“Here come the commons” A Critical Evaluation of the Commons Paradigm

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During the last two decades, the concept of commons has come to some prominence in the economic, ecological, and political sciences. While I feel the commons is an interesting subject for theoretical research that may also open avenues for practical (political) action, there are still many unanswered questions with regards to the commons paradigm. These include subjects like its (purported) origin and history, the reasons for its re-emergence in contemporary discourse, and its applicability as a means of social organization. In this essay, I raise some of these questions and attempt to provide answers. In order to do that, I first review the meaning and origins of the term ‘commons’, and the circumstances surrounding its re-entry into contemporary discourse. My aim with this is to provide a mini-archeology of the commons. After that I analyze some of the problems we face when trying to apply the commons paradigm to the questions we face today. The implicit question in the background of all of this is: “Can the commons be a tool for improving social and political justice?”

A Short and Lacking Archaeology of the Commons

I begin by shortly outlining the meaning and history of the term. Broadly speaking, a common (plural: commons) refers to a resource that is being shared among several participants. More specifically, this sharing is dependent on principles of joint ownership or cooperative management.
The concept of a common refers to a mode of sharing resources which was prevalent in Europe from about the end of the thirteenth through the middle of the nineteenth century. Most towns and estates contained so-called ‘common lands’, of which the use and/or ownership was shared by many inhabitant ‘commoners’. These commoners were allowed to exercise certain rights in these lands. This could, for instance, consist of the right to farm part of the lands, to raise cattle or sheep, or to gather resources such as fish, turf (for fuel), or wood. These rights, however, were governed by certain rules restricting the types of access.

The origin of these rights, which were affirmed in the Magna Carta, date back to Roman law. In Roman law, there was a differentiation between three types of goods: res privatae (goods which had private ownership), res publicae (goods which were owned by the state), and res communes (goods which were owned ‘by all’). The third category generally referred to types of goods which were available to all, but could not by their nature be appropriated by either individuals or the state. For instance free goods such as water, air, and light. Thus they automatically entered into a ‘negative community’, that is to say, they were free to take and belonged to the one no more than to the other.

What is especially significant in discussing this distinction in relation to (post)medieval and present-day commons, is that res communes refers to a form of ownership in the full legal sense of the word. It is important to realize this in order to be able to distinguish between the three types of goods. Both public and private goods could also be made available to all, such as in the case of a privately owned park which the owner allows the public to access. However, that does not make them a common good in the strict sense of the word, since they are still subject to a different kind of ownership.

The way in which the commons functioned for several centuries has been particularly well researched in England. It is interesting to note that the practice of using commons as a mode of organization in England largely disappeared during a period lasting from about 1750 until 1850. During this time, common lands were increasingly subject to enclosures. This means they transferred into private ownership (res privatae) and were no longer publicly usable. Since many peasants were at least partly dependent on the use of these common lands for their livelihood, this privatization resulted in a large increase in poverty. It has been argued that, since the period in which the commons were enclosed coincided with the Industrial Revolution, the fact that so

many peasants moved to the cities in order to become factory workers was a direct result of the loss of the commons. It has also been suggested that the capitalists and industrialists used their political power in support of these enclosures, in order to gain access to large quantities of inexpensive labor power. As capitalism and its modes or organization became increasingly dominant, commons as a mode of social organization were largely lost, both in (historical) discourse and practice.[1]

The term re-entered contemporary science in an influential paper by ecologist Garrett Hardin published in *Science* in 1968.[2] In *The Tragedy of the Commons*, Hardin discusses a situation in which all members of a group have access to a common resource. If the individuals in the group act purely out of ‘rational’ self-interest, they are likely to use up all of the resource for their own gain, without regarding the interests of others or the preservation of the resource itself. The examples Hardin focuses on are common natural resources such as clean air and water, which are currently being depleted due to over-exploitation by an ever-increasing population. The ‘tragedy of the commons’ refers to the fact that if free access and unrestricted demand for a finite resource are present, said resource will eventually be depleted and disappear.

Hardin’s article has become highly influential, both as an example of the kinds of social dilemma’s inherent in our modes of living together, and as an argument for the necessity of government involvement in the management and preservation of (natural) resources. Thus, in economic and political science, the commons were mostly used as a negative example to outline the dangers of providing the public with unrestricted access to a common resource. In contrast, promoting and safeguarding private ownership of such resources was suggested as a better solution, since being responsible for both the costs and benefits of exploiting a resource would supposedly lead to better management.

In 1990, Elinor Ostrom (1933–2012), a political economist, published a highly influential paper titled *Governing the Commons: The Evolution of Institutions for Collective Action*. In this paper,[3] she analyzes several practices where shared natural resources such as forests (so called common pool resources) were being managed by local communities. She argues that in many cases, this has been highly successful. In fact, more successful than comparable cases in which the resource was being managed by (local) governments or private owners. Hence, Ostrom is highly critical of the analysis made by Hardin. She argues that despite the dilemma Hardin describes, natural resources which were managed as a commons have in practice been governed far more effectively. This has resulted in, for instance, less pollution and less exploitation.

In this article, she also broadens the legal and analytical framework with regards to commons, arguing against the overly simplistic concept employed by Hardin. Ostrom identifies five types of rights an individual with access to a common resource may have:

(i) access – the right to enter a specified property
(ii) withdrawal – the right to harvest specific products from a resource
(iii) management – the right to transform the resource and regulate internal use patterns
(iv) exclusion – the right to decide who will have access, withdrawal, or management rights
(v) alienation – the right to lease or sell any of the other four rights

In her article, Ostrom also defines eight so-called ‘design principles’ on which the effective governing of a commons is dependent, resulting from her research. They refer to both the relationship of the common resource to its environment, and the way in which the use of the resource is being governed.[4]

1A. User Boundaries: Clear and locally understood boundaries between legitimate users and non-users are present.
1B. Resource Boundaries: Clear boundaries that separate a specific common-pool resource from a larger social-ecological system are present.
2A. Congruence with Local Conditions: Appropriation and provision rules are congruent with local social and environmental conditions.
2B. Appropriation and Provision: Appropriation rules are congruent with provision rules; the distribution of costs is proportional to the distribution of benefits.
3. Collective Choice Arrangements: Most individuals affected by a resource regime are authorized to participate in making and modifying its rules.
4A. Monitoring Users: Individuals who are accountable to or are the users monitor the appropriation and provision levels of the users.

4B. Monitoring the Resource: Individuals who are accountable to or are the users monitor the condition of the resource.
5. Graduated Sanctions: Sanctions for rule violations start very low but become stronger if a user repeatedly violates a rule.
6. Conflict Resolution Mechanisms: Rapid, low cost, local arenas exist for resolving conflicts among users or with officials.
7. Minimal Recognition of Rights: The rights of local users to make their own rules are recognized by the government.
8. Nested Enterprises: When a common-pool resource is closely connected to a larger social-ecological system, governance activities are organized in multiple nested layers.

Given that these design principles are employed in practice, Ostrom argues, effective use and protection of a common are possible, avoiding the ‘tragedy of the commons’ Hardin describes.
Since Ostrom published her work there has been a resurgence of interest in the term commons. Even more so since she was awarded the Nobel Prize in economics in 2009. It has been argued that not just natural resources, but also social and even intellectual resources can be regarded as commons. It has been promoted as a mode of social organization and the governing of ownership that is superior to both private and public arrangements, since commons ideally combine broad (or even open) access with cooperation and responsibility by all participants. Theoretically, this notion has been linked to such diverse currents as the anti-globalization movement, (neo)Marxist discourse, the struggle against (neo)liberalism, communitarism, and the rise of Internet culture and struggle to create new copyright models (e.g. Wikipedia). This does show that the definition and conception of a common is all but neatly delineated and defined. As with any concept, under- and counter-currents are also present. For instance, some communist theoreticians base their notion of common on communality as it is conceptualized in communism, making them critical of Ostrom’s ‘mainstream’ views.

In practice, many are trying to develop organizations based on the concept of commons. Examples in the Netherlands include cooperative daycare, where all parents are supposed to take care of the children for one day of the week and the Broodfonds (bread fund) which is disability insurance for freelancers. They participate in and manage a shared fund which provides income support in case of (temporary) disability or illness. These developments take place against a backdrop of budget cuts and austerity in social arrangements all over the world. In many developed countries the government is retreating from its traditional role of providing social security, instead relying on citizens to ‘take charge’ themselves. In areas such as welfare and healthcare citizens are being asked to create their own arrangements without resorting to public funding. I would argue that this is one of the reasons for the resurgence of interest in the discourse around the commons. According to some, the commons framework provides an excellent model to deal with the consequences of these changes. In the second part of this essay, I outline some of the dangers and caveats in applying the logic of commons to social problems.

Can the commons be used as a tool (method of organization) for improving social/political justice?

It has been suggested that creating commons is a good alternative for the problems inherent in the management of a resource by either the market or the state. To discuss this thesis, I would like to begin by calling into question the suggested sharp dichotomy between state and market it contains. Influenced by the increasing dominance of global capitalism, states have been both safeguarding and promoting market mechanisms in order to organize the world we live in. Tasks that were traditionally seen as the responsibility of the state, such as public transportation, energy, and social housing, have in many cases been externalized to existing private companies, or the institutions performing these tasks have been privatized. Also, during the last century the techniques of contemporary management have entered nearly all public service organizations.
As opposed to historical bureaucracies with their deeply hierarchical and legalistic framework, public servants are now subject to the organizing methods of the private sector. Apart from that, the democratic functioning of states has been eroded, due to the fact that there are now many international companies which influence state and supra-state policies in such fundamental ways

(through diverse tactics of manipulation and coercion) that furthering their interests has become synonymous with the proper functioning of the state. Furthermore, the aftermath of the financial crisis of 2008 has shown that when large private companies (such as banks) fail, the government will bail them out. This means that private market risks and losses are being externalized and socialized, while profits are not. Thus I would like to argue that the condition we face today is a kind of state-market or private-public hybrid.

Interestingly, we see a similar development in the traditional sphere of the market. Companies are increasingly being asked to embody and realize (social) values through their actions. New discourses, such as the socially or ecologically responsible companies, have appeared. Although they can be criticized for their lack of practical success, even recast as shallow PR efforts, this has nonetheless been a shift in paradigms. Where private companies were once supposed to define the concept of value in purely economic terms, they are now being called upon to justify their values and actions in social and ecological terms as well. Improving social conditions which has traditionally been one of the main goals of government, has increasingly become a task embodied by market actors as well.

I would argue that this hybridization of both state and markets is one of the reasons the framework of the commons has recently become popular. In some ways, this is to be expected, because the need for a new paradigm is dependent on the void left behind by the retreating state, and the disenfranchisement of citizens by the private arrangements that were constructed instead. As long as the combined efforts of states and markets were successful (and they have been immensely so, since the advent of modern capitalism, at least in a financial sense) there was little need for alternatives. But when it turns out they don’t perform so well under conditions of austerity, there is a renewed sense of the necessity for collective social engagement. I believe there is also a deeper reason for the resurgence of the commons.

In our modern world, there is a parasitic relationship between the domain of the private, the organized (i.e., subjected to organizations), and the commodified – and that which is common. The common is the unarticulated substrate that allows men to function in the economic machine. Surplus like the labor of women in the household (the traditional oikos that is the real basis of economy), the fertility of the soil their food grows in, the oxygen the trees are putting out, the care parents naturally bestow on their children (when they are young), and the care children give to their parents (when they are old). These are all examples that belong to the common. The relationship is parasitic because the mutual dependency between the two domains is not being articulated or admitted in the dominant discourse. The sphere of the common is conceptualized as only relevant once it can be incorporated or absorbed by the sphere of the private or private-public.

Examples of this include the oft-made argument that (well-educated) women should not work part-time, because they aren’t contributing as much economically as they can. The fact that most women working part-time spend their time not working on the kinds of natural care relationships (e.g., with their children or parents) that belong to the common is seen as irrelevant, or even inimical to (economic) progress. Instead, they should externalize these relationships, for instance to professional daycare services, and go to work instead. Another example is in the emissions trading system that has been introduced with the Kyoto protocol. It involves creating the ‘right’ to release a certain amount of pollutants into the air (a common by definition) within a certain timeframe. These rights can then be traded on an international market, allowing companies which use harmful production methods to continue their pollution, by buying them from companies which have decided to opt for greener methods. For example, a Dutch power company can produce artificial ‘green power’ by producing electricity in a coal factory, buying emission rights in Denmark, and tacking these rights onto the electricity produced by non-renewable methods. This has created a practice where ‘green washing’ has become a profitable activity. Clearly, the same logic is at work here. The common of air, and its protection, only becomes relevant once it can be commodified and brought into the sphere of the private. Protecting it in its own right, for instance by imposing non-tradable limits on emissions based on local air conditions, was not considered a viable option.

Historian Peter Linebaugh has suggested using the term ‘commoning’ for activities aimed at building new, and sustaining existing commons. There are two dynamics at work here: one is the creation of new commons, to fill gaps left by states retreating from the social sphere (as I’ve mentioned earlier) and to achieve other aims such as improving social cohesion, providing social goods (such as daycare for children) available for those with limited means, promoting self-organ-

ization, etc. The other is the defense of existing commons, many of which are located in so-called developing countries, against destruction, and appropriation by state and market forces.

Globalization and the precarization and mobilization of labor play an important part here. In many ways, the loss of the commons in the England of the eighteenth and nineteenth century and the resulting precarization can be viewed as a symbolic counterpart to the developments of today. Traditional certainties on which present-day workers could depend, such as job security, pensions, and rising real estate values are no longer dependable. Turning our attention once again to that which is common, and creating community-based alternatives could, in theory, be of some benefit.

However, there are some important caveats. First, I believe it is important to differentiate between different kinds of commons. In the digital world, information is endlessly reproducible. Since there is no cost associated with allowing open access to this resource, it follows that ‘commoning’ everything is a good strategy here. But what may work in the digital world may not work in the field of natural resources or social organization. Second, it seems to me important to realize that traditional commons were always organized on a small scale. Following Ostrom’s research, in order to avoid the ‘tragedy of the commons’ Hardin describes, it is necessary to have both a framework of rules regulating access to the resource (rules made by the participants in the commons), and a way of monitoring users. Thus it seems that a common as a mode of organization is best suited to an intermediary scale, between the macro and micro levels. This appears to be a prerequisite for efficient decision-making processes, and forms of social control that work. This means that in practice, the commons paradigm may be only suited for the specific kinds of questions and problems that exist at this level.

Also, I would argue against positing a simple historical continuity between eighteenth century commons and present-day commons. The problem with assuming such continuities, as Michel Foucault writes, is that it instates a myth of origin. Origin suggests it is possible to look for and capture the essence of a thing, if only one goes back to its moment of birth. But this is always ‘something which was already there.’ It takes us away from the real, which is always embodied and corporeal, by referring to a past which has been lost. While there have been attempts to link modern social commons to historical forms such as the guild system in the middle ages (notably by Tine De Moor[5]), I would advise caution.

After all, present-day commons will by necessity be very different from their historical counterparts. For instance, the fact that a common is no longer recognized as a specific form of ownership in a legal sense is an important dividing mark. If and until a change in the legal framework can be made, a present-day common will often ultimately need to be vested in a form of private property. This has important consequences, for example if a social commons ends its life, are its assets still ‘common’ in a legal sense? Depending on the form of organization, probably not. Another important difference is that historical commons referred almost exclusively to natural and renewable resources, whereas the commons we speak of today can be social, financial or even intellectual. It seems probable that new and different guiding principles will have to be found for this.

All in all, I believe the commons are certainly interesting for the social and political problems we face today. But since the modern revival of the commons paradigm is still so new, it is too early to draw conclusions about the role it can play in furthering social and political justice. The approach advocated by Linebaugh seems to me to be a good starting point, since it is both an intellectual intervention and a call for practical action. In my view, the main contribution of the commons paradigm so far is that is has brought new (old) ideas into the debate on how we as humans wish to live, work, and care together.

1 For a more in-depth discussion on the affect of capitalism on commons-style organization see Noam Chomsky, ‘The Continuing Destruction of Our Commons’ *On the Commons* (July 2012), www.onthecommons.org/magazine/noam-chomsky-continuing-destruction-our-commons.
2 See Garrett Hardin, ‘The Tragedy of the Commons’ *Science* 162, no. 3859.
3 See Elinor Ostrom, ‘Beyond Markets and States: Polycentric Governance of Complex Economic Systems’ in *American Economic Review* 100 (June 2010), p. 651.
4 Ibid., p. 653.
5 See Tine De Moor, ‘Commons’ krijg je als lid van een gemeenschap en zijn geen koopwaar’ (discussion, dewereldmorgen.be, 4 February 2013), www.dewereldmorgen.be/video/2013/02/04/tine-de-moor-commons-krijg-je-als-lid-van-een-gemeenschap-en-zijn-geen-koopwaar.