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The tragedy of the conceptual expansion of the commons

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Public discourse on commons-related themes has been booming worldwide in recent years. Additionally, in many fields of study, the term “commons” is increasingly applied with a broad brush to a multiplicity of things. Research on the commons has evolved from fundamental academic discourse on subjects pertaining to the management of natural resources to applied interdisciplinary discourse aimed at testing the viability of social systems in general. Recent scholarly work has also given a significantly broader scope to the concept of the commons that extends beyond the traditional focus on tangible natural resources to encompass issues that concern intangible cultural resources (e.g. Heller, 1998; Lessig, 2001; Weber, 2004; Mitchell, 2005; Boyle, 2008).

Within the field of natural resource management, the concept of the commons had been in use for quite some time. However, as studies on commons-related themes gained more and more depth, that concept became increasingly blurred. In brief, the widened use of the term “commons” in reference to an array of different things has effectively compounded its ambiguity as a concept. Furthermore, as the concept of the commons has been widely applied even to matters with a cultural dimension, its significance and use-value as a pure concept seems even more ambiguous.

Current commons-related research on cultural themes applies the concept broadly, drawing analogies from several decades of commons-related research on natural resource-specific themes. As a basis of support for its view on the ownership and management of cultural resources, proponents

of the notion of a cultural commons rely on the concept of the commons as applied in the field of natural resource management. In that context, however, the term "commons" is being used as nothing more than a type of metaphor. At present, the vast majority of commons studies on culture-related themes are purely exercises in model theory. Within the purview of culture-related research, attention to substantive elements of the commons with a direct bearing on human welfare remains inadequate.

In this chapter, I will first demonstrate that natural resources-related research cited by undertakings in cultural commons-related research has taken two different directions: the research on substantive local commons and the research on modelled global commons. Second, I will show that commons-related research as applied to cultural resources should be understood as an exercise that strives to model cultural resources within a global framework and that shares the same orientation with research on the global commons. Finally, I will demonstrate that from the perspective of the community and the socially disadvantaged, this orientation poses a risk of threatening independent management by the stewards of local culture. Cultural resources at the community level should be re-framed as elements of the substantive or real local commons, and the stewards of culture should be granted sovereignty over the management and control of those resources.

The expansion and proliferation of commons-related research

The commons: Is it real or purely a model?

The commons is a term that applies to the resources utilized, owned or shared by multiple individuals on a group basis. It is commonly known that this term gained attention through a paper written by the US biologist Garrett Hardin in 1968. Published in *Science*, Hardin's paper, "The Tragedy of the Commons", had a powerful impact. In his discussion of global environmental problems, Hardin (1968) issued a warning that the resources forming the commons would face a tragic fate at the hands of humankind.

The commons traditionally referred to substantive or tangible entities existing at a local level. In medieval England and Wales, it was the generic name for all resources and space that local citizens utilized on a shared basis, including the lands of the local lord and the manor or the sovereign forests of the kingdom. These were actual things that existed in real space and time. However, Hardin utilized this substantive commons

purely as a model for resource management without a full awareness or understanding of its true nature.

In developing his tragic doomsday scenario of global decline, Hardin relied on a model of the commons proposed by William F. Lloyd, a British economist and amateur mathematician active in the first half of the nineteenth century. For Hardin, this model of the commons was only a metaphor that served to present his own views in a more comprehensible, easily understandable form. Lloyd (1833) had developed an exceptionally simple model under which pastureland openly available for common use (i.e., the commons) ultimately would be transformed into a barren wasteland by overgrazing as economically opportunistic herders driven by the profit motive increased the number of head of cattle they allowed to graze. Hardin views the Earth as the commons and applies the logic derived from Lloyd's model to the entire planet as a metaphor to facilitate a better understanding of the structure of environmental problems. Furthermore, with that model as his foundation, he paints a tragic scenario in which all resources not under complete national or private management ultimately would be devastated. In effect, he enlists Lloyd's model of the commons to advocate the need for global-scale policies on resource management, population control and emissions control.

However, Hardin misreads the semantic context of the commons that actually existed in England and Wales. In striving to understand the traditional land-use system known as the commons in medieval England and Wales, he erroneously assumes it to be a system of open access allowing resource utilization by all members of the public. In his paper, Hardin writes: "Picture a pasture open to all. It is to be expected that each herdsman will try to keep as many cattle as possible on the commons." (Hardin, 1968: 1244). With that statement, he clearly reveals his impression of the commons as a set of resources to which everyone had open access and the ability to utilize them freely. It is precisely because his assumptions were rooted in this imagery that Hardin developed his scenario of the commons as a tragedy in the making. Yet, the actual commons are not always governed by a regime of free or open access to resources as Hardin claims.

In the thirteenth century, the commons comprised a range of resource use activities in addition to pastureland grazing, including peat harvesting, forest logging and fishing operations. Commons-related rights at that time were understood to be the rights that individuals or groups of citizens had to harvest or utilize a certain share of the resources that were naturally produced on lands owned or held by others (Murota and Mitsu-mata, 2004). In medieval England and Wales, traditional allocation limits known as "stints" were placed on the number of cattle that a household was allowed to place out to graze on the commons (McCloskey, 1975). In

this respect, the commons was fundamentally an arrangement that controlled the resource utilization among the members.

Consequently, not only is a tragedy of the commons less than assured, one could even conceive of the absolute antithesis of that drama, namely, a "comedy of the commons"¹ exemplified by sustainable resource utilization. Of course, tragedy was an outcome for some of the many commons that actually existed. However, in those examples, the tragedy was something typically provoked by changes of the societal, economic or political setting within which the affected commons was placed, and not necessarily a consequence of some fundamental flaw in the commons itself as a system of resource utilization. In reality, if there were periods in time when a substantive commons might collapse, there were also times when it was sustainable.² Hardin depicts a mistaken image of the traditional local commons, but as someone with the original objective of developing a model of global tragedy, he considered the actual circumstances of the local commons to be of little or no significance.

Extending the concept of the commons to the global scale

The traditional commons had to do with the management of resources on a local, not global, level. Those resources were not comprehensible if removed from the micro-societal context in which they existed. However, Hardin from the outset took the concept of the commons – a term traditionally inseparable from the notion of locale or community – and expanded and applied it to problems of a global scale that were discrete from problems at the community level. From the 1970s onward, this interpretation would have an enormous influence on theorists in the fields of resource economics and resource policy and would frequently be cited in the literature. Eventually, this casual metaphoric use of the term "commons" by Hardin would win acceptance as established fact among theorists in the field of global resource management. Further, as will be elaborated upon below, current-day, widespread use has diluted the formerly rigorous definition of the term "commons", transformed it into a word with exceedingly mundane connotations and fostered a vast expansion in the scope of those resources now considered worthy of research within a commons-related context.

"Commons is a general term that refers to a resource shared by a group of people. In a commons, the resource can be small and serve a tiny group (the family refrigerator), it can be community-level (sidewalks, playgrounds, libraries, and so on), or it can extend to international and global levels (deep seas, the atmosphere, the Internet, and scientific knowledge). The commons can be well bounded (a community park or library); transboundary (the Danube River, migrating wildlife, the Inter-

net); or without clear boundaries (knowledge, the ozone layer)." (Hess and Ostrom, 2007: 4–5)

Within the field of international relations, theorists have proposed the concept of an international commons that is shared by a limited number of nation-states, and a global commons to which all nation-states worldwide have legitimate access. Antarctica, the high sea and deep seabed, the atmosphere and space are among the resources that have been placed on the agenda for commons-related research in these contexts (Buck, 1998).

However, by the late 1970s, scholars in the fields of economic anthropology and human ecology with an interest in resource management and utilization began to realize that features of the commons as it was known in medieval England and Wales had been sacrificed, and through field research sought a reappraisal of customary, substantive systems of resource management at the community level. These scholars pursued local commons-related field studies, drawing on samples, from countries around the globe, of local common-pool resources and community-based management regimes of the same type as the local commons that prevailed in medieval England and Wales. In that undertaking, they discovered numerous examples of local commons in regional societies that contradicted the "tragedy of the commons" postulated by Hardin as his scenario for a global commons. Furthermore, they found examples of local commons throughout the world that incorporated a principle of "excludability" effectively limiting consumer access to resources, thus demonstrating that such systems did not necessarily fit Hardin's depicted model of free and open access. They also showed that the local commons contributed in multifaceted ways to improvements in actual human welfare including livelihood security, equal access to resources, conflict resolution, resource conservation and ecological sustainability (Berkes, 1989: 11–13). In effect, researchers currently investigating local commons-related themes have an interest in the real-life image of the commons as it exists within the set of direct face-to-face relationships at the micro-social level. By contrast, researchers engaged in the study of the international or global commons are interested in models of commons formed by groups of nation-states or by an indefinite and unlimited number of individuals within global society at the macro level.

Although the same term "commons" is used in local commons-related research as well as global commons-related themes, the social systems and the quantities and qualities of the resources that are subject to scrutiny vary widely. Considering, for example, the issue of managing salmon fisheries on small rivers in selected districts of Japan at the community level, and the issue of managing migrating North Pacific salmon stocks by coastal nations and the nations home to salmon spawning grounds, comparatively huge differences distinguish the spaces in which the resources

exist and the scale of the actors involved. Certainly there is no question that these two issues are tightly interrelated and must be incorporated into the notion of cross-scale linkages spanning different regions, actors, and institutions (Berkes, 2002). The harvests and methods of traditional river fishery operations at the community level in Japan are administered under a fishery framework established by the Japanese government, but that framework is heavily influenced by fishery resource management regulations implemented through bilateral agreements or on an even larger, global scale. In a modern society marked by progressive globalization, local perspectives alone are not sufficient to ensure an accurate awareness of conditions or trends in resource management.

While the linkages to span these variations in scale do exist, it is not possible to view the resources at both levels purely as the same commons. Broad differences distinguish the conditions that must be taken into account for resources under community-based management on the one hand and resources that are managed by groups of nations on the other: for example, the scale and diversity of the actors engaged in resource management, the quantity and distribution of the managed resources, and the rules and organizational frameworks that are in play. Furthermore, policy actions stemming from commons-related discussions in which the nation-state is considered the principal agent of management can at times be detrimental to the interests of groups of people that base their livelihoods on the utilization of individual local commons. Also, the welfare of indeterminately large groups of people utilizing a massive global commons cannot always be viewed as equivalent to the welfare of small yet definite numbers of people in communities that base their livelihoods on the use of smaller, life-sized local commons. It is plausible that studies concerned with substantive, tangible commons on the one hand and those concerned with a model commons on the other – or that those concerned with local commons on the one hand and global commons on the other – may be shaped by widely disparate goals or orientations.

Cultural commons as global resources

General theories concerning cultural commons

Much of the discourse about the commons to date has been conducted predominantly within forums of interdisciplinary research, which have become highly diversified academic commons in their own right. However, one drawback of the interdisciplinary approach is that the meaning of the term “commons” is subject to variations in interpretation due to the differing interests and methods of the specialty fields involved. More-

over, the concept of the commons is in the process of becoming even more ambiguous as the term is extended and applied to cultural resources, a domain of a qualitatively far different dimension from that of natural resources.

More studies in recent years consider culture as a resource and pursue the analyses utilizing “commons” as a descriptive term for the management of culture or cultural resources (e.g. Weber, 2004; Mitchell, 2005; Boyle, 2008). One leading example of research in this vein is a study by the US legal scholar Michael A. Heller. Borrowing from Hardin’s model of a tragedy of the commons, Heller proposes a model of cultural resource management labelled “the tragedy of the anticommons”. The term “anticommons” was first introduced by the US legal scholar Frank I. Michelman (1982). Heller provides a clear definition for the term and began applying it to his research on issues of patents and other intellectual property rights.³

“In an anticommons, by my definition, multiple owners are each endowed with the right to exclude others from a scarce resource, and no one has an effective privilege of use. When there are too many owners holding rights of exclusion, the resource is prone to underuse – a tragedy of the anticommons.” (Heller, 1998: 624).

In the paper where he provided this definition, Heller cites, as an example of the tragedy of the anticommons, the market failure of government-run retail stores in the former Soviet capital of Moscow immediately following the collapse of the socialist system there. In effect, when multiple actors share the right to set limits on the utilization of a given resource but are unable to exclude others, that resource will be subject to underuse. This example illustrated Heller’s model of the tragedy of the anticommons (Heller, 1998). Heller and Eisenberg (1998) have called attention to the conditions of a tragedy of the anticommons that in recent years have emerged in the field of biomedical licensing and patents.

Formerly in the United States, the outcomes of federally funded university research and development were deemed to be in the public domain. However, the 1980 Bayh-Dole Act (Public Law 96-517, Patent and Trademark Act Amendments of 1980) granted universities, corporations and private researchers the right to hold patent rights to their outcomes, even under federally funded research. This led to an increase in the number of applications for patents to the products of “upstream research” (i.e., basic research), in turn fostering further segmentation of the intellectual property rights-related field. This trend is assumed to have created many new rights and stakeholders and inflated the business costs associated with intellectual property, thus hampering the development of downstream products and giving rise to a tragedy marked by the underuse of resources. To give an example, in the field of pharmaceuticals,

many of the fruits of basic research in biotechnology and related areas have been encumbered by a maze of stakeholder rights. When those rights are firmly held, drug companies that utilize the products of such research face inflated manufacturing costs along with a heightened risk of patent infringement. These impediments essentially discourage the interest in new drug development and undermine the utilization of those basic research results, in turn hampering the introduction of new drugs that could contribute to an improvement in human welfare.

Heller devised his theory of the anticommons to counter the trend towards strengthened intellectual property rights. In other words, he emulated the tragedy of the commons scenario to reinforce his assertion that excessively strong patents and other intellectual property rights – that is, stronger rights to the ownership of cultural resources – would have the effect of hindering creative innovations in the realm of culture.

Lawrence Lessig is another US legal scholar who, with an orientation similar to Heller's, may be cited for his use of the commons terminology in framing his opposition to stronger intellectual property rights. Lessig has asserted that Internet-based efforts to reinforce intellectual property rights will have the effect of encumbering innovation on a variety of fronts and has called for the management of intellectual property as a commons (Lessig, 2001).

Unlike Hardin or Heller, Lessig recognizes the effectiveness of managing the commons and treats the concept of the commons in a positive light. However, he considers the commons to be openly accessible for free to everyone without approval from anyone else. Furthermore, he insists that the commons represented by information on the Internet should be provided in the same manner and maintained in a freely accessible state. This perspective is an extension of Hardin's view of the resources of the commons as openly accessible and diverges sharply from the realities of the local commons.

This disparity between Lessig's image of the commons and the substantive or real commons presumably arose because Lessig utilized the term "commons" metaphorically in an effort to enhance the persuasive power of his argument that intellectual property should be placed in the public domain and open to the public at large. Lessig's assertion cast doubt on the protectionist stance on intellectual property, which insists that in order to provide creators with a sustained incentive to create new technologies and knowledge, intellectual property rights should be staunchly protected and reasonable amounts of monetary compensation should be paid for the licensing of those rights. As a proponent of the argument that the scope of rights to intellectual properties on the Internet be relaxed, Lessig metaphorically adapted the terminology of the com-

mons and created a scenario known as "the comedy of the commons" under which intellectual properties will be properly managed if treated as resources within a commons framework.

Further, as underlined by his statement that "... the properties themselves [are] most valuable when used by indefinite and unlimited numbers of persons", Lessig focuses on the public use of resources and rates them highly in terms of their public value (Lessig, 2001: 87). Roadways are a classic example; because they are not monopolized by any private entity, they encourage the development of other services along their paths and generate benefits in the public interest. Accordingly, Lessig's assertion is that cultural resources also should not be privately monopolized, thus allowing the generation of benefits in the public interest (Lessig, 2001). This affirmative notion of resource consumption by an indefinite and unlimited number of users is strongly at odds with the conclusions drawn from research on the traditional, local commons. Substantive commons in the real world are marked by stringent levels of excludability, limitations set on membership in the group of resource users to avoid an infringement by free riders and other resource abusers. Consequently, the local commons that actually exist in this world might be better thought of not as open systems accessible to an indefinite and unlimited number of users but rather as closed systems accessible only to a definite and limited number of users.

Current research on cultural commons: deviation of appraisals

Heller and Lessig differ significantly in their appraisals of a commons for the management of cultural resources. However, one thing they do share is their use of the word "commons" as a metaphor to strengthen and affirm their own doctrines and viewpoints. Both are interested in the management of intellectual property, not cultural resources, as a substantive local commons. That is why their respective models for cultural resources were not designed to take all cultural resources into account. Indeed, their models are neither capable of being adapted to cover the full spectrum of cultural resources, nor were they designed with that goal in mind. The cultural resources these two models apply have three special traits, as follows.

First, Heller's and Lessig's models focus on information on the Internet and new technologies that are the subject of modern legal rights including patents and copyrights, and are based on assumptions relating to the ownership of such resources and their modalities of use. These are no less than models of a cultural commons designed precisely for the management of cultural resources created within a modern societal setting. They

emphasize the value of innovation and are thoroughly infused with a priori affirmations of change.

Second, both Heller's and Lessig's models presume strong diffusivity of such commons. The Internet information addressed by Lessig's model is a prime example of a cultural resource with this trait, capable of almost instantaneous diffusion on a global scale. It is assumed that cultural resources of this nature will begin circulating worldwide from the point in time they are generated; these forms of culture are never contained within the locations that create them. One of the factors underlying the assertion of rights to intellectual property is that because they are intangible, as resources they are readily reproducible and for that reason naturally prone to widespread diffusion or dissemination. Conversely, however, they also give fresh legitimacy to the public interest and as such are elements of culture that are considered amenable to diffusion and commoditization.

Third, the models envisioned by Heller and Lessig are based on the idea of culture with market value, i.e., "culture as a commodity". For Heller, the prime example of this is culture that leads to the generation of new patents, culture that has economic value, and that accordingly is subject to powerful claims and limits on its use. Conversely, such forms of culture may be described as merchandise originally produced to have economic value from the outset.

Hence, it follows that the assertions underlying the activities of Lessig's cultural commons and Heller's scenario of a tragedy of the anticommons were limited in their focus to the management of cultural resources that are modern in nature, marked by high diffusivity and endowed with the features of marketability and economic value. Additionally, it is apparent that both of these scholars were exploring models for the management of cultural resources within the context of a global commons. In the field of commons-related research on natural resources, research on local, substantive commons emerged as a form of rebuttal to Hardin's model of an intangible commons. By contrast, the discourse in current commons-related research on cultural resources has elaborated on Hardin's model of the commons and focused on a global cultural commons but is lacking in its perspective on the substantive local cultural commons. These models have been applied to the management of intellectual properties and other elements of modern culture that are marked by high diffusivity, marketability and economic value, and undoubtedly provide society with certain thought-provoking ideas. Nevertheless, as explained below, the argument that culture is a resource shared by humankind that should be openly and freely available for use could have a negative impact on traditional, local forms of indigenous culture and the welfare of the indigenous people that place value on that cultural heritage.

The need for research on local cultural commons

Who owns local culture?

Using the frameworks established by Heller or Lessig to understand the indigenous knowledge, traditional knowledge or folklore⁴ of different regions of the world probably would not be a very productive exercise. Furthermore, absent an adequate accounting for conditional similarities and differences, it would be pointless to discuss or compare, within the same theoretical context, those elements of modern culture that are pre-conditioned on widespread popularity driven by economic motives on the one hand and the elements of traditional minority culture that have been created for an entirely different context on the other.

Echoing geopolitical and economic trends of recent years, local indigenous cultures have gained global currency and have been made accessible to people worldwide. Like modern intellectual property rights, they are in the process of being assimilated into the global commons. Patents on indigenous and traditional knowledge and copyrights to folklore have gained increasing acceptance. As one outcome of this trend, recognition of the economic value and utility of indigenous culture has sparked hitherto unheard-of disputes over cultural property rights between advanced and developing countries, ethnic majorities and minorities and native and immigrant populations.

For example, Aboriginal art in Australia has been transformed into a cultural resource. Aborigines have strongly asserted their rights to the culture and now are allowed to engage exclusively in the activities of their art. Prior to the 1970s, the bark paintings produced by Aboriginal artisans were treated purely as craftwork or souvenir goods. In the 1980s, however, art museums began holding exhibitions of these paintings and examples began circulating on leading international art markets, including those commanded by the Sotheby's and Christie's art auction houses. In effect, once they were recognized as "art", the paintings gained significant economic value and generated economic profits, in turn creating a controversy over who the beneficiaries of those profits should be. The Aborigines consider Aboriginal art to be a vital element of their ethnicity and insist that their own ethnic group should have ownership of this culture. Further, at the local community level, pictorial art was considered to belong to the clan and, in certain cases, all members of the clan – not merely the artist – were considered to deserve a share of the benefits derived from the sale of such art (Kubota, 2007).

If we adhere to Heller's viewpoint of the anticommons, this assertion of exclusive rights by the Australian Aborigines to vigorously enclose their traditional art forms would be treated negatively as something that

stifles cultural innovation. On the other hand, following the viewpoint of Lessig, the cultural resources of the Aborigines would be placed in the public domain and treated as a resource that should be openly and freely accessible over the Internet. Indeed, it may be true that strong claims to the ownership of Aboriginal art may constrain innovation in the art domain. However, in a modern society that has awakened to the value of respecting the rights of hitherto-exploited minorities, it seems clear that the Aborigines have the legitimacy to strongly assert those rights. If their cultural heritage were placed in an open and freely accessible commons or subjected to the ideas of Heller's anticommons, the Aborigines presumably would construe such measures as unjust acts that infringe upon their ethnic identity, undermine respect for their ethnicity and reduce the economic benefits they essentially deserve to reap. From these perspectives, the viewpoints on cultural commons of Heller and Lessig might not be applicable to the case of local cultural commons.

Local cultural commons under globalized recognition

Many developing nations that were formerly dominated under colonial regimes (such as those in Africa) seek to protect rights to intellectual property. Such nations feel that traditional knowledge and folklore within their borders have been exploited abroad and thus have sought protection. Efforts to reappraise the cultural attributes of exploited groups on the periphery of society and grant those groups ownership rights to their own cultural resources have been witnessed in the past decades. For example, in 1985 the World Intellectual Property Organization (WIPO) and UNESCO jointly established "Model Provisions for National Laws on the Protection of Expressions of Folklore Against Illicit Exploitation and Other Prejudicial Actions", and in 2000 WIPO inaugurated an "Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore". WIPO is a UN organization that was established with the mission of promoting and strengthening policies for the protection of intellectual property rights worldwide. Traditional knowledge and folklore are steadily gaining recognition as forms of intellectual property.

Since 1994, discussions on this matter have continued within the Conference of the Parties to the Convention on Biological Diversity. Within that forum, developing nations have requested that the developed nations appropriately share with countries of origin any profits that may be generated through access to genetic resources and traditional knowledge. Furthermore, UNESCO has proposed the creation of a cultural management system with the objective of protecting the cultural heritage and the intangible cultural heritage.

On the surface, these efforts to reappraise such cultural resources from a global perspective may appear to be an expression of renewed respect for traditional regional culture in general. However, the matter is not that simple. Under UNESCO's World Cultural Heritage framework, there are enhanced efforts to discover regional cultures around the globe with "outstanding universal value" and treat those individual cultures as resources that should be shared in common by all of humankind. That undertaking, however, could result in the transfer, into a global commons, of local cultures that were hitherto inseparable from their regions of origin and impose a global perspective that threatens independent management by the traditional stewards of those cultures. Further, in many cases, even when dividends are paid on profits from the utilization of traditional knowledge, under bilateral agreements those dividends usually wind up in national treasuries and never reach the actual stewards of the culture concerned. Moreover, as illustrated by the rift that arose between China and the Republic of Korea over efforts to register the Gangneung Danoje Festival as an intangible cultural heritage, yet another problem has emerged in the form of cultural nationalism with bilateral disputes over the ownership of a given culture.⁵

As these new problems demonstrate, one consequence for a local culture that becomes entangled in the web of global politics is that the determination, values and rights of its people at the micro level are at risk of being obscured by uniform global values at the macro level. Of course, it is also conceivable that the inhabitants of a region can utilize and work with these outside mechanisms and actors and thus transform their own regional culture into a resource. However, even in such situations, the local inhabitants often are not granted enough power or autonomy to make decisions or choices with a bearing on the management of their culture. In the process of having their culture globalized, local citizens may experience limitations on or even be deprived entirely of their independence in the management of their own culture.

Towards research on the local cultural commons

As local cultures have become entangled with the nation-states and international society and placed under the control of global organizations and frameworks, appropriate measures are needed to ensure that such local cultural resources are managed in accordance with the wishes of the people that served originally as their legitimate bearers. In other words, the local people responsible for the creation and perpetuation of a given cultural resource must be able to secure their autonomy over its management. The earlier-described strategy of the Aborigines counts as one example of an effort to recover that autonomy.

That strategy opens a new avenue for the management of cultural resources as a local commons. Specifically, such an avenue would constitute an important shift towards returning the autonomy of cultural management to people at the local, micro level and a model that enables local people to independently control the management of their own cultural resources.

Not only minorities but all people worldwide have shared in the transmission and perpetuation of indigenous knowledge, traditional knowledge and folklore. These resources have been held and sustained as communal cultures by groups of ordinary people in local societies. These bearers of culture have shared in the benefits, pleasure and sense of pride accorded by their cultural resources. Cultural resources that are nurtured and shared by people over a long period of history possess true value as a tangible local commons. That value transcends the purely economic dimension and extends into the social and spiritual dimensions as well.

Several expectations have been voiced towards commons-related research concerned with cultural resources. One is that the research should refocus on the local commons as its point of origin and clearly identify the value that cultural resources hold within the micro-level context of regional society. In addition, it should focus on the creation and reinforcement of regional mechanisms for the management of those resources and accordingly counter those approaches that rely on simplistic models of the global commons. Yet another expectation is that research on local cultural commons should help identify pathways or orientations of cultural resource utilization that people within the region concerned will be able to choose from in the years ahead. Hence, the commons-related research could contribute to a better understanding of common-pool cultural resources and the advancement of cultural management practices.

Notes

1. In this context, "comedy" refers to a story with a happy ending, the antithesis of a tragedy. The first known use of the slightly sarcastic expression "the comedy of the commons" was in 1984 in an oral presentation (Smith, 1984) by the economic anthropologist, M. Estelle Smith (McCay, 1995: 99). Its first recorded use in written form was in a 1986 paper by the US legal scholar Carol M. Rose. In her study of the management of public goods, Rose (1986) gave the commons high marks. Her work includes the following: "... since the advent of eighteenth-century classical economics, it has been widely believed that the whole world is best managed when divided among private owners. The obverse of this coin is the 'tragedy of the commons'." As indicated by that statement, Rose sensed the existence of a certain market fundamentalism behind the scenario of a tragedy of the commons (Rose, 1986: 712). She pointed out that customs provide suggestions for ways

of managing the commons differently from forms of management based on "exclusive ownership by either individuals or government" and viewed customary rights as adequately amenable to self-management despite their indefinite and informal nature (Rose, 1986: 742). In other words, Rose essentially asserted that the management of the commons based on customs is a comedy, i.e., a drama of happiness.

2. Elinor Ostrom and her colleagues compiled a synopsis of commons-related field research and aptly titled it "The Drama of the Commons" (Ostrom et al., 2002). The objective was to underscore that the findings of most commons-related studies conducted to date have had two sides. Whereas the commons on the one hand may result in a tragedy or conditions of devastation, on the other it may lead to a comedy or conditions of sustainability. In the final analysis, the scenario relating to the use of the commons should have been labelled "the drama of the commons" as a neutral expression (Dietz et al., 2002: 4).
3. The Heller model of the anticommmons has been enthusiastically received within the field of intellectual property rights (Buchanan and Yoon, 2000; Munzer, 2005). Heller's model is a warning against the excessive strengthening of those rights, but one may naturally expect counterarguments to the effect that rather than stifling innovation, patents create a powerful incentive to develop new technologies and that lax intellectual property rights actually lead to the loss of that incentive.
4. Folklore comprises traditional cultural expressions that are cultural resources shared by the members of a given society. Folklore specifically includes the pictorial art, sculptures, mosaics and other tangible forms of expression as well as songs, music, dance and other intangible forms of expression representing each ethnic group. Incidentally, several countries participating in the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore have issued objections to the use of the word "folklore" and some insist that it be replaced with the label "traditional cultural expressions" instead.
5. In 2005, the Gangneung Danje Festival was listed by UNESCO as an Intangible Cultural Heritage in response to an application submitted by the Republic of Korea. China, however, objected to that listing on grounds that the festival originated as an element of its own national culture. News organizations in China provided extensive coverage of the dispute and Chinese citizens launched anti-Republic of Korea protests as a result.

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2

Eclectic collaborative commons as an integration of closure and openness

Makoto Inoue

To date, much of the accumulated research on the commons has involved efforts in theorization based on case studies that deal chiefly with forest and marine resources at the immediate, local level. In other words, research on local commons has been the mainstream. However, the focus of commons-related research today has been expanding rapidly in scope. For example, even the International Association for the Study of the Commons has established a category for information and knowledge commons and begun discussing and debating topics that relate to intellectual property rights and culture. This state of affairs raises certain questions. Specifically, can the amassed body of research on the local commons actually be applied as-is to the study of culture or intellectual property rights? Or, should the accomplishments of research on the local commons and research on intellectual property rights be treated as altogether different domains? And, assuming for the moment that they are entirely different, do we really need to place them within the same purview of commons-related research?

In this chapter, it is not my purpose to provide clear answers to these questions. Instead, using as broad a brush as possible, I first try to tie together the digital commons and other themes that have been the subject of commons research in recent years. That is, I attempt to derive a comprehensive definition of the commons. Following that, I strive to split this comprehensive, interlinked commons into its respective parts and pursue a better understanding of each component. In other words, I address two contrasting concepts of the commons and explore their

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Endorsements

“Owning and exploiting resources in common or jointly is an old problem. Only recently have scholars realized that the problems of free-riding in provision and consumption, well known from the study of traditional commons, return in new guises in modern industrial societies. Technology (radio waves, Internet) and knowledge (biodiversity, ecosystem services) produce goods that require collective action in agreeing on common rules for efficient provision, sustainable exploitation, and just distribution. The new goods do not replace the old ones provided by nature (forest, pasture, wildlife), but appear as layered on top or beside the old goods. This reality creates a more complex problem of governance, and is the main topic of the new book edited by Takeshi Murota and Ken Takeshita, *Local Commons and Democratic Environmental Governance*. The book provides theoretical discussions interlaced with case studies of governance of common resources taken from a variety of countries. It provides a new step forward in understanding the complex characteristics of goods and stakeholders that institutional design of governance systems for commons in industrial nations needs to address. The book is highly recommended for both students of commons and collective action and for persons working to improve the rules governing real world complex commons.”

Erling Berge, Professor in the Department of Landscape Architecture and Spatial Planning/Centre for Land Tenure Studies at Norwegian University of Life Sciences and former President of the International Association for the Study of the Commons