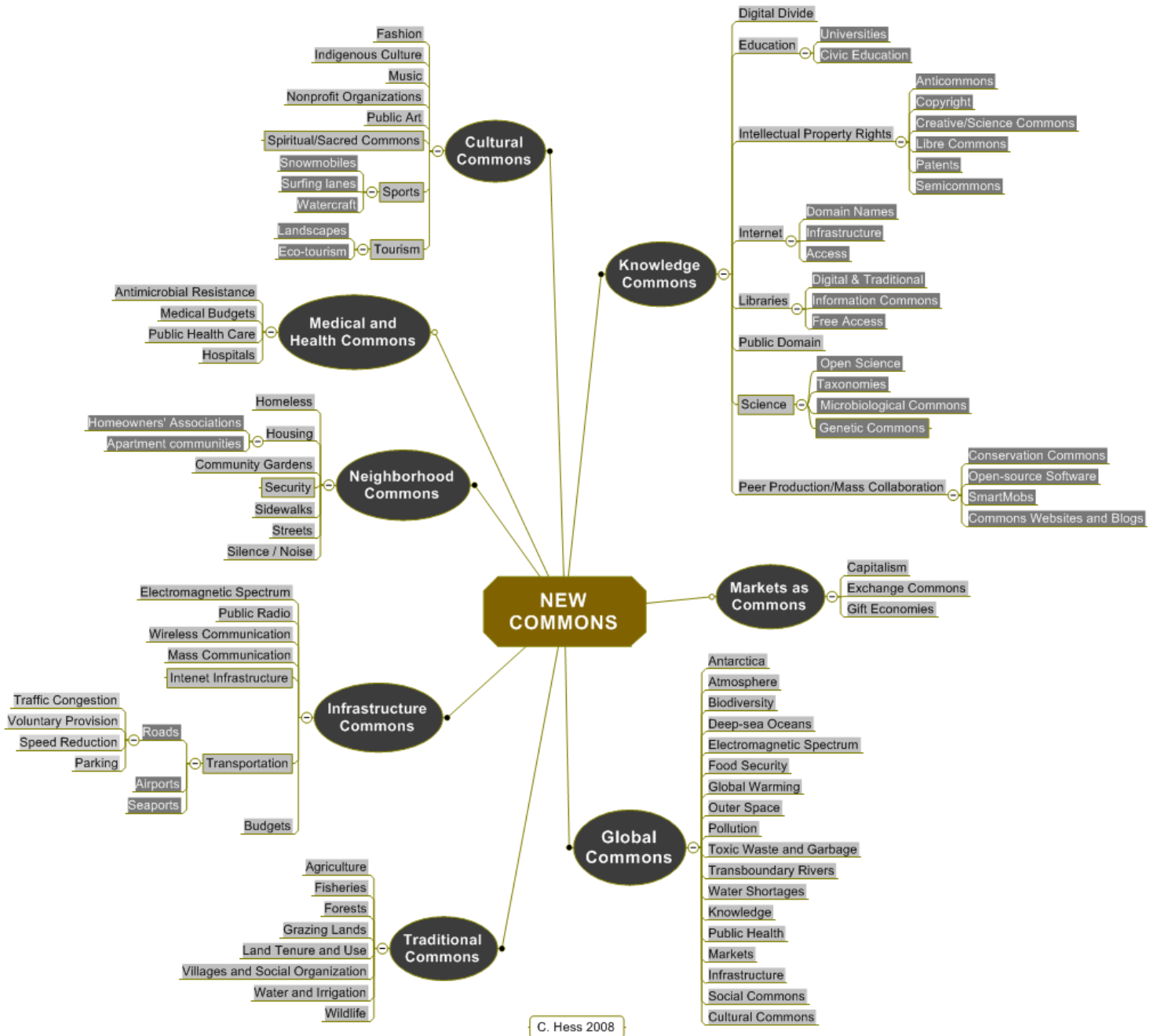


Figure 1: A Map of New Commons

## Comment

The challenge in mapping this new territory is allowing for growth, flexibility, and change—lots of change. A map may help us find our way but it also pigeonholes categories. It creates some relationships while obscuring others. It is certainly not satisfying like a geographical map where every place has its one spot. There are a myriad number of overlaps between the different commons types that are not shown (too visually overwhelming). There are many ambiguities and questionable hierarchies. Still, it has helped me inventory and make sense of these disparate subjects.

### A. Cultural Commons

*People are reclaiming bits of nature and of culture, and saying this is going to be public space.* (Naomi Klein 2001)



**Figure 2: Cultural Commons Sector**

Much of the cultural commons literature addresses the privatization of cultural heritage and commodification of previously unownable cultural objects. Anderson and Simmons (1993) have edited a volume on the role of customs as alternatives to private property rights that can prevent the tragedy of the commons. Clerc (2002) and Scafidi (2005) write about the effects of intellectual property rights on culture. Radin (2001) and Boyle (1996) explore the implications of propertization of the human body; Benedikter (2005) takes on the privatization of Italian cultural heritage; Bollier and Racine (2005) discuss the commons of the fashion industry; McCann (2002, 2005), Prögler (1999), and Drache and Froese (2006) focus “on the key dynamics in the global cultural economy.”

There is an expanding literature on threats to local and indigenous peoples (Caruthers 1998; Ifeka and Abua 2005) often by the tourism industry (Ryan and Aicken 2005; Briassoulis 2002; Kirtsoglou and Theodossopoulos 2004; Peleikis 2003), as well as the tragedy of changing or degraded landscapes (Healy 1995; O'Toole 1998). Some of the literature addresses the ability of cultural groups to form new commons around ecotourism (Holden 2005; Sharma et al. 2002; Vail and Hultkrantz 2000).

Roger Lohmann's (1989, 1992, 1995, 2001) work on nonprofit organizations and voluntary associations is the early seminal work in this area. The nonprofit literature has been noticeably influenced by his work (see Bisesi 2005).

There is much that could fall under the cultural commons sector and there are many overlaps with the neighborhood and knowledge sectors. Other topics include: creativity and art (Hyde 1983, 1998; see also Hyde's video on "the privatizing of the cultural commons." <http://blogs.law.harvard.edu/mediaberkman/2007/02/13/lewis-hyde-on-cultural-commons-2/>); public art (Sax 1999; Paul 2006); churches and spirituality—"sacred commons" (Linn 1999; Hart 2003; Ikerd, 2004; Levine 2003; Hart, Berry and Boff 2006), gender issues (Taylor 2003), and types of sports activities as commons (Bird and Wagner 1997; Rider 1998; Anttila 1999; Burger 2001; Anttila and Stern 2005; Roth 2006).

A study on references and themes on commons in novels or musical works would be very interesting. I know there are quite a few novels about the Enclosure Movements in Europe, but I have not collected those titles. Larry McMurtry's *Buffalo Girls* contains a section about the killing off of the buffalo commons. Well-known essayist and author Fellow IASCer, Susan Buck, sent me a reference to a commons song: Billy Bragg's "The Diggers Song" <http://www.youtube.com/watch?v=stmiyeLsErw&feature=related> about historical commoners in a 1910 protest.

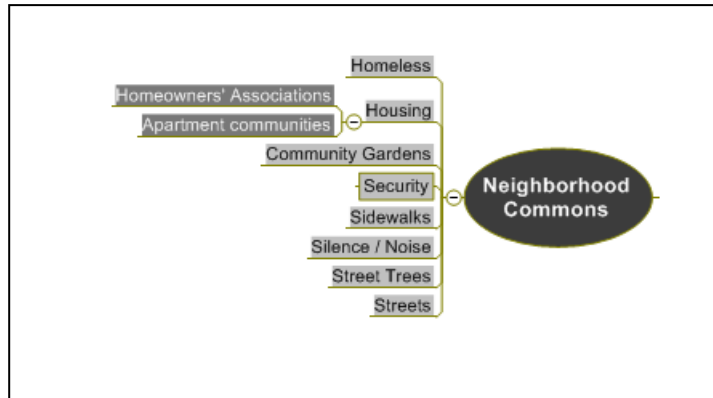
Related concepts in the cultural commons are: *public sphere, the common heritage of humankind, the common good, cornucopia of the commons.*

## **B. Neighborhood Commons**

*Commons can even be thought of as the social bonds shared by a community, and can include the need for trust, cooperation and human relationships. These are the very*



*foundations of what makes ‘a community’ rather than merely a group of individuals living in close proximity to each other. (James Arvanitakis 2006)*



**Figure 3: Neighborhood Commons Sector**

Neighborhood commons<sup>9</sup> incorporate both urban and rural commons where people living in close proximity come together to strengthen, manage, preserve, or protect a local resource. This sector is closely related to cultural commons.

The growing number of works on shared public space is bringing awareness to a goldmine of new commons issues. Foster writes:

*only through a rethinking of the city commons can we begin to take social capital seriously in land use policy and law. Instead of conceptualizing the city as an aggregation of private property rights, we should instead seek to identify and protect common resources and interests in the city commons through limited access rights and collaborative governance strategies that preserve and draw upon existing social networks to manage common city resources. (S. Foster 2006: 526)*

Low and Smith (2006) explore issues around the increasing enclosure of public space particularly in U.S. cities. Anand (2000) studies “commons” behavior with solid waste management in Madras, India. Clapp and Meyer (2000) analyze brownfields as urban commons. Nagle and Nagle (2007) write about “predatory planning” practices that are endangering the urban cultural commons in post-Katrina New Orleans.

Most of us are familiar with the battles between neighborhood groups and city governments over the rights to gardens grown on abandoned land. The gardens become a kind of community action commons when a government begins to sell them as private

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<sup>9</sup> Onthecommons.org refers to this as “hometown commons.”

property—thus creating a new kind of enclosure movement (Rogers 1995; Assadourian 2003; Saldivar-Tanaka and Krasny 2004). Karl Linn was an especially effective voice in building community gardens and neighborhood commons (Linn 1999, 2007).

Housing arrangements can be good examples of types of commons. Yang (1995) and Hawkins, Percy, and Montreal (1997) have written about homeowners' associations as commons; French and Hyatt (1997)—community associations; Choe (1993)—apartment buildings; I. Lee (1998)—residential communities; Kleit (2004)—public housing. A few have looked at playgrounds (Abu-Ghazze 1998; Delehanty 1992); sidewalk and street vending (Kettles 2004; Anjaria 2006); and local streets, parking, and public spaces (Epstein 2002; D. Cooper 2006). Brian Steed and Burney Fischer (2007) at Indiana University are the first to study street trees as commons.

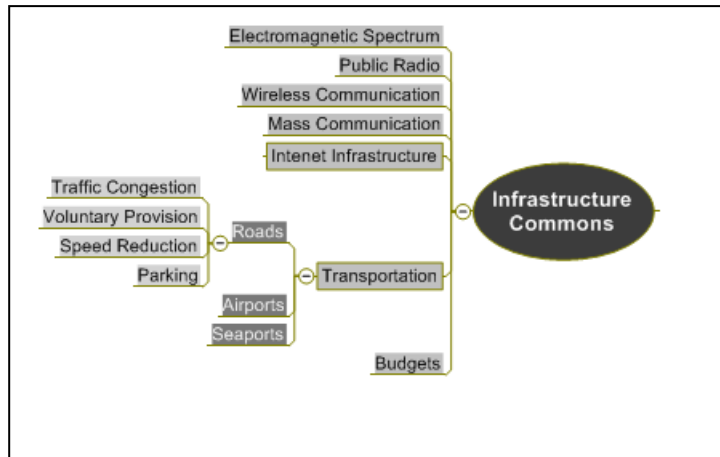
A wide number of other subjects can fall under the heading “neighborhood commons.” The effect on homeless populations by certain types of urban enclosures of the commons have been examined by Headington (2003) and Mitchell and Staeheli (2006). Ilich (1983) has written on silence as a commons and Mace, Bell, and Loomis (1999) on the effects of noise on the commons.<sup>10</sup> Local security issues have been written about as commons in Blackstone et al. (2007), Benson (1994), Wagenaar and Soeparman (2004), and Krebs, Sever, and Clear (1999). Jenny, Feuntes, and Mosler (2007) analyze the incentives for sharing and rule compliance in a Cuban urban commons.

Some interesting websites relating to neighborhood commons are Resource Guide for the Commons. <http://www.yesmagazine.org/article.asp?ID=441> . Related areas to the neighborhood commons are: *barn-raising, community organization, deliberative democracy, public sphere, self-governance, social capital, urban commons.*

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<sup>10</sup> See also: the website <http://www.nonoise.org/commons.htm>.

### C. Infrastructure Commons



**Figure 4: Infrastructure Commons Sector**

This sector is inspired by Frischmann’s work on infrastructure as a commons. Frischmann uses the term “infrastructure commons” to describe physical resource systems made by humans for public consumption. He includes “a list of familiar examples: (1) *transportation systems*, such as highway and road systems, railways, airline systems, and ports; (2) *communication systems*, such as telephone networks and postal services; (3) *governance systems*, such as court systems; and, (4) *basic public services and facilities*, such as schools, sewers, and water systems” (Frischmann 2007; see also Frischmann 2005a&b).

The electromagnetic spectrum is a primary example of a new commons created from the capabilities of new technologies. It is also a part of the global commons and related to the knowledge commons. Along with many other scholars, Benkler (1998) urges the regulation of *wireless transmissions as a public commons, as we today regulate our highway system and our computer networks. The choice we make among these alternatives will determine the path of development of our wireless communications infrastructure. Its social, political, and cultural implications are likely to be profound.* A small sample of the spectrum and wireless communication commons literature includes Benkler (1998, 2002b); Benjamin (2002, 2003); Brennan (1998); Brito (2007); Buck (2002); Daniels (2007); Ikeda (2002); Rheingold (2002); Snider (2002); Soroos (1982); Sur (2003); Thompson (2006); and Wellenius and Neto (2007). Werbach (2004) writes

about “supercommons”—collections of wireless devices can share spectrum effectively without exclusive rights.

Golich, writing in 1991, drew from Soroos (1982) in considering the domains of the communication commons to include satellite orbital slots and the electromagnetic spectrum. “They are unique,” she wrote, “because, unlike minerals and forests, they have no physical mass. It is impossible to deplete these resources permanently or to damage them and render them useless to future users. It is, however, possible to diminish the usefulness of these spaces through overcrowding or interference. . . .” Other works on telecommunications are Aufderheide (2002); and Thümmel and Thümmel (2005). Steemers (2004) writes about the “digital cultural commons” of the BBC and public broadcasting.

Little (2005) examines the issue of public services (telecommunications, electrical power systems, gas and oil, transportation, and water supply systems as an infrastructure commons with an eye toward sustainability in the context of classic commons dilemmas.

Several have written about transportation systems as commons. Oakerson did his seminal dissertation on Kentucky coal-haul roads and the commons problem in 1978. Van Wugt did his on social dilemmas and transportation systems. Gutscher et al. (2000), Rosin (1998), and Alatoree (2004) have delved into the issue of speed reduction and street congestion as commons problems.

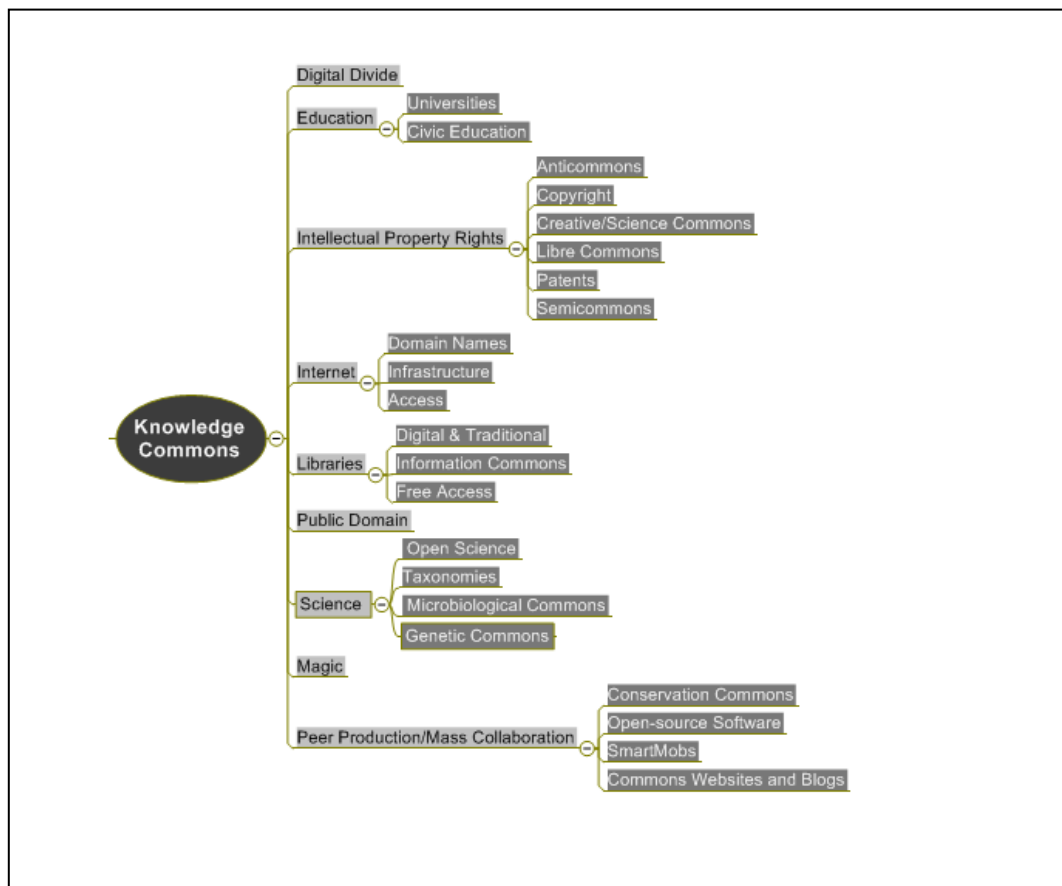
Internet infrastructure as a commons has been a topic of considerable importance (Huberman and Lukose 1997; Bernbom 2000; Hess 1995; Benkler 2003). Cotter and Bauldocks (2000) overlaps with the knowledge commons sector but deserves to be mentioned here. They write: “A vast amount of biodiversity information exists, but no comprehensive infrastructure is in place to provide easy access and effective use of this information. The advent of modern information technologies provides a foundation for a remedy.” Their paper outlines some of the essential requirements and some challenges related to building this infrastructure.

Drawing from the traditional commons theory, Sened and Riker (1996) write about air slots as common property. Studying seaports as commons, Bowden and deJong (2006) investigate privatization of infrastructures; while Selsky and Memon (1997) study conflicts arising in urban seaport development.

Budgets can also be seen as falling under the infrastructure sector. Baden and Fort (1980) looked at the federal budget as a commons. Shepsle (1983) wrote about overspending a budget as a commons problem. Hurley and Card (1996) make a case for global physicians’ budgets as a commons. Brubaker (1997) applies the tragedy of the commons to budgets.

#### D. Knowledge Commons

*Before 1995, few thinkers saw the connection. It was around that time that we began to see a new usage of the concept of the “commons.” There appears to have been a spontaneous explosion of “ah ha” moments when multiple users on the Internet one day sat up, probably in frustration, and said, “Hey! This is a shared resource!” People started to notice behaviors and conditions on the web—congestion, free riding, conflict, overuse, and “pollution”—that had long been identified with other types of commons. They began to notice that this new conduit of distributing information was neither a private nor strictly a public resource. (Hess and Ostrom 2007)*



**Figure 5: Knowledge Commons Sector**

*. . . contrary to the predictions of enclosure, a flourishing commons exists in respect of information that is communicated via the Internet. The commons, however, remains a relatively under-theorized concept in political and legal theory. (Cahir 2004)*

*In the Knowledge Commons literature, where the Internet has freed up information, enclosure is prevalent “expansion of intellectual property rights has been remarkable. (Boyle 2003)*

The knowledge commons is a vast and complex sector. Most aspects concern digital information. In many cases knowledge became a commons when it became digital. It has unique characteristics as a commons. For the most part, it is a renewable resource.

Information has often been cited as a primary example of a pure public good—nonrival and free to all. In our 2003 article, Ostrom and I made the distinction between ideas, knowledge and information artifacts (books, articles, etc.) and information facilities that store the resources (libraries, archives, databases etc.). The distinction is important when analyzing commons, whether looking at economic goods, property rights or social dilemmas. Influential voices in the information/knowledge commons arena are Bollier (2001, 2002a&b, 2004a&b, 2007) looking at gift economies and collaboration; Boyle (particularly 1996, 2002, 2003b) writing about threats from in the “second enclosure movement”; Benkler (1998, 2002a, 2004) describing and advocating commons-based peer production; and Lessig (1999, 2001) illustrating to a general audience how free culture and information are being eroded by legal restrictions on use; Ostrom and Hess (2007) and Hess and Ostrom (2006) have provided an analytical framework for analyzing the knowledge commons.

Early writers on the Internet as a commons were Brin (1995), Felsenstein (1993), Henderson (1995), Hess (1995), Kollock and Smith (1996), and Holman (1997). Rheingold wrote enthusiastically about the virtual community commons in 1993, but didn’t yet name them as such. Others have written about the ability of the Internet to build or facilitate commons activities (Rainie and Kalsnes 2001; Haplin et al. 2006).

Boyle underscores the complexity of new digital commons when he writes:

The question that remains to be answered is whether the social harm we should be most concerned about is underproduction, overproduction, the tragedy of the commons, the commercialization of an electronic public sphere, the corrosive effect of information technology on privacy, or merely straightforward distributional inequity.

The idea of libraries as commons—a storehouse of democracy—has been championed by Nancy Kranich. She chose this theme during her year as president of the American Library Association in 2000 (Kranich 2003, 2007; see also Bailey and Tierney 2002; and Lougee 2007). Waters (2007) argues for preservation of the digital commons; Cox and Swarthout (2007) describe a digital library commons in practice; Krowne (2003) discusses building digital libraries using peer production.

In the past five-ten years, academic libraries in the US have begun calling their dedicated online digital service areas “information commons” (Beagle 1999; Duncan 1998). There is a separate “commons” literature dedicated to these types of shared library-computer spaces, but this literature is outside the focus of this paper.

Knowledge is also a global commons particularly in terms of provision, access, and the dilemmas of intellectual property rights. It is a global commons that needs to be accessible, equitable, and protected (Lukasik. 2000; Chan and Costa 2005; Holman and McGregor 2005; Maskus and Reichman 2005; M. Cooper 2006; Hess and Ostrom 2007b). It also includes the issues of the global digital divide (Yu 2002; Chen and Wellman 2004; Fox 2005). Armstrong and Ford (2005) is an interesting tool aimed at bridging the African digital divide.

There are many action communities that have come together to counteract forms of information enclosure. The establishment of Creative Commons (2002) <http://creativecommons.org/> and more recently Science Commons <http://sciencecommons.org/> has had a profound effect in increasing information in the public domain. Millions of authors through Creative Commons now agree to “some rights reserved” instead of the traditional “all rights reserved” package for copyrighted works.

The open source movement, particularly Free/libre Open Source Software (FOSS) is an important type of new commons (see Lessig 1999, 2006; Schweik 2005, 2007; Yu 2007; van Wendel de Joode 2003; van Wendel de Joode et al. 2003; O’Mahoney 2003; Halbert 2003a; Sawhney 2003; Dorman 2002; Opderbeck 2004; Rao, Wiseman, and Dalkir 2004; May 2006). The two primary foci are peer production and collective action initiatives. Interestingly, the founder of the open source movement, Richard Stallman has renounced Creative Commons for not being open enough. A new movement was recently

been established by the Libre Society called Libre Commons <http://www.libresociety.org> which offers a set of licenses that “reject the legalistic and ‘culture as resource’ position of the Creative Commons and instead hope to develop a concept of the creative multitude through political action and ethical practices” (Berry and Moss 2006).

Commons dilemmas on the Internet is the subject of a number of works: email spam (Melville, Stevens, Plice and Pavlov 2006); congestion (Huberman and Lukose 1997; Bernbom 2000); trust (Rheingold 1993; Kollock and Smith 1996).

Some of the writers on the open access and self-archiving movement who consider the movement and/or free content as commons are Poynder (2003), Cahir (2004), Hunter (2005); Toly2005; Geist (2007), and Suber (2007).

As mentioned earlier, the law literature on intellectual property rights and the knowledge commons is extensive. There is a large corpus of works on the expansion of intellectual property rights and/or copyright (Travis 2000; Litman 2001; Boyle 2002; Gadgil 2002; Cohen 2006; Darch 2001; Halvert 2003; Campbell 2005; Ghosh 2007; Loren 2007; Pasquale 2006; Reese 1995; Vaidhyathan 2001; Van Alstyne 2003; Tavani 2004, 2005; Mitchell 2005). Some are specifically dedicated to the issue of the “copyleft” movement (Ciffolilli 2004; Hill 1999; Nimus 2006). Cohen (2000) and Vaidhyathan (2004) have written influential works on Fair Use after the Digital Millennium Copyright Act of 1998. Some focus on increased enclosures from the European Database Directive (David 2000; Boyle 2004). See Runge and Defrancesco (2006) for a good background on historical enclosures and their relevance for intellectual property rights.

Litman wrote about the intellectual public domain as a commons in 1990:

The historical development of the public domain began as a straightforward problem in statutory construction and proceeded through ad hoc articulation in series of cases decided under successive statutes. Traditional explanations of the public domain have failed to justify the cases on principled grounds. When the public domain is viewed as a commons that rescues us from our choice to grant fuzzy and overlapping property rights in unascertainable material, however, some of the apparent contradictions in lines of cases become more transparent

Interest in the intellectual public domain was re-awakened with the Conference on the Public Domain, Duke 2001. James Boyle’s edited issue of *Law and*



*Contemporary Problems* 11(2003) is a seminal volume on intellectual property rights, the knowledge commons, and the intellectual public domain. Other publications on the intellectual public domain as a commons are Benkler (1999); Boyle (2002, 2003b); Cohen (2006); Dalrymple (2003); Guibault and Hugenholtz (2006); Haas (2001); Halbert (2003b); Lange (2003); Rai and Boyle (2007); Shaw (2006), and Aoki, Boyle, and Jenkins (2006).

The issues around patents constitute another large part of the knowledge commons, and the science commons subsector (Adelman 2005; Mireles 2004; Powledge 2003; Murray and Stern 2005; Shiva and Brand 2005; Horowitz and Moehring 2004; Janger 2003). The science commons includes the tradition of open science, microbiological commons, nanotechnology, genetic resources and the genomic commons; anticommmons; and supercommons. Issues include enclosure, collective action, biopiracy, and overpatenting, sharing taxonomies, grid computing, and collaboratories. There is a startling large literature on anticommmons since Heller's 1998 article.<sup>12</sup> An anticommmons occurs when there are too many owners holding rights of exclusion, so that the resource is prone to underuse which results in a tragedy of the anticommmons (Heller and Eisenberg 1998; Hunter 2003; Janger 2003; Mireles 2004; Sim, Lum, and Malone-Lee 2002; Vanneste et al. 2006).

A different kind of science that has been written about as a commons is the science of magic. Loshing (2007) analyzes the knowledge of magic as a common-pool resource with a highly developed set of rules and norms.

The concept of the "semicommons" has been found useful by a number of scholars after Henry E. Smith's (2000) article arguing that semicommons exist "where property rights are not only a mix of common and private rights, but both are significant and can interact" (Loren 2007).

Another group of works center on the threats and possible enclosure of the open science tradition (Dysen 1999; Eisenberg and Nelson 2002; Kennedy 2001; Merges 1996; Nelson 2003, 2004; David 2004; Shulman 2002; Rai 1999, 2001; Reichman and Uhler

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<sup>11</sup> <http://www.law.duke.edu/journals/journaltoc?journal=lcp&toc=lcptoc66winterspring2003.htm>

<sup>12</sup> A search of *Lexis-Nexis* shows two articles on the anticommmons before 1998 and 828 articles between 1998 and 2008 (6-12-08).

2003; Dalrymple 2003; Vaidhyathan 2001, 2002; Uhler 2003, 2006; Dedeurwaerdere 2005; Kyläheiko 2005; Cook-Deegan 2007). An issue of the *International Social Science Journal* (June 2006) was devoted to the microbiological commons (Cook-Deegan and Dedeurwaerdere; Polsky; Srinivas; Hess and Ostrom; and Dawyndt, Dedeurwaerdere, and Swings). A sixth article in the issue by Daniel, Himmelreich, and Dedeurwaerdere addresses problems of sharing taxonomies and other forms of information on micro-organisms. Donald Kennedy, editor of *Science* magazine devotes a large section to the commons in his edited volume on the state of the planet (Kennedy 2006: 101-125). A noteworthy international collaborative project by an IUCN consortium of supporters of open access to scientific information has been the Conservation Commons <http://www.conservationcommons.org/>. It is committed to encouraging “organizations and individuals alike to ensure open access to data, information, expertise and knowledge related to the conservation of biodiversity.”

The testimonial to the importance of understanding the global gene pool as a commons is the Porto Alegre Treaty to Share the Genetic Commons. In 2002, Biotech activists from more than 50 nations gave their support for a treaty “which would establish the earth’s gene pool as a global commons. Non-governmental organizations’ (NGOs) leaders say they will challenge government and corporate claims on patents on life in every country. The treaty is the first globally coordinated campaign among biotech activists, and already has the support of over 250 organizations.” (See [http://www.ukabc.org/genetic\\_commons\\_treaty.htm](http://www.ukabc.org/genetic_commons_treaty.htm)). Much of the work on genetic (or genomic) commons has to do with enclosures or enclosure threats through corporate patents (Sedjo 1992; Athanasiou and Darnovsky 2002; Aoki 2003; Safrin 2004; Barker 2003; Barnett 2000; Falcon and Fowler 2002; Faye 2004; Helfer 2005; Scharper and Cunningham 2006); the pharmaceutical industry (Rai 2006, 2007); and biosafety (Jepson 2002).

The antithesis of enclosure threats to the knowledge commons is the remarkable growth of mass collaboration and peer production. Yochai Benkler is the leading voice in the study of peer production (Benkler 2004; Benkler and Nissenbaum 2006). He argues that scientific publication is increasingly using commons-based strategies for more global

and equitable distribution to information-poor populations of the world (Benkler 2005: 14). In his influential article “Coase’s Penguin,” he explains:

while free software is highly visible, it is in fact only one example of a much broader social-economic phenomenon. I suggest that we are seeing is the broad and deep emergence of a new, third mode of production in the digitally networked environment. I call this mode ‘commons-based peer-production,’ to distinguish it from the property- and contract-based models of firms and markets. Its central characteristic is that groups of individuals successfully collaborate on large-scale projects following a diverse cluster of motivational drives and social signals, rather than either market prices or managerial commands. (Benkler 2002)

Benkler’s work is placed in the knowledge commons but it also has an important place in the market commons sector. Benkler’s *Wealth of Networks* is a seminal book on mass collaboration and networks. He writes: As collaboration among far-flung individuals becomes more commons, the idea of doing things that require cooperation with others becomes much more attainable, and the range of projects individuals can choose as their own therefore qualitatively increases” (Benkler 2006: 9).

Also making a major contribution to the understanding of peer production is Michel Bauwens. See Bauwens 2005 and his site: P2P Foundation: <http://blog.p2pfoundation.net/?p=470> which is dedicated to “Research, Documenting and Promoting Peer to Peer Practices. And anyone doing research on networks should also look at the work of Barry Wellman (2005 and at <http://www.chass.utoronto.ca/~wellman/vita/index.html>) .

Early studies of online knowledge commons were those done on virtual communities by Rheingold (1993) and Kollock and Smith (1996). The subsectors in depicted in the map are groups where people physically or virtually come together to accomplish some purpose (Uzawa 2005; Purdy 2007; Coombe and Herman 2004). Rheingold’s Smartmobs<sup>13</sup> are types of social commons. Many scientific laboratories and grid computing projects are commons-based.

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<sup>13</sup> “Smart mobs emerge when communication and computing technologies amplify human talents for cooperation. . . . The people who make up smart mobs cooperate in ways never before possible because they carry devices that possess both communication and computing capabilities. Their mobile devices connect them with other information devices in the environment as well as with other people’s telephones. Dirt-cheap microprocessors embedded in everything from box tops to shoes are beginning to permeate furniture, buildings, neighborhoods, products with invisible intercommunicating smartifacts. See <http://www.smartmobs.com/>

Some of the most active *de facto* commons today are online mass collaborators who work together contributing to information resources such as arXiv.org, the Digital Library of the Commons, Wikipedia and wikis, FLICKR; or bookmarking sharing sites, such as del.ici.ous. Tapscott and Williams's bestselling book *Wikinomics* on mass collaboration is inadvertently on the new commons.

An emerging area of study is focusing on "stigmergy" or "stigmergic collaboration" by those interested in the biological connection to commons-like behavior. Most notable is Australian Mark Elliott who made it the subject of his dissertation. He writes:

"Stigmergic collaboration provides a hypothesis as to how the collaborative process could jump from being untenable with numbers above 25 people, towards becoming a new driver in global society with numbers well over 25,000. The term is from French Biologist's Pierre-Paul Grasse's research on termites in the 50's and "has been applied to the self-organisation of ants, artificial life, [swarm intelligence](#) and more recently, [the Internet itself](#)."

See Elliott's blogs Stigmergic Collaboration <http://stigmergiccollaboration.blogspot.com/> and Mass Collaboration <http://masscollaboration.blogspot.com/>

Related terms: *collaboratories; collective intelligence, flashmobs; grid computing; non-market forms of crowdsourcing.*

**Education** is a rapidly growing area of commons development. A number of scholars have written about the commodification and corporatization of higher education in the past few years (Argyres and Liebeskind 1998; Boal 1998; Hess 1998; Bollier 2002; Brown 2000; Hall 2001; Strathern 2004; Williams 2005); others are focused on actively building a global education commons through civic education (Crosby 1999; McMurtry 2001; Hepburn 2004; Huber 2005; Kirp 2004; Arvanitakis 2006; Bowers2006; Levine 2007 ). Hellstrom (2003) addresses the problem of governance in the academic virtual commons.

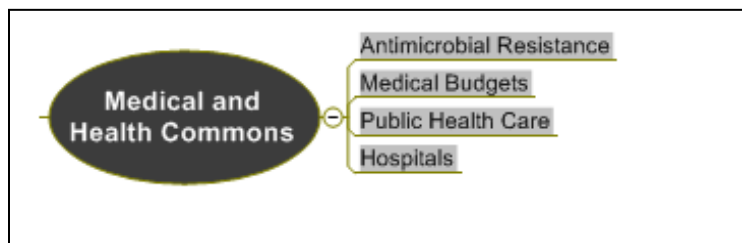
As with libraries and their "information commons, education is now a field abundant with "commons." The Digital Learning Commons (DLC), for instance, "is a nonprofit organization working to improve access to educational opportunities and learning resources by providing high-quality educational materials, online courses, and technology tools to all students and teachers in Washington State."

<http://www.learningcommons.org/>. **ccLearn** was recently established by Creative Commons to enable the full potential of the Internet to support open learning and open educational resources ([OER](#)). Its mission is to minimize barriers to sharing and reuse of educational materials—legal barriers, technical barriers, and social barriers.

<http://learn.creativecommons.org/>. The Open Education Resources (OER) Commons is a “global teaching and learning network of free-to-use resources—from K-12 lesson plans to college courseware—for you to use, tag, rate, and review.” <http://www.oercommons.org/> (see also Atkins, Brown, and Hammond 2007). The Academic Commons is a community of faculty, academic technologists, librarians, administrators, and other academic professionals who help create a comprehensive web resource focused on liberal arts education. <http://www.academiccommons.org/>. The Education Commons is a virtual community of academic systems users, designers and systems implementers sharing knowledge, experiences and best practices. The goal of the community is to create an open and transparent system of communication between diverse groups committed to advancing the state of education worldwide. It's meant to be a virtual commons, where sharing and participation are key. <http://www.educationcommons.org/commons/index.html>

There are thousands of education commons-related initiatives from all parts of the globe that are visible on the web. Further study will be needed to separate the wheat from the chaff.

## E. Medical and Health Commons



**Figure 6: Medical and Health Commons**

The ethics of health care system reform are best viewed as parallel to clinical ethics. The individual good of patient care is a microcosm of the social good of reform. By writing clinical ethics "large" we may help construct a new American "health care Commons," matching public good and private interests. (d'Oronzio)

The early works on the medical commons were written by H.H. Hiatt: *Protecting the Medical Commons: Who is Responsible?* (1975) and *Will Disease Prevention Spare the Medical Commons*. 1985. In both cases, Hiatt drew from Hardin's tragedy metaphor (see Wehrwein 1998).

"Commons" is very hard to search in the medical field. A search in Medline Plus for "commons" will bring up all that is "common" starting with the "common cold." "Common pool" pulls up "water safety;" "Common property" results in skin conditions! Health and medical care are growing commons issues (Smith-Nonini 2006; Beetstra et al. 2002; Gochfeld, Burger, Goldstein 2001; Kaufman et al. 2006; Saltman and Bergman 2005; Cassel and Brennan 2007; Jütting 2004; Nambiar 1996). Many of these works focus on collective action initiatives—the need to build new commons systems and networks. Kapczynski, et al. (2005) suggest a system of open licensing to assuage global health inequality. Chandrakanth et al. (2002) represent the work concerned with the conservation and protection of indigenous medicinal plants.

Cassel and Brennan (2518) write:

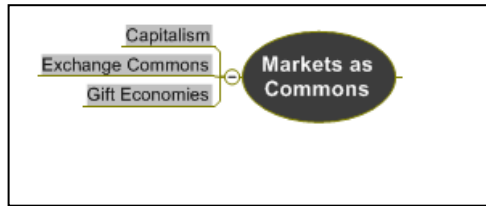
Physicians cannot afford to ignore the profound logic of the link between care for individual patients and the costs of the care. The more care costs, the more likely many individuals will be without good insurance, and research clearly shows their health will suffer. It is impossible to avoid the fact that physicians live and work in a medical commons and bear responsibility for it.

Medical budgets are included in the Infrastructure sector. Interesting works on the commons and the use of antimicrobials are Levin (2001); Horowitz (2003); and Baquero and Campos (2003).

## **F. Market Commons**

*I do not expect to see the fruits of any of these initiatives in my lifetime—but my grandson may—as our societies evolve toward planetary ecological awareness and we remember the difference between common money and the wealth of the commons.* (Henderson 1998)

*Former Interior Secretary Walter Hickel once explained: "If you steal \$10 from a man's wallet, you're likely to get into a fight. But if you steal billions from the commons, co-owned by him and his descendants, he may not even notice.* (Bollier 2004a)



**Figure 7: Market Commons Sector**

Sandel 2005 writes “Are there some things that should not be bought and sold, and if so, why?” This is not far from the question Daly and Cobb asked in 1989 when they proposed an alternative approach to neoclassical economics, one with more humanism and an ethical basis. Bollier has written prolifically about the importance of gift economies, citing the tradition of open science; open source software, donating blood, and community gardens as good examples of the gift economy in action (Bollier 2002b). Nonini also places the intellectual commons within the realm of the gift economy stating that it is imperative that this commons be understood as a non-commodified social arrangement (Nonini2006b:205).”

I have already mentioned Benkler’s commons-based peer production. His work on this subject could have just as well been put into this sector (see also Cooper 2006). Purdy (2007: 1107) provides a good quick summary of Benkler’s work on networked information economy: “Benkler’s work (2003a) argues that digital technology has changed the capital structure of the production of culture and ideas in ways that create new opportunities to organize some economic activity by appeals to flourishing rather than prosperity.”

Peter Barnes is a public entrepreneur who advocates revising our form of global, corporate capitalism to begin incorporating the commons. In *Who Owns the Sky* (2001), he proposes a “sky trust” to require companies to bid at auction for the right to release their carbon emissions into the atmosphere. In his 2006 work *Capitalism 3.0: A Guide to Reclaiming the Commons* has a more radical proposal of rewriting the basics of capitalism:

The key difference between versions 2.0 [current system] and 3.0 is the inclusion in the latter of a set of institutions I call the commons sector. Instead of having only one engine—that is, the corporate-dominated private sector—our improved economic system would run on two: one geared to maximizing private profit, the other to preserving and enhancing common wealth (p.xiv).

Well-known author, Bill McKibben, also calls a renewal of commons in his new book called *Deep Economy*. “But commons that have been weakened can be strengthened again’ indeed, there are signs of life in many places. In India, for example, the Navdanya (‘Nine Seeds’) movement protects local varieties of rice and other staples by cataloguing them, declaring them common property, and setting up locally owned seed banks.” (p.199-200) McKibben takes issue with the ubiquitous notion that economic growth is the same as economic success and imagines a new type of economy that focuses on the health of local communities.

There are also some socialist critiques of the current market system calling for the inclusion of commons (Dyer-Witthford 2001; McCarthy 2005). Others too see “the elitist economic agenda” (Korten 2004) as antithetical to the good of the commons. Frost and Morner (2005) write about “corporate commons.”

### G. Global Commons

*Sustainable use of the planet requires that humankind do nothing that seriously depletes and/or damages both natural capital and ecosystem services. In a less populated world, the need for a sustainability ethic was not as great as now. However, humankind now lives in a crowded world, so that leaving a habitable planet for future generations of humans and those of other species is problematic. (Cairns 2003)*



**Figure 8: Global Commons Sector**



Global commons are the oldest and most established “new commons”. There is a large body of literature on the global commons and the foci are broad—from climate change to international treaties to transboundary conflicts. For instance, a search on “global commons” in the *Comprehensive Bibliography of the Commons* (Hess 2007) results in 4183 hits. I am just going to give a very brief overview of this vast terrain in this paper.

Some of the early works on global commons are those by Christy and Scott (1965) looking at competition for the fisheries of the high seas which “are the common wealth of the world community;” Boot (1974) examining global commons and population and economic inequity; Bromley and Cochrane (1994) discussing global commons policy. Soroos has been researching and writing on the global commons for over thirty years. Oran Young is a leading scholar on global governance and international regimes. Buck (1998) is a respected commons scholar who has written one of the best introductions to the global commons. Other general works surveying global commons are Cleveland (1990); Dasgupta, Maler and Vercelli (1997); Bromley and Cochrane (2004); McGinnis and Ostrom (1996); Young (1999); Baudot (2001); Barkin and Shambaugh (1999); Karlsson (1997); Bernstein (2002); Byrne and Glover (2002); Cairns (2003, 2006); Vogler (2000); and Joyner (2001); Nonini (2006a).

Some of the diverse aspects covered in this sector are:

- Economics of global commons (Dasgupta, Maler, and Vercelli 1997; Dyer-Witthford 2001; Dodds 2005)
- Property rights (Anderson and Grewell 1999; Rose 1999; Powledge 2001; Liang 2003)
- Biodiversity (Mudiwa 2002; Gepts 2004; Berkes 2007)
- Deep-seas (Bräuninger and König 2000)
- Governance of the global commons (Young 1997, 1999; C. Hall 1998; Henderson 1998; Ostrom et al. 1999; Ostrom 2002-2003; Thompson 2000; Congleton 2001; Joyner 1998; McGinnis and Ostrom 1996; Randeria 2003; Sand 2004; Vogler 2005; Folke 2007)

- Climate change (Barkin and Shambaugh 1999; Agarwal, Narain, and Sharma 2002; Tietenberg 2003; Engel and Saleska 2005)
- Antarctica and the Arctic (Zorn 1984; Sandell 1995; Corti 2002; Doubleday 1996; Gudgeon 2006)
- Atmosphere (Harrison and Matson 2001; Barnes 2001)
- Global social diversity and interconnectedness (Parks, Keen, Keen and Daloz 1996; Hershock 2006)
- Protecting the environment as a global commons (Boda 2003, 2006; Tietenberg 2003; Anderson and Grewell 1999; Warren 2001; Pardo, Echavarren, and Alemán 2003; Dodds 2005; Ringel 2006; Uzawa 2007)
- Sustainability (Cairns 2006; Byrne and Glover 2002)
- Globalization (Norgaard 1995; Baudot 2001; Turner and Brownhill 2002; Cairns 2003; Sumner 2005; von Weizsäcker, Ulrich, Young, and Finger 2005; Depew 2006)
- Outer space (Merges and Reynolds 1997; Scheffran 2005; Joyner 2001)
- Commercial space (Sietzen 2001)
- Global genetic commons ((Rifkin 2002)
- Global inequality (Meyer 1995)
- Knowledge as a global commons (Stiglitz 1999, Onsrud, Camara, Campbell, and Chakravarthy 2004)

#### **IV. Challenges of Studying New Commons**

There are two main assignments in defining new commons: (1) defining the term “commons.” There is no agreement on what this term means, especially from one discipline to the next; and (2) articulating what the “new” in “new commons” is, in order to understand how new commons differ from traditional commons

## A. What are *Commons*?

The term “commons” is full of ambiguity and rarely defined. Most traditional commons research has focused on common-pool resources, common property, or the tragedy of the commons. Ostrom’s (1990) *Governing the Commons* focuses on common-pool resources—resources that are subtractable and difficult to exclude. Ostrom also emphasizes the importance of distinguishing between common-pool resources and common property. Common property is a formal or informal legal regime that allocates various forms of rights to a group. Schlager and Ostrom illustrate that there can be different types of rights involved in commons property: access, extraction, management, exclusion, and alienation rights. The types of rights are determined not only by the regime but by the nature of the resource. Creative Commons offers a suite of rights authors may choose as copyright agreements. Hess and Ostrom (2006) identify seven types of rights in the digital knowledge commons. Hardin’s (1968) “Tragedy of the Commons” conceives of a commons as an unregulated, open-access pasture—quite the opposite of real-life institutional arrangement in shared pastures.

In the new commons literature, the distinction between common-pool resources and common property regimes is rarely discussed. The commons is a more general term, not a specific economic good or type of property regime. Many writers use the term “commons” without defining it at all (such as Rainie and Kalsnes 2001; Kaufman et al. 2006; Theobald 1997).

Traditional commons have some system (formal or informal) of property rights and many are not openly accessible to the public at large. A forest community can own (or use, or manage) a forest that they close off the public. It is their commons. If a company wants to buy the forest to burn it for agricultural land then the threat becomes an issue to a much larger community. The burning of the Amazon is a global commons issue not only because its effect is transboundary but because the health of the earth is the common heritage of humankind.

Consider the following page of definitions of “commons”:

To say “the commons” is to evoke a puzzled pause. You mean the government? The common people? That park in Boston? In politics and the media, the concept of the commons might as well not exist. Yet the commons is more basic than both government

and market. It is the vast realm that is the shared heritage of all of us that we typically use without toll or price. The atmosphere and oceans, languages and cultures, the stores of human knowledge and wisdom, the informal support systems of community, the peace and quiet that we crave, the genetic building blocks of life—these are all aspects of the commons. (Rowe 2001)

a social regime for managing shared resources and forging a community of shared values and purpose. Unlike markets, which rely upon price as the sole dimension of value, a commons is organized around a richer blend of human needs—for identity, community, fame, and honor—which are indivisible and inalienable, as well as more ‘tangible’ rewards.” Clippinger and Bollier (2005)

"The commons: There's a part of our world, here and now, that we all get to enjoy without the permission of any." (Lessig 1999)

People must exhibit mutual trust, habits and skills of collaboration, and public spirit in order to sustain such a common resource against the tendency of individuals to abuse it. (Levine. 2001 p. 206)

The American Folklife Center's Coal River Folklife Project (1992-99) documents “traditional uses of the mountains in Southern West Virginia's Big Coal River Valley. Functioning as a *de facto* commons, the mountains have supported a way of life that for many generations has entailed hunting, gathering, and subsistence gardening, as well as coal mining and timbering. The online collection includes extensive interviews on native.” (Library of Congress) <http://memory.loc.gov/ammem/collections/tending/>

Commons are public lands that are often used for recreational activities and are generally assumed to be free of soil contamination. However, in old industrial cities, urban commons may have accumulated heavy metal burdens from airborne contamination (Petersen, Jennings, and Ma 2006)

The American commons include tangible assets such as public forests and minerals, intangible wealth such as copyrights and patents, critical infrastructure such as the Internet and government research, and cultural resources such as the broadcast airwaves and public spaces. Bollier *Silent Theft* <http://www.silenttheft.com/intro.htm>

The commons was where people could share common stories, common experiences, common aspirations, and common problems. In earlier American history, it also a ‘the learning center of that day’ for civic practices and values...(Friedland and Boyte 2000)

‘who makes the decisions and in whose interests.’ And further, ‘common is a resource (be it physical, spatial, conceptual) that is managed by the community, for the community. The contentious question then becomes ‘who is the community’. The answer invariably depends on the resource in question. (Hepburn 2005)

These authors have no unified definition of the commons but there are some family resemblances in their usage of the term. The understanding that the commons is the “shared heritage of us all” is fundamental to much of the new commons literature.

Even with many neighborhood commons (“that park in Boston”) one can often read a commitment to future generations, to communities beyond our local sphere, to working for both the local and the global common good.

The threats of enclosure have roused many to protecting the commons. Along with that comes the understanding that resources that were once safe as public goods not require vigilance and even participatory management in order to safeguard them for the future. For some, the commons is a birthright. Others, recognize the role of personal responsibility in the sustainability of the commons.

Certainly, the definition of the commons varies with the type of resource at hand. When Benkler describes scientists who produce the commons-based peer-production way<sup>14</sup> they are probably not doing so because of the common heritage of humankind. But rather because they benefit from it, there are good incentives, and they are contributing to the global knowledge pool.

Commons is inherently a positive term yet, as Peter Levine points out “a commons is also highly imperfect.” People can abuse and neglect their commons. As Petersen, Jennings, and Ma point out above, a polluted parcel of land does not stop being a commons because it’s polluted. The literature, however, illustrates that most people approach the commons as a positive resource. The negative behaviors in a commons, such as free riding or noncompliance, are considered “commons problems” or social dilemmas (Ostrom 1990a; Anderson and Simmons 1993).

The term “commons” can be useful for a number of reasons. Unlike a term such as “environment,” it conveys more immediately a physical resource-human being connection. With “environment,” people often visualize flora and fauna detached from human existence. This is despite that fact that research has repeatedly demonstrated that environmental problems cannot be solved without addressing the people problems – the needs of those who live by, manage, use, or harvest those resources. With the term “commons,” on the other hand, one automatically thinks of people. People sharing. People sharing a resource.

Former IASC president, Erling Berge, wrote in 2004:

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<sup>14</sup>“Production is ‘commons-based’ when no one uses exclusive rights to organize effort or capture its value, and when cooperation is achieved through social mechanisms other than price signals or managerial directions. Large-scale instances of such cooperation are ‘peer production.’” (Benker 2004)

In my view “commons” refers to a basic concept with a strong core speaking to and being understandable for most people, but without clear conceptual boundaries. While most people will be able to point to a commons they readily recognise, any two persons from different institutional contexts may have to discuss at some length to agree on similarities and differences in the classification of their favourite commons. It would seem reasonable to call it a fuzzy concept.

A few years later the International Association for the Study of Common Property (IASCP) did, indeed, change its name to the International Association for the Study of the Commons (IASC). The reasoning was that “commons” is a more inclusive term, encompassing both common-pool resources and well as common property regimes (see Hess and Meinzen-Dick 2006). Increasing numbers of people are interested in a more general sense of commons and with shared resources usually outside of market or government systems. The new commons literature focuses on collective action, voluntary associations, and collaboration. While property rights and the nature of the good may still important, there is a growing emphasis on questions of governance, participatory processes, and trust; and there is a groundswell of interest in shared values and moral responsibility.

To sum up, in the NC literature, some commons are free and sometimes not. They are a birthright and the common heritage of humankind (the atmosphere and the oceans) but they are also local playgrounds or a condominium. They may be rival (roads, health care) or they may be nonrivalrous (public art, knowledge). They may be exhaustive (oil, biodiversity) or replenishable (gardens). They may be replaceable (hospital) or irreplaceable (landscapes). They may be global, local, or somewhere in between. And, commons, like common-pool resources (economic goods), may have any combination of property rights. Using Clippinger and Bollier’s (2005) phrase, this new interest certainly looks like a “renaissance of the commons.”

My proposed definition of a commons is: *A commons is a resource shared by a group where the resource is vulnerable to enclosure, overuse and social dilemmas. Unlike a public good, it requires management and protection in order to sustain it.*

## **B. What is “New” in New Commons?**

The map also tells us that the “new” in new commons does not necessarily mean newly evolved or created through new technologies. They may be resources that, particularly because of some kind of encroachment or threat of enclosure, have been newly conceptualized as a commons. This is the case with cultural and neighborhood commons.

New commons, in contrast to traditional common-pool resources or common property regimes such as forests, fisheries, irrigation systems, and grazing lands, are often uncharted territories. Successful traditional commons have customary (formal or informal) rules regulating the use and management of the resource. In some cases, local and national governments recognize a local commons rules and laws; in others, it is a constant struggle to be recognized.

Traditional commons have a history. The history is of human-resource interaction. The resource has an ecological history. The user community has a history of demographic change or stability. And the interaction has a history of natural and human events that include adaptation of rules pertaining to the use of that resource.

“New” has meaning in two distinct ways: (1) It is in contrast to traditional (established) commons. Ostrom’s design principles (1990) and the characteristics of long-enduring traditional commons do not necessarily apply to new commons. Some are newly created through new technologies. Such is the case with digital commons. (2) “New” is an important adjective, a signal of the recent emergence of the awareness of the commons. “New” evokes a sense of awakening, of reclaiming lost or threatened crucial resources. This is the “new” in many neighborhood commons. However, whether “commons” is just a current buzzword or a lasting social phenomenon will only be known with the passage of time.

The recent identification of all types of resources as commons belies the important need to see solutions beyond the government-private paradigm. It calls for new or renewed processes of participatory self-governance, particularly of local communities. Some of the new commons literature calls for “reclaiming” the commons. In Bollier’s important book (2002b) on American commons (public forests, minerals, knowledge, the Internet, broadcast airwaves, and public spaces) he exclaims “we as citizens *own* these

commons (my emphasis)” (Bollier 2002: 2-3). Later on, he writes that “common sense tells us that wildlife, genes, and the atmosphere cannot really be owned...” (ibid: 60). This is the enigma with many types of commons: we “own” what we can’t own. One solution to the puzzle is that we own in the sense they are the common heritage of humankind. We are “owners” in the sense of needing to participate in the protection of them. We don’t own them in the sense that no one should own them – i.e. they should not be privatized.

Surveying the wide variety of new commons, there are a number of observations that can be made:

- Collaboration and cooperation are particularly vibrant in the knowledge and neighborhood commons
- Many new commons are on a much larger, often global scale; at the same time there is a growing sense of commons on a local level
- There is often a larger vision of responsibility—“beyond our own back yard.” It is the upside of globalization that there is a greater consciousness of geographically remote communities. Even neighborhood commons that may be focused solely on local issues, often have an eye on the impact of present decisions on future generations
- Sustainability is an ubiquitous issue. There is often a vision of effective management for the preservation and sustainability of a resource
- Equity is often an important consideration in new commons
- The concept of “gift economy” is becoming more familiar
- Commons resource users are often aware of their interdependence
- Unlike public goods, the commons is vulnerable to failure through encroachment, privatization, commercialization, congestion, scarcity, degradation.
- Appropriate rules are necessary to govern the resource.

Why are so many people calling upon the commons? We are seeing a growing number of people discovering what individuals working together, developing self-governing skills, can accomplish independently of governments, corporations, or private



owners. Understanding the commons leads to awareness of the need for participation and collective action in order to protect and sustain our valuable shared resources. People need to know that the “tragedy of the commons” is not inevitable; that there are comedies of the commons all around us.

## **V. Conclusion**

My aim with this paper has been to document the work on new commons that I have been tracking for the past fifteen years. This is a rich and challenging new area of research and one that leads to many interesting questions. The new commons map identifies seven main sectors and numerous subsectors. Some new commons are created as the threats of privatization and enclosure change. One of the reasons for the development of new commons is that new ways of capturing a resource can radically change the nature of that resource from a pure public good to a common pool resource, or more generally to a commons where the resource needs to be monitored, protected, and managed by a group in order to sustain it.

New commons can also evolve from institutional changes within traditional commons, such as the case with protected areas. Online collective action and mass collaboration make possible the building of new commons, such as with wikipedias and shared websites as well open source software projects.

This paper also discusses the challenges of defining “commons” as well as “new commons” and suggests a possible definition. It also proposes future areas of research: how people come to understand or recognize that a resource is a commons—that is, the entrypoints into the commons. Many contemporary commons are not just academic areas of study but also movements aimed at changing the way people think and behave. The idea of the commons provides an alternative to the private-public (government) dichotomy. Its focus is on communities working together in self-governing ways in order to protect resources from enclosure or to build new openly-shared resources.

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