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## **The Global Commons and the Market: A Need for Ethics**

An important, although controversial, development has occurred in the past decade about how to manage the global environmental commons. According to this relatively new approach, the "tragedy of the global commons" should be avoided through the extensive use of market-based instruments, and the privatisation of the commons. This paper examines some aspects of this phenomenon and argues that an economist approach to the commons should be substituted by a genuinely ethical one. In this approach the concept of the common does not signify simply an area where the coordination mechanism of the free market is somehow imperfect, but have an intrinsically normative content.

### Liberal environmentalism

Some authors call it liberal environmentalism, ecological modernization or simply sustainable development: this is the approach which accepts the liberalization of trade and investments, and approves economic growth as consistent with global environmental policy (Bernstein 2001, Hajer 1995, Sachs 1993). Also the approach teaches to companies that strict environmental policy can enhance their competitive advantage and stabilize their market position (Porter, 1995). In sum, economic and business interests are not clashing with ecological ones; rather they mutually reinforce each other.

It would have been difficult to predict such a paradigmatic development in the early 70s when it seemed that new concepts and ideas, like that of "limits to growth", "ecodevelopment", New International Economic Order, or the Common Heritage of Mankind, would revolutionize the development discourse. However, the 1972 'limits to growth' idea (Meadows *et al* 1972), which was focusing on environmental limits of modernist development, was accused of being insensitive to the problems of underdeveloped nations. On the other hand, ecodevelopment, term given to the planning concept originally advocated by UNEP, obviously had too narrow a focus on problems of underdevelopment, local and regional development patterns, self-sufficiency and small-scale projects to become a catchword for international development agencies and politicians of the industrialized nations. However, sustainable development meets perfectly their needs. Whoever would object 'development' which is 'sustainable', i.e., lasting? Whoever would deny that we cannot consume but what we have produced and the value of the capital assets (be it man-made or natural) of the economy should be preserved?

The World Commission on Environment and Development formulated and defined sustainable development in a way to avoid too much emphasis on international equity issues (addressed by the New International Economic Order document and the concept of the Common Heritage of Mankind), bounding ecological constraints (highlighted by the 'limits to growth' approach) or local needs (stressed by the concept of ecodevelopment). Sustainable development does not entail cutting growth; on the contrary (WCED 1987: 43.). Sustainable development does not entail restructuring or reducing international trade; on the contrary. This is reflected also in the text of *Agenda 21*<sup>1</sup> and in the Rio Declaration.<sup>2</sup> Apparently, the politically dominant interpretation of sustainable development is not meant to alter radically the path of 'business as usual'; its mission is confined to environmentally 'adjusting' to some degree current activities and promoting international environmental agreements.

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<sup>1</sup>United Nations: *Agenda 21*, (New York: United Nations, 1992), p. 12.

<sup>2</sup>See Principle 12 of the Rio Declaration on Environment and Development. Adopted by the U.N. Conference on Environment and Development (UNCED) at Rio de Janeiro, 13 June 1992. U.N.Doc. A/CONF.151/26 (vol. I) (1992), 31 I.L.M. 874 (1992). Reproduced in Guruswamy *et al.* (1994), pp. 177-180, p. 179.

*Our Common Future* and *Agenda 21* instead of marking a new age of global ecology and responsibility, have become the paradigmatic expressions of this new spirit, the liberal environmentalism.

Maybe the first application of market ideas on a global common was the gradual shifts that the United States managed to succeed during the Law of the Sea negotiations concerning the international regime of the resources of the deep sea bed in the 80s and 90s. In the 90s the ideas of liberal environmentalism have become the cornerstone of the global environmental treaties as well. The Climate Convention builds extensively on the concepts of tradeable pollution permit schemes; while the most heated debates around the Biodiversity Convention concerned its effects on intellectual property rights (the United States first refused to sign it because they considered that it might adversely affect the international competitiveness of the American economy).

This is perfectly in line with the dominant economic ideology of our times which favours individual incentives and market logic instead of trying to overcome the burdensome problems of collective action. The market approach can take several forms. First, market institutions can be created for environmental goods. For instance, an international marketplace for greenhouse gases is about being created, or new intellectual property rights regimes should help biodiversity (embodied in genetic information) to become a market good. Water resources and supply are also being privatised all over the world. Second, according to this logic, environmental conventions should avoid using command-and-control mechanisms and must deal with questions of competitiveness. And as the joint position of the United States and the European Union at the 2002 Johannesburg meeting clearly expressed: voluntary self-regulation of business and "green market forces" (green investment and green consumption) are to be promoted, instead of setting global standards (a kind of command-and-control mechanism) for business.

#### The economic concept of the commons

The commons concept which is echoed in environmental policy documents draws heavily on economic ideas about private and public goods. The most famous and most quoted definition of the public good goes is one of Samuelson dating back to the 50s: according to this, a good is a public good if it is collectively consumed; we call this the non-rivalry in the consumption of the good in question. A second criterion of the public good is non-excludability, which means that nobody can be excluded from the consumption of the given good. This approach suggest that the private or public nature of a given good is somehow defined by inner properties of it: if non-rivalry and non-excludability hold, the good is a public one. However, given the global reach of economic activities and the growing scarcity of environmental goods, this implies that public goods in a strict sense do not exist anymore.

Samuelson used another dichotomy as well: that of the market *versus* collective good (Samuelson and Nordhaus, 1985). This approach suggest that existing institutional settings and not an inner property of the good itself determine its definition. We may call the first approach 'internalist' and the second 'externalist' (Heltai, 2003). A radical externalist position would imply that practically any kind of good can be either private or collective; the only question is whether there exist a proper institutional setting to secure the private or collective allocation of the good in question. If we can create markets and assign property rights even those goods might become private good which has always been considered as some kinds of commons. This is so because all kinds of goods embody the properties of private and collective goods.

Economists have been interested in the concept of public goods because this kind of goods cannot be efficiently allocated through the market: they represent a failure. They are disturbing, do not fit into the order of the market-based economics; sometimes they are identified with 'externalities'. Two other bodies of literature also support this thesis: the collective action problematique (starting with the seminal book of Mancur Olson) and the 'commons' literature (where Hardin's "Tragedy of the Commons" is the starting point) all deal with the incentive problems associated with public goods. Obviously, economic theories which build on the rational, self-interested *Homo Oeconomicus* model cannot effectively deal with the commons. The all-too-known conclusion they generally arrive at is that either effective central authority is needed in order to secure the public good or somehow market forces should enter into play, that is, the public good should be somehow privatised. A third option is, of course, the coordination by norms. However, it is generally hold that deontological coordination cannot effective but in relatively small communities where non-

compliance with the norms can be sanctioned by the others. Therefore coordination by norms can only have a limited relevance in protecting the global commons.

#### Global governance and a need for ethics

The greening of the market is certainly to be promoted, and market mechanisms can of course play some role in international environmental measures. For instance, emission trading schemes has already proven to be an efficient tool to reducing pollution on a local scale, and an international market for greenhouse gases might also be a useful policy instrument.

However, we have good reasons to believe that pushing the market logic too far has serious shortcomings. The market in itself can never secure the social and ecological needs of a genuine sustainable development. Moreover, if the market is not embedded well enough in social institutions, it can become even destructive. In this sense the market is not an alternative to central authority or social norms: they can effectively work only together.

From the social point of view it can be predicted that the market will create new kinds of inequalities related to environmental goods: an enclosure of the commons might take place on a global scale (Lipietz 1995). The goods which might have a value on the market will be protected, but exclusively for the purposes of the profit making activities, and the poor will be excluded from their use.

From the ecological point of view it can be predicted that the market will not provide proper and sufficient incentives to protect the global commons. For instance, property rights regimes for genetic resources may create incentives to save some "botanical gardens" in developing countries, but they will certainly not be enough for saving the Amazonian rainforests. And a good case at hand is the American refusal for signing the Kyoto Convention, because it proves that even the market incentives designed by the treaty (and largely influenced by the United States) were not enough for getting the much needed support for it.

Given the complexity of global environmental issues in terms of social effects, economic interests and ecological needs, the approach which focuses predominantly on the market forces is bound to fail. The 'externalist' position may be right: all kinds of goods might potentially be private or collective. But the choice to be made is not exclusively an economic one. It is more an ethical or political one. In my understanding the common good carries an essentially ethical content. It is about justice: who has what kind of right and obligation.

An example expressing such a spirit about the commons is the concept of the Common Heritage of Mankind, adopted in 1970 by the UN General Assembly. According to the UN resolution, the Sea-bed is the common heritage of mankind, and it must be exploited for the mankind as a whole, taking into particular consideration the interests and needs of developing countries. Obviously the concept embodies moral commitment towards a more equitable international order and international justice.

I would argue that the "justice as fairness" concept and the difference principle of John Rawls are indeed useful conceptual tools for interpreting the normative content of the 1970s development discourse and, more particularly, the Common Heritage of Mankind concept. The difference principle demands the evaluation and comparison of entire institutional structures from the point of view of the worst-off persons, or, in the case of the international economic system, the worst-off countries. International institutions and rules are to be arranged so that they are to the greatest benefit of the least advantaged countries; or at least that they are to a greater benefit of the least advantaged countries than of the developed ones.

It is symptomatic that throughout the negotiations of the Law of the Sea in the 1980s and 1990s, the concept has been slowly voided of its real content; the idea of the Common Heritage of Mankind has faded, just like the development discourse of which it was an expression. (See Anand, 1997.)

Still the concept of justice as fairness has a enormous normative power. It should be the guiding principle for the regimes, the complex institutional design of global governance. In a sense nations are in a similar situation to the one described by John Rawls as being behind the "veil of ignorance". Nobody can perfectly know the effects of environmental degradation upon her country on the long run. Therefore there is a need and room for fair agreements. International institutions should promote the greatest benefit of the least advantaged and protect the rights of future generations. This needs concerted actions of the nations and the construction of a complex institutional setting, instead of relying exclusively

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on individual players and market forces. In such a complex institutional design new forms of political authorities (new institutions – e.g., a global environmental organisation) should be created, but even coordination by norms might be “rediscovered”. In this respect, two scholarly developments should certainly be mentioned: one is the blossoming literature on global civil society and its role in setting international norms (see Anheier *et al* 2001), and the other is the study of community-based management systems of common pool resources and the possible implications for international regimes (see Ostrom *et al.* 2002).

Property rights regimes must be part of this setting with the aim of helping social and ecological needs to be realized. However, two basic questions should be considered when creating property rights regimes: Whose property? What kind of property? Regimes should secure the rights of local communities (like the intellectual property rights of traditional communities and their knowledge) and protect or promote small-scale property systems as well as common property regimes at both local and global levels (for the latter see the concept of the Common Heritage of Mankind), instead of pushing exclusively for individual large-scale properties, which is a general consequence of liberal regimes.

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