

# The Global Commons: To Regulate or Self-Regulate - Is That the Question?

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Are informal methods more appropriate for managing the global commons than traditional formal structures? Or will it require a more subtle mix of enforcement and persuasion?

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Yesterday we began our discussion of transnational institutions and organizations by asking an important question – should such organizations be “enforcers” that regulate the behavior of various political actors, or should they be “persuaders” that rely on more subtle approaches, to include the power of example? Today we ask a complementary question – if transnational organizations should be enforcers rather than persuaders (or indeed vice versa) what does this mean for how we manage the global commons? Are informal and self-regulating methods, for example, more appropriate than more formal structures, or do we need a more subtle mix of enforcement and persuasion?

## Defining the problem

The global commons make up the Earth’s ‘unowned’ natural resources, such as its oceans, Polar Regions, air space, etc. Like other shared resources, these commons are coming under increasing pressure from population growth, urbanization, climate and environmental problems and misuse. Indeed, in his landmark article on these regions, Garret Hardin famously described these problems as the ‘tragedy of the commons’. Without effective mechanisms of governance, Hardin concluded, the common resources on which we all depend will eventually be degraded or depleted.

## Top down or bottom up?

How should we then protect and manage these resources wisely? Well, according to Hardin, safeguarding the global commons requires a top-down approach administered by prominent international organizations. The line of reasoning here is simple enough: by imposing rules and compliance mechanisms such as inspections and sanctions, individual actors are forced to avoid socially irrational outcomes. However, leaving the regulation of the commons to transnational organizations like the United Nations is not without its detractors. A particular concern is bureaucracy – i.e., the possibility that complex or gridlocked policymaking processes may expose the commons to harmful compromises or policy initiatives. Similarly, bureaucratic inertia may result in less-than-dynamic responses to emerging problems.

What to do then? One popular solution is to empower individuals to self-regulate themselves in the commons. Elinor Ostrom, for example, refutes Hardin's thesis that rapacious self-interest resulted in 'the tragedy of the commons'. Her studies of rural communities in Nepal demonstrate that the vitality of the commons might best be preserved via privatization - i.e., as more land fell into private hands, communal regimes eventually emerged to manage the remaining meadows, forests, irrigation sources and fisheries in the country in sustainable ways. Given such results, it is not surprising that Ostrom goes on to claim that privatizing parts of the commons has two ultimate benefits - it creates incentives for landowners not to over-exploit their property, but it also creates disincentives for others not to take what is left available, thereby discouraging unfettered resource extraction and exploitation.

Well and good, a skeptic might argue, but does a method (privatization) that works at the community level then work on a global scale? [Oran R. Young](#), for example, points out that the size, complexity and diversity of the global commons introduces a host of cultural, economic and political challenges with massive implications for the community-level model offered up by Ostrom. Young further argues that while we might be able to regulate the commons with private property rights, confronting the potential tragedies that might occur as a result of such transfers of land is a completely different problem.

James McGill Buchanan, winner of the 1986 Nobel Prize in Economics, couldn't agree more. In fact, he identifies three cases where privatization leads to commercial misuse, which then inevitably jeopardizes the wellbeing of the commons.

1. *Killing the goose that lays the golden egg.* Private ownership of the commons, as a way to protect what remains, falls apart as an option when it becomes profitable for property owners to exhaust a resource entirely.
2. *Failing to consider non-market values.* For example, while privatization may rationalize the conservation of woodlands for their commodity value, products that cannot easily be transformed into market commodities (i.e., ecosystem preservation services) are often ignored.
3. *Failing to consider side effects.* Privatization falls apart when little or no consideration is given to the unintended side-effects of commercial activities (for example, dumping waste in a downstream river-flow).

### **Or a mixture of both?**

Well, given the representative divisions between the Hardin's, Ostrom's, Young's and Buchanan's of the world, what Solomon-like option finally remains available for us? Not surprisingly, a goodly portion of today's academic literature argues that a top-down and regulatory approach is needed to protect the commons, but this approach also needs to be supported by more informal bottom-up practices, to include the application of widely accepted codes of conduct. Such a dual arrangement, the argument further goes, will require international and non-governmental organizations to partner together. They can ensure, for example, that Ostrom's private property rights argument gets a fair hearing if they also remind us that ownership of the commons must be underscored with a number of (normatively grounded) duties and obligations.

Finally, it is fair to say that the above mixed approach inevitably leads you to conclude that neither the 'enforcer' nor the 'persuader' approach is the outright best solution for regulating the global commons. Indeed, where analysts such as Ostrom and Young seem to be in agreement is their belief that success in governing these areas is entirely a matter of "complexity management" and "context specificity". You need to identify, in other words, 'when' and 'what' combinations of strategies are

most likely to be effective in terms of regulating specific aspects of our common areas at any given time. In this respect, it pays to have a range of options in a regulatory toolkit. It's just that simple.

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