The Uncommonality of the Commons

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So as Emma said I want to talk a bit about the complexities and contradictions of the commons and I'm also going to focus a bit more on specific historical commons in Scotland. To some extent the various definitions of the commons that we've heard today already to me suggest a problem in the concept. It's become so broad as to include everything and I would argue it's becoming almost like a constitutional equivalent of organic food or fair-trade coffee. It seems to be a good thing but yet it's so … has little substance to it and to an extent a lot of the discourse around the commons is in danger of undermining what might be the actual possibilities for alternative or transformative politics that might come from that. And there's a real danger of this just becoming an empty talking point rather than any actual movement as such.

Part of my interest comes, and part of my more critical take on it, comes from the fact that I am a programmer as well as an artist. I've been involved in what's called Free/Libre Open Source Software[1] … which is a kind of movement … not really a movement at all … a form of programming practice that emerged in the 80s, as a … initially as a critical stand towards the commercialization of programming but which has become a widespread norm within software production and spreading towards other forms such as social media. There have been interesting developments in how that's evolved

[1]Free/Libre Open Source Software is normally abbreviated as FLOSS. In the late 1990's and early 2000's there was significant interest in FLOSS as a model for radical artistic practice often referring back to the strategies and practices of Situationism, Neoism, Conceptual Art and Mail Art. The emphasis within FLOSS upon programmers building their own tools and infrastructures, such as the GNU/Linux operating system, aligned well with the ideas of autonomous structure and self-institution within artist-run practice. Early examples of the overlap between FLOSS forms of production and artist-run practice include the Festival of Plagiarism events in London and Glasgow, 1989-1990 (Home 1989, Photostatic 1989 and Bloch 2008), the Copenhagen Free University, 2001-2007 (Heise and Jakobsen 2007), and the University of Openess, 2002-2006 (Albert 2007). These developed alongside the emerging hacklab scene which grew out of the conjoining of anarchist and Autonomist social centres with free public computing labs running on salvaged recycled equipment. As FLOSS became increasingly incorporated into mainstream computing business and the hacker ethos was appropriated as a means of branding various forms of exploitative volunteerism, the potential of FLOSS as a form of technologically enabled radical praxis largely evaporated. Essays on FLOSS and artist-run practice include Albert 1999 and Cramer 2000 – Cramer was also a participant in the Festival of Plagiarism. The political tensions and contradictions within FLOSS are discussed, by way of comparison with the politically informed Free Improvisation music ensembles of the late 1960's such as the Scratch Orchestra, in Yuill 2008. For a critique of exploitative volunteerism in digital culture as a form of 'free labour' see Terranova 2003.

and the contradictions within the politics of that arena. And it's been one of the main things that has stimulated my interest in this discourse of the commons.

The other thing is a long-standing interest in self-organisation and self-organised structures, particularly self-organised forms of production and that partly comes from as a teenager I was involved with anarchist groups in Edinburgh and was exposed to that form of politics from quite a young age and that informs some of my interests and to some extent is the starting point for projects I did recently looking into different forms of commons and different forms of self-organisation. These were three projects which exist as a kind of trilogy and some of them … or material from them was shown at an exhibition at the CCA back in 2010 called *Fields, Factories and Workshops*[2] which title comes from a work by Peter Kropotkin a 19th century anarchist philosopher. I tend to work quite slowly over a long period of time and show my work as it evolves, so that show back in 2010 was some of that material. One of the main parts of that project were interviews with different people which had been transcribed and published online and in the exhibition some of the transcriptions were shown in printed form.[3]

The three projects were *Stackwalker* which started off looking into the idea of self-organised rural production in Scotland. I ended up focusing from that broader topic particularly on crofting communities and migrant worker groups within the fishing industry in Scotland partly because these were two areas where, on the one hand, with crofting you had this long history of self-organisation and commoning, and then within migrant, contemporary migrant worker groups in fishing there was an interesting parallel in that historically the fishing industry in Scotland has always relied on large amounts of migrant labour and originally this was largely migrants from Ireland and Gaelic-speaking communities in the Western Isles. This internal migration was the basis of the fishing industry in Scotland and now that kind of migration is … or at the time I was doing the work which began in 2008, this was mostly migrant workers who were from Poland, Lithuania and Latvia.[4] And what I found were people who had set up groups to represent themselves because it's an area where unionisation is quite difficult. The interesting parallels are that historically with … how … not the crofting community as such, but how Gaelic-speaking Scots as an internal migrant labour force within Scotland in the 19th century had constituted themselves in, for example, cities like Glasgow where you've got smaller organisations who represented initially people in terms of their birthplace and home affini-

[2]Centre for Contemporary Arts, Glasgow, 7th August to 18th September 2010.

[3]The websites for the three projects discussed here are: `http://www.stackwalker.org`, `http://www.newcommon.org` and `http://www.giventothepeople.org`.

[4]Members from some of the contemporary migrant worker groups in Banff, Fraserburgh and Peterhead are interviewed in Yuill 2012.

ties, so you get associations based around people from Lewis, which evolved into more class-based organisations and ones that formed the basis of early 20th century and late 19th century workers movements led by figures like John Maclean, Ed McHugh.[5] So that project I interviewed … from the crofting areas I particularly looked at areas that had been sites of struggle. The interesting thing about crofting is not so much that it represents a timeless form of farming but rather that it was a site of struggle for land and political action around land in the late 19th century and I went to areas where there'd been various forms of struggle such as land raids and riots and stuff and spoke with people … in certain cases direct descendents of people who were involved in this. And these actions went right up to the 1950s. The contemporary follow-on from that has been the idea of the community buy-out in areas like Eigg and Assynt where they've bought out the land from private landowners. So that was that project. It touched on other issues such as land, law and language and where linguistic and ethnic differences were often used to normalise class differences and these are some of the legacies of the way crofting is a form that's been used to naturalise what are really artificial forms of class construction in Scotland … rather than an indigenous farming system.

The second project is called *New Common*. It's pulling together interviews from different smaller projects which had been both in England and in Scotland that cover areas like commons and the Common Good in Scotland as well. It includes Andrew Wightman's interview. It also includes interviews from communities around the outskirts of Bournemouth which were all built around … which were council estates built around common land. There is a connection between the commons as a kind of historical infrastructure with the idea of Estovers that Emma has touched upon, and then the Welfare State as a form of public provision which has to a certain extent replaced and absorbed aspects of the historical use of the commons. These included a place, one called West Howe, which is built next to a common called Turbary Common and Turbary is one of the rights of commoning similar to Estovers. A Turbary … the rights of Turbage are the rights to gather wood and heathland materials to use for fire and Turbary Common cites the idea of these rights into its name. There's also an interesting literary relationship there … this particular part of the country is where Thomas Hardy is from and Thomas Hardy's fictitious Egdon Heath maps across the same area so these are communities living in the same area as Thomas Hardy talks about in works such as *Return of the Native*. So the themes of class transformation that exist in

[5]For a study of the Gaelic-speaking organisations in 19th century Glasgow see Withers 1998 as well as Charlie Withers' interview in Yuill 2012. The relation of John Maclean and Ed McHugh to the struggles in the crofting areas is discussed in the interview with Allan Armstrong in Yuill 2012 and in Armstrong 2012.

Thomas Hardy's work are mapped to the contemporary experiences in these areas.

The project also included work in Hulme in Manchester where you have a contemporary example of the revival of the common idea. Hulme is most famous ... it was built as an area of 1960s tower block housing that became derelict in the 1980s and became a large scale squat and it was famous for Manchester bands like Joy Division and Happy Mondays.[6] In Hulme the tower blocks were destroyed in the 1990s but many people that were part of the squatting movement in Hulme stayed on in the area and have run different projects. The house I was staying in is a place called Redbricks which was a set of council houses in Hulme that are run like a kind of unofficial housing cooperative, so the residents themselves set up a cooperative system within the council housing system as a form of self-representation. There was also efforts there to turn some of the land that had been designated for property development into a commons in order to block the property development on that area of land so that was an interesting contemporary variant on the commoning idea.

Woman in audience *Can I interject at this point and ask what's happening with the field in Maryhill?*

Sorry?

Woman *The field in Maryhill in that similar situation.*

Do you mean the Children's Wood field?

Woman *Yes*

That's ... you shouldn't ask me (audience laughter), this person's more involved than I am. As far as I know that piece of land doesn't form any kind of Common Good designation because it was ... I'll talk more on the detail later. At the moment that is, as far as I understand it, in bureaucratic limbo basically.

Woman *Cos I think the government ... the Scottish Government said to the developers "you shouldn't really be pursuing this" basically but I haven't heard much since.*

No ... my basic understanding is it's in bureaucratic limbo which will last until either the campaign loses strength and the council can push ahead with the building or the council give up and the land stays as it is.[7]

[6] For a history of Hulme and the squats see `http://exhulme.co.uk`.

[7] The Children's Wood is part of North Kelvin Meadow, an area of abandoned council land in Glasgow that was originally a sports area but has since become overgrown as a wild space. The local community have adopted the land as a public resource providing numerous events and establishing outdoor schooling and nursery projects. The council have sought to offer planning permission to developers to build private housing on the land, which to date the community have been successful in delaying. They have two websites, one for the main campaign, `http://northkelvinmeadow.com`, and one for the Children's Wood `http://thechildrenswood.com`.

There have been examples … There have been examples of where Common Good Law has been used as a way of preventing commercial planning in Scotland. Perhaps best known is the Botanics where there were plans to build a nightclub a few years ago and by identifying that land as Common Good land the local campaigners were able to prevent that.[8] Similarly the project to build a commercial adventure play park in Pollok was also stopped through invoking Common Good Law.[9]

The third project that covered these issues was called *Given To The People* which is about a thing called Pollok Free State and Pollok Free State was originally established as a local protest camp on a section of Pollok Park to prevent the M77 motorway being cut through that area. This was in the mid 90s … early to mid 90s. It was distinctive in that whilst many of the road protests of the 90s often connected with more liberal, middle class environmentalist politics, the Pollok Free State connected itself with working class politics and the issues of the Pollok housing estate itself and there's a strong correlation between the idea of self-determination and class politics over the use of ground in that area. And … it called itself the Free State, issued its own passports, it had its own constitution, set up its own university, established itself as a kind of autonomous republic.

One of the things I'm continuing to look at following from that project is some other forms of radical republicanism in Scotland which is quite an interesting … groups like the Army of Provisional Government who attempted to create an equivalent of the IRA in Scotland in the 1970s.[10] They were most famous for being linked to the bombing the Clyde Tunnel in 1975 and they were kind of a, if you like … they were portrayed as a kind of failed terrorist organisation and slightly as a sort of comical organisation but they're interesting in that … what I'm interested in is this idea in republicanism of the the equivalence of the citizen, the body of the citizen and the body of the state, and how this relates to the politics of the body as a kind of public politics.[11]

The last thing I started to look into are *Sioll Nan Gaidheal*, the Seed of the Gael, who are Gaelic nationalists, a republican organisation with … quite an interesting complex history. Began in the mid 70s as well and veered towards a form of neo-fascist politics. They were involved in a lot of the so-called 'anti white settler' demonstrations and actions in the 70s and have

[8]"Old land law may thwart nightclub in the Botanics", *Glasgow Herald*, Tuesday 20th November 2007, `http://www.scottishcommons.org/docs/herald_20071120.pdf`.

[9]"Omission of park in Common Good Fund may cost council dear", *Glasgow Herald*, Thursday 29th October 2009, `http://www.heraldscotland.com/news/home-news/exclusive-omission-of-park-in-common-good-fund-may-cost-council-dear-1.929148`.

[10]Scottish Republican Socialist Movement 2015.

[11]Agamben 1998 discusses the longer history of this idea. For a history of Scottish militant republicanism see Young 1996.

moved towards situating themselves as a green socialist group nowadays.[12] And this slide towards fascism within republicanism is, the danger of this is something I'm interested in exploring and I think it's also part of the spectrum of values of the commons as well. By fascism I'm not saying an idea of totalitarianism but rather a slide towards a politics that's based on mythology, spiritualism and a politics based on things that you cannot question.[13] And this generalisation of the commons has a danger to it that it becomes this principle that you cannot question. So it has a kind of … what I would call a quasi-fascist dimension to it which is something we have to be aware of and wary of. Also there are different politics of the commons so we have … again this is an area where if we have a tendency to homogenise things under this one label it leads to a blurring of distinctions which is problematic. It tends to create an homogenisation of quite distinct and arguably antagonistic political viewpoints. In that way I'm reminded of Stewart Home's critique of integralist anarchism where he argued that the different strands of anarchism seeking to integrate one another could never work because, as he put it, if you tolerate each other you'll tolerate anything (audience laughter).[14] It has an inbuilt failure within it …

Some of the distinctive strands of identifying the politics that claims the commons or makes a claim upon the commons. I think there are four in particular who have interesting historical significance. One is the idea of primitive communism and this very much relates to the early … so, for example, Peter Linebaugh's work.[15] He's looking into the Charter of the Forest located in historical forms of the commons that Emma was talking about earlier. And this relates to the idea of primitive communism … Commons and communism are from the same etymological roots.[16] They basically both refer back to a form of settlements and a management of the land based around the communes, the community. And this idea of commons as a primitive form of communism is found in the work of Marx. One of his first writings

[12]The distinction can be made between a militant republicanism that responds to the existing violence of the state and a 'fascist' republicanism that constructs a mythic violence of ethnic differentiation, see Scott and Macleay 1990. The 'fascism' of *Sioll Nan Gaidheal* should, of course, be understod in relation to the more everyday and insidious fascisms of the Orange Order, British Unionism, BNP, Scottish Defence League, and mainstream parliamentary counterparts, but the question remains as to how we define the commonality under which different collective politics are defined. For a discussion of the 'white settler' issue in Scotland see Jedrej and Nuttall 1996.

[13]A comparison to this is the relation between fascist political theory and environmental issues that emerges in 19th century movements celebrating folk culture and forms of nature-based spiritualism such as the *Völkische Bewegung*, see Mosse 1998, and has been mirrored in aspects of contemporary Deep Ecology and Primitivist Anarchism, see Biehl and Staudenmaier 1995. For the wider political-philosophical debate discussing this in relation to opposing politics of rationalism and irrationalism see Balibar 1978.

[14]Home 1997.

[15]Linebaugh 2008.

[16]Linebaugh 2010.

as a journalist was to write about woodsmen in the Rhineland who had been fined for gathering wood as their common rights to harvest wood from the forest had been withdrawn.[17] Similarly Engels discusses primitive communism in his book *The Origin of the Family, Private Property and the State* where he cites the forms of communal organisation that existed within German rural communities up until the 19th century.[18] In many respects crofting is seen as related to this idea of primitive communism.

And another strand, quite closely related, is that of anarchism and by anarchism I mean classical 19th century anarchism as defined principally by Peter Kropotkin. Kropotkin identified ... who was also an anthropologist and who'd studied various forms of agricultural structure within areas around Russia and across Europe ... identified this as a kind of model ... as not only a prior form of property and labour organisation but also potentially the model for future organisation. In a sense the distinction between a communist take on the commons and the anarchist take is that 20th century communism in the form of state communism looks towards the construction of the state as the centralisation of all common property, the state becomes the guardian of the commons, whereas anarchism from the Kropotkin tradition looks at decentralised forms of commune as an actual political structure in its own right and seeks to build a new politics around that.[19]

Two other political strands very different from this are those of liberalism and use of the commons within liberal politics and this dates to the 17th and 18th century of thinkers like William Petty and Daniel Dafoe who talk about the need to create publicly funded infrastructures through which private enterprise could be supported and the modern equivalent of that is probably Lawrence Lessig who coined the phrase 'Creative Commons' and Lessig's take on the internet is very much similar to William Petty and Defoe's concepts of the common.[20] The example of liberal commons is something like the rail network when an infrastructure is built that would be too expensive and too risky for individual private enterprise and which would be prone to the market. So by making this a public commons structure the risks of private enterprise are shifted onto the shoulders of society, so it's a way of socializing risk. This is a key form of the commons that has emerged within

[17]The article is "Debate on the Thefts of Timber", *Rheinische Zeitung*, 1842, the significance of the article in relation to the formation of Marx's later ideas is discussed in McLellan 1980, p.95–99.

[18]Engels 1909, a digital version is available at `https://archive.org/details/originoffamilypr00enge`.

[19]It is worth noting however that Kropotkin was critical of experiments in Utopian communities that sought to set themselves apart from existing society, see his *Proposed Communist Settlement: A New Colony for Tyneside or Wearside* first published in The Newcastle Daily Chronicle, 20th February 1985, available online at `http://theanarchistlibrary.org/library/petr-kropotkin-proposed-communist-settlement-a-new-colony-for-tyneside-or-wearside`.

[20]Lessig 1999.

liberalism. A distinctive aspect of it is that whilst it is often defined as a public good and placed under the jurisdiction of public bodies such as the state, those who gain access to it and benefit from it are often quite unevenly distributed. So you'll see the creation of a public good but in terms of the benefits that come back from it they are unevenly distributed, so the rail companies benefit at the expense of passengers rather than a people's rail service that is based on an idea of the distribution of the means of travel. And to one extent that's demonstrated in the preference for the use of the word 'public' rather than 'common', which has a more institutional history behind it in terms of it's etymology in Roman law.[21]

A more recent development related to the liberal concept of the commons is a neo-Hayekian concept of commons which is related also to the neoliberal form. Hayek was an economic theorist of the 20th century who rejected what he saw as any form of socialist or collective economics, who believed in highly individualised economics. He even rejected the word 'economy' because the word economy in its origins means 'how to manage a household', as being too collective.[22] He believed in a highly individualised economic structure. Hayek was one of the key influences on the emergence of neoliberal thinking. What have been called neo-Hayekian elements of thinking that are represented by figures such as Elinor Ostrom whose *Governing the Commons*[23] draws upon Hayek's theories for explaining how commons-based systems worked. In particular she evokes Hayek's idea of an ad-hoc economy, the idea of individuals finding common needs and addressing them through a localized market system. Ostrom's concept of the commons interestingly, like Kropotkin, draws upon actual existing examples and even some of the same examples as Kropotkin, particularly the Swiss mountain farming systems are both invoked in Kropotkin's work *The Conquest of Bread*[24] and Ostrom's work *Governing the Commons*. The conclusions they draw are quite different.

One of the aspects that I think is quite distinctively different is that this idea of the commons within a kind of neoliberal and Hayekian tradition relates to a form of what's called domestic economy. The domestic economy is the … we come back to the idea of the economy of the household, it's a small-scale sphere of circulation that may be separate form the mainstream markets but which enables, for example, the way in which a family might provide food for itself through a process such as crofting. And that, rather

[21]For the longer history of this see Arendt 1998.

[22]Hayek preferred the term 'catallaxy' emphasizing the principle of exchange rather than that of collective responsibility suggested in the origins of the term 'economics'. For a concise history of the development of neoliberal ideas from Hayek and their application in current economic policy see Mirowski 2014.

[23]Ostrom 1990.

[24]Kropotkin 2008.

than being a removal from the market, it is a form of safety valve for the market. It's exploited by the markets as a form of safety valve. So, for example, domestic economy models can be used to justify the reduction of wages because the family provides it's own food and therefore it doesn't require to be paid this amount of wages.[25]

It's these different political strands or different political claims on the idea of the common, that we can identify and have to be brought into focus when discussing ideas of the common and not simply to take the common as an inherent good in its own right, but to question what the political trajectories cutting through it are.

So discussing in more detail some forms of the … forms of what might be called the actual existing commons within Scotland. There's crofting, the Common Good, and community buyouts and they each demonstrate some of the complexities and contradictions within the idea of the common and how it might be realised as a form of political activity, how they might support that.

Firstly, crofting. Crofting is often seen as a kind of timeless ancient indigenous farming method that's spread across the Highlands and Islands of Scotland. It's often portrayed like that, for example, in tourism and Scottish cultural production. This is not the case however. Crofting is really a product of the industrialisation of rural areas which came into being in the late 18th century and early 19th century. One meaning for the word 'croft' in Gaelic is 'allotment' and there's actually parallels between crofting in rural areas and allotments as they first emerged within urban centres as well.[26] Crofting carries on certain aspects of the earlier pre-industrial farming systems which are known as the township system but introduces certain forms of structure and particular dependency upon … upon the need to sell one's labour that were not there … that were not present in townships as such.

The relationship of the township system to the idea of primitive communism is actually interestingly put forward by Alexander Carmichael who was a 19th century folklorist and an amateur anthropologist who was most famous for gathering Gaelic songs and hymns from the islands.[27] Carmichael himself was not a proponent of communism but he was brought forward to

[25]"Capitalist accumulation is structurally dependent on the free appropriation of immense quantities of labour and resources that must appear as externalities to the market, like the unpaid domestic work that women have provided, upon which employers have relied for the reproduction of the workforce," Federici 2010. See also Dalla Costa and James 1972. Meillassoux 1981 applies the concept in relation to the division between rural and urban, indigenous and colonial labour.

[26]The term refers to the idea of a strip of land that was *allotted* to someone, see Hunter 2000. The Gaelic *lot* (plural *lotaichean*) can refer both to an allotment or to a croft. For a history of the politics of urban allotments see Ward and Crouch 1997.

[27]Carmichael's most famous work is *Carmina Gadelica* (1900) a collection of Gaelic hymns, folk song and poetical forms. For accounts of Carmichael's work in the Hebrides see Stiùbhart 2008.

the Napier Commission which was a government body set up in the 1880s to investigate the civil unrest within the Highlands and areas where crofting was established. In the opening words of his statement to the Napier Commission he writes … he spoke: "the word commune has unpleasant associations but being descriptive of the social economy of the Highlands I shall use it here."[28] And he goes on to explain how the township systems govern themselves and at the end argues that even though he is in no way a proponent of communism that these systems should be reintroduced and it's interesting that the conclusions of the Napier Commission were broadly in favour of that. The actual Crofting Act which came out in 1886, which is the legislation that applies to crofters to this day, rejected this idea and instead chose to maintain the new crofting system.[29]

The aspects of primitive communism that Carmichael identified included various forms of local governance and the use of common grazings and the idea of a kind of rotation of power within the community so rather than being … having a head of the community who … who remained in power from one year to the next there was a regular change — a bit like the Transmission Gallery committee in some ways (audience laughter). There was a conscious rotation of power within the community and also deliberate deferral of power. So he describes these events where people decided who'd be the head of the community for that year and usually these involved forms of random selection and a process where the first person would reject the offer until eventually no one was left to reject it and eventually the role was taken on. So there was a conscious deferral of power rather than an idea of acquiescing of power.[30] To an extent this represented a vestige of the hybrid nature of governance and jurisdiction that existed in Highland areas up until the 19th century, but to many extents crofting was one of the methods that actually brought that to an end rather than continuing it.

In the 18th century we had figures such Henry Home Lord Kames who was a Scottish legal theorist and mentor to figures such as Adam Smith, David Hume and John Millar who … one of his main contributions to Scottish law was to revise Scottish law in line with … what's called the institutional model which is to move away from a common law basis towards the idea of defined statue law following the model of Roman law developed in the Netherlands, towards a rationalistic logical model of law.[31] Kames …

[28]Carmichael's testimonies to the Napier Commission are available at: `http://www.alastairmcintosh.com/general/resources/2010-Carmichael.pdf`.

[29]The proper title for the act is *Crofters' Holdings (Scotland) Act 1886*. The current version is available online: `http://www.legislation.gov.uk/ukpga/Vict/49-50/29`. For an outline of current crofting law see Agnew of Lochnaw Bt QC 2000.

[30]The idea of deferral of power is discussed by anarchist anthropologist Harold Barclay, Barclay 1997.

[31]The relation of Scots law to Roman and Dutch law is analysed in Gordon 2007. For a more

whilst claiming to represent a universal abstract system of law nevertheless took the principles of mercantile capitalism as the basis for that and that relates to the stadial theory that Kames and Smith and Millar popularised in the 18th century.[32] This was the idea that society passed through stages of maturation from early nomadic cultures to early agricultural cultures to peasant communes to the mercantile society. Kames sought to make the mercantile society the basis of Scottish law.

Part of that was to reject feudal law. He was very much against the idea of lineal land ownership and existing feudal inheritance but for Kames this also meant doing away with common law and doing away with various forms of local law that existed in the areas that formed … that allowed forms of self-organised legal representation.[33] And he actively implemented these ideas. He was what's known as a 'circuit judge' and travelled around rural areas of Scotland arbitrating on disputes over land. He was well known for being incredibly severe with punishments towards people accused of stealing sheep or going on someone else's land.[34] So we had this movement towards a homogenization of law in Scotland happening in the 18th century which did away with much of what might have been existing forms of localised commons. So in the sense that it's different from what Peter Linebaugh describes in England where you have the Magna Carta and the Charter of the Forest which took some of these existing forms of common and gave them an institutional form.[35]

It was in that context that crofting came into being. Crofting is really a re-organisation of the land to maximise it for economic profit. One of the key distinctions between the crofting system and township system is that people are given fixed plots of land, so the allotment concept in the main. Whereas previously many township systems would rotate land ownership within the community in the crofting system people are given a regulated piece of land with a fixed size. This was introduced to enable taxation and to value … to see the community as a financial resource that could be tapped for

political reading see Caffentzis 1994.

[32]The most detailed presentation of this was Millar's *The Origin of the Distinction of Ranks*, 1771. For an historical analysis of the influence of Scottish Enlightenment thinking on the development of modern capitalism see Perelman 1984.

[33]It is notable that whilst the various localised forms of law and land rights which supported collective ownership were almost eradicated by the end of the 19th century, feudal law relating to private ownership continued in Scotland up to 2004. Commonty, the Scottish equivalent of the English commons land, had almost entirely disappeared by the end of the 19th century, so much so that the 1927 edition of the *Encyclopaedia of the Laws of Scotland* defines commonty as "a peculiar form of common property in land, of great antiquity, but now, by force of private arrangements or by stress of statute, nearly obsolete."

[34]For accounts of Kames as a judge see Walker 1985 and Ross 1972.

[35]Even if Magna Carta has had a more symbolic rather than practical legal influence in England it nevertheless provided a legal reference point from which opposition to the enclosure of common land could be substantiated.

land taxes or water taxes, building taxes and such. And the size of the land that was given to people was often deliberately restricted so a family could only feed itself from what it could produce on that land and not produce any excess produce and this compelled people … in order to pay the taxes it compelled them to take up labour which was set by the landowners so this would be things like the kelping industry or going into fishing and such like.[36] So it's a mechanism to force scarcity upon the communities and force people into waged labour. When the Crofting Act came into being towards the end of the 19th century rather than representing the emancipation of the Highland communities it's effect for them was as a kind of entrapment within a problematic system, a kind of legalistic gilded cage. The historian Allan Macinnes made an interesting point that whilst the Crofting Act is often celebrated as a being this emancipation or recognition of rights for Gaelic Scotland it actually brought about an exclusion of rights for many sections of the Gaelic community.[37] Many aspects of Gaelic life actually died as a result of the Crofting Act because they weren't given any kind of legal recognition at all. Issues such as communal squatting for example which … nowadays when you think of squatting you think of 'illegal' occupation of housing but up to the 19th century squatting was a way in which people who did not have access to property could be supported by their communities, a form of welfare … the way that housing was given to widows and such like this.[38] And this was illegalized by the Crofting Act so there's a … how squatting developed in the 20th century was very much affected by laws such as those for crofting.

What is interesting in the crofting communities however is the kind of growing rebellion against the system that emerged in the mid to late 19th century. So it's not the fact that crofting in itself which was significant, but rather the way the different communities rebelled against the system. This became, around the 1880s with the riots of Bearnaraidh and riots on Skye … this led to actions of large scale land grabs where people went back onto the land they'd been evicted from and claimed it back and this process went right up until the 1950s. It was this ongoing process of protest and land grabs which led to recognition and set up … which actually led to the Crofting Act. The Crofting Act was introduced by the Conservative government and very much followed the principle that had been applied to Ireland, peasant proprietorship as a way of tying people into property ownership so that

[36]The history of this process is charted in Hunter 2000.

[37]Macinnes 1987.

[38]In this way squatting relates to commoning rights such as Estovers as in Magna Carta, in which it states that the widow "shall have meanwhile her reasonable estovers of common," quoted in Linebaugh 2008, p.52. Ward 2002 presents an historical study of the role of squatting in this sense.

they may be made to feel … so that they are forced into having debts and dependencies. They will therefore be less likely to rebel in the future.

What the Crofting Act did … what crofting did continue were one of those aspects of commoning, the common grazings, so this was one aspect that did carry on through that. The space still exists where the common farming systems are still at play … this is very much, if you like, a kind of restricted part of the common.

So that's one history of commons in Scotland and you can see the … the picture's not quite as simple as you might think. There are complexities and contradictions within it. And interestingly, to some extent, crofting is often invoked as a model for how farming could develop and what might be a basis for a future commons-based farming system. Yet crofting itself is perhaps more symptomatic of the problems rather than the possible solution.[39]

Another historical example is the idea of the Common Good. Emma's already introduced the term at the beginning in the more general sense but it has a very particular history in Scotland. There is a law called Common Good Law in Scotland and this is a set of statutes that place particular goods into public ownership of a kind.[40] And it doesn't just mean land. There's a tendency to think of the commons as being land and everyone has the idea of the rural commons but Common Good is something that emerged within cities and it's any kind of asset or resource that might have a common benefit. So it includes land like Glasgow Green, that's part of Glasgow's Common Good. It also includes things like all the paintings in Kelvingrove Museum. It includes the city council buildings. It includes many of the public buildings in Glasgow and many of the cities across Scotland and it includes artefacts like the robes of the mayor, stuff like this. This is all Common Good. Common Good has an interesting history. It's origins lie within feudalism and the allocation of the commons as a feudal charter, but Common Good Law as it exists in Scotland now relates far more to the development of the burghs, so it comes from the urbanisation of Scotland. Also it is due to this tied in with the emergence of bourgeois culture in Scotland. Burghs … The French *bourge* … from which we have *bourgeois* is the French equivalent of burgh in Scots and we have the word 'burgess' in Scots which is the *bourgeoisie*. The Common Good is first defined in charters that were written up to define the powers of free trade centres … Glasgow, Edinburgh … Aberdeen is one and such. To some extent they're early forms of liberal commons. They provide an infrastructure for the towns people who do not have access to resources

[39]As Hunter 1991 discusses, what did lead to material improvement in the crofting communities was the establishment of the Scottish Crofters Union and organisation around collective community co-operatives, see also the interview with Kenny MacLennan of the Lewis Crofters Co-operative in Yuill 2012.

[40]A contemporary outline of Common Good Law is presented in Ferguson 2006.

so it enabled the concentration of power within the city.[41] Bob was talking about Glasgow Green earlier, that it was given over as a commons because the housing for workers in the city did not give adequate space for people to dry their clothing so a field was set aside for people to dry their clothing and do their washing and that's Glasgow Green. So it's this 'commoning' of living resources for the workers, which is used to justify lower wages again, but as in the case of Glasgow Green we can also see it as a resource claimed by the workers.[42]

Another aspect of the Common Good which very much relates to bourgeois principles of culture is also tied up in philanthropy. One of the key criteria for something to be Common Good is simply that … one criteria is that it is used as a public resource but the other is a gift given to the city and it very much was about the idea of philanthropy to generate the city and civic virtue. Some of the Common Good campaigners around today … see the need to preserve the Common Good as being far more about this idea of respecting philanthropy and respecting this idea of the rich people gifting to the city rather than it being the infrastructure for the common people. So there's this angle to it which has to be born in mind.

The interesting thing about the Common Good is arguably not the intrinsic nature of it in itself but rather the fact that it can be exploited in order to … as a kind of legal anachronism really, to bring about arguably to seek to transfer some power from councils back into communities. To that extent it has been effective in some of the campaigns that are going on which Bob has been involved in.[43] So the Common Good is … figures like Andy Wightman have been championing it to some extent and I think Andy Wightman actually has a more nuanced take on it.[44] One of the key things he puts forward is that Common Good Law needs to be radically transformed and that we have to see this as a kind of legacy that can be reinvented as something genuine rather than something that's just a quirk of our heritage.

Lastly, one of the more modern forms of what might be called a form of commoning in Scotland is the idea of community buyouts which relate both to crofting and to the Common Good in many ways. So when I was doing *Stackwalker* I went to the Isle of Eigg which was one of the first islands to be bought out by it's local community. I also went to an area on Lewis called Parc which in the 1890s was the site of major crofting rebellion. There was an incident known as the Parc Deer Raid where the crofters stormed the laird's deer forest and slaughtered his deer and it was staged as a media event.[45] This

[41]Dennison 1998.

[42]Taylor Caldwell 1988.

[43]See `http://citystrolls.com` and `https://commgood.wordpress.com`.

[44]Wightman 2011.

[45]The raid is described in Buchanan 1996. The raiders arranged for journalists to accompany them as 'embedded' reporters on the event ensuring it received detailed coverage, reproductions

will give you an idea of the kind of militancy of the crofting community in the 19th century. They were not people doing community petitions. There were often quite violent forms of protest.[46] That was the extent to which they were seen as a threat. Anyway, more recently Parc has been involved in what is known as an 'aggressive buyout' and they're attempting to buy back the common land, the grazing lands, of Parc for the community from the owner.

We also see a similar idea of proposing community buyouts in urban contexts so Govanhill Baths is a good example in Glasgow where it's been proposed that the building will be bought by the community and similarly it's been proposed that Kinning Park Complex buy back the building.[47] This however highlights what I regard as some of the problematic aspects of the community buyouts. Some of the community buyouts I'm very sympathetic to. The Eigg one was a case where you had a negligent landowner who deliberately treated the island basically as a kind of toy and … people had restricted access to … people were basically living in houses that had no central heating, with damp and such and the landowner … the landowner was deliberately restricting … preventing people from upgrading houses and such because he liked the quaint look of … this heritage feel of these damp houses with no heating and such and no toilets. So the community buyout, which happened at a very early stage of the introduction of the laws, was argued as a necessary means to address these issues and there were larger economic problems on Eigg as well.[48] And that led to the creation of a self-run island there.

What has become … as the community buyout idea has spread and become more commonplace is a pattern where rather than it being based upon the idea of the community becoming the governors of their own land it's more about the idea of the community becoming partners in a business and it's about turning the communities into business operations. The community buyout laws and the governance of how community buyouts are actually given to communities demand business plans that demonstrate the way in which the community generate profit from the process. And this in turn leads to communities often commodifying themselves and to come back to Parc … this is the kind of process you're seeing there where the community buyout is driven not so much by the desire to produce local governance or a

of some of the articles are included in Buchanan's account.

[46]Grigor 2000.

[47]In the case of Govanhill Baths the buyout was imposed on the campaigners as the only option Glasgow City Council would accept whereas the buyout at Kinning Park Complex has been promoted by members of management within the building who wish it to develop into a more commercial venture.

[48]See the interviews with Maggie Fyffe and Neil Robertson in Yuill 2012. The Assynt buyout was also related to housing issues and to a very deliberate claim to social and historical justice, see MacPhail 1999.

decentralization of politics but rather the idea of an economic venture that commodifies the community. It is also interestingly tied into the fact that this part of Lewis is where the major land connection for renewable energy from Lewis to distribute back to the mainland is going to be sited. So potentially the community will become the owners of … or the controllers of the gateway for this energy source going back to the mainland.[49] So really it's a business plan. It's got less to do with the idea of decentralization of politics, of empowerment of the community, and more to do with a business venture and this is very much the way the community buyout system has gone.

Within the urban context it creates a somewhat … in regard to places like Govanhill Baths or Kinning Park, the rather contradictory fact that you have … this is one of the key distinctions of rural and urban ones … whereas rural buyouts largely are based within communities buying land that is privately owned and bringing it to a form of public ownership, urban buyouts are usually based around buying property that is publicly owned already but putting it into non-council management. And that, for example, is what's proposed at Govanhill Baths and it's been proposed at Kinning Park. There's a contradiction because basically you have the public raising public funds to buy a public building to put it into public ownership and yet the building is public in the first place. So rather than being a solution to the problems of poor governance within councils or solution to problems of the mismanagement of finances … they're really symptomatic of it … and community buyouts in a sense are complicit with the privatisation of public resources. And in a way they come to epitomise that kind of neo-Hayekian model. It's a move towards privatisation, to a fragmentation of resources rather than providing a collective governance of resources.

We can see therefore that there's a need to be far more sceptical about the idea of the commons. Broadly there's many aspects of it that I support and am sympathetic to. My interest in looking into these things came from being attracted to many of these ideas … but there is a need not to take these things on superficial value, but to question the underlying structures and political trajectories that are running through them. Another aspect of this, which comes back to the idea of domestic economy, is the … socialization of risk and the exploitation of volunteerism which I think are also problems that haunt the idea of the commons.

I think there's several misconceptions in some of the ways people look at the common. One is to think of it in terms of assets rather than labour and I would argue that the commons should not be a thing that's thought of in terms of common assets but rather in terms of the labour that is used

[49]Community ownership is arguably preferable to private ownership under a landowner or corporate interest but it still follows a neoliberal model of marketization as the principle of governance rather than a commoning of power infrastructure for example.

to produce them, what the relation of labour and governance of assets is. Assets themselves are not the issue. This is something that Peter Linebaugh does talk about, the commons of activity: "To speak of the commons as if it were a natural resource is misleading at best and dangerous at worst — the commons is an activity and, if anything, it expresses relationships in society that are inseparable from relations to nature."[50] I think we need to be much more explicit about that. It's really about how the commons are produced and how they are reproduced from one day to the next and one year to the next, what sustains the commons. It's labour that sustains the commons. It's about the people. It's not about the fact that it's some kind of naturally given gift.

The other thing often related to it is that the commons is often seen … there was a picture up about the idea of alternative economies in relationship with things like barter economies and gift economies and this is a kind of rhetoric around the commons that has been quite strongly promoted within the Open Source sector. Open Source … a guy called Eric Raymond who is one of the definers of Open Source talks about it as a kind of gift economy, a gifting of code between programmers.[51] This is often presented as a kind of intrinsically altruistic act, as though somehow a gift economy itself is inherently not a form of capitalism and somehow it's inherently anti-capitalist. And yet the analysis of gift economies and work on economies that people like Marcel Mauss and his book *The Gift*, which is often cited as a source for this kind of idea, actually present gift economies not as a kind of emancipative form of free exchange but rather as a means through which hierarchies are structured and maintained.[52] Gift economies do not necessarily of themselves create a more equal society as such, they can be mechanisms of hierarchisation. Similarly, feminist anthropologists such as Marilyn Strathern and Lisette Josephides have talked about when there is a distinction between those who make the gifts and those who exchange them and in the studies they have conducted they looked at how women make the gifts or are the gifts and men benefit from the process of exchange. This creates an unevenness within the economy, a dependency which is very similar

[50]Linebaugh 2008, p. 279.

[51]Raymond 2000.

[52]Mary Douglas in her introduction to Mauss writes: "There are no free gifts; gift cycles engage persons in permanent commitments that articulate the dominant institutions." (Mauss 2002, p. xii) It is notable that Douglas goes on to present the gift not as the negation but rather the necessary complement to the market: "The gift echoes Adam Smith's invisible hand: gift complements market where the latter is absent. Like the market it supplies each individual with personal incentives for collaborating in the pattern of exchanges." (Mauss 2002, p. xviii) It is on this basis that Raymond relates Open Source programming to a gift economy model. The concept of the gift economy perfectly embodies the neoliberal project of extending market-like systems into every area of life, even where no money changes hands we are nevertheless inculcated to pursue every social interaction or deed as though it were a market transaction.

to that between the proletariat and the capitalist. So the gift economy is not intrinsically altruistic at all.[53]

The problem with a lot of the rhetoric of alternative economies is that it tends to confuse the mechanisms of exchange with the politics of exchange. So the belief is that money is inherently capitalistic, if we don't use money we've got rid of capitalism. But capitalism is not simply money, capitalism is a set of power relations around processes of exchange and those power relations can be structured around any process of exchange. Barter was the main means through which Western merchants spread capitalism to the world, as they began to colonize the Americas and such. So … again what we see here is the use of what seems like a superficially good idea (alternative economies) but one that hides the deeper political problems and you've got to bring these to the surface.[54]

And lastly, related to this is the fact that even though you may have spheres of circulation which internally seek to escape forms of capitalisation it does not mean that they're necessarily excluded from processes of capital. So where you have, for example, an idea of mutual help in order to create an alternative economy. This often defines the characteristic of the Open Source movement and also artist-run practice. Artists help one another freely to create a bit of work and to create the infrastructures to produce their work. This in itself does not necessarily mean exclusion from the problems of capital but rather it's maybe seen as a kind of resource that is exploited for capital, and it's a means through which risk is offset from the capitalisation itself. So within Open Source software one of the problematic points is that Open Source software frees the companies that use it from liability. There's no … the licensing of Open Source software means there's no liability for any problems within the software. The risk therefore of the software failing is projected … not taken by the company that is necessarily marketing it, as Apple have done in quite complex ways, but rather in

[53]Strathern argues that the concept of the gift is the construct of "a culture dominated by ideas about property ownership [which] can only imagine the absence of such ideas in specific ways … [and] sets up its own internal contrasts," Strathern 1988, p. 18. For Josephides the concept of the gift is a mystification that, rather than transcending relations of capital, merely hides actual existing forms of production: "… the egalitarianism of exchange is false, precisely because of its unacknowledged relationship to production; and the interdependence in production really supports hierarchical domestic relations," quoted in Strathern 1988, p. 147. Each gift given incurs a debt upon both the recipient and the producer, whilst those who perform the exchange accrue value.

[54]What benefits capital is the way in which money acts as an abstraction of value away from the processes that create it. Capitalist economic theory has consistently sought to deny the role of money within economics, and through the development of credit and financialisation, transcend money as a material store of value and transform it into a pure relation of power. This early insight of Marx (Marx 1975) has become all the more evident since the abolition of the gold standard in the Bretton Woods system in 1976, the growth of electronic commerce and the fallout of the 2007 economic crisis. See Lazzarato 2012.

the developer community who are a mix of paid and unpaid people volunteering their time to a project.[55] Similarly, within artist-run practice this is most endemic in situations like … well things like the Glasgow International and the way in which artist-run practice is used as a kind of fringe event to the main festival which creates this platform of activity that is capitalised as marketing for the city.[56] As such it represents a … is also used as a kind of talent pool to pick artists from. So artist-run practice, rather than being an alternative to a market-driven practice or to institutionally-driven arts practice, which is historically how it emerged in the early 70s, is nowadays often used as a pool, to pool talent, and for the risk of early development to be born by the artists themselves, rather than it being a distinct practice in its own right, rather than being a critical action against other forms of market-driven or state-driven art.[57]

This in a sense is an issue where the promotion of the idea of the commons within artistic practice needs to engage with the commons as a politics but often it does not. It often projects this idea of commons as an inherent good … of the creativity of the artists. It expresses itself as a selfless community but fails to recognise the ways in which that energy of creativity is tapped and exploited as a resource at other levels. Similarly because a resource in itself may be free or may be free of cost … presented as free, does not necessarily mean that it's free of capitalisation if the means to access it are controlled and capitalised. Now it's something we've seen both in the emergence of free resources on the internet and I would argue is also endemic to the nature of artist-run practice today.[58]

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[55]For the individual programmer, working on a voluntary basis upon a Free Software project, the waiving of liability was a necessary precaution in protecting that programmer from aggressive legal action such as the US fondness for litigation encourages, however, when control over, or marketing of an Open Source project is undertaken by a major corporation, the balance of power changes and the benefits of off-setting risk are reaped by the company whilst the moral pressure to put right faulty code becomes a social obligation on the developer community. Whilst the issue of liability is perhaps not the most significant of complexities within the politics of FLOSS practice it is one which highlights the ways in which such practices come not only to normalise transfer of risk away from companies onto individuals but to even seemingly make a virtue of this.

[56]Whilst the Gi Festival was initially framed as a platform for artist-run practice nominally steered by a committee of artist-run groups it quickly transformed into a conventional curatorially-led biennale subsuming artist-run practice into the economic and managerial forms of the creative industries model, see Gordon-Nesbitt 2009.

[57]Artist-run practice becomes an equivalent of the unpaid internships and apprenticeships through which people enter into fields such as architecture and the media. The need for individuals to have a background resource of private capital, such as family wealth, on which they can draw to support themselves, or as a fallback against risk, limits those who can enter into these thereby turning such practices into vehicles to reinforce and extend existing class privilege.

[58]The distinction lies between a commons as collectivisation that can reduce necessary social labour and a commons as social investment underwriting self-enterprise. The emphasis upon a cultural commons in the absence of more substantive commonings will inevitably tend towards the latter.

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