

The commons, property, and ownership

Suggestions for further discussion

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Abstract: In response to the theme section on commoning in the December 2017 issue of *Focaal*, this article raises further questions for discussion and proposes an analytics of the commons that grasps it through the lens of property regimes. The key question concerns how we might best envision the relation of the commons/commoning to the state, capitalism, and commonality in a way that does justice to both a broadly Leftist politics of the commons and an analysis of really existing commons that might deviate from this ideal. The conceptual lens of property regimes proposed here focuses empirical attention on relations of production and the organization of membership and ownership in the commons without including a particular politics into the definition as such.

Keywords: commoning, commons, common property, ownership, property

The commons are an eminently anthropological topic and have been studied by anthropologists extensively in relation to natural resource management. Such studies on the “traditional commons” were concerned in particular with management of natural common-pool resources, such as land or water, and showed that particular communal rules of shared use made Garret Hardin’s (1968) “Tragedy of the Commons,” at least as a rule, unlikely (e.g., Acheson 1989; Feeny et al. 1990; Trawick 2001).¹ More recently, critical scholars and activists have approached the commons as a possible antidote to a neoliberal global capitalism bent on privatization, commodification, and rent (e.g., Blomley 2008; De Angelis 2003; Jeffrey et al. 2012). The commons discussed here include not only natural resources but also,

for example, collectively produced knowledge, urban space, and social relations most broadly. Much of this literature envisions horizontalist and inclusive sharing relations of “commoning” that counter commodification.

These more recent perspectives on the commons have made surprisingly few inroads into our discipline.² This is all the more reason to welcome the winter 2017 theme section of *Focaal* on commoning edited by Ida Susser, which aligns with this critical scholarship. In addition to the introduction by Susser (2017a) and the afterword by Don Kalb (2017), it includes case studies on commoning entailed in “squares movements” in New York City, Barcelona, and Paris (Susser 2017b), on the making and unmaking of the urban housing commons in



Amsterdam (Nonini 2017), on securitization of urban public space in Philadelphia and the question of an antiracist commons (Maskovsky 2017), and on the “incipient commoning” entailed in discourses about taxes and the public good in Oregon (Morgen and Erickson 2017). Together, these contributions paint a complex picture and raise difficult questions about the relations of the commons and commoning to the state and “formal” politics, neoliberal capitalism, and the forms of commonality arising within as well as against these.

I want to take this special section as an occasion to further discuss how we might use the notion of the commons/commoning in anthropology in order to examine the politics of a neoliberal capitalism in and of crisis and possible alternatives in formation. My concern here is how to do justice both to a (Leftist) “social imaginary” of the commons that “carries a definite political argument, most typically an argument against commodification, privatization, or enclosure and in favor of egalitarian, grassroots approaches to resource management” (Wagner 2012: 620) and to an analysis of “actually existing commons” (Noterman 2016: 435) that might deviate more or less considerably from this ideal.

In the following, I will first review some open questions concerning the ways in which we might think about the relationship of the commons/commoning to the state, the market, and commonality. I will then sketch an approach to the commons that centers on the notion of property regimes. My suggestion will be that we define the commons as a (common-pool) resource that can be managed in principle through various property regimes, that we approach commoning as a set of practices that aim at the installation/defense of a *common* property regimes over the commons, and that we grasp such property regimes through their mutual constitution with relations of production and forms of membership. This is a perspective, I hope, that will allow us to examine the varied ways in which actually existing commons relate to capital and the state, as well as the processes,

and possibly conflicts and struggles, that go into the (un)making of particular social relations and persons in the process.

Grounds for debate: The state, the market, and commonality

The theme section on the commons invites for me further discussion on three conceptual questions: how the commons/commoning relate, first, to state management and public property, second, to capitalism and anticapitalist politics, and third, to forms of commonality associated with diverging political projects.

The commons, the state, and public property

In the traditional literature and the recent critical scholarship on the commons, the commons figure as an alternative to state management. Kalb similarly sees “ontological divides between the commons, the state, and the market,” which are “opposite in spirit and practice” (2017: 69). In other contributions to the theme section, however, the relationship between the state and the commons/commoning is more ambiguous. Nonini, for example, analyzes social rental housing in Amsterdam as a “true” commons because of its finite character, shared means of access, the focus on use values, and collective decision-making mechanisms (2017: 27). The making and unmaking of this commons, however, happens within the parameters of state governance. Sandra Morgen and Jennifer Erickson in turn add the prefix “incipient” to describe a form of commoning that is meant to take place not in opposition to but via the state. Support for a “common good”—to be achieved via taxes—is here “often articulated in language about community, belonging, and collectivities that is more and other than the state” (2017: 55), even though it “emerge(s) within or in relationship to those institutions” (64).

Most existing literature on the commons distinguishes more strictly between state-managed public goods and collectively produced com-

mons. As Kalb notes, “the state, the bureaucracy, and the rule of law turn a common good into a public good, ruled by public or civil law” (2017: 69; see also 72). Much of this boils down to questions of ownership and, thus, control. Scholars of commoning emphasize self-management and horizontalist decision making in contrast to the hierarchical structures of the state (with which one might engage (only) strategically) (De Angelis 2003: 6). As George Caffentzis and Silvia Federici (2014: 102) point out, “there is a crucial difference between the common and the public as the latter is managed by the state and is not controlled by us” (see also Stavrides 2015: 10–11). But they also note that an important challenge “today is connecting the struggle over the public with those for the construction of the common, so that they can reinforce each other.”

The struggles for the public and for the common are here treated as conceptually distinct. Susser’s introduction to the theme section instead unites them by defining commoning as a “long-term effort to reorient discourse and practice in terms of a public good and the redistribution of shared resources toward a more equal world” (2017a: 1).³ The emphasis on a *public* good and redistribution conceptually enables the involvement of the state as well as more communal practices.

The question thus arises what we gain or lose by opening commoning—conceptually—to the state. Shall we differentiate between “commoning” and “public-making” (Morgen and Erickson 2017: 64, in reference to Newman and Clarke 2015) so as to better analyze their respective effects and mutual engagements? Or shall we subsume both under the heading of commoning, because this would do justice to—and possibly allow for alliance formation in—a potential shared opposition to neoliberal enclosure?⁴

I will go for the first option below. This said, as long as the commons is primarily understood as a counterconcept to enclosures in (neoliberal) capitalism⁵ (e.g., Blomley 2008; Jeffrey et al. 2012), which can turn open access, public, or common goods into private property to be used for profit, it seems only natural to apply the notion of com-

moning to any reversal of the process—including the return to a more welfare-oriented state. This implies an antineoliberal but not necessarily an anticapitalist politics. How then shall we conceptualize the relationship of the commons to the market and capital?

The commons, the market, and anticapitalist politics

The commons have been analyzed initially in particular in noncapitalist contexts, and the “social imaginary of the commons” (Wagner 2012) that informs critical scholarship today is largely anticapitalist. While the phrase that the commons are “against the market and the state” is often repeated, much critical scholarship on the commons takes a more nuanced stance. Scholars here point out that reproduction via the commons can be a resource for capital, thus cheapening labor costs (Caffentzis and Federici 2014). The commons can be “co-opted” in multiple ways for purposes of profit-making (De Angelis 2013; Harvey 2012). Many “actually existing commons” characterized by sharing relations are also intertwined with capitalist practices (Noterman 2016). And “actually existing commoners” are not always motivated by a political opposition to capitalism (Bresnihan and Byrne 2015), and they are often “unevenly” involved in the labor of commoning (Noterman 2016: 436).

Contributions to the theme section are also delineating more complicated relations here. Nonini, for example, highlights the contradiction between “progressive social forces” that push for use-value-based commons and “capitalist forces that seek to . . . transform them into sources for private accumulation” (2017: 26), while Kalb cautions that “the urban commons . . . must be seen in its close articulations with capital and the state” (2017: 70). Moreover, the case studies foreground the opposition of the commons to neoliberalism—where housing is turned into a mere commodity (Nonini 2017), resources for public investments are withdrawn (Morgen and Erickson 2017), disposable popu-

lations and antisocial security are created (Maskovsky 2017), and austerity enforced (Susser 2017b)—more than to capitalism as such.

It therefore does not seem productive to define the commons as perforce anticapitalist or even noncapitalist. However, the critical literature on the commons is defined by its anticapitalist impetus: the term is primarily used to designate noncommodified and sharing relations beyond a profit motive that serve to reproduce our livelihoods. Do we throw out the critical edge of this scholarship if we move away from an anticapitalist emphasis in the definition of the commons?

A possible solution might be to limit anticapitalism to our definition of *commoning* (rather than the potentially co-opted commons). Jeff Maskovsky, however, warns that “we should not presume that antiracist commoning will or should necessarily be anticapitalist” (2017: 49). Here, commoning implies something other than opposition to (neoliberal) capitalism. What is this other? This brings us to questions of commonality, a prominent matter in the theme section.

The commons, commonality, and the politics of difference

The contributions to the theme section push us to reflect on the ways in which constructions of community that are implied in the idea of commoning relate to (unequal) differences of what sort and on the kinds of politics that result from this. One question here is to what extent commoning should be understood as a particular kind of class politics. Maskovsky is highly critical here of a “desire for class solidarity [that] ignores . . . the concrete realities of race, gender, sexual, class, and national politics” (2017: 45). Thus, a related question is how commoning practices engage with inequalities associated with social categories other than class. As Susser points out, “movements [in the United States and Europe] around the commons have to confront crucial issues of immigration, ref-

ugees, race and racism, and how the idea of the commons addresses internal inequalities” (2017a: 3). Maskovsky adds that we should not presume that commoning is perforce antiracist (2017: 49). This results in the question, raised pointedly by Kalb, of whether the notion of commoning should be limited to a universalist, inclusive project of the Left, or whether it should also include an exclusionary “right-wing commons [that] is, in rhetoric at least, about use values for the deserving,” but that limits these to “members of national stock” (2017: 72).

Opening the notion of commoning to (non-capitalist) politics of the Right would go against much of the critical scholarship on the commons that identifies commoning with open, inclusive, horizontalist, egalitarian sharing relations across difference (e.g., Stavrides 2015). The community envisioned here is akin to a “*communitas*” where people are “stripped of status roles” (Susser 2017b: 16). Commoning, here, goes much beyond access to shared resources; it is understood as a “relational process” that concerns the production of “a life ‘in common’” (Velicu and García-López 2018: 5). For Susser, this has the potential to create a “shared cultural discourse” and new “political bloc” in opposition to the “prevailing hegemony” (2017b: 15, 18, 19). Morgen and Erickson similarly point out that the “politicized ‘Oregonian’” who engages in incipient commoning “belongs to a larger social whole and values, and enacts (by voting) caring, sharing, and fairness” (2017: 64).

Critical scholarship, however, also acknowledges that historically many commons were not organized in an egalitarian manner and that there is the danger of a “new form of enclosure, [of] the commons being constructed on the basis of the homogeneity of its members” (Caffentzis and Federici 2014: i100, i102–103; see also Harvey 2012). Elsa Noterman emphasizes the importance of examining “the internal differentiation within each localized commons” (2016: 435). This said, questions of inequalities among commoners or the ways in which unequal social positions shape access to the

commons in the first place have not been at the forefront of discussions in the critical commons literature. Similarly, Arun Agrawal noted for the literature on the traditional commons that it should pay closer attention to “intra-group politics and issues of power” (2003: 257). The kind of attention to the contradictions and power dynamics of “community” that has become key to a reinvention of anthropology in the last decades has much to contribute to the study of the commons here.

A proposition: Examining property regimes

My proposed response to these conundrums is to approach the commons through the lens of specific property regimes, and to do this conceptually in such a way that the particular relations of the “actually existing commons” to the state, capital, and commonality will be opened up for analysis rather than included in the definition itself. I suggest that we can do this by differentiating between the commons as a resource and the commons as a property regime and by analyzing the latter in view of relations of production as well as the organization of membership and ownership.

Commons: Resource and property regime

The literature on the traditional commons distinguishes between the resource and the property regime (e.g., Feeny et al. 1990: 4)—in contrast to much recent literature, where the notion of the commons is variously applied to one or the other, or both (see also Wagner 2012: 620). Common-pool resources⁶ can be managed through various property regimes: open access, public, private, or common (e.g., Feeny et al. 1990: 4). As Wagner sums up: “Common property is managed and perhaps jointly owned by a relatively autonomous local user group, public property is owned and managed by a state agency, private property is controlled by

an individual or a corporation, and open access refers to a situation in which . . . the resource is available to all” (2012: 617–618). In critical scholarship, the notion of the commons, then, tends to refer to the particular arrangement where common-pool resources are communally managed, mostly in a noncapitalist way.

David Harvey captures this by defining the commons as a social relation between a social group and its environment, and commoning as a practice that seeks to render this relation “collective and non-commodified” (2012: 73). This relation, I suggest in what follows, can be conceptualized through the notion of property regimes. In line with the literature on the traditional commons, I set out from the assumption that the commons as common-pool resources can be managed in principle through a range of different property regimes, and use the notion of commoning to refer to practices that aim at a common property regime of the resource (as opposed to other possible regimes).⁷ One advantage of that distinction is that we can maintain the language of “reclaiming the commons” (Klein 2001)—as resources that we all have a right to—at the same time as we can bring into view the making of a common property regime where it does not (yet) exist. Moreover, we can examine how the public and the communal management of the commons, kept conceptually distinct, enter into hybrid arrangements (Feeny et al. 1990: 4; Nonini 2007b: 10; Turner 2017; Wagner 2012: 618) or how changes between property regimes are effected, such as in the case of enclosures. In brief, it might allow for a fine-tuned analysis of the actual relations between the commons, the market, and the state.

Defined in this way, the notion of commoning does not yet tell us anything about the specific forms of common property regimes, however, beyond the fact that they are by definition communal. We thus need to develop an approach to forms of property that would allow us to examine their specific constitutions. Here, David Nugent’s definition of property as “relationships among people that are mediated by

material and nonmaterial elements of culture” (1993: 341) and that are reshaped in shifting historical contexts is helpful for our purposes. First, the focus on property as variable social relations must be central to a critical analysis of the specificity of common property regimes; second, the inclusion of “nonmaterial elements of culture” in the standard definition of property as relations between people mediated by things resonates with the recent literature on immaterial commons such as knowledge; and third, the historical mutability of property relations is relevant for a processual understanding of the commons, including processes of co-optation and enclosure and emerging alternative property regimes.

Property and production

The distinction between the commons as resource and property regime allows for a study of enclosure. A wider analysis of the relationship of the commons to capitalism, including an analysis of the formation of non- or anticapitalist alternatives, requires, moreover, attention to relations of production in our approach to property regimes. Nugent (1993: 340) argues that property relations are fundamental to relations of production and a good starting point to examine noncapitalist contexts where production is not separated out as a distinct sphere. Following in this line, we could examine how common property regimes relate to production as “active engagement with nature and the concomitant ‘reproduction’ of social ties,” examining in particular also the ways in which “labor is deployed” (Wolf 1982: 75). As Susana Narotzky has pointed out, “commons are about resources and how they are appropriated in particular social relations that contribute to reproducing or, instead, to transforming existing social relations of production” (2013: 123). Similarly, Peter Linebaugh has suggested that “commoning is embedded in a labor process Common rights are entered into by labor” (2008: 45). The concrete shape of property relations is a key dimension of this; they shape “what people are ex-

pected to do in their everyday lives, with whom and under what conditions they will do it, what they may claim as the fruit of their own labor, and what they must provide to others” (Nugent 1993: 340).

I thus suggest we adopt a perspective on property relations that sees them as mutually constitutive with relations of production. Thus, capitalist production relies in a fundamental way on the generalization of private property in the means of production, the concentration of such private property in the hands of few, and the “freeing” of the many from it so that they are required to sell their labor power (Marx 1990; Nugent 1993). It also relies on particular arrangements through which labor power is to be reproduced, such as the unpaid labor of women. Friedrich Engels attributed the domination of women by men to the “victory of private property over . . . common ownership” (1978: 739). But Caffentzis and Federici remind us that commons historically “have often been organized in a patriarchal way that has made women suspicious of communalism” (2014: i103). And much the same could be said for socially constituted categories such as race, ethnicity, age, and sexuality.

Thus, our analysis of common property regimes, or practices of commoning, must include attention to class relations as much as to other forms of inequality and domination—as distinct social relations mediated by material and immaterial elements of culture—through which (re)production is organized.⁸ Importantly, this concerns more than production in its narrow sense (see Marx 1992: 495; Nugent 1993; Wolf 1982: 74–75). It is not only about the production of things needed for physical reproduction; rather, it is about the reproduction of whatever goes into the making of social life. It is about forms of knowledge collectively produced, shared, or withheld; it is about the labor that goes into the making or unmaking of social ties as much as into particular relations to the environment; and it is about the creation of a public life or urban space that can be held—maybe—in common. It is about much that makes common-

ing so exciting as a potential “prefiguration” of a “life in common,” but that also constitutes its contemporary limits.

Including attention to relations of production into our approach to common property regimes thus also points toward an analysis that both includes and goes beyond capital and class. I suggest that this analysis should include questions of membership, ownership, and personhood, as they intertwine with the relations of (re)production that go into the making of the commons. This will also give us a handle, empirically, on the distinct forms of commonality engendered in variously organized common property regimes.

Membership, ownership, personhood

The notion of a common property regime implies the existence of a community. But community comes in many shapes and sizes. As Turner cautions us, the “view of a singular resource managed by a closed social group using a single set of rules reflects more the framings of common property scholarship than the reality of commonly-held resources” (2017: 797). Specific forms of commonality are shaped, among others, by the specific social relations set up internally that are relevant for the (re)production of the commons—such as the specific ways in which labor is allocated and the product of labor is shared. They are, moreover, shaped by particular approaches to membership and ownership, which in turn relate to questions of access, rights, and responsibilities.

According to the literature on the traditional commons, common property regimes are by definition *not* open access. They thus require ways through which access to the common resource is regulated, one example being implicit or explicit rules that regulate membership in the community that “owns” the resource. Here, key questions about what constitutes commonality arise: Is membership founded on a common identity? A shared politics? Location? The important point here is that access regulates exclusion as well as inclusion. If we define

commoning as relating to a common property regime, then the existence of commoning as such does not tell us anything about the basis or degree for inclusivity and exclusion—it only directs our analytic gaze to these questions.

In a common property regime, membership and ownership overlap (though this need not imply equal rights of member-owners vis-à-vis the resource and each other). Note that the term ownership, just as with property, need not be limited to a possessive individualist meaning. Rather, I refer with it to a broader sense of rights and responsibilities vis-à-vis the commons: who is to have what claim, stake, and say in the (un)making of a specific property regime and the forms of access and shared use it entails? The notion of ownership therefore involves for me the question of the politics of the commons/commoning, of differential possibilities in shaping the concrete content of property regimes and the social relations, including relations of production, they entail.

Through relations of (re)production as well as the politics of ownership, we produce ourselves as particular kinds of persons. As Irina Velicu and Gustavo García-López suggest, “commoning may be analyzed as an ongoing political struggle to perform the ‘within/against’ of power and agency—a relational constitution of our collective selves—which faces us with the opacity (boundedness) of selves rather than a fully-formed alternative/communal subjectivity” (2018: 7). Anthropologists have long pointed out that property makes persons—though not necessarily in the bounded, possessive individualist sense implied by the “Western native category” of private property (Humphrey and Verdery 2004). The questions arise whether, to what extent, or in which ways common property regimes can unmake the kinds of persons that are likely to enter into them in our contemporary—neoliberal capitalist, sexist, racist—world. As Eric Hirsch notes, “as people contest or accommodate these assertions of property, entailing distinct fabrications of persons and things, there emerge new ways to be a person or collective of persons” (2010: 356).

Conclusion

The language of ownership has long informed a Leftist politics of the commons in German, my native tongue. For example, the slogan *Wem gehört die Stadt?* (Who owns the city?) is often used in place of the notion of the right to the city (*Recht auf Stadt*). In her book on the commons, Silke Helfrich asks, “*Wem gehört die Welt?*” (Helfrich and Heinrich-Böll-Stiftung 2009): Who owns the world? Ownership here implies something more—and in fact, *other*—than “having.” It is about who has a stake, a claim, a say in shaping the world we live in. It is about taking back control, from the state and from the market, and about taking responsibility for our livelihoods and for the environments we produce.

In a recent article, I suggested that we should see commoning as one among many and possibly antagonistic practices of placemaking in the city (Bodirsky 2017). In treating commoning here as one distinct placemaking project, I applied the anticapitalist, horizontalist version that is now informing commons activism on the Left. But we might just as well focus our attention on the contradictions between and within different commoning projects, on the various processes of negotiation and conflicts that go into forming a particular politics of the common.

This becomes more urgent with the analytic division between the commons as a resource and as a property regime: the resource might exist on scales where community becomes extremely heterogeneous and stretched out (think of the urban commons, or even the climate). In large-scale commons, there will always be (a majority of) potential co-owners that are not part of the Left, in contrast to, for example, small-scale commoning projects created by a likeminded community possibly formed for the purpose of commoning. The question of a politics of commoning poses itself with particular urgency with regard to the kinds of commons that involve antagonistic potential owners: the question of how a commoning project of the

Left—that seeks to set up an inclusive, egalitarian common property regime—relates to other visions of managing the commons as resources that everyone in principle can claim.

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Notes

1. This literature shares many concerns with the “Ostromian” take on the commons.
2. Among the exceptions are Nonini (2007a) and Susser and Tonnelat (2013).
3. Susser’s (2017a: 1–2) second definition of commoning “as a grassroots project to build a new form of consensus that highlights the importance of sharing, economic security, and horizontalism across thresholds of difference” in turn aligns with the critical scholarship on the commons.
4. As Kalb (2017: 70) points out, the articles in the theme section underline that “anticapitalist use values will not be realized on a substantial scale without the state present at various levels.” (Though we can also question, with him (2014: 132), the role of the state in dismantling the anticapitalist commons.)
5. Enclosure refers here to a general capitalist practice that neoliberal capitalism has much relied on to counter a crisis of overaccumulation rather than (merely) to an initial moment of primitive accumulation (e.g., Harvey 2003; Sevilla-Buitrago 2015).
6. Definitions of common-pool resources emphasize that these are characterized by a difficulty of excluding potential users (excludability) and the fact that the resources can be depleted by use (subtractability) (Feeny et al. 1990). In relation to contemporary commons such as knowledge,

one might frame the problem as one of “enclosability” rather than “subtractability.”

7. Matthew Turner, in contrast, suggests—in a way that might be closer to the intentions of some of the contributors to the theme section—to treat commoning as “a similarly contested process that seeks to expand shared rights and responsibilities within mixed property forms” (2017: 798).
8. Nugent’s (1993) empirical material, for example, shows the transformation of reciprocal into redistributive property relations in Blackfoot society and the related increase in inequalities along multiple lines—within what one might characterize as a largely common property regime.

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