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A pragmatist critique of the economic theory of the commons

Philippe Lorino⁸

Introduction: “Man without a star”

The wandering Texan cow boy Dempsey Rae, played by Kirk Douglas in the movie “Man without a star” directed by King Vidor in 1955, arrives in Wyoming. He hates barbed wires since they took his brother’s life. Above all, for him, they epitomize the end of what he most cherishes, free riding in vast open spaces. But he is caught up in a range war: his boss, the steely female rancher Reed Bowman, has plans to triple the size of her herd, which will crowd out the smaller ranchers on the range. Rae faces a dilemma: should he serve Bowman’s plans to edge out other ranchers and dominate the whole region, or support the smaller ranchers’ will to defend their living by fencing off their pastures? At the end of the movie, Rae leaves the area disenchanted, probably guessing that his dreams of community life are just getting historically outdated. The range wars between big and small ranchers, or between ranchers and crop-growing farmers, or between ranchers, farmers and mining companies, are one of the favorite themes of classical westerns. They provide an archetypical illustration of “the tragedy of the commons” theorized by neo-classical economists: a rare resource (land), multiple competing appropriators (livestock grazing, crop growing, mining), individualist profit-maximizing consumption of the resource at the expense of other users, gradual depletion of the resource (soil depletion). This example is also interesting because this “tragedy of the commons” tacitly rests on a concealed past (the native Americans’ previous expropriation and eviction), unthought-of future disruptions (galloping urbanization, industrialization), more or less distant environmental transformations (precisely at the same time, the quick development of railway infrastructure, massive European immigration, leading to range and ethnical wars depicted in Cimino’s 1980 movie “Heaven’s Gate”). Dempsey Rae’s story is thus a case of commons conflict with a precise social, temporal and spatial frame (land utilization should be grazing or cultivating, not manufacturing or urbanizing; users are settled ranchers or farmers, not nomads; competing values are social justice, individual freedom and economic growth) but this frame is in the very process of “overflowing” (Callon, 1998): the terms of the problem are too local, too immediate and too static to understand the situation and construct viable futures. There is no other future for Dempsey Rae than further wandering in space and time and moving to distant territories.

“Man without a star” illustrates Mary Parker Follett’s analysis of coordination (1933/1995). If Bowman or the Federal Government impose some de facto (Bowman) or de jure (Washington) rule, the situation will conform to Follett’s concept of coordination through domination (forced solution). If miraculously Bowman and the other ranchers end up negotiating an agreement about enclosure, each one making the necessary concessions about pasture surface and number of cattle heads, this agreement will illustrate Follett’s notion of coordination through compromise (sacrifices from each participant in a zero-sum problem). Obviously, Dempsey Rae dreams of something else: community building? infinite spaces? What he dreams about, realist or fictitious, is not explicit, but it is probably some form of dynamic story, allowing to escape rigid structures and construct something new in new spaces and new times. It may then conform to Follett’s notion of dynamic coordination through integration, i.e., reframing the issue at stake, redefining its terms and inventing different paths.

Economic approaches

The “tragedy of the commons” (Hardin, 1968) is a typical application of the static paradigm that historically underlies economics as a science, in its mainstream but also in many critical versions. The neoclassical pioneers (Pareto, Walras) abandoned the “political economy” of Smith or Ricardo to follow Cournot’s scientist project (1838/2019) and build a new science, a “rational mechanics of social facts” (Ménard 1978). With the stated goal of applying the mathematical model of rational mechanics (optimization under constraints) to economic phenomena, neoclassical economists faced the epistemological necessity to adopt some conservation law, like the mass and energy conservation laws in mechanics. They then decided to define economics as the science of value exchange, circulation, and allocation rather than the science of value creating activity (Lorino 1989), allowing to apply the mechanistic law of conservation to the conservation of global value, in the quest for optimal or satisfactory resource allocation.

Not surprisingly, for economists, the tragedy of the commons conforms to mechanistic hypotheses: there is a given shared, scarce, and non-excludable resource, a given amount of this common resource, a given list of potential “appropriators”, all being specimens of utility optimizing “homo economicus”, pursuing self-interest at the cost of general interest, and a given definition of “general

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interest” and how to measure it (performance indicators). Not surprisingly either, solutions include domination by one of the stakeholders, the imposition of private property rights, a contractual arrangement through which each participant accepts necessary sacrifices (value conservation leads to a zero sum game), or the regulatory imposition of utilization and conservation rules. All those solutions are static and focus on allocation rules.

Now the critique of the classical theory of the commons by Nobel Prize Elinor Ostrom (1990) tempers the “homo economicus” perspective by introducing social relationality, the capacity of participants to communicate and explore potential agreements dialogically, in “settings where appropriators are able to create and sustain agreements to avoid serious problems of over-appropriation (Ostrom, 2000, p. 34)”. But she actually keeps the main feature of the economic paradigm, namely, a static definition of the problem: the definition and amount of the resource (she speaks of “common pool resource”), the definition and list of “appropriators”, the definition of values at-stake measured through “frequently available, reliable indicators”, supported by expertise (“it is important for policy makers to create large-scale agencies who monitor performance of both natural resource systems and those that are using them”, Ostrom 2000, p. 47). All those components of the “commons” system are given. The theory then focuses on given resources and given “appropriators” and looks for “attributes of resources and of appropriators conducive to an increased likelihood that self-governing associations will form” (Ostrom, 2000, p. 35). This simplified static frame is the price to pay for applying economic calculation, “the basic benefit-cost calculations of a set of appropriators (A) using a resource (Ostrom, 2000, p. 35)”. Cost-benefit calculation enables Ostrom to apply the theory of rational choice, a cornerstone of mainstream economic theory. She thus focuses on the social organization required to allocate “already defined” resources to “already defined” users according to “already defined” values: “Ostrom’s work has been fundamental in establishing the commons as a viable alternative to the market for the allocation of resources. It has demonstrated that the commons are not just a resource but a mode of organising through which people can autonomously organise themselves to *preserve and share resources* (Fournier, 2013, p. 450, my emphasis)”.

The pragmatist transactional view

Here, the economics of the commons and the pragmatist processual perspective (Lorino, 2018) clearly diverge. For pragmatist thinkers, social life is intrinsically dynamic and creative. All the terms of collective experience, analyzed by Dewey and Bentley as “trans-actional inquiry” (1949/2008), are permanently likely to evolve. Human and

social experience is a relational process, oriented towards the continual exploration/invention of possible futures: “Transaction is inquiry of a type in which existing descriptions of events are accepted only as tentative and preliminary, so that new descriptions of aspects and phases of events (...) may freely be made at any and all stages of the inquiry (p. 113).” No omniscient “calculator” may transcend and overlook the situation. The transactional inquiry is immanent and involves a close integration between human and non-human participants and the physical, natural and social environment: “[Our] observation sees man-in-action, not as something radically set over against an environing world, nor yet as something merely acting ‘in’ a world, but as action of and in the world in which the man belongs as an integral constituent” (p. 50); “since man as an organism has evolved among other organisms in an evolution called ‘natural’, we are willing to treat all of his behaviors, including his most advanced knowings, as activities not of himself alone, nor even as primarily his, but as processes of the full situation of organism-environment (p. 97).”

The accomplishment of a conjoint activity perceived by the members of a group as beneficial for the collective survival and development gives rise to a community of actors: “[W]herever there is conjoint activity whose consequences are appreciated as good by all singular persons who take part in it, and where the realization of the good is such as to effect an energetic desire and effort to sustain it in being just because it is a good shared by all, there is in so far a community (Dewey, 1927/2008, p. 328).” When there are doubts about the feasibility and the pursuit of the activity, the adequate methods of action, or the solution of a problem, e.g. concerning the maintenance and use of activity resources, the community must inquire into the situation. Any response to resource issues then emerges from the trans-actional communication and cooperation between participants. In other terms, the very definitions of “resources”, “common resources”, “participants”, the concerned “community” and “values at stake” are likely to change at any moment, as an inherent part of the efforts of the social group to determine a viable collective future, in a permanent and open dialogue with the situation that can lead to the redefinition of the situation and its spatiotemporal perimeter. The trans-actional inquiry involves collective creativity, the exploration of unknown territories, the experimentation of new practices, the tentative description of new roles, the redefinition of values and the possible extension of the inquiring community to other participants, according to the reframing of treated issues. The trans-action theory converges with Follett’s concept of integration (1933/1995): it considers the possible reinvention of the problem and the redefinition of its terms, boundaries and stakes at any moment.

The very existence, identification and description of a common resource is contingent on the definition of activities, raising such questions as: “to do what, where, when, with whom”? A resource is a resource when and if it is useful to conduct activities humanly and socially considered as necessary, from the satisfaction of elementary needs (breathing, food, heating, etc.) to the fulfillment of complex social imperatives (education, healthcare, safety, cultural expression, information, free political debate, etc.). It may remain a potential resource even if apparently collective activities do not need it anymore, if there is a collective judgment that, on the longer run, under new and partly unpredictable social conditions, it may prove necessary for the well-being or the survival of the community. Labelling and qualifying something as a “resource” is not self-evident. It requires an ongoing collective valuation process (Dewey, 1939/1988) that handles the multiplicity and potential contradictions of values on diverse time horizons, not through “scientific measurement” but through debated judgment (Lowe et al. 2020).

The same processual perspective can be applied to the boundaries of the concerned community and the definition of participants. The collective and dialogical inquiry undertaken to face a problematic situation enacts a community of inquirers as much as a community enacts the definition of resources and issues of resource utilization or depletion. Returning to the movie “Man without a star”, native Americans were obviously not even imagined as potential participants in that grazing war. Reframing the problem by widening the temporal perspective and taking into account the rights of the first occupants, representatives of the native Americans originally living in Wyoming should be concerned by the “pasture inquiry”, which would clearly modify the whole narrative...

Within the inquiry, the active process of valuation may continually reconsider values at stake, in the light of experience feedback and the results of new social experimentation. It is quite rare that possible values are not multiple and potentially contradictory. For example, should the health system ensure healthcare physical proximity for rural populations, with a lot of small sites, or should it prioritize the maintenance and development of competence through regular practice, which requires bigger units? Two legitimate values, proximity and competence, are thus conflicting and require a debated appraisal.

The whole process of inquiry, including its valuating and experimenting dimensions, focuses on activities and conjoint experience rather than on fixed utilization rules, individual or collective participants or property rights. In

pragmatist terms, participants are “inquirers” and “doers” rather than “appropriators”: the trans-actional inquiry does not address appropriation issues, but collective and transformative action methods or practices. Resources, participants and values are co-constituted through the exploration of possible future action and the reconstruction of social practices. For example, how should we define common good in healthcare activity: as a resource, such as the number of intensive care beds, or as a capacity to act, such as the social capacity to cure patients or to prevent health problems through preventive policies? Means (resources) and ends (values) cannot be separated (Dewey 1939/1988) and are defining elements of social action. A *democratically agreed joint definition of the problem* on which action is required, of action to undertake in response to it and of the resources required by such action may be, from a pragmatist viewpoint, *the first “common good”*.

Pragmatist inquiry and commoning: focusing on action or on resources and participants?

The commoning framework (Berthelot, 2021) may be closer to the pragmatist inquiry perspective than Ostrom’s economics of commons. Euler (2018), for example, stresses the processual and concrete experiential dimension of “commoning”: “The difficulty or costs of exclusion was argued to be a social dimension that depends not only on the characteristics of the goods themselves but crucially on the respective demand (over time), potential substitutes, technological options and ‘on how the good is supplied and at what levels it is produced’. This was supposed to make clear that commons are not simply a type of goods but that the relevant social dimensions must be taken into account (...) A second impulse was taken up, namely to formulate commons in terms of *the social practices of commoning* (p. 15, my emphasis).” However, the critical authors who developed the concept of “commoning” often do not question the static nature of the “commons” definition and the focus on this reified entity called “the commons”, “already there”, already described and conceived, rather than on collective activity. They tend to primarily raise issues of access to commons, of conditions of their reproduction and of independence from markets and from commodification: “Escaping the market requires access to the commons, the protection of the commons and the ability to reconstitute social relations on the terrain of the commons (...) The commons, by providing a way of organising collectively for common use, offer a space for doing so and for emancipating ourselves from capital (Fournier 2013, p. 451).” The main issue is still an issue of appropriation, admittedly social appropriation, but nevertheless appropriation, rather than an issue of redesigning / reinventing / recreating social practices. The moves from “commons” to “commoning” thus seems to stop halfway. We still need to move further, from

“commoning” to “jointly creating” and “jointly making new practices emerge from joint exploration / experimentation”. The social and political struggles required by the maintenance and democratic distribution of commons should extend to the imaginable and continually questioned new practices that will enact the hypothetical “commons” of the future. What are future commons? They may be quite different from what we view as “commons” today: Pharmaceutical patents? Lithium? Space layers from 500 to 35000 km above the earth for orbit satellites? Seabed in ocean depths? Poles? The moon?

Thus, in the processual and dialogical perspective of pragmatism, the key issue is not limited to an issue of governance (“how should the production and use of resources be governed by the members of the community, what is the relevant and legitimate governance of commons, what do we have in common and how should we reproduce and use it?”) It is also an issue of day-to-day operations, experience feedback, imagining, designing and testing experimental activities: “what should we do together? How do we organize collective action? What resources do we need and what resources should we generate through our collective action? What can we create together and how can we achieve it? How do we explore the future together? How do we find some support in our past experience to invent future experience? What so far ‘external’ actors, distant in space, time or social organization, should be included in our collective enterprise to address those challenges?”

Internal/external, participants/non-participants are contingent and temporary categories that it would be ethically, politically and practically dangerous to hypostatize, as the economists’ static and structural approach tends to suggest: “New settlers are frequently highly disruptive to the sustenance of a self-governing enterprise when they generate higher levels of conflict over the interpretation and application of rules and increase enforcement costs substantially (Ostrom, 2000, p. 44).” Difference and heterogeneity are not necessarily problems; they become problems if we make them problems; but they can be major assets for collective creativity if we are willing to actively involve them.

Two examples

An interesting example of “exotic irruption” into a trans-actional inquiry leading to common renewal is provided by the history of the “huerta de Valencia”: the region of Valencia, in Spain, is famous for fertile soils, water infrastructures (drainage of swamps and irrigation) and high quality vegetable and fruit production exported to the rest of Europe. Water has always been a scarce “common” and its utilization by farmers a sensitive issue.

In Europe’s oldest continuing legal court, the Tribunal de las Aguas de la Vega de Valencia, or Water Tribunal of the Valencian Plain, a locally elected panel of syndics establishes rules for the distribution of water and issues swift judgment on-site, in Valencia historical downtown, at a weekly hearing. The syndics are not legal scholars, lawyers, or judges, but water-users themselves and members of the community. The court was established, not by authorities, but by the Muslim fruit farmers who settled in the plain after the Muslim conquest of Spain in the 8th century (Hudson-Richards & Gonzales, 2013). Valencia area had been a rich agricultural zone under the Romans but had declined after the collapse of Roman rule. The Muslim settlers brought their well-known expertise for irrigation from Yemen, Syria and Morocco and established an extant irrigation system, building dams, canals, water wheels, mills, drying out vast swamps and developing related activities, such as watermills or wash houses. They introduced many new crops to the region, such as oranges, nuts, artichokes, eggplants. Thanks to the 8th century irruption of those external, distant and culturally “strange” participants, activities, competences and social practices were reengineered, introducing canal and dam building, orange growing, watermill operating. The city of Valencia and its surroundings grew and the “huerta” became a major element of the regional identity, a frequent theme in Valenciana literature and painting. The transformation of activity involved the redefinition of resources (new infrastructure), products (new fruit and vegetables) and participants (farmers, but also millers, water administrators, traders, artists).

Another example, the case of megafires (Zask 2019) also raises the focal issue of action: what forest utilization should be promoted, by whom, to do what? Roughly speaking, there are three views of the social relationship with forests: the industrial view, considering the forest as an industrial resource whose profitability should be maximized; the conservationist view, considering the forest as a natural space that should be preserved from social activities; the community view, considering the forest as the setting of community activities (for example Aboriginal’s traditional activities). The pragmatist philosopher Joëlle Zask defends the third view, which allows to accumulate experience and skills about the reasonable exploitation and maintenance of the forest: “We remain stuck in a binary: either exploit nature until the end, or conservation. This situation casts us into a cultural crisis where we are incapable, as citizens, of being objective about what is happening, because we have no way to act, no means to repair or build landscapes, individually or collectively (Zask, 2020, my translation).” She opposes her trust in practical experience to the technocratic trust in expertise: “The megafire is the most brutal indicator of a failure in expertise”; “as already

Dewey at the heart of his social critique, I have long stood against the idea of setting up a body of experts acting between the public and government”; “no one foresaw the extent to which megafires would become both the consequence and a major cause of climate change. Why? What is it about the organization of our sciences and government that allowed such a catastrophic phenomenon to remain unperceived? I think that it is the ideology of expertise itself — which also afflicts the social sciences — that is responsible. It is also responsible for the invalidation of the so-called ‘traditional’ knowledge (but I prefer ‘science’) of people distant or nearby. Yet the megafire is the ecocide symptomatic of ethnocide. It affects ‘fire cultures’, which practice fires that are controlled, directed, selective and seasonal (2020).” She emphasizes the capacity of social organization to limit the risk of megafires by creating activities, communities and values: “Whether it is a question of preserving an allegedly virgin nature or of exercising domination, the same project of sanctuary is envisaged, but for diametrically opposed reasons (...) Under the angle of the megafires are drawn, via extremely diversified paths touching the totality of our existence, ways of transforming the forms of interdependence which constrain us in communities. They make possible the signature of a new social contract that would summon, in addition to our purely inter-human faculties to make promises, to debate or to reason, *our faculties to establish dialogical relations with nature* (2019, my translation and emphasis).”

Conclusion

The “new social contract” mentioned by Joëlle Zask about megafires is not a fixed and imperative norm for future activities, but a heuristic and instrumental mediation of trans-actional inquiry, submitted to the flow and overflowing of new experience, the continuous development of our dialogical relations with natural/social situations and the surprises that the uncertain future has certainly in store for us... After Texas, Missouri and Wyoming, Dempsey Rae decided to move to Canada, a territory situated beyond a border... What will he find there? He certainly does not know, and nor do we!

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