

Is the Commons a Movement?

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The Wizards of OS3: The Future of the Digital Commons

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I wish I had done a Google search on the word “commons” five years ago. It probably would have returned a few hundred web links at most. Today when I did a Google on “commons,” some 6.3 million links popped up. For me, this is a crude bit of evidence for a quietly unfolding cultural and political transformation.

The free software and open source movements are perhaps the most active, mature and self-aware advocates of the commons. But in truth, there is a teeming constellation of constituencies who are embracing the idea of the commons to advance their agendas: environmentalists, libraries, scholars, media reforms and many others. I believe we are on the cusp of a commons movement: a messy, uncoordinated, bottom-up assertion of a new political philosophy cultural outlook and vehicle for creative wealth, both economic and social.

This development is something very new and quite ancient. Its newness can be seen in the huge variety of commons represented at this conference: free software and open source software, open archives, Wikipedia, peer-to-peer file sharing, open science initiatives, the open access movement in scholarly publishing, social networking software, and on and on. These innovations constitute the digital commons.

Yet as novel as these developments are, the commons is not really new. The commons is as old as the human species, which has *always* been rooted in communities of social trust and cooperation – a fact now being confirmed by evolutionary biologists, neurologists and geneticists.

The real aberration in human history is the vision of humanity set forth by neoclassical economics, *homo economicus*, which not only defines human beings solely as rational, ahistorical individuals who invariably seek to maximize their material utility through market exchange, but also asserts that all of society should be organized around this vision. This is the fragile fiction that free software and other commons advocates dare to confront.

So what is this embryonic commons movement? It is an eclectic set of campaigns to protect the creations of nature and society that we share in commons, and that are indispensable to our well-being and to future generations. The commons represents a proto-political philosophy that challenges the totalizing dynamics of the market. The values and behaviors rejected by mainstream economists as marginal or inconsequential are embraced by the commons as powerful and important – not just as moral or social aspirations, but as practical, functional tools. The commons embraces openness, freedom, social cooperation, community ethics and social equity.

Politicians and economists have long assumed that there are really only two sectors for governing things and “adding value” – the state and the market. Markets are seen as the vehicle for economic progress while government is supposed to take care of everything else.

It is becoming increasingly clear, however, that there is another sector that is at least as important to our well-being. That sector is the commons. The commons is a generic term for describing various socially managed resources, much as “the market” is used to describe the buying and selling of everything from commodities futures options to computers to intangible works like music.

The reason that “the commons” is so useful a term is because it helps us begin to describe a nearly ubiquitous pathology, the enclosure of the commons. Governments throughout the world are conspiring with, or acquiescing in, the market’s plunder of our common wealth. Companies are taking valuable resources from the commons – spectrum, creative works, natural resources, public lands, and more – and privatizing them. Once the cash value has been harvested from the commons, corporations tend to dump their wastes and social disruptions (primly known as “market externalities”) back into the commons, whereupon they declare, “It’s *your* problem.”

This process, better described as *enclosure*, has a memorable precedent in British history. The landed gentry decided they could profit quite handsomely by seizing huge tracts of shared meadows, orchards, forests and other land used by the common people. With enclosure, resources that had historically been managed socially, through both formal and informal rules, were privatized and turned into commodities to be sold in the marketplace.

In the research for my book, *Silent Theft*, I came across a folk poem that colorfully describes what enclosure really means. It goes:

They hang the man and flog the woman
 Who steal the goose from off the common.
 But let the greater villain loose
 Who steals the common from the goose.

This is precisely the problem we are facing today. Too many commons are being converted into private property and sold in markets. Not only does this result in people having to pay for resources they previously got for free, or cheaply, it also means that people need to ask for permission to use something and, often, to pay for it.

Enclosure shifts ownership and control of a resource from a given community or the public at large, to private companies. This, in turn, changes the *management* and *character* of the resource, because a market has very different standards of accountability and transparency than a commons. Think Enron, Worldcom or Arthur Andersen.

Most of us are familiar with the many varieties of digital commons. But there are, in fact, dozens of others, each arising as if by spontaneous combustion. These defenders of the commons include:

Librarians, who are trying to protect free access and circulation of knowledge;

Scientists, who are trying to preserve their foundational traditions of openness, collaboration and free inquiry;

Creative artists in music, film and other fields who realize that culturally compelling creativity depends upon using prior works

and collaborating with others;

Media reformers, who are trying to reclaim the public airwaves for public benefit, whether through open spectrum commons or auctions;

Indigenous peoples, who are trying to retain some measure of cultural sovereignty by preventing Big Pharma and other commercial predators from appropriating their traditional knowledge and art;

Online user communities, who wish to protect their ability to communicate among themselves without the impediments of market transactions.

I have not even mentioned the many commons constituencies concerned chiefly with the natural environment and social justice. They include:

Environmentalists see the commons as a way to fight the corporate transformation of natural resources that are unique, local, scarce or merely beautiful, into fungible commodities.

Activists concerned with genetically modified organisms see the commons as a way to fight for biodiversity and to slow the privatization and homogenization of agricultural seeds.

Anti-globalization activists invoke the commons to defend democratic self-determination and local culture in the face of global capital's demands.

Opponents of the over-commercialization of culture invoke the commons as a way to combat the intrusions of marketing into schools, public institutions, sports and every nook and cranny of daily life.

A question that I keep returning is: Why is the commons so evocative and powerful for so many diverse groups of people? And what is it so invisible to mainstream political culture?

I have come to believe that the commons is so powerful and evocative because it allows people to express their personal connections to a resource – nature, musical genres, computer code – in a way that the marketplace does not allow. People invoke the commons because it allows them to express their desire for social mutuality and human respect in a time when the market, in the name of property, is committing terrible abuses of nature, community, scientific integrity and social ethics.

The commons gives people a shared vocabulary for talking about this, and for critiquing the limits of neoliberal political ideology. The commons opens up a new kind of dialogue that is not only political and polemical in the best sense, but humanistic and ecumenical. The commons is less a manifesto or ideology than a *flexible template* for talking about diverse phenomena that are thematically related.

This struggle to assert the commons as a social reality is fundamentally a cultural challenge. It is about developing a new narrative that can explain our interests *apart from* market culture – as well as how to re-calibrate the balance between markets and commons in our lives. The commons is emphatically not anti-market – but it does insist upon domesticating market forces to serve shared community needs.

As my friend Jonathan Rowe has put it, the market cosmology sees only a void until property, contracts and money wave their hand and proclaim, “Let there be stuff.” The commons insists that social communities and their values come first. *The social* is foundational. *It* is a source of value-creation in its own right.

I wish to stress that the commons is not simply a shiny buzzword. It has a long and respected intellectual tradition, as Charlotte Hess has just explained. [Charlotte Hess heads the Workshop on Political Theory and Policy Analysis at Indiana University, and is Director of the Digital Library on the Commons.] Within the digital world, the commons has a number of insightful interpreters, including Professor Lawrence Lessig of Stanford University, Professor Yochai Benkler of Yale Law School, James Boyle of Duke Law School, and Eben Moglen of Columbia Law School.

What really interests me about the commons is its practical, strategic value in public policy and political struggles. It can play a profound re-ordering

role much as the meta-language of “the environment” did in the 1960s. “The environment,” recall, was a cultural invention. The air, water, soil and wildlife had always been there, of course. But they were not *conceptualized* in a coherent, unified way until Rachel Carson and others began to popularize the idea of “the environment.”

As James Boyle put it in his law review article, “Environmentalism for the Net,” bird watchers didn’t realize they might have something in common with bird hunters until “the environment” helps clarify their shared interests in protecting it. Once the idea of the environment took root, people could begin to make mental connections among diverse phenomena that had previously seemed unconnected. It turned out that dying birds were linked to household chemicals! Genetic mutations in humans were linked to industrial pollution. And so on. The language of the environment not only gave us an overarching narrative, it helped galvanize a political movement by providing a new, understandable story.

Today, we face much the same problem in talking about the larger context of free software, free culture and other resources threatened by expansions of market activity and corporate control. Mainstream discussion is imprisoned within the property categories of copyright law, patent law and market discourse more generally. We do not have well-developed language and narratives for asserting the value of free, un-metered exchanges of information. Sharing and creative transformation are either seen as worthless or as a form of piracy.

I believe the commons is a useful vocabulary because it gives us a new story to explain how social communities generate their own distinctive value – value that is economic, social and creative all at the same time. What a revelation! Market exchange is not the only source of value-added activity. The commons is at least as productive. Think of what nature does for us, for free! Think of what the free software community has done in creating Linux and hundreds of other programs, for free!

Our market-based narratives still cannot comprehend these elemental realities of human instinct and social life. That is why copyright law sees value only in property-encased creativity; the public domain is regarded as a wasteland. Real estate developers regard open spaces and wilderness as unproductive land, lacking in value until the magic hand of property enlivens it.

To talk about the commons, then, is to insist that there are *other powerful sources of value-creation*. This is the story of free software, for one. It is also the story of open science, open access archives, peer-to-peer file sharing, and other digital commons.

From the vantage point of the commons, one can more confidently critique the limitations of intellectual property law and market orthodoxy. Instead of having to treat fair use, the first-sale doctrine and the public domain as musty old broom closets in the grand palace of copyright law, we can put forward a coherent and compelling analysis that has its own sovereign terms and explanatory power. While we will of course still have to grapple with the realities of copyright law in legislatures and courts, the commons allows us to inaugurate a new discussion grounded in our own frame of reference and advantageous categories.

Furthermore, the commons can help us confer new meaning on mundane acts of sharing and collaboration. Just as the market vocabulary invests mundane acts of buying and selling with a cosmic significance, so the commons can confer new cultural meaning and respectability on the creative collaborations and sharing of distinct communities. The commons thus not only validates the actual processes of creative innovation, it helps us understand how civil society might be rejuvenated.

It is a fair question whether this proto-movement can grow and become robust. While much work remains to be done, I am optimistic. The spontaneous and widespread embrace of the idea of the commons suggests a deep human yearning to explore new modes of social connection and collaboration, and to assert a common human identity at a time when markets and nation-states wish to separate us.

- As a political movement, the commons brings many attractive features to the table:
- It underscores the fact that the people own certain resources and must have the right and legal mechanisms to control them.
- It brings into focus a wide variety of phenomena that are otherwise vague and diffuse.

- It is a positive vision, not just a reactive critique.
- It helps people seize the moral high ground in fighting market excesses.

The free and open source movements have a special role to play here because their commons are so ubiquitous, well-developed and functional. Freedom works! as Volker Grassmuck put it. That message needs to be more broadly communicated in both popular and intellectual ways, especially to the non-techie community.

There needs to be far *more dialogue among commons constituencies*. Notwithstanding the significant differences between depletable and non-depletable commons – those of nature and those of culture, roughly speaking – there are many shared values and principles affecting both sets of commons. I hope to address the divisions among different commons groups through a new web log, www.OntheCommons.org, which will soon be a major web portal to commons resources.

There also needs to be far more *collaboration between academics and activists and members of online commons* so that we can develop more empirical and rigorous intellectual critiques.

Public education and popularization of the commons perspective are also important tasks. My colleagues at the Tomales Bay Institute and Friends of the Commons have undertaken such tasks as preparing the first annual report on The State of the Commons, and publishing popular broadsheets describing the range of commons now being enclosed. We also plan to develop community inventories and assessments of local commons, so people can begin to realize that valuable commons – libraries, open spaces, civic organizations, community festivals – that enhance their daily lives.

As we try to build a new political and policy tradition of the commons – while still enmeshed in a deeply entrenched market culture – is likely to ensnarl us in many intellectual paradoxes and confusions. Any quest for ideological purity is doomed to failure. If there is one truth in the networked environment, it is that truth is not unitary.

Which is why I believe that any commons movement must exhibit a tolerant, ecumenical humanism. We are all irregular, self-contradictory creatures living in a society rife with contradictions. The best way to transcend the cultural contradictions of our time may be to open ourselves up to the worlds of art and spiritual inquiry. They have important things to say about the commons because the commons is not just a polemic – a cognitive, intellectual message – but equally a vehicle for social reconstruction and reconciliation.

This, at least, is what I envision for a commons movement. But any real movement will depend upon how badly people really want to reclaim our common wealth and re-connect with each other. A final stanza of the English folk poem puts it well:

They hang the man and flog the woman
Who steal the goose from off the common.
And geese will still a common lack
Till we go out and steal it back.

That is our challenge: to develop the language and organizations and legal doctrines and institutions to “steal back” what has always been ours, but has been alienated from us for too long. Thank you.

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