

COMMONS FORUM *RESPONSE*

Response to: The Name Change; or, What Happened to the “P”?, by Charlotte Hess and Ruth Meinzen-Dick

Putting Property in Context: From Common Property to the Properties of the Commons

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For me, this *Commons Forum* represents an opening for my own work to be central rather than peripheral to the mission and the definition of the Association. Previously, I felt the social and ecological dimensions were peripheral, with legal, economic, and political dimensions at the center. This change of name and definition puts those fields all on equal footing and makes it easier to ask questions about the legitimacy, justice and ecological viability of current property regimes, procedures and management practices in the Commons. It puts us in the center of discussions about The Commons and Whose Common Future, as discussed in the *Ecologist* in 1992, and gets us beyond technical discussions of specific kinds of property relations as the only legitimate subject of study. We can now engage, as an intellectual and practitioners’ community, the moral and ecological dimensions of commons and commoners.

Common Property has always been about legal, economic and political criteria for claims on a specific subset of shared resources under specific types of rules that govern property relations. Property, the noun, is modified by the adjective “common”. To focus on property is to begin with a pre-existing set of claims, and to accept them as given. The study of such property focuses on the nature of the claims, the nature of the claimants and the rules that govern both. In the case of applied studies, common property researchers have often investigated how to enforce, reinforce or adjust the rules of exclusion (limiting access to the group), the rules of distribution within the group, or of membership in the group itself. In other cases they have documented the success or failure of the rules to serve the “community” or user group in question, or to maintain a sustained yield from the resource. The focus on property leads inevitably to studies of the nature of claims and claimants and their legitimacy, the rules that define membership, exclusion and distribution, and their enforcement. Membership may be based on automatic ascribed status (belonging to an ethnic group or residing in a particular place), on a voluntary affiliation, or on selective enrollment. The latter might be by subscription (enrollment by application, whether paid or not, or earned enrollment based on performance of work or other requirements). The study of the rules of management, under common property research, has emphasized the rules of membership and the distribution of benefits and of management work, rather than the actual material practices of resource management or the physical condition of the resource in question.

So what difference does it make to switch to the study of The Commons? When we start with the commons, we automatically include several dimensions of shared resources that fall outside of or beyond the realm of property relations. Among the most important of these are questions of values, justice and sustainability. While many of these can be treated under common property,

they fit more readily and more broadly under the Commons. The Commons implies a broadly shared resource or thing of value, or even the shared enjoyment of a property of something. What is shared may be a thing (plants, animals, water, soil, land, physical features) or it may be a property of that thing, such as the beauty of the landscape, the unusual color of the water in a mountain lake, or the special healing properties of a hot spring. The value of a resource may include use value (utility, a social function), symbolic value (also a social function but not divisible) and intrinsic value (also indivisible, and which some would argue does not exist or is always still a socially derived definition). The value of a commons may be measured in terms of who cares, and how much, or in terms of its place in the cosmos, rather than its worth in the market or its utility for a specific user. Symbolic and intrinsic values fall under the domains of culture and belief and both imply treatment with respect or reverence rather than use per se. The existence of the thing in question and a respectful relation with it matters more than its utility, when considering intrinsic or symbolic values.

Who shares the Commons may be more a matter of custom, a sense of fairness or moral entitlements than of legal rights of use, access, and exclusion. The word Commons implies that everyone's claim is potentially legitimate. The question of justice goes beyond existing property relations. It can be more about who needs something or who **should** have rights, than about who **does** have them. There is also scope for dealing with distributive as well procedural justice in the governance of the commons. Distributive justice deals with who gets how much, of what kind of goods or services, or access, under what conditions. Procedural justice deals with questions of process, and focuses on the fairness of the procedures of governance per se and the equity of the terms and conditions of participation in decision-making.

There is also scope to deal with the question of the legitimacy of authority and who **should**, as opposed to who **does**, have the right to adjudicate and govern the Commons. Sustainability has to do with the ecological and scientific criteria for management of the Commons. We can speak of the sustainability of supply or quantity of a resource, the sustainability of the qualities of a resource (in both instrumental and intrinsic terms) and the sustainability of resource or ecosystem integrity. Sustainability can also be discussed in terms of viability, a kind of biological feasibility based on what conditions are required to keep living things alive and well. This criterion mixes longevity and continuity with values about what should be conserved or preserved and judgments about how to measure it. As such it mixes values and science, both of which are submerged under studies of common property.

If we start with the Commons, and introduce moral and scientific criteria to set and implement limits on the use and management of resources, property is one of many possible tools that we can invoke. Property becomes one of many institutions that may come into play in our daily struggles to share and divide the Commons. On this basis we can speak not of reducing the role of property but of expanding our understanding and our options for living in the Commons.