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The City as a  
Commons Papers:  
The founding literature  
and inspirational  
speeches.

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## **Co-Cities Open Book – ANNEX**

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### **The City as a Commons Papers:**

#### **The founding literature and inspirational speeches.**

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The last section of the Co-Cities Open Book presents a collection of articles of some of the most important researchers and practitioners studying the urban commons. These academic articles were conceived as part of “The City as a Commons” conference, the first IASC (International Association for the Study of the Commons) conference on urban commons, co-chaired by Christian Iaione and Sheila Foster that took place in Bologna on November 6/7 2015. A big step forward in the research and understanding of a commons-based approach to urban governance, the conference had an unprecedented turnout of researchers and practitioners in the field (more than 200 participants showed up). We decided to dedicate the last section of this open book to the work presented on this occasion because the conference has been able to produce a body of knowledge that has guided future research and policymaking on the commons in cities all over the world.

From a reconstruction of the history of the urban commons, to a legal account of urban commons theory and an institutional analysis of possible enablers of civic imagination and collaboration, experts like Tine De Moor, Sheila Foster, David Bollier, Christian Iaione, and Paola Cannavò present us with the current debates and provide us with an intellectual framework from which to apprehend the complexity of the Co-Cities model.

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# Recent Developments in Urban Commons Transitions

**Michel Bauwens**

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The purpose of this essay is to summarize what we can learn from the 40 case studies of urban commons experiences that we have collated for this project<sup>1</sup>.

We will start with some methodological reminders, and then analyze the case studies in two groups. The first group concerns nine experiences in the “Global South”. These are 9 chosen out of the 20 from this ‘geographical’ region that are in areas marked by strong deprivation. Thus cities from Australia, New Zealand but also Seoul, we be treated in the category ‘Global North’, as they do not exhibit the same intensity of deprivation as the cases selected for this first category.

Based on the extensive series of questions we have asked the activists and organizers active in these projects, we have organized our findings in the following grid:

- Geographical Dimension: where is the project taking place
- Catchment area (block/neighborhood/district/city level): extent of the area covered, incl. administratively
- Urban collective governance: how are the projects managed, what stakeholders or participants have a stake in the governance
- The enabling State: to what degree is the project support by city, regional or state entities
- Poolism: what is the shared resource being created or protected by the project
- Process: what are the participative methodologies used in the project.

In order to understand the empirical and analytical basis of our conclusions, it is useful to start with Appendix X1 and X2, which respectively have narrative summaries of the projects, and the results from the above grid comparison. The full text of the case studies are available [here](#).

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<sup>1</sup>This contribution is the result of a work that the LabGov team conducted in collaboration with Michel Bauwens with the support of Vasilis Niaros within the context of the Co-Cities research project ([www.commoning.city](http://www.commoning.city)). The contribution analyses data from the first 30 case studies collected for the Co-Cities database. A reworked excerpt of this contribution appears in a publication of the P2P Foundation by Michel Bauwens and Vasilis Niaros with the title: Changing Societies through Urban Commons Transition, <http://commonstransition.org/wp-content/uploads/2017/12/Bau-wens-Niaros-Urban-Commons-Transitions.pdf>.

## Part One: Urban Commons Projects in the Global South

Here are some important conclusions about commonalities and divergences that can be found in the nine narratives that we analyze here.

### Conclusion 1: The Problematic Role of the State and Local Administrations

One of the first conclusions from the 9 case studies is that cooperation with governmental institutions, especially at the national level, but not exclusively, and thus any practical instantiation of polygovernance that include official entities, is problematic for nearly all projects, with few exceptions.

In the case of the Bergviev project that is trying to stimulate local economic streams using a complementary credit-commons based currency, there is a clear distrust and rejection of the more central authorities, seen as corrupt and neoliberal in their orientation, though this project is exceptional in that it found active and benevolent support from city officials. Project leader and author of the case study Will Ruddick also stresses that however difficult at the institutional level, there are always ‘interstitial’ individuals, who can make a difference and create some level of cooperation even within indifferent and hostile governmental entities. The Ker Thiosane project leaders in Dakar specifically mention the indifference of the authorities, even as the success of the project to revitalize a poor neighborhood, is obvious. At issue here is the inability of governmental personnel to ‘see’ and understand the logic of commoning, especially when it is ‘extra-institutional’ i.e. happening outside the sphere of both government, business, as well as ‘classic’ NGO’s. The Platohedro contributors of the cultural project in Medellin, Colombia say that see the city and regional governments as opportunistic towards urban commoning, and therefore cannot be counted on.

Other projects themselves reject governmental interference or even support. For example, the Hacklab project in Cochabamba tries to maintain smooth and non-partisan relations with the local government, but keeps them at distance in the context of maintaining the autonomy of the project. The Mlnha Sampa campaign organization in Sao Paulo, Brazil, similarly actively rejects government funding because their citizen-led campaigns are most often based on demands directed at the government. The Woelab project in Lome, Togo, actively rejects the mentality of seeking help from

donors, which is seen as a form of post-colonialism that disempowers personal and collective autonomy. The organizer states that “There is no support neither from government nor from the city and the project is entirely marginal”.

On the other side of the polarity is the Karura Forest project near Nairobi, Kenya, which stresses the necessary role of the government as framer of the local cooperation, i.e. the the Forest Act of 2005 frames multi-stakeholder governance; the City-based Forest Conservation Program, the county’s environmental portfolio and the Kenyan Forest Service all have a stake. Even more positive are the experiences of the Manzigira Institute, which works on the welfare of urban farmers, and claims a good response from the local governments in listening and taking into account its policy recommendations.

### **Conclusion 2: The projects are ‘integrative’ in their approach**

Most if not all of the projects are ‘integrative.’ We mean by this that they are not ‘one issue’ projects that focus on one or few dimensions, but that they have holistic visions of both the problem and the methods needed to overcome them.

For example Cowen/Ziniades (Bergrivier) stress: “one cannot assume bottom-up approaches will work without prior capacity building!” and this is done through a ‘integrative’ approach which aligns inner approaches (self-change), relational capacities (group work), and outer dimensions (creating a confident engagement with friendly and unfriendly outer institutions). The Cochabamba Hacklab stresses that community integration and collective intelligence is balanced and integrated with individual ‘passionate’ contributions. Both Ker Thioassane in Dakar and Woelab in Lome, have a strong orientation towards integrating ‘modernity’, through the mastery of networked technology, with a re-adaptation of African traditions of cooperation.

Platohedro in Medellin uses what they call ‘Post-Pedagogy] techniques, i.e. mostly un-learning conventional knowledge, learning by doing, and ‘do it with others’ process, based on active listening, and integrating self-work and rootedness in the body.

### **Conclusion 3: The Civil Society orientation is combined with efforts towards more ethical and local economies**

The connection between a focus on civil society’s empowerment, but combined with the attempt to create generative livelihoods, is a recurrent theme in several projects.

The Bergrivier and Bangla-Pesa projects (South Africa and Kenya respectively), clearly combine a focus

towards respectively young people and informal traders, but look to local economic value streams as a key part of the solution for their projects. The tool here is the complementary currency and positive cooperation between SME network members is crucial to the success of the Bangla-Pesa project.

The Woelab in Lome creates an incubator for social enterprises, which are collectively owned and governed by the contributing members of the Lab, using practices inspired by African village governance traditions. The Manzigira Institute in Kena explicitly focuses on the economic welfare of urban farmers and creating the framework conditions for this to happen.

It should be stressed that commons-project are civic-oriented, but they do not consider themselves as traditional NGO’s, though they seek support and sometimes funding from the more traditional NGO’s. Ker Thioassane says that it engages in intensive dialogue with local population and institutions, but it also connects with global cultural networks and NGO’s, such as Afropixels, and has been successful in generating funding from sources abroad. Platohedro in Medellin is particularly strong in its emphasis of cooperation with local museums and cultural institutions. Minha Sampa empowers citizen-led campaigns with their collective toolkit for self-organisation, but gets funding from national foundations.

### **Conclusion 4: The commons is present as narrative and practice, but not hegemonic in the discourse**

All the projects and case studies have pooled resources, and practice various aspects of commoning, but use different types of languages to express it.

The Cowen Zinaides Bergrivier projects explicitly uses commons language, but combines it with a focus on creating a local exchange system; The Woelab and Ker Thioassane have a very strong ‘neo-traditional’ outlook, with their focus on reviving traditional African forms of cooperation and governance in a new context, but even Platohedro is anchored in the ‘buen vivir/buen conocer’ narrative discourse that is used by both communities but also by the progressive governmental coalitions in the Andean and surrounding region. While Buen Vivir is strongly anchored in the cultural traditions of the Andean native people, ‘buen conocer’ is a more recent and commons-specific import of the FLOK project in Ecuador, which was a specific effort to create knowledge commons. Minha Sampa is an outlier, more rooted in the civil and human rights tradition.

### **Conclusion 5: Important roles for networked technology**

The projects of Will Ruddick in Kenya and South Africa are centered around the use of complementary currency systems, but still analog. The Cochabamba, Ker Thioassane, and Woelab experiences have a strong

emphasis on digitally networked culture, most strongly linked to a specific technology itself only in Cochabamba (i.e. wireless networks). The two others mentioned here are closer to the philosophies of fabbing and the maker movement. Plathedro is more rooted in artistic and cultural practice, i.e. the p2p-driven 'Do It With Others' philosophy. Minha Sampa is focused around a online toolkit that facilitates political campaigning.

The two exceptions seem to be the Karura Forest and Manzingira experiments, that do not exhibit such a clear link to digital culture.

## **Part Two: Urban Commons Projects in the Global**

### **1. The existence of sophisticated urban commons policies through 'partner city' approaches**

One of the conclusions from comparing commons project in the Global North and those of the Global South, is that a number of cities in western/northern cities have taken sophisticated turns towards participatory, sharing and commons-oriented policies. Apart from the well known Bologna Regulation for the Care and Regeneration of the Urban Commons, not covered amongst the case studies in this report, are the examples of Seoul, centered on the creation of a citizen-led sharing economy, those of Milan, oriented towards embedding startups in the communities through collaborative spaces, Athens, where the mayor and vice-mayor directly support the programs, and Barcelona, with a 'common-good' inspired political coalition, which has nominated officials in charge of a 'commons-based collaborative economy'. Edinburgh has a official 'cooperative policy' with already 17 community-led cooperatives created in this framework. Naples, not covered here, as a Commissioner for the Commons. These public policies are complex arrays of regulations and institutions with financial and other forms of support, with multi-year orientations, multi-stakeholder governance, and leading to a flowering of civic and cooperative initiatives. Also of import, and cited explicitly by Dirk Holemans of Oikos for the experiences in Ghent, Belgium, is a change from framework-based competition for funding (still very much practiced by Milan for example), to more long-term co-production of public services and policies, that are open-ended since they depend on the collaboration with, and input from, citizens.

### **2. In-depth and long-term integrative strategies of grassroots urban commoners**

Just as surprising perhaps, is the sophistication of integrated citizen-coalitions that operate in cities where there is little or no support from city officials. These projects are equally multi-year, multi-stakeholder, and integrative. The key example here is the city of Lille in Northern France, which has created a Assembly of the Commons (linked to 9 other similar initiatives in other French cities). They rely on 'open source third spaces'

such as collaborative run coworking and makerspaces, to work on collaborative cultures (Mutualab/Coroutine in Lille ; the Footscray makerspace in Melbourne, etc .), and they pay strong attention to constantly reworked social codes and social charters, which define their inner governance but also their relations with external third parties such as government and business, in order not to be coopted or captured by them. Lille is exemplary in that regard and its Assembly has developed sophisticated social charters to deal with these interactions. In Melbourne, the commoners have politicized even more through the creation of a Australian-wide Commons Transition Coalition. The Mutual Aid Network of Madison, Wisconsin is connected to 16 other cities and has developed sophisticated combinations of exchange and support mechanisms.

### **3. Combining social and ecological sustainability**

The Footscray makerspace works in particular with migrant and refugee populations in poor neighborhoods in western Melbourne, and links it to waste and upcycling. The waste management project in Malmo, Sweden, similarly is focused on integrating its migrant population. The M.A.N. of Madison, WI's first project is creating a food cooperative for a food desert area in the city's poorest neighborhood. Oikos in Ghent is a social-ecological 'think and to thank', that similarly looks for projects which simultaneously solve these two aspects of urban reality. The Emergent Structures project in Savannah, Georgia is especially focused on the re-use of construction and demolition waste. The insight on which these projects are based is that ecological issues disproportionately affect the poor but that solving them also creates economic and social opportunities in terms of creating local economies, jobs, skills and income.

### **4. The tension between horizontalist expectations and institutional governance**

Quite a few projects are struggling to adapt the 'right' governance model, somewhere in between horizontalist aspirations and 'vertical' needs for institutionalization, especially those that explicitly function without much public support. The most sophisticated attempts are probably by the Assembly of the Commons in Lille which has developed an array of social charters. Jose Ramos in his report on Melbourne initiatives mentions the difficulties in cooperative governance, and Anna Seravalli of Malmo reports explicitly that they had to abandon user-based governance because it self-reinforced cultural exclusion mechanisms (geeks attracting other geeks instead of a more diverse population). Most projects are moving to poly-centric governance models as already described by Elinor Ostrom. Whether bottom-up or top-down, all projects include fairly radical participatory processes as a matter of course, which points to a deep cultural shift which includes public officials.

## 5. The Commons as a tool for economic development

The Edingburgh city council wants to stimulate a vibrant 'cooperative economy'; Seoul and Milan are focused on the creation of a 'sharing' and/or collaborative economy. Barcelona-based Fab City has the ambitious aim of relocalized 50% of food and industrial production back in the city and its bioregions, within 50 years, centered around the creation of fabrication labs; the Evergreen Cooperative model of Cleveland, Ohio aims to use the purchasing power of 'anchor institutions' such as hospitals and universities, to create a thriving local economy based on local coops in the disadvantaged inner city itself and has been successful in already creating a number of them in food and laundry services. The project in Savannah is an ambitious attempt to create an economy around the recycling of construction and demolition waste. 596 Acres in NYC is moving from public spaces to the creation of locally run commercial zones through Real Estates Investment Cooperatives, and the Santaporo wireless commons aim to move towards helping local farmers accessing agricultural information that is vital for their economic function.

The common aspect of these examples is that the commons/sharing/collaboration is not just seen as a 'nice thing to do', but seen as vital to the creation of a new and vibrant local economy that works for all inhabitants.

# Vernacular Law and Complexity Science: Two Guides for Creating Urban Commons

By David Bollier\*

In trying to imagine new ways in which citizens may govern themselves in urban settings, the ideas of “Vernacular law” and complexity science can provide indispensable guidance. Both fields study living social phenomena that tend to be ignored if not repressed by the modern state, scientific systems and the bureaucratic policy apparatus. Yet both Vernacular Law and complexity science provide significant insight into how to re-think urban design, governance, resource-management, social innovation and convivial urban life. This essay introduces these two ideas and suggests how they can help create more vital, resilient and stable cities.<sup>2</sup>

## The Importance of Vernacular Law

Vernacular law refers to informal or unofficial “law” – the social norms and practices from “the street” that may or may not align with the dictates of formal state law. Vernacular law originates in the semi-private, unofficial zones of society and is a source of moral legitimacy and power in its own right. Legal scholars often use the words “informal,” “customary,” “grassroots,” “indigenous,” “common law” and “local” law to refer to social norms that, however tacit or informal, are essential elements of governance. It’s important to understand Vernacular law as a kind of “living law.” It is not codified in print or formal court rulings. It lives in the evolving practices and folkways of a given community.

My use of the term is inspired by the late Ivan Illich’s essays on “Vernacular Values,” first published in *CoEvolution Quarterly*, and the basis of his book *Shadow Work* (1981).<sup>3</sup> As a later commentator upon Illich’s essays describes it, the “vernacular domain” evokes a “sensitivity and rootedness . . . in which local life has been conducted throughout most of history and even today in a significant proportion of subsistence- and communitarian-oriented communities.” The vernacular lives in the “places and spaces where people are struggling to achieve regeneration and social restoration against the forces of economic globalization.”<sup>4</sup>

Legal scholar Michael Reisman has called this neglected

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<sup>2</sup> For a more extensive treatment of this topic, see Burns H. Weston and David Bollier, *Green Governance: Ecological Survival, Human Rights and the Law of the Commons* (New York, NY: Cambridge University Press, 2013).

<sup>3</sup> Ivan Illich, *Shadow Work* (Boston, MA: Marion Boyars, 1981).

<sup>4</sup> Trent Schroyer’s *Beyond Western Economics: Remembering Other Economic Cultures* 69 (2009).

legal realm “microlaw.”<sup>5</sup> The seemingly trivial interpersonal relations of ordinary people matter because no body of macro-state law can really be effective without the support of social microlaw. Reisman has noted that when “assessments [of formally organized legal systems] yield discrepancies between what people want and what they can expect to achieve, macrolegal changes may not be effective. Microlegal adjustments may be the necessary instrument of change.”<sup>6</sup> He continues: “In everyone’s life, microlaw has not only not been superseded by state law but remains . . . the most important and continuous normative experience.”

Vernacular law can be seen in the many social protocols that a community or culture develops for determining what is acceptable and unacceptable, what constitutes a sanction, and other rules for negotiating relationships. These social “rules” can be seen in how people queue up in lines (and object when someone tries to cut in), and in all sorts of public behaviors. Vernacular law plays an especially large role in governance for indigenous communities and peasant collectives, farmers’ markets and coastal fisheries, and even in business, through “hand-shake deals” and “gentlemen’s agreements.”

There may be formal state laws that govern such domains, but all have an informal complement – rules that are socially negotiated, based on practical experience, and sometimes tacit. The many micro-judgments that people make and act upon, seen in the aggregate, constitute a powerful body of “law.” The fugue of State and Vernacular law may be subtle, but it is a critical process for establishing the legitimacy of state law, its effective implementation, and its future adaptations to new circumstances. In this sense, Vernacular law constitutes a form of “cultural ballast” for any governance regime. It gives stability, self-confidence and legitimacy to the rules that govern people, especially in the absence of formal law.

The vitality of Vernacular law is on vivid display on the Internet, which is a great hosting infrastructure for countless digital commons. As the Internet has exploded in scope and become a pervasive cultural force around the world, so Vernacular law—self-organized, self-policing community governance—has become a default system of law in many spaces. There are, of course, many formal laws enacted by the state and “terms of service” licensing agreements for websites, but the real functionality of virtual communities depends upon

<sup>5</sup> Michael W. Reisman, *Law in Brief Encounters* (New Haven, CT: Yale University Press, 1999).

<sup>6</sup> Reisman, p. 4.



Vernacular law. Indeed, it lies at the heart of the success of the communities that create and maintain open source software, Wikipedia in dozens of languages, 10,000 open access scholarly journals, a variety of open science and open data networks, and hundreds of makerspaces and FabLabs. Such communities confirm the capacities of ordinary people to self-organize themselves and devise effective systems of self-governance, with only the most minimal elements of formal law.

This is not to say that state law or corporate-crafted contracts are unimportant, simply that such bodies of law can be gratuitous or secondary. But instead of seeing law mostly as a form of force – an invocation of power rather than an appeal to justice – Vernacular law looks to “the street” for guidance.

To be sure, there are troubling forms of Vernacular law such as black marketeers, inner-city gangs and Internet pirates. But even these problematic forms of Vernacular law cannot be summarily dismissed, despite their illegality, in the sense that they may point the failures of State Law to meet needs that may be entirely legitimate.<sup>7</sup> When state law fails to meet the needs, wants, and expectations of the peoples whom they are supposed to serve, then—in Reisman’s words—“microlegal adjustments [e.g., assertions of Vernacular Law] may be the necessary instrument of change.”

Revolutions often occur precisely because State law refuses to make necessary accommodations with Vernacular law. As David R. Johnson has noted, law must be understood as a living social organism, one that “causes its own form of order and persistence” and that rejects dysfunctional components from time to time.<sup>8</sup> As a living social system, Vernacular law does this. State law, by contrast, is more likely to be beholden to abstract logic and historic syllogisms that, over time, fail to evolve with shifting economic, technological, and other realities, not to mention social mores and practices. State Law can too easily become ossified and unresponsive, a captive of special interests that is made to serve narrow, private and short-term goals.

“In biology, if an organism becomes too complicated [or outmoded or corrupted] for its own good,” writes Johnson, “it fails to mate and its line dies out—replaced by other systems, with other kinds of order. Because of the particular nature of law’s meta–meta-story [that law is of, by, and for the people], its historical rooting of legitimacy in a particular geographic area, we’ve developed only one legal organism per country. We haven’t had a real competition for survival among rule sets.”<sup>9</sup> The very fixity of law, Johnson writes, is debilitating because, unlike most biological systems that adapt, “our current legal system lacks the most fundamental mechanism, used by more rapidly replicating and adapting biological organisms, to keep undesirable levels

of complication under control.”<sup>10</sup> As an abstract system unto itself, state law tends to become more complicated, outmoded and corrupted over time.

Hence the need to pay attention to Vernacular law, which may also be seen through the lens of *custom*. In her study of the history of property law, Yale law professor Carol Rose notes that custom is “a medium through which a seemingly ‘unorganized’ public may organize itself and act, and in a sense even ‘speak’ with the force of law. Over time, communities may develop strong emotional attachments to particular places and staging particular events in those places . . .”<sup>11</sup> Medieval courts were known to elevate custom over other claims, as when they upheld the right of commoners to stage maypole dance celebrations on the medieval manor grounds even after they had been expelled from tenancy.

Courts have generally been hostile toward claims of traditional rights (or rights based on Vernacular law) because, as one court put it, they are “forms of community unknown in this state.”<sup>12</sup> As Rose writes, citing *Delaplace v. Crenshaw & Fisher* (1860),<sup>13</sup> “a claim based on custom would permit a ‘comparatively . . . few individuals’ to make a law binding on the public at large, contrary to the rights of the people to be bound only by laws passed by their own ‘proper representatives.’ Indeed, if the customary acts of an unorganized community could vest some form of property rights in that community, then custom could displace orderly government.”<sup>14</sup>

Courts have been uneasy with the idea of informal communities as a source of law because they are not formally organized or sanctioned by the state, and courts are, generally, themselves creatures of the state. But, as Rose notes, this is precisely why such law is so compelling and authoritative a substitute for government-made law; it reflects the people’s will in direct, unmediated ways:

It was a commonplace among British jurists that a general custom, the “custom of the country,” is none other than the common law itself. Looked at from this perspective, custom is the means by which an otherwise unorganized public can order its affairs, and even do so authoritatively.

Custom thus suggests a route by which a “commons” may be managed—a means different from ownership either by individuals or by organized governments. The intriguing aspect of customary rights is that they vest property rights in groups that are indefinite and

7 Eduardo Moisés Peñiver and Sonia K. Katyal, *Property Outlaws: How Squatters, Pirates and Protesters Improve the Law of Ownership* (New Haven, CT: Yale University Press, 2010).

8 David R. Johnson, *The Life of the Law Online*, 11 *FIRST MONDAY* 8, No. (Feb. 6, 2006), available at <http://www.ucmp.berkeley.edu/cambrian/cambrian.php>.

9 Johnson.

10 Johnson.

11 Carol M. Rose, *Comedy of the Commons: Custom, Commerce and Inherently Public Property*, in CAROL M. ROSE, *PROPERTY AND PERSUASION: ESSAYS ON THE HISTORY, THEORY AND RHETORIC OF OWNERSHIP* 134 (1994).

12 As quoted in Rose, *supra* note 400, at 157. Rose comments: “Certainly this remark reflected the general American hostility to the feudal and manorial basis of customary claims. But it also focused precisely on the informal character of the ‘community’ claiming the right; the remark suggested that if a community were going to make claims in a corporate capacity, then the residents would have to organize themselves in a way legally authorized by the state.” *Id.* at 123–24.

13 56 Va. (15 Gratt.) 457 (1860).

14 *Id.* at 124.

informal yet nevertheless capable of self-management. Custom can be the medium through which such an informal group acts; indeed the community claiming customary rights was in some senses not an 'unorganized' public at all, even if it was not a formal government either.<sup>15</sup>

This sentiment – that the commons can be generative, self-managing and reflective of a broad social consensus – is what animates a growing movement to treat the “city as a commons.” This conceptualization provides “a framework and set of tools to open up the possibility of more inclusive and equitable forms of ‘city-making,’” write Sheila R. Foster and Christian Iaione. “The commons has the potential to highlight the question of how cities govern or manage resources to which city inhabitants can lay claim to as common goods, without privatizing them or exercising monopolistic public regulatory control over them.”<sup>16</sup>

But what is the general process by which commons can be deliberately created and developed? The principles of complexity sciences, which study the deep dynamics of living systems, shed a great deal of light on this question.

### Complex Adaptive Systems as Agents of Self-Organized Commons

While there is of course an important role for traditional “top-down” initiatives by government, “bottom-up” or grassroots-driven approaches hold great promise in our hyper-networked age, especially in building more inclusive, cross-sectoral cooperative regimes. This is not just a political opinion. Profound discoveries in the evolutionary sciences and the rise of complexity science over the past generation validate the power of bottom-up, self-actualizing forms of social organization and governance. Extensive empirical research shows that some of the most robust, stable forms of governance are distributed, self-organized, and collaborative. These scientific fields point to some very different frameworks for unleashing human agency, stimulating cooperation, and the organizing governance in networked environments – key structural challenges in the modern city.

Historically, the worldview that has prevailed for centuries sees humanity as separate from Nature, and sees the world as fairly static and mechanical. With enough scientific study, knowable causes can be identified to produce measurable effects in linear patterns. Hence the emphasis among scientists, business and governments on improving the rigor of instruments and empirical analysis as a way to identify cause and effect more clearly and then regulate and control isolated elements. This is an apt description of the bureaucratic project – to assemble objective expertise that can devise more reliable (usually bureaucratic) systems for achieving desired results.

<sup>15</sup> Id.

<sup>16</sup> Sheila R. Foster and Christian Iaione, “The City as a Commons,” *Yale Law & Policy Review* [add rest of citation]. See also Jose Ramos, “The City as Commons: A Policy Reader,” July 2016, available at [https://www.academia.edu/27143172/The\\_City\\_as\\_Commons\\_a\\_Policy\\_Reader](https://www.academia.edu/27143172/The_City_as_Commons_a_Policy_Reader).

Conventional forms of governance presume that they can reliably identify and control relevant boundaries, such as jurisdictional borders, and complex, distributed forces. But a terrestrial-based system of governance is not very capable of taking account of the transnational and mobile character of, say, the atmosphere, oceans, fish and wildlife. Nature does not respect political boundaries, and increasingly, neither do human populations. International treaty organizations and United Nations bodies may attempt to compensate for this failure by working in transnational fields, but their top-down governance structures tend to be brittle, inflexible and slow. They generally choose *not* to adapt and co-evolve because of the political and technical complexity. Indeed, politicians often shut down or punish vital feedback loops that could provide valuable information about the actual state of the environment, the efficacy of governance, and attractive adaptations.

Complexity science has opened the door to some very different frameworks for understanding human and ecological phenomena, and thus improving governance. The field draws upon the lessons of evolution, chemistry, and biology to identify fundamental principles governing what it calls “complex adaptive systems,” which include such living phenomena as the brain, cells, ant colonies, the biosphere, the stock market, and Internet communities. Much of the pioneering work in complexity sciences has emerged from the Santa Fe Institute, a theoretical research institute that blends elements of physics, biology, chemistry, economics, mathematics, and the social sciences.<sup>17</sup> It turns out that remarkable parallels can be traced between the behaviors of living natural, physical systems (“Nature”) and the social and economic systems that societies have invented (“civilization”).

By the lights of complexity science, stable, successful systems cannot be constructed in advance by having brilliant minds devise sophisticated blueprints – the model of God as the absent watchmaker. Rather, successful systems must evolve organically through the self-organized, free interplay of adaptive agents which follow simple principles at the local level. No definitive big-picture knowledge or teleological goals can be known at the outset. Instead of presuming that an *a priori*, comprehensive design system should be followed to produce the best outcomes, complexity theory takes its cues from biophysical evolution and asserts that the best results will arise if intelligent, living agents are allowed to evolve over time toward optimum outcomes in supportive environments. The schemas or agents that survive and thrive will be the ones capable of prevailing against competitors and reproducing; less capable agents will be shunted to niches or die, according to principles of natural selection.

<sup>17</sup> As the Wikipedia entry for the Santa Fe Institute notes: “Recent research has included studies of the processes leading to the emergence of early life, evolutionary computation, metabolic and ecological scaling laws, the fundamental properties of cities, the evolutionary diversification of viral strains, the interactions and conflicts of primate social groups, the history of languages, the structure and dynamics of species interactions including food webs, the dynamics of financial markets, and the emergence of hierarchy and cooperation in the human species, and biological and technological innovation.” See [https://en.wikipedia.org/wiki/Santa\\_Fe\\_Institute](https://en.wikipedia.org/wiki/Santa_Fe_Institute).

Microbes, ants, humans, and diverse other organisms exhibit characteristics of complex adaptive systems. Each is nested within larger complex systems that are dynamic and constantly shifting; and yet each flourishes by embodying some highly predictive theories, as distilled in schema that are useful in exploring resources and regularities in a particular environment (the “fitness landscape”). The species with the most adaptive schema (e.g., DNA or culture) and the most refined feedback loops will be better equipped to learn from its environment and thus adapt, evolve, and grow. Evolutionary scientists increasingly believe that natural selection manifests itself more at the “group level” than through individual organisms.

These insights suggest that human communities can evolve into higher, more complex forms of organization without the directive control of a central sovereign or bureaucracy. Given a sufficiently hospitable fitness landscape, *self-organization* based on local circumstances can occur. Just as biological and chemical systems exhibit autocatalytic features that generate “order for free,” so human communities have inborn capacities to create stable order. Indeed, this is one of the key insights of Nobel laureate Elinor Ostrom’s empirical research of natural resource commons around the world. Countless Internet communities on the Internet also constitute a kind of existence-proof of our capacities for self-organization. Commons are fully capable of generating robust, flexible, and durable forms of management because their systems arise organically from the governed themselves in ways that are mindful of the particular resource, local conditions and cultural norms.

The 20th century mind may be convinced that governance and organization must be based on uniform, top-down expertise and command. It may see the system as a clockwork machine of modular, interchangeable parts, as legislation and regulation often seem to assume – but living systems tend to work in all sorts of unpredictable, creative and recalcitrant ways. The lessons of evolutionary sciences, complexity science and commons are how to craft governance that fully recognizes the *aliveness* of human subjects and the Earth. Complexity science shows us that new modes of bottom-up, diversified, locally appropriate governance are not just feasible, but already pervasive in functioning commons around the world.<sup>18</sup> Vernacular law is the expression of such communities: decentralized agents working in tandem with particular histories, traditions and local circumstances.

Complexity and evolutionary sciences confirm that the most efficient and flexible systems of governance will respect the natural proclivities of “lower-order” governance units in a large, complex system. The quest to impose coercive control from a centralized governance body, without the active participation and consent of the governed at the relevant scale, is ultimately futile. Subsidiarity matters. Complex, higher levels of organization are sustainable only if they take

18 David Bollier and Silke Helfrich, editors, **Patterns of Commoning** (Amherst, MA: Off the Common Press, 2015), available at <http://www.patternsofcommoning.org>.

account of the inherent needs and dynamics of their constituent sub-systems and “members” at all scales.

This analysis leads directly to the door of the commons. Commons are based on the principles of bottom-up self-organization, the freedom of collective agency, polycentrism (multiple loci of governance) and subsidiarity (management at the lowest feasible level). Vital collaboration and innovation can emerge only if the governed at the most distributed scales are accorded basic rights of autonomy, human dignity, and intelligent agency. The creative agency and internalized norms of commoners functions as a kind of stabilizing flywheel and innovative force in governance. Governance is transformed. It is not simply a matter of political leaders, state law and credentialed experts imposing their supposedly superior knowledge and will. It is about providing sufficient open spaces and assistance to citizen-commoners to build their own city, in ways that are directly satisfying and practical to them.

What results through this process is a higher level of organization known as *emergence*. “Living systems always seem to emerge from the bottom up, from a population of much simpler systems,” writes science journalist M. Mitchell Waldrop.<sup>19</sup> A mix of proteins, DNA, and other biomolecules coevolved to produce a cell. Neurons in the brain come together to produce cognition, emotions, and consciousness. A collection of ants self-organize themselves into a complex ant colony.

“In the simplest terms,” complexity author Steven Johnson write, complex systems “solve problems by drawing on masses of relatively stupid elements, rather than a single, intelligent ‘executive branch.’ They are bottom-up systems, not top-down. They get their smarts from below.”<sup>20</sup> Johnson continues: “In these systems, agents residing on one scale start producing behavior that lies one scale above them: ants create colonies, urbanites create neighborhoods; simple pattern-recognition software learns how to recommend new books. The movement from low-level rules to higher-level sophistication is what we call emergence.”<sup>21</sup>

The agents within any complex adaptive system do not deliberately plan or create a higher, more sophisticated level of social organization; they are motivated chiefly by local circumstances and knowledge. And yet, when the micro-behaviors of agents relying on Vernacular law reach a critical stage of interconnection and intensity, they actualize new flows of energy and vision. An *emergent new system* arises in an almost mysterious fashion.

These are some of the lessons that mayors, city governments, urban planners and citizens should begin to absorb as they contemplate how to manage and improve cities in the 21<sup>st</sup> Century. As electronic networks become ubiquitous, the dynamics of complexity science

19 M. Mitchell Waldrop, **Complexity: The Emerging Science at the Edge of Order and Chaos** (New York, NY: Simon & Schuster, 1992), p. 278.

20 Steven Johnson, *Emergence: The Connected Lives of Ants, Brains, Cities and Software* (New York, NY: Scribner, 2001), p. 18.

21 Ibid.

and Vernacular law are becoming more relevant than ever.<sup>22</sup> The question is, Can traditional city bureaucracies and politicians find the imagination and support to craft the new structures to enable cities to function as commons? Will they work with citizens to leverage the fantastic reservoirs of creativity, energy and responsibility that ordinary people are willing to contribute to improving their cities, given the proper enabling structures? These are key challenges facing cities around the world in coming years.

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22 David Bollier, "The City as a Platform: How Digital Networks are Changing urban Life and Governance," (Washington, D.C.: The Aspen Institute, 2016), available at <http://csreports.aspeninstitute.org/documents/CityAsPlatform.pdf>.

# Urban Commons: A Reader

## Tine De Moor

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"In a world where markets and the state have started to reach the limit of their capacities to govern resources in a sustainable way, society is turning increasingly to "joint resource management"; more and more, collective initiatives of "stakeholders", trying to reach their economic and social goals via collective action, are popping up in the developed world. Examples of such initiatives are energy consumers' collectives, car-sharing, and the development of open-source software. Although they may seem rather marginal as yet, these forms of institutionalized collective action are nevertheless gaining momentum. Many of the initiatives use the concept of "the commons" to emphasize that they are indeed sharing a resource. The "Creative Commons initiative" is nowadays the most well-known example of this trend. Yet, few participants actually know the real historical back-ground of the commons."<sup>23</sup>

### An Historical Framework for the Commons

The amount of research developed on the topic of commons and on the motives for cooperation or defection is wide, and engages scholars from different fields, ranging from experimental sociology, psychology and economics. Tine De Moor brings her enriching contribution to the field by applying an historical perspective to the study of the commons, allowing us to go beyond the negative understanding produced by Garret Hardin's "Tragedy of the Commons"<sup>24</sup> and to discover the existence of numerous examples of successful and long lasting commoning experiences in European history. De Moor explains that:

"During the late Middle Ages, European villagers and townsmen alike formed an unprecedented number of alliances with each other. These were not (primarily) based on kinship or blood ties, but on other common characteristics such as occupation. In the urban context, organizations such as guilds of merchants and craftsmen can serve as examples. For the countryside, this was the period when communal land tenure arrangements, or simply 'commons', were increasingly formed and institutionalized"<sup>25</sup>.

While the emergence of different forms of collective action and their institutionalization is not without historical precedents (already in the Roman era merchants and craftsmen formed some guild-like institutions), the intensity of the new units of collective action makes this movement striking enough to be defined by De Moor a "silent revolution". As she explains,

23 T. De Moor (2012) "What Do We Have in Common? A Comparative Framework for Old and New Literature on the Commons" *The International Review of Social History*, Volume 57, Issue 2, pp. 269-290

24 G. Hardin (1968) "The Tragedy of the Commons" *Science*, 162 (3859): 1243-1248.

25 T. De Moor (2008), "The silent revolution: a new perspective on the emergence of commons, guilds, and other forms of corporate collective

"It was a revolution in as much as this was a movement that started from below, among stakeholders with a common cause, and because it may have had important long-term consequences for the course of European history; it was 'silent' because this movement was primarily based on at first tacit and later explicit written agreements among powerful rulers and demanding subjects, villagers, and townsmen. These agreements were largely formed on a peaceful basis. The silent development of the forms of collective action described here has meant that for a long time the revolution remained unnoticed"<sup>26</sup>.

De Moor claims that, even if silent, the commons revolution and the development of collective action institutions both in the urban and in the rural environment played a fundamental role in shaping the trajectory of the European economy from 1100 to 1800. In the middle of the 18th century things begin to change, and the functioning of common-property arrangements began to be questioned, as it was considered unsuitable to increase land productivity in order to feed a growing population. A privatization and enclosure process was activated, which brought to the substitution of common-based management of resources with private property arrangements. As Professor De Moor explains the new arrangements, rather than benefiting the entire population, worked to the advantage of few wealthy investors, while leaving most of the commoners empty-handed. Furthermore:

"They lost not only a means of income, but also part of their community and the invisible bonds that working together from generation to generation created among community members. Commons had, as will be explained, a primarily economic function, namely, that of sharing the risk of relying on a resource for which the production – and thus the income – was unreliable. Besides this, however, the commoners also found in the common a social welfare system – albeit not for everyone – and a source of social capital"<sup>27</sup>.

### Defining the commons – A three-dimensional concept

Already before Hardin developed his "tragedy of the commons" framework, which strongly contributed to the diffusion of negative view of the commons, commons as governance regimes did not always have positive connotation. Already in the 19th century, commons came to be described more and more often

action in Western Europe', *The International Review of Social History*, Volume 53 (Supplement 16, Special Issue on 'The Return of the Guilds'), pp. 175-208

26 *Ibid.*

27 T. De Moor (2015) "The dilemma of the commoners: Understanding the Use of Common Pool Resources in Long-Term Perspective", Cambridge, UK: Cambridge University Press

as an “archaic” and “inadequate” system for the management of resources, inevitably leading to over-exploitation.

It was thanks to the essential contribution of Elinor Ostrom<sup>28</sup>, Nobel Prize for Economics in 2009, that the concept gained a more positive undertone and was brought to the attention of a wider audience, and that the concept itself became subject of serious academic work by hundreds of scholars worldwide. Elinor Ostrom contributed to the return to the original features of the concept, broadening it to other types of resources.

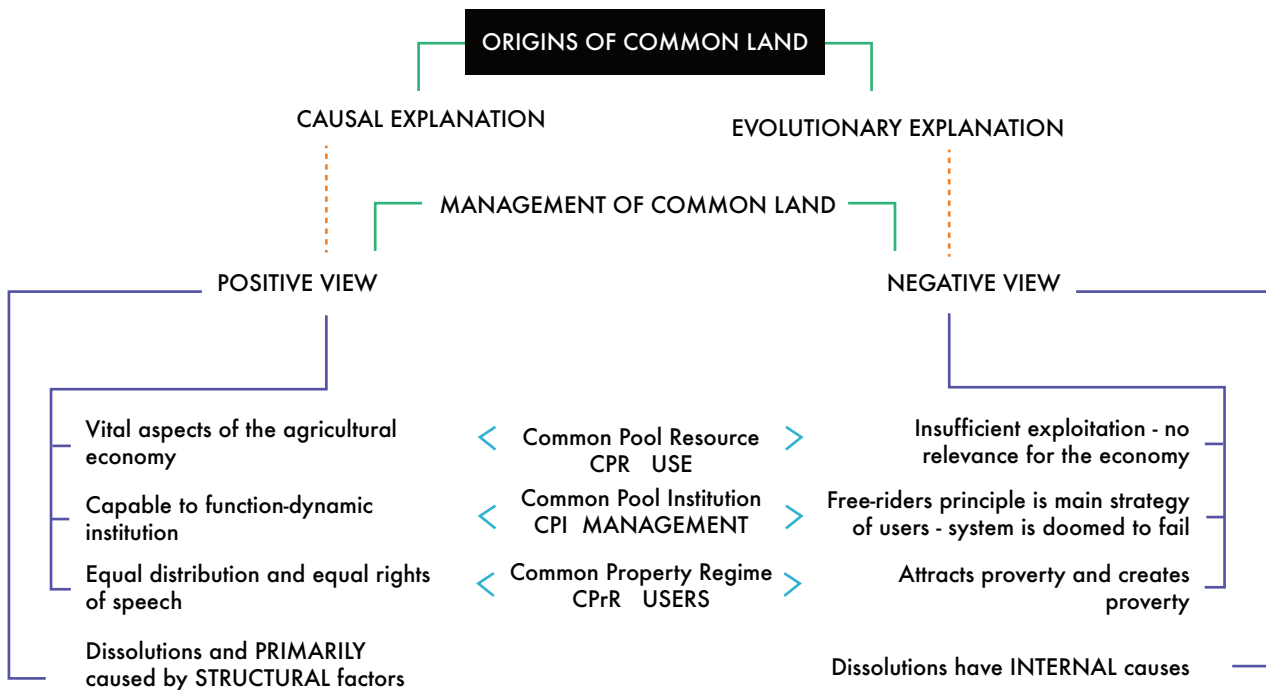


Figure 1. Overview of different opinions on commons, structured horizontally by the different dimensions (CPR, CPI and CPrR), and vertically by the associated positive or negative connotation in the literature. From T. De Moor, 2012 (see footnote n.1).

According to Professor De Moor, dealing with the commons means dealing with a complex reality, which can refer to three different dimensions: the natural resource itself, the property regime linked to it, and even the group of people that is entitled to use the resource. As explained by De Moor:

“The first-mentioned meaning (natural resources) corresponds with what generally falls under the heading of “common-pool resources” (CPR). Elinor Ostrom describes “common-pool resources” as “natural or man-made resources sufficiently large that it is costly to exclude users from obtaining substractable-resource units”<sup>29</sup> On the basis of this definition and further literature, one assumes that it takes two criteria to define a CPR. Firstly, there are the high costs of the physical exclusion of the natural resource (or excludability) [...] and secondly, there is the issue of the presence of “substractable resource units” (or substractability).<sup>30</sup>

“The property regime of a common is a second dimension. The term common-property regime (CPrR) refers to a property regime “some- where” in between private property and public property.”<sup>31</sup>

“The interaction between the first dimension – commons as natural resources – and the second dimension – the users of the commons – required a certain form of organization. The institution set up to make that organization possible – the common-pool institution (CPI) – can be considered as the third dimension of common land.”<sup>32</sup>

Basically, summarizing the above three dimensions, one can say that when using the term commons we

28 E. Ostrom (1990) “Governing the Commons: The Evolution of Institutions for Collective Action” Cambridge, UK: Cambridge University Press

29 E. Ostrom (1990) “Governing the Commons: The Evolution of Institutions for Collective Action” Cambridge, UK: Cambridge University Press, p. 30.

30 T. De Moor (2012) “What Do We Have in Common? A Comparative Framework for Old and New Literature on the Commons” Research Institute for History and Culture, Utrecht University

31 Ibid.

32 Ibid.

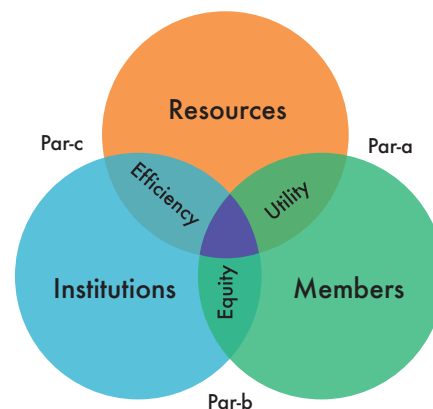


should not simply consider the resource, but a complete governance regime whereby a group of people create and/or hold a resource or a service together as a group but can only use the resources as individuals under jointly set conditions, which form the institution related to the common.

According to De Moor, commons can be a resilient, long-living governance regime, even under great societal stress, as long as the parameters at the intersection between the dimensions are taken into account. In the underneath so-called 3D-framework for the resilience study of commons De Moor brings together the three dimensions of which self-governing institutions such as commons consist: **a. the RESOURCES**, **b. the INSTITUTION** (rules, social norms) and **c. the collectivity of MEMBERS** that has rights on the resources and collectively decides on changes of the rules. Behind the framework is the idea is that **resilience of an ICA as an organisation is the result of a continuous search for a balance between these three dimensions, whilst dealing with exogenous changes in demography, politics, and the economy.** Members must be kept content with what they receive in return for their membership, but if this leads to overharvesting of the available resources, this may create a “tragedy”. Rules, therefore, must constantly be adapted to changing circumstances, while resource availability may fluctuate due to environmental and economic factors. The search for resilience by balancing resources, users and institution, will be different from case to case, depending on the local circumstances, and over time. Given the slow changes that characterize institutions in general, but also the delay in visible impacts of long-standing negative or positive natural resource use and management may have, a “longitudinal approach” is essential to understand how such institutions function. She captures the mechanisms that are key to in the search for resilience within any type of self-organising institutions in a number of parameters, that lay at the intersections between the 3 mentioned dimensions: **utility (Par-a)** as an expression of the individual usefulness of the members’ participation in the collectivity; **equity (Par-b)**, as an expression of the involvement of members in decision-making processes; **efficiency (Par-c)** as a way to evaluate the efficiency of the rules for resource management and use.

For the members of a self-organizing institution like a common or a cooperative it is vital to keep all individuals willing to act in a reciprocal way. This in turn will depend on the degree to which they experience their involvement in the collective as “useful” and “equitable”, which are two factors highly influenced by exogenous changes. For example: when the supply of resources is shrinking due to e.g. climate conditions or when membership is growing, a change in the distribution of the collective good might be necessary to avoid overharvesting of the resources. A potentially reduced share – and thus diminished **utility (Para-a)** – of the collective good for each individual member, may lead to (part of the) members starting to freeride (i.e., contribute less or extract more than one’s share), or even petitioning for dissolution of the collective. Similarly, membership

growth may also affect group cohesion and internal power balances as larger groups may make it harder to involve all members in the decision making process. An increasing group of members may have a positive influence on the total amount of capital available within a common, but may have a negative effect on the social control as large groups make it harder to recognize members of the group. In social science literature, it has been described that cooperative behavior is promoted if the other people can observe one’s personal choice behavior, and that this ‘social-control’ mechanism may be responsible for the fact that people are more willing to work hard under conditions of high visibility than in more anonymous settings. A lack of balance between the group of active users of commons (those harvesting resources, or performing labour or administrative tasks on the commons...) and passive users (those who merely became members because they had the right to do so) may lead to a change in governance and eventually also the dissolution of the common. For example, changes in the level of active membership (members who actively use the resources or fulfil tasks for the common) versus passive membership (members who registered as members but do not participate) may be used as an indicator for the utility-parameter, helping us to understand why certain governance decisions in the institutional design may have been made [14]. On the other hand, inclusion of all stakeholders in the decision making process may make the need to create costly and complex sanctioning mechanism superfluous.



Intersections between 3 dimensions provide 3 parameters (par-a-b-c)

Resilience: balance between 3 dimensions

Such lesser involvement in decision making processes might be perceived as a decrease in **equity (Para-b)**, which in turn may lead to less responsible behaviour and mutual control of individual behaviour, and freeriding. In these cases, an institutional response – i.e. a change of the rules -- would be required to avoid overharvesting, with a decrease in **efficiency (Para-c)** of the resource management. These examples of ways in which the interplay between resources, members and institution

might lead to problems within an ICA, demonstrate that achieving resilience is the result of a difficult and continuous balancing act (25). The study of resilience in this context thus demands that we do look at the evolution of all three dimensions AND at their constant interaction.

### Contemporary Commons – A Paradigm Shift

Today we are observing a resurgence of the commons, therefore it becomes particularly important to realize that the notion of commons has evolved through time, and in its contemporary form has come to hold a much broader meaning. As De Moor explains:

“Commons (or “goods used and managed in common”) are found in past as well as in the present. The original “historical” use of the notion “commons” was, however, limited to the “territorial” type: it meant land used in common to produce hay, wood, or peat, to provide pasture for the cattle of the local population, and to supply other natural resources for construction and housekeeping. [...] Outside the historical context, the term “commons” is being increasingly used, too, not just for the tangible physical forms of institutions at least similar the historical commons, but also for less tangible (or even virtual) forms of goods being shared among large groups of people. The term “commons” has also been “stretched” substantially, by applying it to resources which remain open-access goods, such as the oceans or clean air, despite a growing tendency to restrict access to them by establishing private property rights (e.g. the tradable “emission rights” which are part of the Kyoto Protocol).”<sup>33</sup>

A partial explanation of today’s commons development is to be found in the historical changing context, which over the past few years has seen more and more examples of citizens uniting in collectivities to provide goods that until now were considered public. As Professor De Moor explains:

“In many cases privatization has not yielded the preferred and promised results: the market did not always bring about high-quality, affordable, and diversified offerings, as competition functions only when there is sufficient demand”.

Furthermore: “It has become apparent that numerous social welfare provisions are becoming less accessible, either because they are increasingly becoming unaffordable in the often privatized form or because the government ‘retreats’ and no longer considers these services its responsibility. In many cases this ‘decline of the welfare state’ has resulted in a transfer of trust and responsibilities to a private partner, perhaps through a public-private partnership (PPP), but often at a high cost. Privatization of public goods and services limits accessibility for those who are not capable or willing to pay for such goods and services. In response, people are increasingly banding together to provide services that the government has left to the whims of the market economy, as the latter cannot always live up to the expectations to provide goods and services for the

33 Ibid.

promised competitive prices, nor can it do so wherever these goods and services are needed, particularly in less- populated areas where demand is lower than elsewhere.”<sup>34</sup>

What we are observing here is a “paradigm shift”, that is bringing the commons to the center of the political and economic debate on how to manage scarce resources while also answering to the needs expressed by and ever-growing population. It is particularly important to note that this new wave of commoning is taking place in a completely new context, where communities are not isolated and almost self-sufficient groups, but instead act in a highly connected global world. This necessarily implies a series of characteristics that distinguish contemporary commons from their traditional counterparts.

Professor De Moor explains that:

“Contemporary consumer and producer collectives are aimed at overcoming problems similar to the institutions for collective action in the medieval and early modern period, but there cases this ‘decline of the welfare state’ has resulted in a transfer of trust and responsibilities to a private partner, perhaps through a public-private partnership (PPP), but often at a high cost. Privatization of public goods and services limits accessibility for those who are not capable or willing to pay for such goods and services. In response, people are increasingly banding together to provide services that the government has left to the whims of the market economy, as the latter cannot always live up to the expectations to provide goods and services for the promised competitive prices, nor can it do so wherever these goods and services are needed, particularly in less- populated areas where demand is lower than elsewhere.”

“An important difference between the two is that institutions for collective action in the past offered solutions to both economic and social – and to some extent, such as with the commons, even ecological – problems, whereas the goals of the con- temporary citizens’ cooperatives are usually focused on solving a single issue, such as producing renewable energy or providing qualitative care.”

“In today society services are subdivided in separate organizations; this has certain advantages, but also disadvantages for collectives. Nowadays, if people misbehave in one domain, it does not necessarily affect other parts of their life directly. As previously described, reciprocity ensures that people are more willing to yield to the collective’s norms, and when a system encompasses multiple parts of a person’s life, this effect becomes cumulative. In the past, institutions for collective action were able to combine social and economic goals, and have a complementary system of monitoring and sanctioning. Present-day civil cooperatives cannot implement a similar arrangement.”

“Another difference links up to this: the historical  
34 T. De Moor (2015) “The dilemma of the commoners: Understanding the Use of Common Pool Resources in Long-Term Perspective”, Cambridge University Press.



examples considered future generations in their own workings. Commoners aimed for a sustainable use of their common resources by restricting them to the member-households' real needs."

"A further important difference between past and present is the mutual interaction of contemporary collectives with market and state. This interaction with the market occurs in two forms, first by collective consumption [...] and secondly through collective production."<sup>35</sup>

Observing such a complex context, in which different actors are at play but too often fail to work together, it becomes evident that we need to find new models for future co-operation. The government plays a fundamental role in stimulating and managing this transformation, and, as explained by De Moor, it will necessarily have to face two major problems which characterize the current situation: "First of all, how to organize the provision of services that were previously considered public in a way that access to them remain feasible for all layers of society, not just those who can afford to "buy" these goods in the market; and secondly, how to ensure that this is done in a resilient, durable way, so that what is created today can also be enjoyed by future generations"<sup>36</sup>.

To develop the collaborative ecosystem needed to deal with these and with many other pressing issues, the government needs to adopt a new paradigm and to contribute to the development of institutional diversity. This can be done "by breaking the predominance of state and market in fulfilling public services, by allowing more organizational forms and stimulating institutions, thereby allowing society to become more adaptable"<sup>37</sup>.

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<sup>35</sup> Ibid.

<sup>36</sup> T. De Moor (2014) "Co-operating for the future: inspiration from the European past to develop public-collective partnerships and inter-generational co-operatives", in "Protecting future generations through commons", Trends in social cohesion series, 26, eds. Saki Baily, Gilda Farrell, and Ugo Mattei, 81-104. Strasbourg Cedex: Council of Europe Publishing.

<sup>37</sup> Ibid.

# A pact for the territory: towards a collaborative governance of transformation processes

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## Premise

In accordance with one of the objects of this Open Book, i.e. the development of a shared frame of knowledge and comprehension of Urban Commons Transitions, in the following pages we intend to make a theoretical remark divided in two phases.

The first part centers around the key terms that can define a new vocabulary of contemporary urban actions, and mostly on the relations that the latter establish. The interactions between complexity and conflict, conflict and social cohesion, social cohesion and commons, commons and creative communities, creative communities and collaborative organizations are simultaneously potential dichotomies and evolutionary sequences (from complexity towards the establishment of collaborative organizations).

Starting from these premises, the second part of the contribution investigates some of the ways through which urban planning is trying to take possess of the terms of this new discussion, in both an endogenous way, by innovating its technical instruments and criteria, and an exogenous way, by opening up to the comparison with other disciplines and knowledge.

## The keywords

Beyond the obvious assonance, the binomial contemporaneity-complexity, represents the indispensable starting point for every line of thought around urban dynamics. Turning to the notion of complexity represents indeed the main *refugium peccatorum*, the universal reason to explain most of urban issues. On the extreme opposite of these standardised thoughts stands the concept of social cohesion. Besides complexity being used to explain the inadequacy of traditional approaches, the inefficacy of planning techniques, the obsolescence of regulatory instruments, social cohesion is seen as a panacea for every issue of society (generally) and of the city (more in particular).

In these simplified visions, however, social cohesion is perceived as the ultimate utopian state of harmony.

Realistically, instead, it is more like a temporary and irretentive balance made by the composition of conflicts, negotiations, compromises and reciprocal commitment<sup>38</sup>.

If simplifying the complexity of the city is something unimaginable, at the same time it is pointless to eliminate or resolve the conflicts within the city.

What we can do is manage urban conflicts, while aiming to forms of social cohesion able to guarantee “city rights” universally. This is what Diamond refers to when talking of the disintegration of social cohesion as one of the causes leading to the “break down” of a culture<sup>39</sup>: the progressive denial of “city rights” to a growing part of population, which represents the tragedy of commons and their indiscriminate withdrawal to their impoverishment and exhaustion<sup>40</sup>.

By following this reasoning thread, another keyword has been identified: commons, and in particular social commons intended as the cluster of shared elements around which social cohesion can be built. In another part of this Open Book, Manzini identifies the generation of new social goods as the virtuous result of spontaneous reactions to the complexity and contradiction of contemporary societies. New ways of being, doing, living and using space; the rediscovering of collaboration; the reinvention of places are the result of “social innovation” initiatives fostered by a growing number of spontaneously self-organized people.

Manzini calls “creative communities” (a group of people who were able to imagine, develop and manage a new way of being and making) the starting phase of this process, while he uses the expression “collaborative organizations” to stress the moment of evolution essential for the success of these initiatives. A further reflection around this interesting distinction can be useful.

The concept of “creativity” applied to the city and to urban communities is characterized by the will to model one’s spaces independently, the capability to adapt oneself, the disposition to doubt, uncertainty and unpredictable<sup>41</sup>. As a result, there is the generation of an attitude aimed to innovation, to promoting different lifestyles and ways of consumption, to reducing

38 Blecic I, Cecchini A. (2016), Verso una pianificazione antifragile.

Come pensare al futuro senza prevederlo, Franco Angeli, Milano.

39 Diamond J. (2005), Collapse: How Societies Choose to Fail or Succeed, Viking Press, New York (ed. it. (2005) Collasso. Come le società scelgono di morire o vivere, Einaudi, Torino).

40 Hardin G. (1968), “The tragedy of the Commons” in Science Vol. 162, issue 3859, pp. 1243-1248.

41 Landry C. (2006), City Making. L’arte di fare la città, Codice Edizioni, Torino.

environmental impact, organizing different urban schedules, all preferring quality to quantity<sup>42</sup>. A creative community is nothing more than a group of normal citizens that do all types of things and originate a certain type of innovation that experts and planners are not able to predict. A creative town is able to fulfil its daily chords in remarkable ways<sup>43</sup>. Creativity does not need time, energy, money and other resources usually implicit in traditional investments. It rather expresses itself effectively by triggering actions and micro-actions on different scales and involving small groups of people that are usually left out from decision-making processes<sup>44</sup>.

From all these different shades of the notion of creativity comes up an extemporary character, both intentional and prideful, irrational, ephemeral, that refuses regulation and standardization that could meddle with the free choice of each subject and community. This approach, while presenting undeniable virtues in the ability to trigger actions and processes, to spark attention and interest, to bring together and share, suffers from a tidal and transitional nature<sup>45</sup> due to the fact that the existence of these creative climates are not fixed and immutable, rather than variable and usually time limited.

Therefore, to make sure that the energies triggered by the creative practices can eventually develop, an action of reinforcement and structuring is needed to lead to more organized forms. Collaborative organizations represent one of these possible forms, characterized by the fact that the final result (the reason why the collaboration is started) and the way to pursue it (the collaboration itself), are equally important, because the people who cooperate are interested in the result, but also because they enjoy the way of pursuing it<sup>46</sup>.

### **Form observing regulations to the choice of new rules**

From time to time urban planning discipline investigates the efficacy of its traditional planning instruments, emphasizing in particular the reasons why these tools work better when planning to avoid rather than planning to achieve. This attitude, that has its daily application in municipal urban plans, has had the indirect result of giving to citizens the belief that urban planning is just an ensemble of rules to be observed and that usually limit the possibility to operate at the urban scale. While this type of regulation has been useful in contrasting speculation during urban expansion, nowadays, in the age of urban requalification and regeneration, it seems unable to give right direction and incentives to those forms of active citizenry that are spreading out.

The reaction to the inability of urban planning instruments to address effectively urban transformation has

originated a series of experiences<sup>47</sup> that can be ascribable to the topics of informal, spontaneous, temporary use of urban spaces and territory, which outline innovative forms of “appropriation”, transformation, use and management of commons. At the beginning, this type of activities have been identified as episodic, spontaneous and ephemeral phenomena; only later it has been made clear that it was an alternative way to give structure to contemporary urban space.

It is evident that we need to rethink the instruments and techniques, but also management and governance models of resources and commons, to achieve a new system of rules that should be proactive (more than just observed) and based on the collaboration between citizens and institutions.

In this way, we will be able to move on from the traditional planning logic, made of objectives (that include the results of participation processes often just made to gain consent) that appear blurry, unspecific and comprehensive, often too far from concrete situations, towards the direct practice on compromised and degraded fields, under pressure or undergoing transformation, through which to concentrate resources that can actually foster the “commons”.

It's not about building collaborative organizations. It consists in defining a favourable environment in which they can live and act concretely on the territory.

### **Pacts and contracts**

To foster the transition from a regulative form to a more interventionist one and to overtake the separation between planning instruments and planning levels, collaborative methods of territory management are becoming more influential. These methods are able to give sense of responsibility about the execution (efficacy) to the different actors and generate a diffused sense of belonging. Consent is reached through agreements that are voluntary or through real contracts, which finds in urban planning several examples, different for their application fields and objectives.

A first example, mostly performed in the Anglo-Saxon area, is represented by the forms of Public-Private Partnership (PPP) that substitute the traditional approach based on public investment, mostly in those fields able to give direct compensation to private investment (energy, transportation, health care, information and communication technologies, construction and local infrastructures). Although

<sup>42</sup> In particular, we refer to temporary projects that improve public space promoted by young urban planners all over North America between 2010 and 2011, recalling the tactical urbanism methodology (temporary and low cost interventions at the scale of the quarter). These ideas have also had a good response in Europe. Among the most representative experiences: the baL project (acronym for “buone azioni per Librino”, literally good actions for Librino) promoted by the G124 group under the lead of Renzo Piano, in which a local Crowdfunding operation of administration, smaller and bigger enterprises, artisans, category associations, university and the research world and citizens made concrete a “collaborative pact”. The Re-Gen Huesca project proposes a regeneration process of the historic quarter of Huesca by engaging citizens in the project of punctual and temporary interventions with a minimum impact on four empty and unused areas. The Stalled Spaces project in Glasgow considers a temporary usage of an area of about 22 hectares, but above all it creates a network of 200 volunteers to take care of these recovered spaces.

<sup>42</sup> Franz G. (2012), *Smart City vs Città Creativa? Una via italiana all'innovazione della città*, Lulu press, New York.

<sup>43</sup> Thackara J. (2005), *In the Bubble. Designing in a complex world*, MIT Press; ed. it. (2008) *In the Bubble. Design per un futuro sostenibile*, Hoepli, Milano.

<sup>44</sup> Yunus M. (2010), *Si può fare. Come il business sociale può creare un capitalismo più umano*, Feltrinelli, Milano.

<sup>45</sup> Hall P. (1998), *Cities in Civilization: Culture, Technology, and Urban Order*, Weidenfeld & Nicolson, London.

<sup>46</sup> Sennett R. (2012), *Together: The Rituals, Pleasures, and Politics of Cooperation*, Yale University Press, New Haven.

diffused mostly in the Anglo-Saxon world, where by tradition public intervention is less important and law system is more pragmatic, other Western Countries are enlarging these collaboration forms and also some developing Countries appreciate how these methods are able to fill the infrastructure gap more quickly and efficiently than the public could do on its own. In the United States for example these experiences of partnerships have different shapes and dimensions, built by tools continuously evolving and represent the starting point of many urban development and transformation initiatives<sup>48</sup>. What pools together all these experiences of public-private partnership devoted to urban planning is the position held by public initiative. Institutions orientate their investments, sometimes paltry, to arrange the best conditions for private investments, guaranteeing the realization and management of the intervention and of the sharing of responsibilities and benefits with a domino effect<sup>49</sup>. In the American scenario, a certain level of flexibility and versatility due to the different contexts, the selection of the actors and the balance between their different roles characterize these planning tools. In fact, application fields are several and go from the construction of infrastructures and entire new quarters (as predominantly happens in Europe) to the regeneration of degraded urban contexts in economic, physical and social terms, paying particular attention to employment growth<sup>50</sup>.

In France next to traditional regulatory devices, **chartes paysagères** are used to promote agreement-based approaches in the fields of landscape safeguard and planning and are characterized by a more operative and contractual nature. **Chartes paysagères** aim at creating a local project to safeguard and enhance the landscape that is shared between all the actors involved in its management, therefore institutions but also other non-institutional actors. These procedures are voluntary and their editing depends on the strict collaboration between the initiative of a group of municipalities or regional natural parks with local communities, above all the farmers. From the operative point of view, once the key-objectives of the landscape enhancement have been defined, all the parts involved – for example local administrations (individually or as a group), the departments (similar to Italian Provinces), public or private supplier societies, farmers cooperatives – sign a contract with which they commit to respecting its contents, each one in its own field.

Above all the concrete actions in which the chartes paysagères translate into, the contrats d'agriculture durable (Cda) are conventions stipulated between State government and farmers who benefit from economic incentives to realize actions of landscape and environmental valorisation of a territory<sup>51</sup>.

A direct offshoot of the French experiences is the River

48 Reuschke D. (2001), Public Private Partnership in urban development in the United States, NEURUS – Network of European and US Regional and Urban Studies.

49 Peirce N.R, Steinbach C.F. (1990), Enterprising communities: community based development in America, Council for Community Based Development, Washington DC.

50 Mariani M. (2015), Soluzioni contrattuali nella Pa tra vincoli di bilancio ed esigenze di crescita, Edizioni Il Sole24ore.

51 Gisotti M. R. (2008), "L'esperienza francese per il miglioramento (anche estetico) del paesaggio" in Contesti, vol. 3, pp. 78-84.

Contracts (**Contratti di Fiume, CdF**). Although not originated from a real law, River Contracts are gaining more solidity both in methodology and operatively in the Italian context. It is a tool to enhance the river's territory and landscape in a multidisciplinary way, by defining strategies at the scale of the whole basin but also through punctual project actions, all aiming to the fulfilment of the Basin's Plan. The River Contract has to be the outcome of a decision process shared between the different actors and integrated by the different topics that it pacts with<sup>52</sup>. In this way, it is possible to demolish traditional management forms based on hierarchic top-down relationships, and allows overtaking its strictly technical and sectorial character<sup>53</sup>. Starting from a voluntary agreement, RC allows the deployment of participation of all the principal actors involved in the river area to define and carry out a shared strategic framework. Therefore, the decision process should involve a heterogeneous group of participants, in social and economic terms of but also in their significance in decision-making arenas<sup>54</sup>.

The objective is achieving an integrated territorial planning in terms of wide contents (safeguard of ground and water, environmental improvement, landscape enhancement, territorial development) and in funding forms (the PSE-Ecosystem Services Payments are mechanisms based on networks between private and public actors that express great potential), to address both the planning and programming processes.

Collaboration pacts, as defined by the Commons guidelines of the city of Bologna, are an instrument through which municipality and active citizens agree upon what is necessary to achieve operations of regeneration and looking after commons. Content of the Pacts vary according to the complexity of the arranged interventions and on the duration of the collaboration, defining in particular: the objectives of the collaboration and the planned actions; the duration of the collaboration; the intervention methods, roles and commitments of the parts involved; the ways the community can benefit of the common in question.

In particular, the collaborative pacts are used in operations of taking care of and regeneration of urban spaces, according to the following cases of point: shared management (timing, interventions and activities are predetermined in the pact), shared management of private spaces used by the public (by denying activities and interventions that contrasting with the public use or private property of the good), regeneration (only case that includes a partly or total economic contribution from citizens).

## Conclusions

As a discipline, urban planning has started the transition from an exclusively regulative approach (based on the arrogance of predicting the transformation of the complex system city is) to a structural approach (based

52 Carter J, Howe J. (2006), "Stakeholder participation and the Water Framework Directive: the case of the Ribble Pilot" in Local Environment, 11(2).

53 Eckerberg K, Joas M. (2004), "Multi-level Environmental Governance: a concept under stress?" in Local Environment, 9(5).

54 Bastiani M. (2011) (ed.), Contratti di fiume. Pianificazione strategica e partecipata dei bacini idrografici, Flaccovio Editore

on soft predictions, broadly and on the long term, able to create the conditions for the achievement of all the proposed objectives). By dismissing the role of decision makers and actuators, Public Administrations become facilitators of processes (transformations, regenerations, requalification, safeguard operations, valorisations, etc.) including a growing part of citizens. The contract forms (i.e. pacts) represent a management method that is effectual in the rationalization of these processes, defining time by time the engagement rules and above all identifying the responsibilities of the different parts involved. As evident by the examples quoted above, the contract, in its different forms and declinations, can easily be adapted to different scales (from the urban spaces of a quarter to the territorial and landscape level) and easily achieves different types of objectives (from regeneration, to safeguard and valorisation). The spread of governance forms based on the subscription of different types of “contracts” could represent the trigger to promote the birth of collaborative organizations (with different shapes) that can also overtake the specific purpose and become permanent structures of the dialogue in the development of a territory.

## Law and the Urban Commons

**Sheila Foster\***

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What do we mean from a legal point of view when we refer to the urban commons or characterize the city as a “commons?” I have written for the past 10 years about the idea of the urban commons<sup>55</sup> and, most recently, with my coauthor Christian Iaione about the idea of the city itself as a commons.<sup>56</sup> But the commons is not a simple concept in American law nor in American legal theory as it relates to property and resources that can be owned or managed collectively. We have many kinds of property arrangements in the law—jointly owned property, group owned property, publicly owned property, and property that is not owned but held in trust for a public purpose. Some of these forms of property are referred to as “common” property (to refer to property co-owned by a group of individuals), for example, and some referred to as simply a “commons” (to indicate property or a resource that is not owned by anyone but rather is maintained in stewardship on behalf of the public or some group of the public). In addition, even within the category of “commons,” there are completely open access commons as well as more limited, user managed commons. Thus, to ask what it is we mean by the urban commons is to beg the question as a legal and policy matter, as well as to invite a bit of confusion both in legal theory and in practice.

One way to think about the commons is to think of it as the residual category of property that is neither privately owned nor state owned.<sup>57</sup> In this traditional sense, commons property is something in which everyone has rights of inclusion and no one has rights of exclusion. Indeed, this is the idea behind Garret Hardin’s classic *Tragedy of the Commons*<sup>58</sup> in which “freedom in the commons” brings “ruin to all.” Unlimited access to shared resources inevitably leads to overconsumption and complete destruction of the resource. Hardin’s *Tragedy* occurs in the context of the quintessential open access commons—a pasture in which each herdsman is motivated by self-interest to continue adding cattle for grazing the land until the combined actions of the herdsmen results in overgrazing, depleting the shared resource for all. Traditionally, this kind of open access commons describes the natural world, the resources to which we all have access and can use or consume—

including air, water, land, forests, and the like. These resources are open, often exhaustible, and thus are vulnerable to the tragedy of the commons.

One way that the law has protected natural resources from overconsumption or exploitation (from either state or private interests) is to allow them to be held in trust, or stewardship, by the state as a means to sustain the resource for future generations. Many years ago Joseph Sax, a renowned professor of environmental law, revived an ancient Roman law concept, the public trust, in which title to natural resources is vested in the state to hold in perpetuity for the public.<sup>59</sup> Sax is famous for establishing the “public trust doctrine” in American law which typically applies to ecologically sensitive lakes, beaches, rivers, forests, and wetlands. The public trust doctrine ensures that the public can access these common resources, and that such resources are sustained for use by future generations. The doctrine also gives legal “standing” to any member of the public to bring a lawsuit to prevent the government—the manager of the trust—from selling off or exploiting the resource for commercial profit or for strictly private gain. Sax argued that, in this sense, the most important aspect of the public trust doctrine is that it is an “instrument for democratization”—it allows for direct citizen participation over common resources and it holds the government accountable to the public in managing those resources.

Notably, the public trust doctrine’s origins were not only in the protection of natural resources, but also in their urban equivalents—city streets, public squares, roadways and the like. Courts routinely protected shared urban resources against the pressure to legislatively appropriate or devote them to nonpublic purposes during an era of intense industrialization.<sup>60</sup> Thus, in the 19th century, either as a matter of statute or common law, courts allowed some urban resources to be protected under the public trust doctrine, with strict limits on its alienation and use for purposes other than those which were open and accessible to the public.<sup>61</sup> The public trust doctrine has since been limited by American courts and no longer routinely applies to city streets or public squares. Although there remain a small number of state courts that explicitly protect large urban parks under the public trust doctrine, courts no longer prohibit always the development or sale of public resources by the state even when the state appears to be acting in ways that benefit private developers,

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56 Sheila Foster, *The City as an Ecological Space: Social Capital and Land Use*, 82 NOTRE DAME L. REV. 527 (2006–2007), at 532; Sheila Foster, *Collective Action and the Urban Commons*, 58 NOTRE DAME L. REV. 57.

56 Sheila Foster and Christian Iaione, *The City as a Commons*, 34 *yale l. & pol’y rev* 81 (2016).

58 Michael Heller, *The Dynamic Analytics of Property Law*, *Theoretical Inquiries in Law* 21 (2001)

58 Garret Hardin, 162 *The Tragedy of the Commons*, *Science*, 3859, 1243–1248 (1968) at 1244.

59 Joseph L. Sax, *The Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention*, 68 MICH. L. REV. 471 (1970).

60 See, e.g., Molly Selvin, *This Tender And Delicate Business: The Public Trust Doctrine In American Law And Economic Policy, 1789–1920* (Harold Hyman et al. eds., 1987)

61 Ivan Kaplan, *Does the Privatization of Publicly Owned Infrastructure Implicate the Public Trust Doctrine? Illinois Central and the Chicago Parking Meter Concession Agreement*, 7 *NW. J. L. & SOC. POL’Y* 136, 148–55 (2012)



as in allowing large scale development in parks and other open public spaces.<sup>62</sup> Most modern courts and commentators consider the public trust doctrine to be effectively limited to protecting natural resources having some nexus or connection with navigable waters.

Nevertheless, one of the practical tools that has emerged out of the long history of applying the public trust doctrine to both natural and urban resources is the practice of putting shared resources into a “land trust.” Both in the U.S. and in other parts of the world, private nonprofit organizations establish *conservation land trusts* for national and regional parks, and other exhaustible natural resources, to preserve them for long-term sustainability. Much like the public trust doctrine, conservation land trusts protect vulnerable natural resources from being overexploited by commercial or market interests. Similarly, in the urban context, *community land trusts* (CLTs) are often established to manage urban land for long-term accessibility and affordability. Community land trusts separate land ownership from land use. In the land trust model, the land itself is considered the common resource and access to it is controlled through leasing the land while maintaining restrictions on the land’s use. The CLT thus acts as the permanent steward of the land and the land is utilized through long-term leases which provide for affordable housing, parks or recreational amenities, commercial space, or other uses responsive to the needs of the surrounding community. CLTs effectively take the land off the private speculative market, preventing the land from being sold to the highest bidder and instead utilized to meet the needs of the surrounding communities.

Legal scholars also distinguish between “open access” and “limited-access” commons. In contrast to the quintessential open access commons—a resource into which everyone can gain entrance and no one is excluded—there are also shared, common resources open only to a limited group of users. The primary examples of these kinds of limited access commons in the U.S. are referred to as “common interest communities”—such as condominium complexes or gated communities. In exchange for their association dues, owners in these common interest communities have access to shared common facilities—such as roads, streets, parks and other amenities. The rules of the community can be highly restrictive and are administered by the owners of the residential community or their elected representatives. These often resemble a traditional “commons on the inside” but “private property on the outside.”<sup>63</sup> In other words, limited access commons are “open” for those who purchase property or property rights in the community. The purchase of property (e.g. a condominium or house in a gated community) is what grants these owners shared usage rights in the common resources of the community. At the same time, these shared resources are “closed” to non-owners, who can be completely excluded from community and its resources. In American law, the right to exclude is the

62 See e.g., *Friends of Van Cortlandt Park v. City of New York*, 750 N.E.2d 1050, 1053–54 (NY, 2001)

63 Carol M. Rose, *The Several Futures of Property: Of Cyberspace and Folk Tales, Emission Trades and Ecosystems*, 83 *Minnesota Law Review* 129 (1988)

*sine qua non* of private property rights. In most respects these “common” property arrangements follow the logic of, and operate like, private property by endowing collective owners with full rights of exclusion.

The other type of limited access commons are user-managed natural resources, as in the groundbreaking work of Elinor Ostrom<sup>64</sup>, in which she identified groups of users able to cooperate to create and enforce rules for utilizing and sharing resources—such as grazing land, fisheries, forests and irrigation waters—without privatizing the resource. Because users establish rules for use of the resource and there exist membership constraints, these are limited access commons. However, unlike “common interest communities,” none of these resources nor their management involve any kind of private property. They are not owned in any way by private individuals and thus there is no strong right of exclusion. These Ostrom commons institutions manage natural resources that are in fact not owned by anyone, and are in a real sense open and accessible, but are managed by a group of users who decide on the rules of usage. As such, these Ostrom limited access commons are distinguishable from collectively or commonly held private property regimes in which individuals have ownership rights (and thus rights of exclusion) in the collectively managed resource.

The distinction between “open” and “limited” access commons does obscure the fact that there are very few “open access” commons which exist today. The reality is that very few natural or urban resources are truly open in the sense that their use is unmanaged, unrestricted or unregulated. Many natural resources—the air, the water, national parks, etc.—are regulated by national and subnational environmental legislation and regulation which control and limit their access and use by a range of public and private actors. Environmental regulations control how much and what kind of pollution can be released into the natural environment. Similarly, urban land, streets, roads, infrastructure and other shared resources are heavily regulated by planning, zoning, and building regulations that control the location, density and kind of uses allowed. Even city parks and urban plazas and squares are regulated by rules limiting or controlling the uses allowed in them. Many cities even prohibit the homeless and other undesirable populations from using park benches and highway underpasses for sleeping and other activities.<sup>65</sup>

If completely open, unrestricted commons no longer (or rarely) exist anymore, how do we identify the contemporary commons as a matter of law (and legal theory)? Increasingly, legal scholars across the world (and some courts and legislatures) locate the commons even in heavily regulated spaces, public institutions, vacant and abandoned land or structures, and in privately owned but accessible resources that are customarily used by the public. These resources are more akin to what some scholars call “constructed” commons in the sense that “their creation, existence,

64 Elinor Ostrom, *Governing the commons*, Cambridge University Press (1990).

65 *Tobe v. City of Santa Ana*, 9 Cal. 4th 1069, 892 P.2d 1145 (1995) (California Supreme Court validating as constitutional “anti-camping” law which prohibits sleeping or occupying public land within the city).

operation and persistence are matters not of pure accident or random chance, but instead of emergent social process and institutional design.”<sup>66</sup> In constructing an urban commons, the institutional arrangement consists of some combination of law, social norms, customs, and formal instrumentalities and agreements. Commentators and scholars describe the process of constructing these institutional arrangements as “commoning,” a powerful dynamic process that brings together a wide spectrum of agents that work together to co-design the governance of urban resources.<sup>67</sup> What emerges from this collaborative process is not only collaborative management of particular urban resources, but also the co-production or co-generation of community services at the city and neighborhood level. The recognition of the built environment as constituting a variety of urban commons is designed to open up access to, and to generate, essential resources for urban residents as well as to institutionalize the sharing of those resources.<sup>68</sup>

Urban commons thus resemble less the open grazing field depicted in Garret Hardin’s “tragedy of the commons” and more of what property scholar Carol Rose refers to as the “comedy of the commons.”<sup>69</sup> Instead of the potential for overconsumption and ruin, there exists instead the potential for solidarity and the generative potential of the urban commons to create other goods that sustain communities. Rose found that some British courts considered as “inherently public property” even privately owned resources where the public customarily used the space or land for gatherings or other activities valued by the community. These courts vested in the “unorganized” public the right to use property, or rather to open it up or keep it open and accessible, even over the private landowner’s objection. Rather than tragedy in these spaces, we are more likely to find “comedy”—that is, the “more the merrier” is a better description of high consumption activities in the urban commons. The more that people come together to interact, the more they “reinforce the solidarity and well-being of the whole community.” As she points out, the vesting of property rights by British courts in the “unorganized public” rather than in a “governmentally-organized public” also suggests the means by which a commons may be self-managed by groups of the public who use it and depend on it, as an alternative to exclusive ownership by either individuals or exclusive management by governments.

In previous work, I identified small- and large-scale urban resources—neighborhood streets, parks, gardens, open space, among other goods—which are being collaboratively managed by groups of heterogeneous users (and other stakeholders), with minimal involvement by the state (local government) and without granting

those users private property rights in the resource. These include community gardens or urban farms, business improvement districts (BIDs) and community improvement districts (CIDs), neighborhood park groups and park conservancies, and neighborhood foot patrols. These examples illustrate, much like Elinor Ostrom’s work on user-managed natural resources, the possibility and reality of collaborative governed and stewarded urban commons. In her case studies, common resources are managed not by privatizing the resource, nor by public authority monopoly over them. Instead, collaborative governance of common pool resources is designed using a rich mix of “public and private instrumentalities.” These can include informal social norms and user-imposed sanctions as well as formal agreements, legislation, or policies enabling and facilitating the process. Ostrom highlights the importance in some contexts of a *nested* governance structure, in which users work cooperatively with government agencies and public officials to design, enforce and monitor the rules needed to manage shared resources. She noted the presence of some larger scale user managed resources, such as groundwater basins, which are nested within existing governance systems yet operate independently of those systems. Such nestedness might in fact be necessary in a complex resource system where large institutions (e.g. city government) govern through interdependencies of smaller units of governance or what she called “microinstitutions.”<sup>70</sup>

The emergence of collaboratively managed urban resources demonstrate how local communities can employ a mix of public and private instrumentalities (e.g. legal and governance tools) to create institutions designed to share those resources. As mentioned, the use of community land trusts (CLTs) and other cooperative ownership structures that separate land *ownership* from land *use* transform what might otherwise be a collection of individuals owning property (in the typical cooperative ownership model) to a collaboratively governed shared urban resource regime. CLTs, for instance, are managed by a nonprofit board of directors—usually composed one-third of individuals who occupy the buildings on top of the land, one-third of people who reside within the local area, and one-third of members of the larger public. The CLT board maintains significant control over the property that sits on the land through ground leases. It is through these leases that the CLT can enforce guidelines and limits on how the land is used or developed. CLTs thus act more as land *stewards* than land *owners* and, as such, mimic more closely the kind of Ostrom-like “microinstitutions” that manage complex natural resources. Community land trusts have been used to manage housing, commercial real estate, green space, small businesses, and indeed an entire urban village.<sup>71</sup>

There is, of course, the potential for the “dark side” of these commons governance regimes. In previous writing, I have warned of some problematic institutions, like large (and wealthy) BIDs and Park Conservancies, which raise distributional justice concerns when they entrench

66 Madison, Michael J., Brett M. Frischmann and Katherine J. Strandburg. Constructing Commons in the Cultural Environment, *Cornell Law Review* 95:657-7 (2010).

67 See e.g. David Bollier & Silke Helfrich, *Patterns of Commoning* (2015)

68 See e.g. P. Bresnihan & M. Byrne, *Escape Into the City: Everyday Practices of Commoning and the Production of Urban Space in Dublin*, 47 *Antipode* 36 (2015); A. Huron, *Working with Strangers in Saturated Space: Reclaiming and Maintaining the Urban Commons*, 47 *Antipode* 963 (2015).

69 Carol Rose, *The Comedy of the Commons: Commerce, Custom and Inherently Public Property*, 53 *University of Chicago Law Review* 3 (1986).

70 Ostrom, *Governing the Commons*, 135-136.

71 Dudley Street Neighborhood Initiative is one of the most well-known examples in the U.S. See <http://www.dsni.org/dsni-historic-timeline/>



existing patterns of spatial and economic inequality. Depending on the legal and governance design, these institutions can also result in ossification of resource use by keeping it too closely managed by a small group of users and making it more difficult in the future to utilize the resource in different ways to meet future public needs. Some practices designed to promote collaborative governance of urban common resources might also lead to the exclusion of marginal individuals and groups from public spaces and from the process of collaborative design and governance. These concerns underscore the importance of keeping commons governance mechanisms flexible and accountable, and of including equity and distributive justice as core commitments within the urban commons framework. In other words, the urban commons must be more than a call for the devolution or decentralization of authority over shared urban resources. It must also stress the importance of commons governance that is accountable to the public and to public values. Moreover, at its core should be a vision to make truly accessible a range of urban assets to a broad class of city residents, particularly those whose needs are underserved by current urban development and revitalization strategies.

To address the democratic accountability and distributional problem that is lurking in the background of any conception of the commons, it is important to scale up the idea of the urban commons to the level of the city. In other words, we need to discuss the possibility of governing *the city as commons*. To think about the city as a commons is to think about it both as a shared resource and as a resource that can be managed in a more truly collaborative mode. That the city itself is a shared resource — open and accessible to many types of people — means that it does mimic some of the classic problems of a common pool resource. It is difficult to exclude people from entering it and from consuming its resources, raising the problem of scarcity, congestion and overconsumption. The city is also a resource system that is generative, in that it produces a variety of goods and services for its inhabitants and users. Much like many other kinds of open access resources — fisheries, forests, information, knowledge etc. — the issue is often the scale of production and renewability of the resource. Very few resources are infinite and at some point decisions have to be made as to how and, to whom, to allocate or distribute those resources and what kind of process that entails.

In our work at LabGov (Laboratory for the Governance of the Commons), we prioritize thinking about institutional design questions and processes for scaling up from the urban commons to the city as a commons. To address the democratic accountability and distributional issues, we must think about institutional design processes that are polycentric — in which there are many centers of decision making authority and decision making power is distributed throughout the city and shared to varying degrees with a variety of other actors.<sup>72</sup> This polycentric governance model is based on the idea of *pooling*, referring to a continuous experimentation process that brings together the five actors (public,

private, cognitive, social, civic) of the “quintuple helix” for innovation, resulting in peer to peer production of goods, services and places and in the development of forms of “collaborative economy”. In this process the State enables collaborative governance mechanisms through its public policies and laws, and facilitates user-generated and user-managed resources by leveraging or transferring its technical, financial, physical resources to allow the urban commons to emerge across the city. A fundamental task confronting the *enabling state* in this model is that it must change local administrative culture and norms. This means that local public authorities must increase local competencies and capabilities to incentivize and coordinate collaborative governance, change the infrastructure of the city (administrative, cognitive/professional, technological, financial, etc.), and design new legal and policy tools to facilitate collaboration and cooperation. Moreover, it is important that public authorities and public officials retain a presence and role for enforcing democratic values and being accountable to larger public interest and goals (distributive equity, transparency, non-discrimination, etc.) even as it facilitates the emergence of urban commons microinstitutions distributed around the city and metropolitan area.

This idea of the city as a commons is motivated by the ongoing experimentation process of establishing Bologna, Italy, as a collaborative city, or “co-city.” As part of this process the city of Bologna adopted and implemented a regulation that empowers residents, and others, to collaborate with the city to undertake the “care and regeneration” of the “urban commons” across the city through “collaboration pacts” or agreements. The regulation provides for local authorities to transfer technical and monetary support to reinforce the pacts and contains norms and guidance on the importance of maintaining the inclusiveness and openness of the resource, of proportionality in protecting the public interest, and of directing the use of common resources towards the “differentiated” public. The specific applications of the Bologna regulation are just now undergoing implementation, as the City has recently signed over 250 pacts of collaboration, which are tools of shared governance. The regulation and other city public policies foresee other governance tools inspired by the collaborative and polycentric design principles underlying the Regulation.

The Bologna regulation, and the related co-city protocol, designed by my colleagues at LabGov, are illustrative of the kinds of experimentalist and adaptive policy tools which allow city inhabitants and various actors (i.e., social innovators, local entrepreneurs, civil society organizations, and knowledge institutions willing to work in the general interest) to enter into co-design processes with the public officials and which lead to local polycentric governance of an array of common goods in the city. This process of commons-based experimentalism re-conceptualizes urban governance along the same lines as the right to the city, creating a

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Organization of Government in Metropolitan Areas: A Theoretical Inquiry American Political Science Review 55 (4):831-42 (1961, Reprinted McGinnis 1999)

juridical framework for city rights. Through collaborative, polycentric governance-based experiments we can see the right to the city framework be partially realized—e.g., the right to be part of the creation of the city, the right to be part of the decision-making processes shaping the lives of city inhabitants, and the right of inhabitants to shape decisions about the collective resources in which all urban inhabitants have a stake.

# Imagining the (R)Urban Commons in 2040<sup>73</sup>

**Silke Helfrich**

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In 2040, one generation from now, I will be more than 70 years old and hopefully surrounded by my first great-grandchildren. What I'd like to share with you here is how I imagine the Urban Commons will be by then – and how I'd like *my grand- and great-grandchildren* and me to enjoy them and care for. While pondering this topic, I realized that it might more appropriately be called the "Rurban Commons." This seems to be one of the most important patterns and pathways for us to understand – how to interconnect urban and rural spaces. The projects of so-called *urban agriculture* and *rural maker-spaces* like the OTELOs throughout Austria are pioneering examples of this growing interconnection.

So, to share how I imagine the future of the rurban commons, I'd like to invite you to take a collective walk with me – a walk through an environment that we can co-create, that in fact can only be co-created. Step by step and in each detail adapted to the local circumstances. Designing such an environment doesn't automatically ensure or guarantee „r/urban commons“, but it can provide *the conditions and infrastructures for commoning*.

This is crucial for the insight that historian [Peter Linebaugh](#) brought to my attention: There is no commons without commoning, he noted, drawing upon medieval history. This is evident when we look at the idea of commons itself. It is impossible to think about the commons without wondering who is creating, managing and reproducing them. To come into existence commons need to be "enacted." This is why, when thinking about the commons, we also need to think about community, understood here in a broad and modern sense, ranging from local communities to global networks and to loosely connected networks of communities.<sup>74</sup> That is, communities as federations.

I believe that the most challenging and indispensable factors needed to enact commons are to (learn how to) *think like a commoner* and to practice "how to common" at the same time. This, in turn, requires a specific attitude -- an attitude based on the recognition of a simple truth: We are all related to each other!

"I am because you are", one might say. Or "I am through others." This idea is also known as [ubuntu, which not coincidentally, is the name of a prominent version of](#)

<sup>73</sup> This contribution was originally published by Silke Helfrich on Commons Blog, on November 12, 2015. The text has been slightly modified for this publication. The original complete version is available at the following address: <https://commonsblog.wordpress.com/2015/11/12/imagining-the-rurban-commons-in-2040/>.

<sup>74</sup> From "Commons: A frame to think beyond growth," an interview with Silke Helfrich published on the P2PFundation Blog on October 10, 2016. The full text is available at <https://blog.p2pfoundation.net/commons-frame-thinking-beyond-growth/2016/10/10>

[the Linux open source computer operating system](#). Just have a closer look at the word "I." This does not really refer to an isolated entity; it is a relational term. Saying "I" doesn't make sense if there is no "You." This idea of relationality is at the very core of the paradigm shift that the commons debate contributes to. To put it differently: Human beings are *free in relatedness but never free from relationships*. That is the ontological bottom line. Relations *precede* the things that interrelate, i.e., the actual facts, objects, people, situations and circumstances. Just as physics and biology are coming to see that the more critical factors in their fields are relationships, not things, so it is with commons.

From this insight, we can then see that commoning can be conceived as a way of living. It is a lifeform that has the potential to enact freedom-in-relatedness – a sometimes hurtful, mostly bumpy and always complex social process. The process requires us to constantly swim upstream, against all odds, because in a capitalist society we are systematically discouraged from developing the capacities and skills we need for commoning.

In short, *commoning means, take collective action to enact the Commons*. The more consciously and self-consciously this happens, the better.

The modern commons debate differs from earlier discussions about the commons several decades ago, and certainly more than 150 years ago, in wanting to explore and understand how free cooperation (commoning) works among strangers, and how it can be made stable and durable. People also want to understand how commoning might work in nontraditional communities, such as in networks, in the digital world, in multiethnic contexts, and among "nomadic citizens" such as hackers and migrants. Contemporary commoners believe that commoning is perfectly possible even in these societal contexts if they have the space, infrastructures and support to self-govern themselves. They can thrive if..

- The *Patterns of Commoning* are as well understood as the famous "[design principles for commons institutions](#)" identified by the late Professor [Elinor Ostrom](#);
- If they are cultivated and become an embodied experience; and
- If we have access to (free) communication tools to enable our coordination and cooperation.

Commoning is much more than just "being together" (more than *Geselligkeit*, as we would say in German). In

fact, it may be the only way in which we can systemically confront the dysfunctions and corruptions of the *market/state* system that now governs us.

Earlier I said that I tried to imagine the Rurban Commons in the year 2040. Let's beam into that year and start our walk around the city.

Picture the city you live in or a city you know well. Focus on a certain neighbourhood and remember the bustle in the streets. Remember how this place sounds and smells like, and what people are doing there.

A city is fluid, which means that such a neighbourhood is changing constantly. People move in and out. Buildings are bought and sold, shops close down and others open up. Infrastructures change sometimes more quickly than we wish them to do. Once there was a factory. Now there is a cultural center. People disconnect from traditional workplaces; they work at their home office or in the co-working space next door. Each change of these kind of changes is also an opportunity to "commonify" the city.

If you find this an odd statement, have a closer look. First and foremost: The main focus is on rethinking use. Because there is often underuse of available buildings and spaces, a commons approach can make new constructions unnecessary. Everywhere. "Zwischennutzung" is a widespread concept in Germany – is only one of them.

Or apartments can be converted into *co-housing projects* (real co-housing, not just *Airbnb-style micro-rentals*). Co-housing means sharing basic housing infrastructures according to people's needs in a self-determined and ongoing way – not just making a flat available for rentals every now and then. This has two major effects: it helps people to become more independent from the (often expensive) housing market. And this in turn helps to "free up" the houses or apartments from concentrated market control, speculation and artificially high prices.

Of course, there is an endless number of legal forms from housing cooperatives to *community land trusts*. But the crucial point here is to make sure that once something is placed in the commons, it must remain in the commons and not fall back into the market. In Germany, there is a robust and growing institution called *Mietshäusersyndikat* (loosely translated, the Federation of Housing Commons). It has more than 25 years of experience in *co-facilitating the self-organization* of hundreds of housing units all over the country. It has co-created a solidarity and co-financing network among housing projects.

What makes these projects really special is the clever legal tweak that enables them to protect the buildings and houses themselves as shared resources. It has been done in such a way that it is very difficult to resell a co-housing project back into the market. What the federation of housing commons is basically doing is to elevate and protect the freedoms of commoners at

the expense of market-oriented investors, speculators and often, governments. The legal provision protects the freedoms that money can't buy – the capacity to have access to secure, lower-cost housing. To me: *Mietshäusersyndikat* is a kind of the *copyleft* for housing projects.

Why is this important? Because doing this means widening the sphere of the commons with a long-term perspective. And widening the sphere of the commons is helpful in this case because it shrinks the sphere of extractive markets. So, remember: *Each Commons needs protection!*

Let's walk on.

Everybody needs not only shelter but also something to eat. And a decisive part of the reintegration of rural and urban functions is certainly greater food production in the city. In my great-grandchildren's Rurban Commons, there will be spaces for experimental gardening and "herb commons." You might already know the concept of an *edible city*.

There would be a bee and wild bird yard, the already-famous community gardens and *intercultural gardens*. There would be flower fields, fruit tree zones ... you name it. And, of course, CSAs as one of the most important ways of food provisioning. CSA means *Community Supported Agriculture*. This is crucial, because – as in the co-housing case – the functioning of many CSAs successfully disconnects food-production from the imperatives of the market and instead initiates a kind of "pool & share" approach. Pool & Share as opposed to Pool & Dividend as the only approach is an important pattern in the commons.

As you might have noticed, for me, the commons is much more than a concept of togetherness. It also describes a new mode of production of potentially everything – housing and food, software and hardware, furniture and machines, healthcare and education. The commons could truly stimulate a radical shift in production modes that focuses on the idea of predistribution instead of redistribution. It would produce more commons and fewer commodities.

To give you an example, in a commons framework agricultural production – as in a CSA – is not mainly about the production of "goods" or "products" to be sold on the market. Instead it produces "shares" which are distributed according to pre-established rules determined by the participating community. This brings the community members to share not only the products but, most importantly, the risks of production, meaning that the burden of a bad harvest is shared by all members.<sup>75</sup> Nobody is left alone. Risks and costs are mutualized.

The commons framework requires us to also think about frameworks, infrastructures and production schemes at larger and even global levels. In general, the basic rule that we should apply is "What is heavy is local, what is

<sup>75</sup> Ibid.

light is global.”<sup>76</sup> This formula guides communities to produce and consume locally what they need for sustenance and for their everyday life (from food to clothes and machinery) while at the same time sharing globally what is “light,” such as knowledge, data, codes and designs needed for production.

In this way, communities can produce locally things that they cannot produce in the current economic system (because it would be considered “uneconomic.”) This would strongly reduce transportation costs and negative environmental effects. Such a framework envisages production to take place in a *distributed (not decentralized)* way. Decentralization is better than centralization, gradually, but structurally it is still a top-down approach. A distributed scheme of production, however, is different in essence. This is what we can learn from the P2P communities.

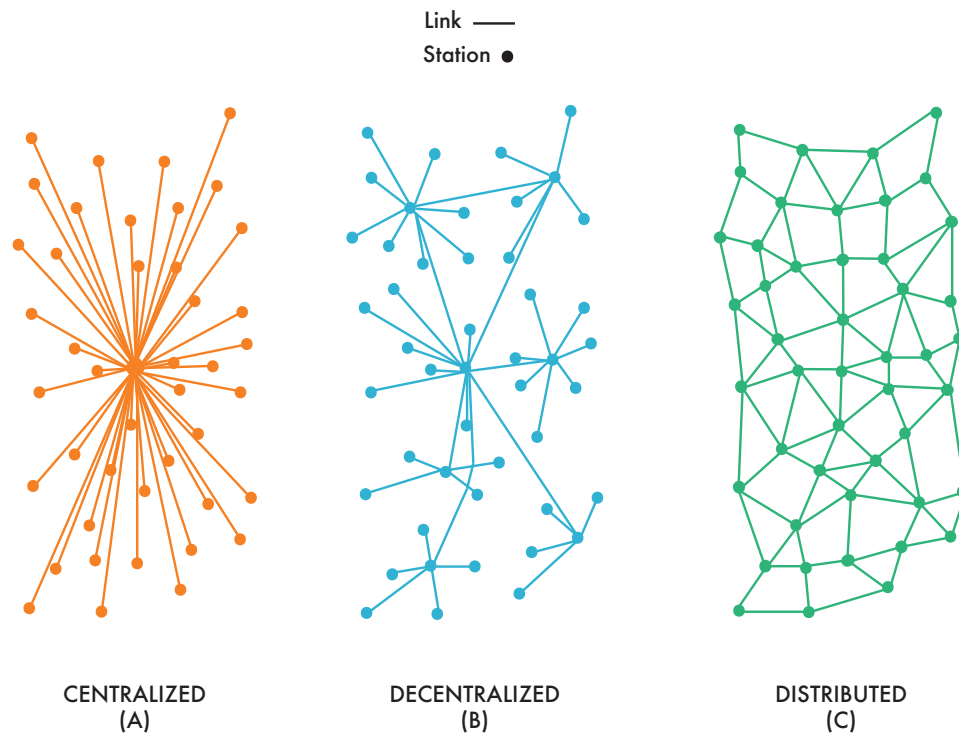


Figure 1 Centralized, Decentralized and Distributed Systems (Paul Baran, 1964)

One could say: We are witnessing a worldwide field trial, and an expansion of locally proven models of this new way of production. [Open hardware projects](#) are mushrooming, as CSAs are. However, because these projects often use different concepts and wordings to describe their experiments and practices, the common DNA, the patterns of commoning, often remain invisible.

So, let's make it visible.

In the place I will live in 2040, there will be a repair café, a laundry salon, outdoor workshops for whatever purpose, a tool-lending library, Fablabs a physics workshop, a hackerspace, and a fabric sharing and tailoring space.

The infrastructure will be controllable and controlled by the neighbourhood. There will be (distributed) renewable energy production, a sewage purification plant, open wifi and an open (infra)network. There will be fire brigades, health and first aid associations and much more. And after all, there is a common pattern. (I refer to the idea of “patterns” as used in the [Patterns Theory](#) and Pattern Language approach developed by the philosopher, architect and mathematician [Christopher Alexander](#)). I think of infrastructure [platforms whose use is open to all, without discrimination](#). Such platforms are based on the principle that more money should not be able to command greater use rights. Comparing it to the Internet policy concept of net neutrality, you could call it “[platform neutrality](#).”

<sup>76</sup> “Why the P2P and Commons Movement must act translocally and transnationally” by Michel Bawens, published on the P2PFundation blog on June the 16th 2016. The full text is available at the following link: <https://blog.p2pfoundation.net/p2p-commons-movement-must-act-trans-locally-trans-nationally/2016/06/16>

Let's continue strolling around the neighbourhood:

There are the cultural spaces for the unfolding of cultural activities, reading circles, an open theatre, a contemplation area, a library, land for open permaculture, a [commoning school](#) and so on. Many of these opportunities for commoning are simply open spaces for non-determined uses.

Finally, we need to get around within and beyond the neighbourhood. I imagine mobility in a rurban commons being based on the idea of [shared space](#), i.e. a combination of infrastructures that privileges pedestrians and bikes and doubles the space through sharing with [p2p car-sharing](#) and good connectivity to public transportation.

### Is this realistic? Or is it utopia, that is, a “non-place”?

It is probably something that the German philosopher [Ernst Bloch](#) calls: “Concrete Utopia.” We can already grasp such a transformation, because the examples and many experiences are there, still scattered, and named in great many different ways. But they are there. The needs are there as well. And the commons is a needs-based approach more than a rights-based approach. They show that what is now considered “individual property” [and a [tragedy of the anticommons](#), i.e. the fragmentation of property rights, and thus a social and economic paralysis] can be transformed into shared possession and individual use rights within the realm of shared possession, according to people's needs and decisions. Rethinking social organization through a commons lens implies rethinking property, that is, access and use rights. We can do so by remembering that, as stated by Vandana Shiva,<sup>77</sup> “each commons is somebody else's commons,” therefore rethinking property also means rethinking our relationship with these “somebody else's.”<sup>78</sup>

A commons framework for re/production in essence is a way to meet people's needs at all levels through a high degree of self-organization combined with commons-based infrastructures and governance principles at different scales. It's a way of provisioning that doesn't need to be achieved through individual property as default position, nor mediated through the so called „market mechanisms“. (In fact, mechanistic metaphors are very misplaced when we try to understand and address the complexity of social relationships)

### So, how do we get there?

First of all, we need to make all these experiments and examples more visible and connect them to each other, because they are connected. Yet many of these connections are invisible too. [Mapping tools](#),

<sup>77</sup> Vandana Shiva is an Indian scholar, environmental activist and anti-globalization author. More information on her ideas and on her works are available at this address: [http://vandanashiva.com/?page\\_id=2](http://vandanashiva.com/?page_id=2)

<sup>78</sup> From “Commons, a frame to think beyond growth”, an interview to Silke Helfrich published on the P2PFundation Blog on October the 10th, 2016. The full text is available at the following address: <https://blog.p2pfoundation.net/commons-frame-thinking-beyond-growth/2016/10/10>

intermapping the commons-transformation are indispensable to that purpose.

We need something like [Omni-Commons](#) everywhere. We need to discover the common patterns of the initiatives that experiment with a rurban commons approach and we need to help to connect them – not necessarily in physical terms, but mentally and politically. Because one thing is for sure: we are not just for dealing with “the leftovers,” or in urban terms with “vacant terrain” – what used to be called “wastelands.” It is not about the peripheral, undefined edges of the city. It's about rethinking and reshaping the rurban environment as a commons. Social and cultural realities are not facts; they are something we co-create.

So: connect commons confederate the hot spots of commoning create commons-neighbourhoods commonify the city.

Widening the space for the commons while shrinking the space of the market is feasible. It needs to be enabled, done and (politically and academically) supported. Of course, such an approach needs a consistent framework, so that people feel mirrored in it, so to speak. This is where commoners on the ground need the help of engaged scholars. Scholars who don't just study what commoners do or don't do, but who co-facilitate the co-creation of a free, fair and sustainable society. As Ezio Manzini has put it:

*“Commons are fluid forms. To enact them we should focus on enabling conditions, not on fixed designs.”*

That was precisely what I was trying to do: Take you on a walk through a non-fixed design that is meant to create the enabling conditions for commons in a rurban environment. A “design” that is open and allows for constant adaptation. This idea is called City of Workshops and was originated with two Austrian students, [Nikolas Kichler](#) and [David Steinwender](#).

There is power in the rurban commons if there is power in the communities, which make, care for and protect them. Therefore: *Keep calm and Keep Commoning*.



# The Platform-State. Government as an enabler of Civic Imagination and Collaboration

## *Politics and Institutions in the CO-century*

**Christian Iaione\***

The époque that saw Barak Obama as head of the State considered as the most efficient and worthy of emulation has come to an end. One of the few aspects I did not appreciate of Barak Obama's public policies is the idea of strongly rely on the nudge regulation trend, in some cases in an uncritical manner. Such approach entails an extreme and perhaps too brutal synthesis of law and of behavioral policies, consisting in an attempt to stimulate and orientate individuals' behavior from above, directing it towards customs and habits that would not be in conflict with a general interest outlined in the office of some director, minister or assessor, perhaps with the support of few experts and professors.

I must admit, at the time when I was studying and working in the United States, I was also subject to the charm of this idea. But any individual who is not afraid of illustrating his political culture and of studying and designing public policies able to change, innovate or, as I will later claim, re-imagine rather than reform, must look with fear and suspect at any policy treating and transforming people into a multitude of "hamsters", condemned to run in a wheel so well designed that the hamster himself is not aware of going around in circles. And the mechanism is already widespread, as it is clear that market economy is devised to transform citizens into consumers, and everything is constructed with the aim of stimulating the highest consumption possible from the citizen. Market and communication are used to orient people towards certain choices, which in the past where consumption choices, while today are presented through the nudge theory as choices made for the general interest. I want to clarify now that I do not oppose any view for ideological reasons. What I want to underline is that we need to treat the subject with great attention, as I do not want to find myself here in ten years fighting against a theorem as I had to do, as a student in the 90s and as a young scholar in the first years of the new century, against the theorem of privatizations at any cost. The private is always more efficient, because it is what Europe is asking us. I am between the few Italian scholars of public and administrative law to have warned against "privatization irrespective of anything", because it is not always the case that the private is better than the public and it is not always Europe who is asking us. Today we are aware of the groundlessness of that theorem, at least in the absolutistic forms under

which it was proposed. I hope I will not find myself in some years in a situation where we realize that we have been too focused on the trend of "gently pushing" towards public policy objectives to remember that those public policy objectives must be clearly defined. This happens because those theories are born in an age of compassionate conservatism, in which citizens are treated as if they were "dumb" (Beota) and needed omniscient politicians and bureaucrats to show them the right path, providing them with the complete directions to prevent them from making mistakes. This could represent a simple update of those rationalistic models on which market economy has been built, whose functioning mechanisms were designed around the abstract figure of the homo oeconomicus, who based all his actions on an economic rationality. This model is not truthful, and a more valid approach would be to pay greater attention to models of real behavior, as I tried to do through in-depth analysis as a student. But I soon realized that in a similar approach lies a potential danger for democracy and most of all for individual freedoms. There is in fact the possibility for those who are in power to hide behind a general interest which is abstract, ideological and only presumed and towards which all behaviors are directed, while the general interest should instead be built together with the citizens.

What I tried to do in the last ten years of my activity as law and public policy scholar and practitioner was to try to understand in which manner I could be of help to the administrations and to the communities that intend to move their first steps to overcome the traditional State paradigm. I believe I understood that the gap through which it is possible to "hack" institutions lies in the capacity to enable innovative social practices (also known as social innovation) able to generate economic solutions, which result in an intense pressure on institutions. Faced with a pressure of this kind only the institutions which are more equipped to undertake a path of institutional innovation are positively reacting, while unfortunately the others until now are only attempting to fill the hole.

Today we speak about beauty economy, knowledge and culture economy, but also sharing and pooling economy, circular economy, social, ethical and civil economy and, furthermore, trust and happiness economy. All these "new" economy forms are based on social innovation, meaning that they revolve around the central figure of the citizen, who becomes protagonist, as he is not

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only author of consumption choices, but also author of answers of general interest. I believe we are not in a period of crisis but instead in a period of transition from one social, institutional, economic and juridical paradigm to another. I do insist on these passages because I want the logical consecutio to be clear. In this, LabGov<sup>8179</sup>'s (the Laboratory for the Governance of the City as a Commons) payoff is crystal clear: "Society runs, economy follows, let's re-design law and institutions together!". Each innovation process is guided by an update, up-grade and transformation in social practices. Change always begins with a social change, which then guides the economic and technological paradigm change. It is never the opposite as technology, the one that truly works, is a social product and technological up-grade always grows from social change, as many scholars studying the development of technology also stated. In France the instrument designed for telephonic communication became almost immediately a relational instrument, a way to maintain and cultivate social relations. The same happened with the first real time messaging instrument at the time when Internet was being designed in the USA. There is nothing wrong with this, on the contrary these examples teach us that modernity and innovation are inescapably tied with relational processes.

Innovation is the "kind rupture" of a dominant paradigm. Here I would like to quote Edmond Burke, a great political analyst who states that innovation distinguishes itself from reform because of its discontinuity – and this shall help us re-think the role of reformism in the XXI century. A qualitative change with respect to the actual state of affairs stands out. This is innovation. Thus, in the XXI century the battle might not be between reformers and conservatives, but instead between collaborative and competitive actors, meaning with this that individuals but also economic, institutional, social and cognitive actors that enter in a relationship as equals to overcome social, economic and technological divides while challenging the existing paradigm to re-imagine it have to confront subjects that compete to protect their privileges and profits and pursue the maximization of their benefits. I am not sure this can be defined as conservatism, because conservatism has always been politically identified with the right, while today we observe a tendency to preserve privileges and incomes also on the left side of the political spectrum. Additionally, the theory of acquired rights that today prevents the new generations from creating a better country for the generations to come is the result of the short sightedness of the past generations which, in a moment where it was possible to afford certain rights, have consolidated and frozen those rights, that today are defined as acquired. This has been done through public debt by a narrow group of people, an oligarchy. Furthermore, these rights are not the instruments of mass emancipation that we imagined in the XX century, but are instead defense instruments used by oligarchies and by that portion of society that does not accept to

share or downsize the wealth they have accumulated. Those are not the rights that our constituent fathers left us. What is more, it is not always easy to distinguish innovators from non-innovators and reddeners (income bearers), as they both frequently act under false pretenses.

Coming to the institutional paradigm change, that we are inheriting from the economic and social paradigm change, I believe it will be based on the concept of collaboration. Perhaps we are entering in the "CO-" era, where key words seem to be community, collaboration, cooperation, communication, commons, co-design, co-production, co-management, co-housing, sharing, knowledge etc.. These are all words characterized by a co- root, which recalls the making, living and growing together. This means that the administration has to re-think itself as an organization starting from the co-'s concept. Besides, even big organization are re-modelling themselves, as they understand that great part of their value comes from external energies, from the sharing of resources and knowledge and from the collaboration enabled by sharing. If we take Facebook as an example we observe that its value is not produced only by Zuckerberg and his engineers' algorithms and social communication experts, but it is also produced by us, users, through our relationships and exchanges, and through reciprocation, mutual trust and collective organization. Institutions must be re-thought from this viewpoint, with the aim of becoming relationships, circuits and relational ecosystems' administrators and of developing an answer which is public not just in a subjective but also in an objective way. In this new model, public, private, third sector, cultural institutions such as schools and universities, single citizens and social innovators work together to provide an answer to society's problems. I defined this a quintuple helix governance model, as it builds on the triple helix model (summarized in a public-private-community formula) created in Stanford to explain Silicon Valley's success. A minimum or maximum State, able to respond to citizens' needs, cannot exist anymore, as such needs have become more and more uneven. The administration conceived in the XIX century as an elitist body, a container able to answer to the needs of a community understood as unable, illiterate and lacking consciousness. Today the situation has changed, and the relationship has been inverted. Thanks to technology and public investment on knowledge and education, opportunities are now to be found outside rather than inside, therefore we are left with an unequipped administration, ill-suited to intercept, support and manage change. It is not those who work to serve the State and its citizens who are at fault and, regardless of all the training courses and rejuvenations that we attempt to launch, we will never be able to deliver to our society institutions able to have and give all the answers. For this reason, we need to re-think the organization and the culture of institutions in a framework of open-source and circularity: we need a State-Platform that does not want to guide the process but choses to act from below, supporting a circuit of relationship and allowing the above-mentioned actors to become

<sup>79</sup> LabGov (Laboratory for the Governance of the Commons), is a training-intervention and research-action project on the civic re-imagination of institutions that I coordinate at Luiss Guido Carli University in Rome).



authors and actors of general interest. The State-Platform must break the monopoly of public care of the general interest, without withdrawing from the care of those interests which are inescapably public and becoming a system administrator, as it happens in the web. This means that that the Italian administrative law system should almost entirely be re-thought. The problem is that there is a strong unbalance between formal legality, administrative regularity defense, production of acts and measures and execution of orders (often deprived from critical thought) on one side and coordinated action and production of answers and results leading to a real, complete and measurable satisfaction of citizens on the other side. Part of the public law doctrine has called for a greater attention to "legality of result" but has eventually accepted its enchainment to bureaucratic measures and practices. Perhaps the legality commitment is not enough anymore, as all the sophisticated legal expedients characterized by great imaginative capacity which allow to bypass legality seems to show. Therefore what we need are not acts but actions. This means that, as we still are in a transition and paradigm-shift phase, we must accept that an ever-applicable and valid solution does not exist. There is no ready-made model. We took thirty or forty years to have the social state we inherited, which was born exactly as the contemporary collaborative state is emerging in the co-working spaces, in enterprises, in community cooperatives, in fab labs, in impact hubs, in cultural and creative collectives and enterprises, in the collective management of the commons and so on. I am talking about the thousands of people that are attempting to make not something new but something unique, something to take pride in as a country, because in Italy we are setting an excellency standard at international level: these people are reconstructing and regenerating the State starting from its foundations. If we look back into the history of the Social State and of its birth, we understand that it originated in society, in neighborhood associations, in self-managed mutual aid societies, in the world of cooperation and in workers' unions of first generation. From there the first mutual aid insurances against on-the-job injuries were generated, together with the first forms of income support. An old fox such as Otto Von Bismarck, who had foreseen what was happening, before being removed from power was able to build the Social State. He did so working from above, with a top-down approach, as he knew that hadn't he laid the foundations of the social state, the social state would have anyway emerged from the bottom-up action of these ante litteram innovators, that would definitely not have confirmed him in his role. This is when the first Social State was born. It is now a matter of understanding how contemporary institutions could build on the change that is currently taking place rather than being demolished by the flow, overwhelmed by what has happened in Spain, Greece and in the USA and that could also happen in France and Germany. We need to understand how to experiment, accepting that experimentation also involves the possibility of failure, that failing is allowed and that mistakes can result in occasions to improve, to better understand the new

paradigm and to identify solutions that could implement it and could function as an activation of the following public policy cycles. But why is this needed? It is needed to change the State morphology, up to the architectonic design of its headquarters, for example through less bureaucratic counters and more administrative co-working spaces. Through less arrogance and without the presumption of knowing how things should be done and of being the guardians of a legal, economic and bureaucratic rationality forged in the Oligocene and ill-suited to adapt to the speed and power of the social innovation phenomena characterizing the new era of the Anthropocene, where the traditional rationality demonstrates to be the heir of what Graeber would call "structural stupidity". Through more humility and through an inclination to work around a table with those actors which are endowed with the capacity to imagine and re-imagine the paradigm, considering that is not rationality that distinguishes humans from all other species, but is instead its capacity to imagine how to defeat those exact rational mechanisms, that constantly and structurally reconnect logical conclusions to the evaluation of reality. Science and arts have constantly demonstrated that it is only by doubting the established, consolidated and uniform schemes that the human kind can progress, by relying on his creativity. It is then necessary to find a way to free the creativity of the numerous civic imaginers who are entangled in the structures of our bureaucracy and in our territorial and urban communities. We need to ask the legislators to stop for a minute and, before legislating, spending some time to forge the instruments to free the imagination of those members of the administration who are willing to experiment, as the administration is not a machine but is instead a community. This community is made by women and men who are willing to do and to devote their time, even outside of their working hours, to the general interest, but are instead forced to spend their days dealing with the doctrine of administrative infallibility and fighting with those colleagues who are experts in hiding behind norms and quibbles when it comes to avoiding the effort of helping citizens and who use those same norms and quibbles to avoid complying with their public ethic duties and sometimes even with norms of the penal code. Such people must have the opportunity to make mistakes and must be free from the administrative fear of making mistakes, because those who are not afraid are eventually those who hide behind perfect forms, perfect calls and competitions that might work with the TAR but not with the DA's office of the Republic.

There is a need to say things as they truly stand. We speak about digital administration when in many administrations e-mails are still being printed out, phonograms (fonogrammi) are still being sent "via motociclista" envelopes and piles of documents are still transferred from one office to the other through "walkers" (camminatori). We must accept this experimental logic and this eco-systemic element, we cannot keep thinking only in terms of calls and competitions, as they function to exclude instead of including and collaborating, and are often launched to justify choices already made at

the top. We need the courage to enter this new logic and to counter-balance collaboration with maximum transparency, going beyond the Decree 33. If I have dinner with someone to discuss a problem I must be able to put the check online, this in the perspective of openly and transparently activating processes in the general interest and of spreading a collaborative and co-design viewpoint between the civic and entrepreneurial for the collectivity.

In Bologna as in Rome, in Reggio Emilia as in Battipaglia, in Tuscany as in Palermo or in Terni we understood that local entrepreneurial forces build their activity on the genius loci, on their territorial vocation. They cannot escape, they are not only entrepreneurs but also actors for the general interest who are active on the local dimension and are willing to have an open, clear and stable relationship with institutional and socially reliable partners. Such relationship does not require extreme actions from the public administration, but only asks it to be present, to be not the protagonist of change but its enabler, to not ask and insist but instead to offer to regenerate public spaces and to open private spaces to a more dynamic use. Public administrations should become incubators of collaborative enterprises, asking to be partners in the co-design processes and in public policies. This happened for example in Mantova, where it was possible to intercept the new ideas coming from schools and from young people living in the territory, or in Battipaglia, a municipality under compulsory administration for mafia activities, where peculiar conditions required us to develop peculiar answers. In Battipaglia it was impossible to create a collaboration pact as it was done in Bologna or in Mantova, but we had to decide what to do in the compulsory administration period, thus we worked through the article 145 of the local authority's TU. This allowed to propose a community pact for the future administration, bringing together in the process Libera, Legambiente, WWF, ARCI, Cittadinanza Attiva, the citizens who were taking care of the beach, of the public spaces, of the abandoned school and stimulating the coordination and organization of the civil society. Criminality is always capable of organizing itself, while legality is not. This is because each of the actors of legality moves on its own way, and it is for this reason that in Battipaglia I tried to suggest taking the path of constructing a "collaboration pact for organized legality". A similar path would be needed also in Rome, where through the platform co-roma.it we are attempting to support and to bring the attention to those actors who truly work for legality. One of the things we are doing as a laboratory is therefore to construct all around Italy projects who have the capacity to adapt and to iterate a process (adattivi e iterativi), and to do so through the forces of civil society, of culture, of knowledge and of a healthy local enterprise willing to walk on this path while saying: In Italy a new government method, centered on collaboration is growing from the peripheries, a method that Obama, or better Betty Noveck, defined as open government. We are interpreting it and declining it in a less digital and technological way, while at the same time we are trying to fill the thought-gap on how to reorganize the administrative community depending

on those technological innovations, that require innovations in organization. Collaborative forces are the best economic and social forces of the local civic society and the best political, bureaucratic and technical forces of the institutions, that come together and work side-by-side for the general interest. Not everyone has to fit, not everyone is needed. It is not about participation but about collaboration and concrete project-making to build new forms of occupation starting from the weaknesses and exclusions generated within the single territories, exclusions that result in loss of wealth, knowledge and capacity. Any territory has to find his own path towards collaboration and has to build on his own vocations, as there is no universal principle. The differentiation principle has to be applied and interpreted as an enabling principle for auto-differentiation or "institutional diversity" – as Elinor Ostrom, who won the Economics Nobel Prize in 2009 thanks to her studies on the commons, would say. Institutional diversity is necessarily implied in the principle of civic collaboration of the Constitution and is fundamental to imagine a new form of State, a State which is plural because distributed, because it can be found in the different worlds of society, economy and knowledge and not anymore confined to the offices and hallways our institutions. Thus, a program of large-scale experimentation is needed to regenerate institutions, a program able to strengthen administrations' institutional capacity to manage change without suffocating it nor attempting to direct it. The State should accompany, enable, monitor and value such change by becoming a platform. A State-Platform will be ready to make his time, competences, human, technical and logistic resources available in order to organize processes and territorial laboratories where things begin to happen regardless of the administration, but in a more controlled and legitimate way. It will grant everyone the possibility to experiment, allowing everyone to be informed on what projects others citizens are undertaking and perhaps to join them. Making sure that basic norms on security and inclusion are respected, it should provide a free license to experiment and imagine. The multitude of mistakes made and even more of lessons learnt should become the base from which we begin to re-think the State in the XXI century. There are resources available, which are called PON governance. Let us use them in the best way possible, as we will not get another chance.

# A design strategy for social commoning

## Social commons, collaborative organizations, and relational goods: a virtuous circle

**Ezio Manzini**

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This paper presents the relationship between *social commons* and *collaborative organizations*, and discusses a design strategy aiming at improving the first (the social commons) thanks to conceiving developing the seconds (the collaborative organizations). More precisely, the idea is to use design tools and ideas to trigger a virtuous circle thanks to which collaborative organizations reinforce social commons, and social commons create an environment where collaborative organizations may thrive. The crucial point to make this virtuous circle happen is the quality of collaborative services. And, in particular, their ability to establish between involved actors a sense of trust, empathy and friendship. That is, their capability to produce those relational goods that, added up and connected, can produce social commons.

This paper conclusion is that design for social commoning practically corresponds to the one for collaborative organizations, when this design activity succeeds in defining a good balance between the search for solution effectiveness and the one for relational goods

### Social commons and collaborative organizations

Social commons are a set of socially shared ideas and values. They are the social glue that keep together and characterize a city, a region and a whole society. They are produced and cultivated by a mesh of interactions between people and between people and the place where they live. They are quite diverse, ranging from the sense of safety in a city or the mutual trust in a neighbourhood, to common views on human rights and democracy; or to open and inclusive attitudes newcomers. They may also be specific competences, as creativity, design capability and entrepreneurship, when they are sufficiently spread in a society, becoming one of its characterizing aspects.

In the pre-modern societies, social commons had been created by the slow co-evolution of their social forms, their culture and their physical contexts. This co-evolution had a quasi-natural character, in the sense that it happened without being consciously designed.

When social and technological change accelerated and when, as it is happening now, this change becomes highly turbulent, this quasi-natural process doesn't

work and social commons, not being regenerated, are disappearing. Against this dangerous process of social desertification, a new social commons regeneration process must be proposed. And, given that in turbulent time it cannot be any more the slow quasi-natural one of the past, it must necessarily be a design-based activity. I will refer to that with the expression *design for social commoning*.

Facing the present crises, and preparing for the foreseeable future ones, the urgency and importance of social commoning seems to be particularly clear.

Both theory and empirical experience<sup>80</sup> indicate that, in period of crisis, social commons are what makes people able to react and self-organize. And vice versa, when social commons are weak or absent people get lost and tend to totally depend on top-down help.

This is particularly evident after large catastrophes. However, it can also be recognized in everyday life events such as the ones related to the economic crisis or when big new social issue emerges (as for instance the migrant flow in Europe and worldwide). In all these cases, a lack of social commons appears in breakdowns at every level: from the micro-scale of personal interactions, to the macro-level of society as a whole.

This is why social commoning should be strongly enhanced world wide. But, unfortunately, the on-going main trends are not heading in this direction. And, as Richard Sennet writes, "modern society is de-skilling people in practicing cooperation."<sup>81</sup>

Nevertheless, looking attentively at the complexity and contradictoriness of contemporary societies, we

<sup>80</sup> Guerrero, Bodin, McAllister, Wilson continue saying: "Our study provides empirical support for the ability of collaborative forms of governance to address the problem of fit, but also suggests that in some cases the establishment of bottom-up collaborative arrangements would likely benefit from specific guidance to facilitate the establishment of collaborations that better align with the ways ecological resources are interconnected across the landscape"

A.M. Guerrero, Ö. Bodin, R.R.J. McAllister, K.A. Wilson (2015). "Achieving social-ecological fit through bottom-up collaborative governance: and empirical investigation". *Ecology and Society*.

<http://www.ecologyandsociety.org/vol20/iss4/art41/>

D. Curtis, *Coping with Crisis: The Resilience and Vulnerability of Pre-Industrial Settlements* (Farnham: Ashgate, 2014)

<sup>81</sup> Richard Sennett, *Together: The Rituals, Pleasures, and Politics of Cooperation* (New Haven: Yale University Press, 2012).

also can see something else: a growing number of people who are moving against the mainstream trends, inventing new ways of being and doing, re-discovering collaboration and places<sup>82</sup>. And finally, generating also a new wave of social commons.

These initiatives are radical social innovations. They appear as *creative communities*<sup>83</sup> and, when successful, they evolve into *collaborative organizations*<sup>84</sup>: group of people who choose to collaborate with the aim of achieving specific results. Doing that, they can also produce, as a precious side effect, trust, friendliness, empathy, mutual attention and care. Considered as a whole, these values are defined *relational goods*: immaterial goods depending on the quality of human interactions<sup>85</sup>.

### A virtuous circle and the way to implement it

Collaborative organizations show us that, in contemporary societies, new forms of collaboration and relational quality are emerging. This paper hypothesis is that, moving from them, it is possible to implement a design-based strategy for social communing. That is, to trigger and sustain a virtuous circle between *social commons*, *collaborative service* and *relational goods*.

Let's start from these interlinked observations (Figure 1): collaborative organizations, by their own nature,

82 For instance: groups of families who decide to share some services to reduce the economic and environmental costs, but also to create new forms of neighborhoods (the corresponding solution ideas are: cohousing and a variety of forms of sharing and mutual help within a residential building or neighborhood); new forms of exchange and barter (from simple barter initiatives to time banks and local money); services where the young and the elderly help each other, promoting a new idea of welfare (collaborative social services); neighborhood gardens set up and managed by citizens who, by doing so, improve the quality of the city and of the social fabric (guerrilla gardens, community gardens, green roofs); systems of mobility in alternative to individual cars (car sharing, carpooling, the rediscovery of the possibilities offered by bicycles); new models of production based on local resources and engaging local communities (social enterprises); fair and direct trade between producers and consumers (fair trade initiatives).

Ezio Manzini, *Design, When Everybody Designs* (Cambridge, Massachusetts: MIT Press, 2015). Anna Meroni, *Creative Communities: People Inventing Sustainable Ways of Living* (Milan: Polidesign, 2007); François Jégou, Ezio Manzini, *Collaborative Services: Social Innovation and Design for Sustainability* (Milan: Polidesign, 2008).

In the past decade, a growing number of these initiatives merged with digital social networks creating unprecedented networks of people digitally and physically connected among them and with the place where they live. Joon Baeck, "A Socio-Technical Framework for Collaborative Services: Designing a Digital Platform for Collaborative Communities," doctoral thesis, Politecnico di Milano, February 2011

83 Anna Meroni defines creative communities as groups of people who have been able to imagine, develop, and manage a new way of being and doing.

Anna Meroni, *Creative Communities: People Inventing Sustainable Ways of Living* (Milan: Polidesign, 2007):

84 François Jégou, Ezio Manzini, *Collaborative Services: Social Innovation and Design for Sustainability* (Milan: Polidesign, 2008). Ezio Manzini, *Design, When Everybody Designs* (Cambridge, Massachusetts: MIT Press, 2015)

85 "Relational goods are non-material goods that can only be produced and consumed within groups, and which are intrinsically linked to relationships and interaction." Carole Jean Uhlener, (1989-01-01). "Relational Goods" and Participation: Incorporating Sociability into a Theory of Rational Action." *Public Choice*. 62 (3): 253-285. Luigino Bruni, "Relational Goods, A new tool for an old issue." *ECOS - Estudos Contemporâneos da Subjetividade*. 3 (2): 173-178; Becchetti L., Trovato, G., and Londono Bedoya, D.A. (2016-01-21). "Income, relational goods and happiness". *Applied Economics*. 43(3).

may produce, at the same time, practical results and relational goods >> Relational goods are produced by human interactions. When many interactions like these happen, relational goods add up and connect assuming a larger social value. That is, they become social commons >> In turn, these social commons create a favourable environment, where new collaborative organizations can emerge, last in time and thrive.



Figure 1. The virtuous circle between social commons, collaborative organizations and relational goods. Where collaborative organizations are social forms in which involved actors collaborate in achieving a result (as collaborative living; collaborative care; collaborative food networks; collaborative production); and relational goods are immaterial goods that depend on human interactions quality (as: trust, friendliness; empathy) and social commons are social values and practices that are collaboratively produced and cultivated by a community (as: sense of safety; diffuse attitude towards creativity, experimentation, collaboration, entrepreneurship; shared visions on what to do, at different scales).

Given that, the question is: can this virtuous circle be designed? Let's start from these three considerations:

- Social commons cannot be directly designed: being the results of multiple actions, they cannot be planned and realized by a single actor.
- Relational goods too cannot be directly designed: trust, empathy, friendliness are results of interactions that, as such, for their human nature, cannot be predefined by someone else.
- Collaborative organizations can be designed. Or better, what can be designed are the conditions to make their existence, and their ability to produce relational goods, more probable.

It comes that, to activate the virtuous circle, we must design for collaborative organizations capable to produce relational good that, in turn, may contribute to the social commons regeneration.

Summarizing, it can be said that a design strategy for social communing is articulated in two steps: (1) to conceive and enhance collaborative organizations endowed with their relational goods; and (2) to create the condition for transforming these relational goods

(that are originally limited to few involved actors) in social commons (that are ideas and values shared by the whole society).

### Design for collaborative organizations

To conceive and enhance collaborative organizations requires, first of all, creative and viable ideas. In our case, creativity implies to reframe a given problem proposing a viable collaborative solution<sup>86</sup>. Where the viability of this solution is based the fact that, reframing the problem, new assets should become available and new actors should be activated – first of all, the directly interested ones. Examples of solutions emerging from reframed problems are, for instance: families who, facing the difficulties of everyday life, change their idea of privacy and decide to share some spaces and services (in order to reduce their economic and environmental costs and create new forms of friendly neighbourhoods). Another example could be the one of elderly people who, facing the welfare crisis, change the traditional notion of social service (based on the provider/user interactions) and develop collaborative organizations to support self and mutual help<sup>87</sup>.

Each collaborative organization is based on a “solution idea” that someone has conceived and has been capable to enhance<sup>88</sup>. Considering the design processes, this creative reframing must be placed in the concept generation phase. But other important design capabilities must be used in other phases to make these ideas real and capable to last in time and thrive. To do so, dedicated *enabling systems* must be conceived and developed: an *infrastructuring activity*<sup>89</sup> aiming at enriching the existing socio-technical ecosystem with new material and immaterial elements (such as: appropriate products, places, services, norms and incentives).

These design activities, aiming at conceiving new solutions and their enabling systems, are important but, for the sake of our discussion on social commoning, are not enough. To trigger and support social commoning it is also crucial to move on the qualitative side of the design process and verify if, how and when these collaborative organizations are producing *also* relational goods. That is, to parallel the discussion on collaborative organization effectiveness with the one the quality of the interactions on which these organizations are based. To do that, we must observe collaborative organizations more in depth.

86 Kees Dorst, *Frame Innovation, Create New Thinking by Design* (Cambridge, Massachusetts: MIT Press, 2015)

87 For other examples, see Note 3

88 All these people have been using their design capability. Some of them have had a specific preparation for that; other, the majority, not: they new kind of diffuse design that is spreading in contemporary societies—Ezio Manzini, *Design, When Everybody Designs* (Cambridge, Massachusetts: MIT Press, 2015).

89 Per Anders Hillgren, Anna Seravalli, and Anders Emilson, “Prototyping and Infrastructuring in Design of Social Innovation,” *Co-Design* 7, nos. 3–4 (September–December 2011), 169–183. Available at <http://medea.mah.se/wp-content/uploads/2011/12/emilson-et-al-prototyping-in-infrastructuring-design-social-innovation-2011.pdf>.

### Effectiveness and relational goods

Collaboration implies people doing something together in order to get a result of common interest. In doing that, both the final result and the way to achieve it are important. In fact, people collaborate because they are interested in the result but also because they like that way to get it<sup>90</sup>.

These observations tell us that, evaluating collaborative organizations, two dimensions must be considered: *effectiveness* and *relational goods production*. Where effectiveness indicates the involved actors’ efforts requested to get the intended results (in other words, the height of the entry threshold). On the other side, the relational good production expresses the interaction characteristics and their ability to produce values as trust, empathy, friendliness.

Given that, because the relational goods production implies time and commitment a trade off between effectiveness and relational goods appears: the search for the maximum of effectiveness tends to reduce also the time and commitment requested for the original relational goods. The result is that, moving in this direction, may generate solution capable to involve a large number of people, but doesn’t produce relational goods. And, therefore, doesn’t contribute in regenerating social commons.

Vice versa, if the relational goods are very high, collaboration results very demanding (in terms of time and commitment) and its effectiveness decrease (or, the entry threshold becomes higher). Therefore, not many people have the possibility and the will to participate. The result is that cases like this, even though very interesting by several points of view, do not contribute to the social commoning process because the relational goods they produce are confined in small number of highly committed actors (the “social heroes”).

At this point the second step of the proposed design strategy for social commoning clearly appears: it is necessary to conceive and develop collaborative organizations capable to balance effectiveness and relational goods. That is, they have to be effective enough to reduce their entry threshold and be endowed with enough relational goods to collaborate in the social commoning process. When this balance is successfully found, the relational goods spread with the related collaborative organizations. And, as it has been already said, doing so, they add up, connect and become social commons.

### Collaborative organizations trajectories

Successful collaborative organizations move from a heroic beginning to a phase of maturity, where they become “the new normality”. Empirical observation tells us that, during this journey, the evolution of initial ideas and practices can follow different trajectories. In particular, it can maintain or lose, or even entirely betray, initial motivations in terms of relational goods production.

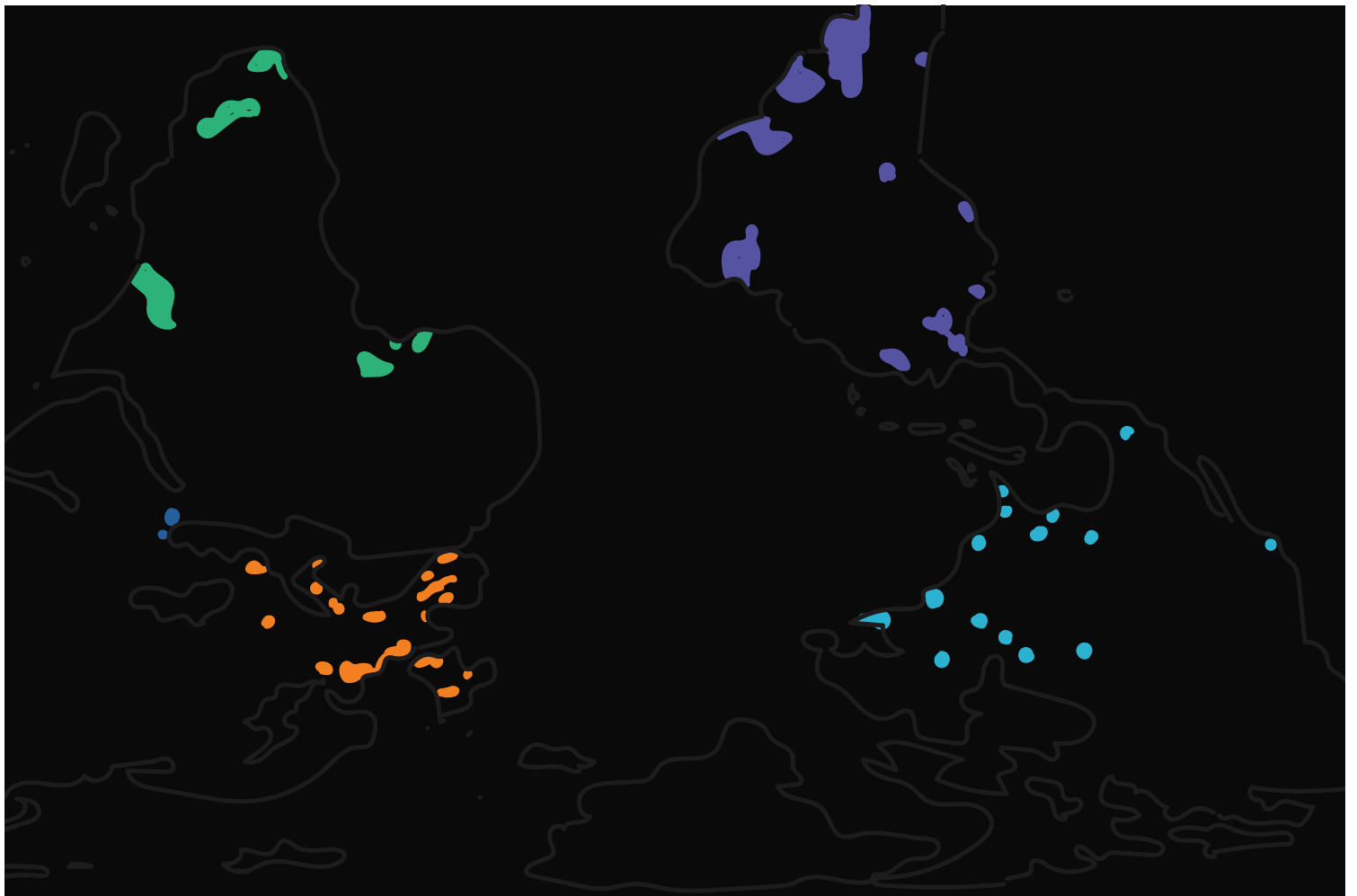
90 Richard Sennett, *Together: The Rituals, Pleasures, and Politics of Cooperation* (New Haven: Yale University Press, 2012).



A well known example of how initial motivations and social qualities can be lost is Uber: an emblematic case resulting from a trajectory started decades ago with a few heroic car-pooling initiatives, and arrived today to a highly economically successful platform-based solution in which, in the name of the search for effectiveness, the original disruptive idea of peer-to-peer collaboration in sharing a given asset (the car and the ability to drive) has been lost, while the overall solution became an up-dated interpretation of the main stream economy and culture (the most debated issue of the bad working conditions it generates for drivers is another aspect of this same issue).

But this kind of trajectory is not the only one. Even though they are far less well known, there are several other possibilities. A well known case is the evolution from the original, quite demanding experiences of co-housing, to the present advanced forms of collaborative living. A practical application of this possibility is the one proposed by the Social Housing Foundation, in Milan. It clearly indicates that it is possible to improve effectiveness of living with shared spaces and services, while maintaining social quality and producing original relational goods.

Trajectories as this one are, of course, the ones to be chosen when designing for social commoning. To make this choice real, appropriate enabling systems are required. And a multiplicity of design activities, at different scale and with different aims, are to be performed. The crucial design action here is to define, case by case, the best balance between effectiveness and relational goods production. To do that is the most difficult and delicate part of the whole proposed design strategy. The one where a design culture could and should bring an important contribution.



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