

# PART I

## Democratic Perspectives

## 2. What democracy for the global commons?

**Pierre Dardot\***

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### 1. INTRODUCTION

This chapter is based on the keynote lecture I gave at the University of Leuven on 23 February 2016 during the International Conference ‘Global Commons, Global Public Goods and Global Democracy’. In my latest book co-written with my colleague Christian Laval, and entitled *Commun: Essai sur la révolution au XXIe siècle* (2014), I claim that the ‘common’, in contrast to global public goods (GPGs) (Kaul et al., 1999), implies a collective production of a good that is not up for appropriation. I suggest that the ‘common’ could be an alternative to current international economic policies and could have, in that sense, important repercussions on democracy in the global arena. In this chapter, I expand on this premise and try to outline the democracy of the global commons.

In order to clarify my own lexicon, I start by defining different key notions, namely the common, the commons, the common good and common goods (Section 2). Then, I endeavour to justify this way of interrogating the topic – *what democracy for the global commons?* – through an active critique of the current paradigms used to deal with the unlimited cosmocapitalism – that is, the common heritage principle, GPGs and biodiversity (Section 3). Finally, I highlight the positive content of the new paradigm of cosmodemocracy, which I propose in order to address the main question of this chapter (Section 4). Indeed, it seems that global commons require a kind of democracy that is different from that of the local commons. My main argument is that if we wish to have any chance of halting and reversing the logic of cosmocapitalism, we have to institute a global democracy for the global commons.

## 2. THE COMMON, THE COMMONS, THE COMMON GOOD AND COMMON GOODS

Why speak of the common and ‘commons’ instead of ‘common things’, or the ‘common good’ in a singular or plural sense, since it is more usual to use ‘common’ as an adjective? Why use this nominalization of the adjective ‘common’ and what does it mean? And finally, what is *the* ‘common’ and what is *a* ‘common’?

The use of ‘common’ as an adjective dates back to Roman law, where it designated a certain number of resources as common things (*res communes*): namely, the air, running water, the sea and consequently the shores of the sea. These were considered common by nature – this is to say that they could not be appropriated, the use of which was shared by all. This definition is primarily negative in nature. Common things are excluded from the domain of both state and private ownership. They do not belong to any owner, but rather evade the sphere of ownership given their inherent qualities – in fact, they are supposed to be common.

A second way of conceptualizing what is a common is not directly related to things but instead to the good or to goods. We will, thus, use the term ‘common good’ to denote what is good in an ethical and political sense. This usage dates back to Aristotle. In fact, it inspired more or less all of Western philosophy. In this sense, the common good is not susceptible to ownership, but instead it represents a norm or rule which unifies a political community. If we speak of ‘common goods’, it is to better distinguish these types of goods from others within a more general classification system. We will also distinguish ‘private goods’ from ‘public goods’ and ‘common goods’. This classification was laid out by standard economics, as a result of a certain number of criteria related to rivalry and excludability. Schematically, economic theory defines ‘private goods’ as rivalrous and excludable; ‘public goods’ as non-rivalrous and non-excludable; ‘club goods’ as excludable and non-rivalrous; and a ‘common good’ as non-excludable and rivalrous.

However, three points within this system of nomenclature remain problematic. The first problem is the *negative* nature of the definition of ‘public’ or ‘collective’ goods: these goods cannot be spontaneously produced by the market and are a result of a market failure. Taking into account the consequences of these goods for society (‘externalities’), and not just their consumption, does not call into question the primacy of the market. On the contrary, the market is viewed as the best mechanism for the allocation of resources, and it is only in relation to this positive norm that ‘public goods’ are understood and defined. This is also particularly true for the popular notion of ‘GPGs’.

The second point concerns the ambiguity associated with the term ‘good’ because of this negative character. Indeed, this term can also refer to the useful or advantageous character of something in an ethical or political sense (*agathon* in Greek) rather than what is susceptible to purchase or exchange (*ktêsis* in Greek). Thus the ‘common good’ in political philosophy identifies with the common advantage, but it is not a good that can be owned and traded. From this perspective, the notion of GPGs becomes somewhat confusing, by encompassing things as diverse as peace, health, justice, financial stability, the ozone layer and so on.

The third point concerns the hybrid nature of ‘common goods’, which are mixed goods defined by reference to both criteria of rivalry and non-excludability. As such, common goods are always apprehended in economic theory on the basis of their consumption, which prevents us from recognizing the autonomy of the commons.

Using ‘commons’ as a noun, thus, implies a methodological break with this reification of common things, as well as with the logic underlying the classification of goods in economic theory. A ‘commons’ is first and foremost an institutional affair and, more specifically, an institutional space defined by collectively developed practical rules. What is most important is the dimension of instituting the activity, and not the technical characteristics of things and goods. Here lies the essential difference between common goods and the common(s). We must specify, therefore, that any commons, insofar as it is instituted as such, is a good in an ethical and political sense. By contrast, any good that is capable of being purchased and sold, is not in itself a commons. This means that a commons is a good only under the condition that it is not a possession or an acquisition. In other words, once it is instituted, a commons is inalienable and inappropriable. It creates a space within which use prevails over ownership. It is, thus, not a resource in itself – even when it is related to one. In this way we understand a commons to be the active link between an object, a place, a natural resource (for example, a waterfall or a forest), or something artificial (for example, a theatre or a square) and the collective activity of those who take charge of it, preserve it, maintain it and take care of it. This activity is not external to the commons, but instead inherent in it.

If we take this to be the definition of every common, then a third implication is that a common, regardless of its specific designation, requires self-government or democratic government. The very act of establishing a common is in and of itself a democratic act. The act of governing a common is nothing more than the continuation of the democratic act; it is thus a sort of continuation of the institution. It consists of reviving this institution by critically assessing its collective rules, whenever the situation demands it. As such, the governance of the common can only proceed from

the principle of democracy – the non-democratic governance of a common would threaten, in the short-term, the very existence of this common. I call this the principle *of* the common, this time in the singular form. For that purpose, I refer to the Latin etymology of this word: the common, or ‘*cum-munus*’, is the co-obligation that results from co-participation in the same activity. This co-obligation cannot proceed from the simple fact of belonging. Democracy is, in essence, co-participation in public affairs. The Occupy movement (for example, the anti-austerity movement in Spain, also referred to as the 15-M Movement or the *Indignados*, or the wave of protests in 2013 to contest the urban development plan for Istanbul’s Gezi Park) brought with it a strong anti-oligarchic critique of contemporary political representation, advocating for ‘real democracy’. Most notable is that this democratic requirement is strongly tied to ecological claims based on preserving the ‘commons’ (urban spaces in particular) against any sort of private or state enclosure. It then becomes evident that the commons (in the plural) cannot but be established or governed but by the implementation of the principle of the common (in the singular), which is to say, democracy. To sum up, common use requires self-government.

Yet these examples would seem to speak in favour of the establishment of a local democracy, confined within specific geographic limits (for example, a neighbourhood or a city). Aristotle argued for a similar sort of constraint, pointing that beyond a certain number, citizens could no longer know each other. This capacity to mutually engage with one another was, according to him, an important condition for the exercise of democracy. Thus emerges a challenge I will here try to tackle: what sort of democracy is required for commons which are not local, but global in nature – *global commons*? My thesis is that this democracy can only be global. It remains to be seen what this sort of global democracy should look like.

### 3. CURRENT PARADIGMS TO DEAL WITH THE UNLIMITED COSMOCAPITALISM

With neoliberal capitalism we have come to know a singular historical phenomenon, which I will refer to as ‘*cosmocapitalism*’. How can this be understood? Cosmocapitalism is not merely a geographical or spatial extension of capitalism, since this extension appeared along with the birth of capitalism. It represents capitalism’s tendency to *become universal*. By this, I mean that capital tends to submit all aspects of human existence, even those most intimate and subjective, along with the natural world, to the market’s logic, which is nothing more than the logic of competition.

The terms ‘world’ and ‘cosmos’ do not describe the planet in a physical sense, or even the global population, but rather the political framework, with its institutional and normative qualities whereby the expansion of the market’s logic becomes possible. Max Weber already described the idea of an immense cosmos which imposes its economic activity on the individual caught within the market’s grasp (Weber, 2002). Today, this cosmos has grown beyond the single economic sphere to include the social sphere.

### **3.1 Humanity’s Common Heritage Paradigm and the Appropriation of Space**

A first example will allow us to highlight this logic of limitlessness by examining the delegation of tasks between the state and private enterprises. On 25 November 2015, just a few days before the opening of the 21st Conference of the Parties (COP) of the Framework Convention on Climate Change in Paris, Barack Obama passed law H.R.2262, which provided authorization for private American companies to use natural resources from outer space (US Congress, 2015).

As we know, the 1967 Outer Space Treaty established the legal status of outer space in the following manner (United Nations, 1967). Article 1 acknowledged that the exploration and use of outer space shall be carried out for the benefit and in the interests of all countries, implying free and equal access without discrimination of any kind. Article 2 established that ‘Outer space, including the moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means’. These two conditions, equal access for all and non-ownership, are strictly complementary and both refer to *subjects* recognized by international law, that is to say, the states: ‘national appropriation’ is state ownership and non-appropriation refers to non-appropriation by states only.

It is precisely from this ambiguity that the law (US Congress, 2015) was cleverly enacted on 25 November 2015. Its name is already quite self-evident: US Commercial Space Launch Competitiveness Act. In a nutshell, the Act gives any United States (US) citizen involved in commercial exploration and exploitation of an asteroid or space resource, the right to own, possess, transport, use, and sell this resource provided it is in accordance with the applicable legislation. This amounts to giving American companies a property right over space resources in due form (Calimaq, 2015). Yet, the law passed by Congress seems to pretend the contrary, as it provides a so-called ‘Disclaimer of Extraterritorial Sovereignty’ in Section 3 of the Act (US Congress, 2015):

By the enactment of this Act, the United States—

Exercises its jurisdiction over United States citizens and vessels, and foreign persons and vessels otherwise subject to its jurisdiction, in the exercise of the high seas freedom to engage in exploration for, and commercial recovery of, hard mineral resources of the deep seabed in accordance with generally accepted principles of international law recognized by the United States; but

Does not thereby assert sovereignty or sovereign or exclusive rights or jurisdiction over, or the ownership of, any areas or resources in the deep seabed.

We can clearly see how this law circumvents the prohibition of national appropriation articulated by the 1967 Outer Space Treaty: the prohibition forbids states themselves from ‘national appropriation by claim of sovereignty’, but it does not prevent a private company from exploring or exploiting space resources for commercial purposes. It goes without saying that the enactment of this law was very much applauded by private companies planning to embark on asteroid mining. What is remarkable about this law is that it confirms the international commitment of the US not to assert sovereignty over any space resource, while simultaneously conferring private companies the right to appropriate resources therein without any restriction.

Under the Outer Space Treaty, the legal status of the ‘common things’ (*res communes*), under which certain resources are known to be common by nature (as in Roman law), is not formally addressed. Under Article I of the Outer Space Treaty, the outer space is not even declared to be the ‘*common heritage* of mankind’, but simply the ‘province of all mankind’ (United Nations, 1967). The notion of ‘common heritage’ was only explicitly introduced in 1967 to deal with the legal status of the deep seabed beyond the limits of national jurisdiction (United Nations General Assembly, 1967). Regardless of the ambiguity of this notion, particularly regarding the holder of such heritage, the idea of ‘heritage’ implies a double duty to both preserve and transmit it. However, international law limits the right of use for states only, as they alone are faced with the prohibition of appropriation. We are, therefore, presented with a way of extrapolating the *res communes* category inherited from Roman law, insofar as non-appropriation and common use are present, but subordinate to the goodwill of the states. Thus, we are faced with a cheap if not unfinished version of a ‘common’, which is entrusted to states, and limits state sovereignty without even calling it into question.

With the Competitiveness Act (US Congress, 2015), we are faced with an act of state sovereignty that manages to circumvent the prohibition of appropriation by a sovereign state without formally violating it. This represents a sort of ‘delegation’ under which the state, on the one hand, grants its citizens a legal title that it denies to itself, on the other, it does

so in order to better guarantee it to those to whom it has been delegated. The *imperium* (state sovereignty) gives full licence for all candidates to the *dominium*, to privately control and appropriate any resources they are able to seize: statutory law enforces beforehand the power that technology provides. Beyond this collusion between the state and private companies, what emerges here is the powerful homology between state and private ownership: *imperium* and *dominium* appear to be based on two forms of a similar logic of ownership, which affirm one another. The primary challenge facing the heritage of mankind paradigm is that it does not fundamentally break with interstate logic and, as such, leaves leeway for private appropriation.

### **3.2 The Global Public Goods Paradigm and the Value of Biodiversity**

A second example allows us to unveil the same neoliberal capitalist logic at work within the realm of the destruction of the biosphere. At the end of the 1980s, with the momentum of the pollution rights initiated by Reagan, George H. W. Bush encouraged the expansion of the market endorsing the ‘*No Net Loss*’ goal (Feydel and Bonneuil, 2015: p. 45). The seemingly small adjective ‘net’ carries with it a heavy connotation. It does not mean that we do not have the right to destroy biodiversity but rather, the opposite. Indeed, under the ‘No Net Loss’ principle, we have the right to destroy biodiversity as long as we replace whatever has been destroyed elsewhere. In other words, damages resulting from human activities must be balanced by at least equivalent gains. For example, we have the right to destroy ten acres of forest in one area, as long as we plant ten acres of trees elsewhere, within the next 30 years, because once the new trees have grown, it will not make any difference. In market lingo, this is referred to as ‘biodiversity offsetting’. The neoliberal argument is the same and is now well-established – we have failed to obtain our reduction goals, so we must adapt our strategy by trying new financial mechanisms, which are much more effective than the inefficient laws and regulations. That these so-called ‘laws and regulations’ have failed because they have bet on the market must be hidden. It is always the same explanation – if we failed, it is not because we conceded to the market, but rather the opposite, because we did not sufficiently take advantage of it.

What is the relationship between this logic of compensation and actual biodiversity, which is made up of the interaction between complex systems, and not of detachable and interchangeable parts? A good example comes from the Brazilian company Vale, which sought to present eucalyptus plantations as a form of reforestation of the Amazon rainforest whose destruction it has actively contributed to. The logic of this compensation



can be understood as *equivalency* logic in its most literal sense. That is, it assumes that there is a commensurability between the Amazon rainforest and eucalyptus plantations, which would affirm their *equal value*. This type of reasoning is completely indifferent to the sort of relationship a tree has with the soil: the fact that the eucalyptus, which originated from Australia, actually dries up the Amazonian soil, is not at all taken into consideration (Feydel and Bonneuil, 2015: pp. 94–5).

As Marx so aptly described it in the first Volume of his major book *Capital* (1992), the logic behind market equivalency is at its core a logic of *indifference* to the qualitative differences that exist between different types of work, and the products that stem from each. What is remarkable here is that we are not referring to the products of human work but instead to living ecosystems. Here we have come to a critical point: the marketing of biodiversity requires that *we assign value to something that is not, in fact, a product of work*. This argument was reaffirmed by Pavel Sukhdev, a banker who has directed the Economics of Ecosystems and Biodiversity (TEEB) project launched by the United Nations Environment Programme (UNEP) since 2007: ‘We take advantage of nature because it has value. But we lose it because it is free’ (Feydel and Bonneuil, 2015: p. 62). Thus, ‘[t]he economy has become the currency of politics’ (sic), we have to learn to understand ‘[t]he economic value of nature’ and express it in a way that is clear to political decision makers. In essence, we must remedy the ‘[i]nvisible economics of nature’ by assigning to it a monetary value or a price. In order to carry out this task we must employ a calculation: in this way, the pollination of trees and flowers by bees constitutes an economically invisible service whose value is estimated at 200 billion dollars, which is almost 8 per cent of the global agricultural production on earth according to Pavel Sukhdev (ibid.: p. 9). The same principle can be applied to pure air or drinking water – the services they render become more and more valuable as they become increasingly rare. Scarcity has always determined value, except that now scarcity represents the services provided by nature.

But what exactly does the notion of an economically assessable ‘service’ mean? What vision of nature does it propose and is this conceptualization really new? For a long time, biodiversity was conceived of as a group of *resources* comprised of several distinct elements (genes, species, habitats and so on), which were capable of being owned, purchased and sold. This conception prevailed in Rio during the Convention on Biological Diversity (United Nations, 1992). But, at the end of the twentieth century, a more dynamic representation emerged which posited that ecosystems should be recognized as the ‘third level of biodiversity’, situated above genes and species (Feydel and Bonneuil, 2015: pp. 164–166). Now processes and flows take precedence over individual entities and elements. Although we

can measure the intrinsic value of the latter, we can only appreciate the value of process and flow in terms of ‘services’. It is, thus, not biodiversity in and of itself which is valuable, but more so the services rendered by the ecosystems that possess value. Hence the notion of ‘ecosystem services’, consisting of streams of natural capital stock which, when combined with human industrial activities, gives way to human welfare (ibid.: pp. 59 and 165). ‘Provisioning services’ (related to ‘resources’: food, wood, grains and so on), ‘regulating services’ (the climate, rainfall, water quality), and ‘cultural services’ (spiritual or recreational value of nature) can be counted among such services. Biobanks sell shares to protect species threatened by deforestation to the very companies who carry out such acts (ibid.: p. 154). Many are unwavering in their belief that the biosphere as a whole should be treated as natural capital. In keeping with this line of thought, the following shift occurs: the biosphere should not enter the commercial sphere merely as a *commodity* (the logic underlying the sale of timber and industrial capitalism, marketing ‘biological resources’ and patented genes, and so on), but also and most importantly as an *asset* (that is, within the context of securities eligible for future revenue based on the logic of annuities) (ibid.: p. 166). Thus, we move from the simple commodification of nature, typical of industrial capitalism, which emphasizes producing goods, to neoliberal capitalist financialization and, simultaneously, from the portrayal of nature as a ‘resource’ to its representation as capital generating a ‘flow of services’.

How does the theory of GPGs (Kaul et al., 1999) allow us to fight against this trend to financialization? Is GPGs theory not designed, on the contrary, to promote governance of private and state actors? As we know, beyond the criteria relative to the beneficiaries of such goods (the *publicum* which turns these goods into global goods), this theory distinguishes between three classes of GPGs: (i) global natural goods (for example, ozone layer, climate stability); (ii) goods that constitute man-made heritage (for example, knowledge, cultural heritage, the Internet); and (iii) goods that result from global politics (for example, peace, health, financial stability). While the first class represents natural goods, the other two result from human activity.

However, the distinction between these three distinct classes becomes blurred in the case of the negative consequences flowing from poorly managed non-renewable energy. As a result of global policies, global natural goods slide into the third category of GPGs. Moreover, an economic approach in terms of supply requires that these natural goods are reduced to ‘stock variables’ like the goods of the second category, whereas the goods of the third category are conceived as ‘flow variables’ since a continued effort is required to ensure their potential. But if natural

assets are now part of the third category, should we conclude that they have become ‘flow variables’? In any case, the evolution from ‘stock’ to ‘flow’ corresponds precisely with the sort of change that accompanies and legitimizes nature’s financialization. Finally, and most worryingly, the value attributed to biological diversity is estimated by reference to the costs of protecting it. Thus, biological diversity enters the category of public goods that have an ‘intrinsic existence value’ ‘in an effort to grapple with and ultimately define the intrinsic worth of protecting the [good]’ (ibid.: p. 253). We would be better off articulating that this is not intrinsic at all: biodiversity has no value of its own and is not a good in and of itself; instead, its value is derived from the fact that it is the result of subjective appreciation, which amounts to recognizing that this is a good. We see what can result from the ambiguity surrounding the term ‘good’. But overall this confirms the rejection of the notion of biodiversity’s intrinsic value in favour of the idea that value is assigned by an external party, which expresses in its own way the notion of ‘ecosystem services’.

## 4. COSMODEMOCRACY

Given the logic underlying cosmocapitalism, we must find out a new type of global democracy if we wish to have any chance of halting and reversing it. Such a democracy will be referred to below as *cosmodemocracy*. It is indeed linked to cosmopolitanism; that is, to the idea of global politics and global citizenship.

### 4.1 Different Types of Cosmopolitanism

#### 4.1.1 Cosmopolitanism as a project

Cosmopolitanism can be defined as the feeling and consciousness of belonging to the same world. It can be expressed in many different ways. It can represent the awareness of living in the same world or sharing the same human condition, the feeling of sharing a common, confined space, and the feeling of being affected by everything that affects another part of humanity. According to Kant’s well-known dictum, ‘a violation of rights in one place is felt throughout the world’ (Kant, 1977). The awareness of belonging to a shared world has been expressed in noteworthy works of philosophy. This is particularly true of stoicism, within which man is seen as belonging to part of a ‘Universal’ or ‘Upper City’ and whose political city is just a small image. Individuals are then viewed as citizens of the world, but this citizenship is not at all political. By virtue of its universalism, Christianity was able to modify and extend its tradition through the

‘catholicity’ of the Church. The idea that human rights are not limited to any specific country, but are universal in nature, arose from Christian universalism and found support from various scholars and lawyers, including Anacharsis Cloots, author of *Bases constitutionnelles de la République du genre humain* (1793). Yet the framework remains one in which the world is assimilated to the nation: the human race becomes the only ruler so that the Universal Republic must identify with the Republic of Mankind and there is only one nation that corresponds with humanity itself. With Kant’s *Perpetual Peace: A Philosophical Essay* (1795), cosmopolitanism begins to take a new meaning. Kant distinguishes between three overlapping components of public law: (i) municipal or civil law (*ius civitatis*), which should be a republican constitution; (ii) international law or the law of nations (*ius gentium*), which provides for the right of states to engage in mutual relations or international law via a federation of free states; and (iii) cosmopolitan law (*ius cosmopolitanicum*). However, cosmopolitan law is intended to guarantee the right of ‘hospitality’ to all individuals – which is a right of access merely to promote trade. In this way, cosmopolitanism restricts the cosmos to the commercial sphere without establishing a genuine political citizenship.

#### **4.1.2 Factual cosmopolitanization**

What was once only an idea or ideal has become part of how we now live. Cosmopolitanism has become the new reality, both in an objective and subjective sense, and what Ulrich Beck has called ‘banal cosmopolitanism’ (2006: p. 26). This factual cosmopolitanization, borne out of the growth of interdependence and transnationalization of ways of life and cultures, should not be confused with transnational political activities and institutional creations, even if the link between these phenomena seems quite obvious. Factual cosmopolitanization is essential to the world’s inhabitants, albeit to varying degrees. It became extremely important at the turn of the century. With the rise of global risks, it began to haunt our minds, penetrating the banality of everyday life, for example, with respect to food, altering our aesthetic tastes, and changing our approach to interstate relations by giving preference to human rights over sovereignty. It is no longer a matter of assigning positive value to the world’s political organization by imagining what the future might hold. It is rather about establishing and characterizing the multitude of processes that transform everyday life up to the point where they lead to the relativization of national borders. According to Beck, ‘reality itself has become cosmopolitan’ (ibid.: p. 10). With globalization and resistance to the latter, a new era has emerged – that of ‘reflexive modernity’. In order to see, understand, and analyse it, one must abandon the ‘national perspective’ and ‘methodological nationalism’,

in favour of a ‘cosmopolitan perspective’ and ‘methodological cosmopolitanism’. To see reality as it is, one must have a ‘cosmopolitan eye’.

This day-to-day sociological cosmopolitization and banality represents a considerable break from philosophical cosmopolitanism, which, insofar as it was limited to the national experience, was only appealing to a few. This new form of cosmopolitanism bears no resemblance to an active project. It is more part of a factual experience than a conscious choice, and it generates ambivalent attitudes, spanning from a taste for travel and welcoming cultural hybridization, to fear of political dispossession or loss of cultural identity. However, contrary to the claims of Ulrich Beck, the idea that this factual cosmopolitanization is the driver of such overflow from the national state framework, does not date back to the early part of the twenty-first century. It was already Marcel Mauss’ argument when he dealt with the notion of ‘internation’, which comprised, according to him, all the social ties that tended to overflow from the domain of nations, only to end up giving birth to a ‘global society’, which, as it becomes more and more conscious of itself, could aspire to political self-government (2013). By ‘internationalization’, an action that unifies nations around the world – ‘the opposite of the a-nation’ – Mauss includes both the economic and moral interdependencies along with material and ideal phenomena. We can see how cosmopolitization, be it economic, social or cultural, could just as well be described in terms of ‘internationalization’.

### 4.1.3 Normative and institutional cosmopolitanism

What Beck also failed to see is that normative and institutional cosmopolitanism do not flow freely and naturally from factual cosmopolitanization. This is so, firstly, because of the opposition of forces that have no interest in seeing their powers being eroded. Second, and most importantly, because a strictly empirical conceptualization of factual cosmopolitanization runs the risk of overlooking immediately what is generated from internal relations of domination in national and local settings, and what is beyond local level democratic control. Now, because the local and national spheres are losing their ‘naturalness’, for those who live in those areas, the effects of globalization imply that the normative and institutional issues arise with urgency in a political form that is *antagonistic*. Factual cosmopolitanization is no longer a ‘happy globalization’, but for many the dispossession of their destiny.

We must give credit to Karl Renner, Austrian Social Democrat and Austro-Marxist, for encouraging the reflection on the switch between a *de facto* internationalism to an institutionalized internationalism (Renner, 1998). This *de facto* internationalism, comprised of economic, social and cultural forms of internationalization, demonstrates how the world’s legal

fabric extends beyond the mere sum of nations. In the same way that the nation is the product of a historical development which culminates in its legal capacity at the end of the eighteenth century, the 'internation', to use Mauss' term, will inevitably find its legal form from a substrate of facts that is poorly or not at all seen, but as such, represents a legal duty. The term 'international' should not be taken at face value, as it represents much more than international relations between states. Indeed, it involves the way in which the world is constructed, legally and politically, in its post-Westphalian organization. According to Mauss, the enemy is state sovereignty, as it represents an obstacle to real human interests. We are moving towards a world order that will no longer be limited by the coexistence of sovereign nation states, what Renner calls the 'institutional *Oecumene*'. The creation of the League of Nations in 1920 gave way to a new era, as the 'community of nations' was granted legal standing above the states. Renner claims that, as a result of the establishment of the League, a 'supra-State international law' appeared in order to guarantee an infra-state national law, which itself protects minorities. However, as Renner argues, this step remained constrained by the desire to freeze the acquired positions after the First World War. We know that this is also exactly what happened in 1945 with the creation of the United Nations: as demonstrated recently during the COP 21, the most glaring contradiction still exists between the interstate logic of a group of sovereign states, and the need for a global community which undermines the sovereignty of each state in order to respect higher principles which cater to the interests of humanity. Hence Renner's proposal in 1937: delegates representing 'partial international interests' (capital, labour, culture and so on) should be members of the League of Nations Council. It is under this condition that international interests would be taken into account, since the representatives in question would not be able to mandate all issues nationally. The question, then, is how to make this global human community exist as such. We can envision this as Renner did when describing a global parliament or, more specifically, a second chamber of representatives in which the people themselves articulate and make decisions about their economic structure and social values, along with their present grievances and hopes for the future (Renner, 1998: p. 74). Yet it is evident that the creation of a supranational chamber does not respond to the needs of those who represent 'partial international interests'. Indeed, the parliamentary system of representation, with all its inherent vices, is simply replicated on a global scale. In order to overcome the interstate's limitations, we must decide to make the leap from internationalism and cosmopolitanism to *cosmopolitics*; that is, to a political organization of humanity.

## 4.2 Cosmopolitics

The two paradigms discussed above suffer from a crippling limitation – that of humanity’s common heritage which subjects the ‘common things’ to the interstate logic, and that of GPGs, which leave the latter to the governance of private and state actors. Still, progress has been made in the establishment of humankind law. But, even assuming a legal status was assigned to humanity, this would not suffice, and neither would a cosmopolitan consciousness, in reaching cosmopolitan institutions. How do we overcome the double impasse imposed by the interstate and global private law, while paving the way for humanity’s common form of political activity; which is to say, a real democracy for humanity? I would like to highlight two points which I feel are complementary. The first relates to the institutional architecture of a global democracy and the second concerns the political activity of world citizens. The first requires, above all, a political imagination, and the second assumes that we extend the observation of collective practices and experimentations already underway.

### 4.2.1 The dual federation of the commons

In order to introduce the first point, we must return to our discussion of the commons. Early on in this chapter, we established that the commons are institutional matters to the extent that they determine the rules of common use. In this sense, the commons emerge from what we might legally refer to as the ‘public’, not only in the orthodox economics sense of the collective nature of ‘public goods’, but also in terms of the public in opposition to the private. It is important to note that this public *sui generis* is *non-state public*. What exactly does this mean? The state’s public aims to ensure universal access to services but it does so by allowing state administration to monopolize the management of these services, thereby excluding users reduced to mere consumer status. The non-state public of the commons guarantees universal access via user participation in this management. Note that non-state does not mean anti-state, but rather, autonomous from the state. But what are we to make of the state itself? Under what conditions can it itself become a common? And how can we conceptualize its articulation to what belongs to the infra- and supra-state levels? Moreover, how can the different types of commons be organized among themselves?

The magnitude of these questions led us to imagine a political system, that of *non-centred federalism*, which was inspired by Proudhon (1863). Indeed, he designed a dual federation of social and economic organizations, representing the municipalities as well as the production units and working companies, both of which should be governed by the principle

of democracy. In a similar way, we can distinguish, on the one hand, the social-economic commons (common of river, common of forest, seed bank, production unit and so on) independently constituted of territoriality and administrative borders and, on the other hand, political commons formed through the process of increasingly integrating territories (municipalities, regions, states, international groupings of states). Yet, in all of this we are neither statist nor anarchists. We are even reluctant to consider a single global government or a single world state, which would imply a centralized form of authority that is incompatible with the democracy required by the institution of the commons. We are supporters of a *polyarchic* system, which should not be understood as ‘government of the many’ but instead as ‘many governments’ democratically coordinated across the world, which naturally implies a systematic intersection of different types of government, state and non-state, politics, and socio-economics.

#### **4.2.2 Global citizenship**

These ‘demo-cosmopolitan’ systems will not come from above and they will not emerge from interstate decisions or contractual agreements between private actors. Historically, the exercise of constructive activist citizenship has been an important precursor to the creation of new political institutions. Today, we observe the elements of an authentic political citizenship, which is diverse, decentred and transnational at the same time. This is exemplified by anti-globalization and social movements, in the missions of non-governmental organizations like Amnesty International, in the commitment of certain ecological associations to the COP 21, and via initiatives supporting public aid for migrants, and so on. This is not a citizenship that is expected to gain legal recognition, status, rights or duties as part of a state, but instead one that is called to act, engaging in transnational actions by those Beck calls ‘global public interest entrepreneurs’ (2006). We could also refer to them as global commons actors. This non-state and non-statutory citizenship must be thought of in terms of practices aimed at maintaining or acquiring rights rather than formally granting them. Only such transnational citizenship-in-action can give full meaning to the idea of cosmopolitics: politics for the world, as long as the ‘world’ implies what resonates in the Latin term *mundus*, namely, not the Earth as a planet and not the totality of individuals living on Earth but instead, the living connection between the individuals inhabiting in and the Earth itself. In this sense, the anti-globalization slogan ‘the world is not for sale’ is more meaningful than it might seem at first sight: the world, in itself, is not a ‘thing’ that we can own; it must be recognized as inappropriable and instituted as a common.



## 5. CONCLUSION

To conclude, instituting the world as a common cannot be understood as an extension of the nation-state or city-state models at the global level. The democracy of the global commons is irreducible to a mere change of scale. Instead, it requires a genuine collective political invention, which is based on the multiplication of self-government at all levels. What is at stake here is the confrontation between two diametrically opposed logics: whereas the logic of the commons is fundamentally plural, polymorphic, non-centred in nature, the logic of state sovereignty as it was constructed in the West is intrinsically linked to an indivisible and absolute centre of power. The solution is not for several sovereignties to overlap on the same territory, as this would be incompatible with the very notion of sovereignty, but for several types of self-governments to limit each other's power reciprocally.

## NOTE

- \* This chapter was translated from French to English by Claire Piccinin. It benefited from the reviews of Samuel Cogolati, Martin Deleixhe, Christiaan Boonen and Nicolás Brando.

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