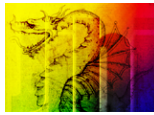


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Inappropriate Nature
Natural Resources as Commons

by

Irene Ortiz Gala, Carmen Madorrán Ayerra



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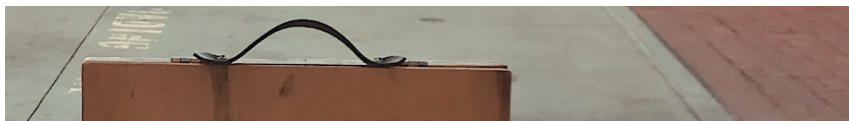
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Inappropriate Nature

Natural Resources as Commons

Irene Ortiz Gala, Carmen Madorrán Ayerra *

This paper seeks to examine from a philosophical perspective the relationship between nature and property (whether public, private or communal). The way our fossil-based societies inhabit the world clashes with the biophysical limits of the planet, which has led to the current socioecological crisis. Against this background, it is essential to rethink some classic problems also in the field of humanities. First, we outline the notion of nature as biosphere. Second, we identify some milestones in the discussion on common goods in the Western tradition. Finally, we review different approaches to the ownership of natural resources or goods (understood as the basis for human life) and highlight the importance of treating them as commons—especially in the context of the Anthropocene.



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Nature as biosphere

As Raymond Williams famously noted, “Nature is perhaps the most complex word in the language”.¹ It is therefore necessary to clarify in what sense we understand it in this work and what other meanings we discard. In this regard, it may be useful to rely on the four notions of nature considered by Jorge Riechmann in his reply to another philosopher, namely Fernando Savater.² Riechmann renamed the three definitions proposed by Savater and added a fourth:

- (i) nature as everything that exists, including extraterrestrial realities;
- (ii) nature as everything there is, except for the human;
- (iii) Nature (capitalized) as the origin of everything, with a somewhat metaphysical or religious component;
- (iv) nature as biosphere, i.e., the organized system of ecosystems.³

This last concept of nature is as descriptive as (i) and (ii), while eluding the problems of naturalism usually associated with nature (iii).⁴ But what is biosphere? According to Riechmann’s own words, we could define it as the *structured system of ecosystems*, the total biomass or living material on Earth, together with the associated abiotic factors. This should not be understood as random formless accumulation, but as a complex structured system. Living organisms, more or less discrete and discontinuous, more or less individualized, are not functionally isolated but linked through a complex matrix of relations, giving rise to systems—i.e., ecosystems.⁵

¹ Raymond Williams, *Keywords* (New York: Oxford UP, 1983), 219.

² Fernando Savater, *Diccionario filosófico* (Barcelona: Planeta, 1996), 256. For an alternative proposal with five definitions of nature, see Peter Coates, *Nature: Western Attitudes since Ancient Times* (Cambridge: Polity Press, 1998).

³ Riechmann first put forward this approach in “La industria de las manos y la nueva naturaleza. Sobre naturaleza y el artificio en la era de la crisis ecológica global”, *Ecología Política* 13 (1997): 87-106. However, we focus here on the new version contained in his recent book *Simbioética. Homo sapiens en el entramado de la vida* (Madrid: Plaza y Valdés, 2022), 90-91.

⁴ For a thoughtful review of the discussion on the existence (or not) of Nature in this sense (iii), see Fernando Arribas, “La naturaleza en el Antropoceno”, in *Humanidades ecológicas: hacia un humanismo biosférico*, ed. José Albelda, Fernando Arribas and Carmen Madorrán (Valencia: Tirant lo Blanch, 2023), 35-49.

⁵ Riechmann, *Simbioética. Homo sapiens en el entramado de la vida*, 95.

This notion of nature as biosphere is particularly appropriate due to its explanatory capacity, drawing attention to the natural processes of the only planet we can inhabit together with other living beings—as opposed to ontological constructivist temptations.¹ However, it does not turn nature into a theoretical fetish, thus avoiding essentialist drifts. This framework does not idealize nature. At the same time, while assuming some constructivist views, it warns against the urgency of issuing nature’s death certificate. Such a balanced approach is quite rare in the philosophical debate on these matters, which has regained momentum in recent years. Indeed, there is some truth in considering nature as a social product. The world around us and “natural” objects are to a certain extent shaped by the different sociocultural systems. But to acknowledge that nature is modified by human action—and consequently socially produced—is very different from denying its existence as a real object.²

Once we have outlined the notion of nature we use in this paper, let us provide an overview of its current situation. When we think today of nature, the term crisis comes immediately to mind, whether in terms of climate, ecology, biodiversity, energy... However, as environmental historian and economist Jason W. Moore pointed out, the crisis we are facing “is therefore not multiple but singular and manifold. It is not a crisis of capitalism *and* nature but of modernity-*in*-nature. That modernity is a capitalist world-ecology”.³

In a famous multidisciplinary study published in *Nature* in 2009, Johan Rockström and an interdisciplinary group of scientists identified nine planetary boundaries as the greatest threats to the functioning of the Earth system.⁴ We must not cross these limits if we want to maintain the habitable stability that

¹ As Fernando Arribas recalls, ontological constructivism questions the correspondence between objects and facts studied by science, on the one hand, and reality, on the other. In fact, it considers objects as the result of social construction. See Mark Woods, *Rethinking Wilderness* (Peterborough: Broadview Press, 2017), 72. See also David Demeritt, “What is the Social Construction of Nature? A Typology and Sympathetic Critique”, *Progress in Human Geography*, 26, 6, (2002): 771-777.

² Arribas, “La naturaleza en el Antropoceno”, 38.

³ Jason W. Moore, *Capitalism in the Web of Life* (London: Verso, 2015), 4.

⁴ These nine boundaries are: climate change, biosphere integrity, biogeochemical flows, land-system change, ocean acidification, stratospheric ozone depletion, freshwater use, atmospheric aerosol loading, and the release of novel entities. For an explanation of each of them and an update on the current situation, see the Stockholm Resilience Centre’s website: <https://www.stockholmresilience.org/research/planetary-boundaries.html>.

has characterized the Holocene (the geological era of the last roughly 12,000 years, following the last glaciation or Ice Age). Not only does the overcoming of these limits pose serious problems for ecosystems and those who live in them, but also these processes are closely intertwined so that one affects the other.

Two recent expressions or images help us understand the seriousness of the socioecological crisis. First, the idea that our societies weigh more than any other on the planet. Second, the term ‘overshoot’. On the one hand, the reference to humanity’s *weight* refers not only to the fact that today there are more of us than ever before (eight billion people), but also that each individual is equivalent to five pre-industrial humans. In other words, current human activity represents that of 40 billion people in a pre-industrial world, with the known consequences for the biosphere and its resources. The global ecological footprint provides a good tool to visualize the weight of our societies on the planet: it takes 1.8 years for the Earth to regenerate what humanity consumes in one year.¹

Since the 1980s, humanity’s ecological footprint has annually exceeded the planet’s regenerative capacity to absorb what we discard and to regenerate what we demand from it. Thus, every year we enter a situation of *ecological deficit*, i.e., the moment when the demands of human production and consumption exceed the absorptive and regenerative capacity of the planet. We spend our annual ecological budget in ever fewer months. From then on, the rest of the year we can maintain production and consumption levels only thanks to resources (fossil fuels, minerals, and also potentially renewable resources, which are not renewable when exploited too quickly) that are being depleted by leaps and bounds. The *ecological debt* refers precisely to this way of life on credit that is falling on the impoverished part of the world and will fall, even more intensely, on future generations. We live, as CSIC researcher Emilio Santiago Muíño says, “in a countdown where today’s excesses are irremediably charged on tomorrow’s bill”.² The way of life we take for granted in the Global North has only been possible for a few and at the cost of squandering the exceptional

¹ See WWF’s Living Planet report and website for more details and updates: https://www.wwf.es/nuestro_trabajo/informe_planeta_vivo_ipv/huella_ecologica/.

² Emilio Santiago Muíño, *Ruta sin mapa: Horizontes de transformación ecosocial* (Madrid: Los Libros de la Catarata, 2016), 14.

and unrepeatable abundance of natural resources of planet Earth (with a special role played by fossil fuels, particularly oil, which made the Great Acceleration possible from the 1950s onwards).

Undoubtedly, the use of this accumulated solar energy in the form of fossil fuels has enabled humanity to develop to an unparalleled extent, and that is no mean feat. But it is worth putting into perspective that the dilapidation in two centuries of the energy resources accumulated in the Earth's crust and the ensuing ecological problems are not a responsibility that we can share equally among humanity as a whole. The current situation of ecological overreach means, in short, that since the 1980s we have been living beyond the means of our global ecosystem. Today we know that humanity extracts resources from the biosphere and fills its sinks with waste before it has time to regenerate and absorb them. The economist Herman E. Daly already warned about this in the 1990s. He insisted on the importance, also for the economy, of living in an ecologically full world rather than an empty one.¹

The term 'overshoot' is an apt way of referring to our situation in relation to nature as biosphere. One of its meanings is 'to overreach; go further than is intended or proper; go too far'. This is perfectly applicable to our current situation. As humanity, we have exceeded the use of what we thought was ours in a proprietary sense: the entire Earth and its resources (again, we must draw attention to fossil fuels accumulated over hundreds of millions of years). This 'ours' is also very limited, since both the enjoyment of ecological goods (the resources and the abundance they provide) and the suffering of ecological ills (the consequences of waste in the form of air, water and soil pollution, climate change, ultraviolet radiation, exposure to harmful chemicals, etc.) are unevenly distributed worldwide.

The term Anthropocene was coined precisely to highlight the scale of the changes that industrial humanity has set in motion. It refers to the geological era in which the global impact of human activity on the planet is the determining factor.² The beginning of the Anthropocene is placed in the mid-20th

¹ Herman E. Daly and John B. Cobb, *For the Common Good: Redirecting the Economy toward Community, the Environment, and a Sustainable Future* (Boston: Beacon Press, 1990).

² Paul J. Crutzen and Eugene F. Stoermer, "The 'Anthropocene'", *Global Change Newsletter* 41 (2000): 17-18.

century, as the Great Acceleration started. This reflects the process by which human activity, especially after World War II, caused changes in the state and functioning of the planet. Since the year 2000, this notion has extended to the point of acquiring a central position in public discussion. At the academic level, as is well known, there are those who prefer the term Capitalocene.¹ They seek to emphasize that the global hegemony of capitalism as a world system is the foremost factor underlying our problematic way of inhabiting the world—not inherent in the *anthropos*. While in this first section we have outlined the notion of nature as biosphere, as well as its deteriorated state due to industrial activity, it is time to explore the second pole of interest of this paper, i.e., the commons.



The Commons: a Historical Perspective

The first difficulty faced by commons researchers is the elusiveness of the concept. The assumption that certain goods are not subject to appropriation has paved the way for a particularly fertile field of research in recent decades. The notions of commons, commoning, common goods or pro-common(s) frame a new philosophical, political and legal paradigm that shapes our worldview.² 2009 Economics Nobel Prize winner Elinor Ostrom's seminal book, *Governing the Commons. The Evolution of Institutions for Collective Action*, was published in 1990. The American political scientist explored different forms of governance that could be adopted in relation to the commons. Removed from the logic of

¹ Andreas Malm first coined the term, which has become widely used by authors such as Jason W. Moore. See Jason W. Moore's *Anthropocene or Capitalocene? Nature, History, and the Crisis of Capitalism* (Oakland: PM Press, 2016).

² Luis Lloredo, "Bienes comunes", *Economía. Revista en Cultura de la Legalidad* 19 (2020), 215.

property, private or public, Ostrom defined the commons as those goods that a group or community uses in common.¹ On the other hand, as Roberto Esposito has emphasized from the perspective of political philosophy, this approach to common goods can be found in the first dictionary meanings of the noun *communitas*, and the related adjective *communis*, which “acquires its meaning by opposition to *proprietary*”.² Common is thus that which is not owned, which cannot be appropriated. In this light, common goods can only be thought of from their inherent *inappropriability*.

The notion of common goods is closely linked to the term ‘natural goods’. As explained in Ostrom’s classic, the management of natural resources shows that they can only be understood as common goods—i.e., as goods that are not owned, but used, and that refer to a community. However, as we will see below, the governance of the commons poses significant challenges. In the context of the current global socioecological crisis, the discussion and dispute over the ownership of finite natural resources takes on special importance.³

The very notion of “good” brings to light the epistemic—but also legal and political—problems posed by the commons. The inability to think about (and accommodate) a type of good that cannot be framed under the paradigm of property is not inherent in a novel or specific feature of these goods. Rather, the explanation lies in the liberal revolutions that gave rise to modernity, consolidating private property as the dominant paradigm. Significantly enough, as Christesen has pointed out, we find not only traces, but actual discussions about the commons already in classical Greece and imperial Rome—limiting ourselves to the Western tradition.⁴

As the historian Thucydides tells us, Pericles considered Greece superior to the Peloponnesian League because the city states (*poleis*) that made it up looked only after their own interest, oblivious to the common good. Hence, “it escapes

¹ Elinor Ostrom, *Governing the Commons. The Evolution of Institutions for Collective Action* (New York: Cambridge University Press, 1990).

² Roberto Esposito, *Communitas: origine e destino della comunità* (Torino: Einaudi, 1998), XVI.

³ Rodrigo Míguez Núñez, “De las cosas comunes a todos los hombres. Notas para un debate”, *Revista Chilena de Derecho* 41 (2014): 7-36.

⁴ Paul Christesen, *Society and Economy in Archaic and Classical Greece* (New York: Columbia University, 2001).

everyone's notice when the common good is ruined".¹ Such defense of the common good or interest recounted by Thucydides—regardless of whether it was actually uttered by Pericles—is increasingly foreign to us, especially in the rich part of the world. The most interesting thing about Thucydides' chronicle is not whether the Greeks should go to war or stay in their cities, but the recognition he grants to those peoples who take care of what is shared as opposed to those who only care about their own interests.

The concern for common affairs and interests is presented in a context where the community exceeds the sum of its individuals by taking into consideration not only present, but also past and future subjects. In Pericles' view, the common interest is not limited to the Greeks who decide to participate in the campaign against the Peloponnesian League. Rather, it refers also to past and future Greeks. The idea of a common good superior to present individuals—which must therefore consider those who came before and those who will come after—is also reflected in the right of use under Roman law. Goods subject to usufruct were protected against the possibility of destruction. The Roman *ius utendi* granted the right to use and enjoy the good but barred the beneficiary from destroying it. This conception of community, extending over time and referring to an interest subject to special protection, is of enormous relevance to the contemporary debate on intergenerational justice.

Later, the Franciscan order established that property was dispensable for human life—which nevertheless implies the use of certain goods. As Buenaventura wrote in the 13th century: "property, possession, usufruct and simple use; now the life of mortals can lack the first three, but (...) in no way can totally abdicate the use of temporal things".² For the Franciscans, communal goods are necessary for human life and are distinguished from the other three types of goods because, unlike the rest, communal goods cannot be appropriated. The Franciscans took a step further the Roman right of use, under which owners had *dominium*, while usufructuaries were entitled to the use. In the 13th century, through the texts of Buenaventura, the Franciscan order established a distinc-

¹ Tucídides, *Historia de la Guerra del Peloponeso*, trans. Juan José Torres Esbarranch (Madrid: Gredos, 1990), vol. I, 141, 7.

² Buenaventura, *Obras*, vol. VI, trans. Bernardo Aperribay, Miguel Oromi, and Miguel Oltra (Madrid: Biblioteca de autores cristianos, 1949), 493.

tion that is also decisive for our present: on the one hand, appropriable goods; on the other, communal goods, which are not owned but used. In his *Apolo-gia pauperum*, Buenaventura argues that only use is “absolutely necessary”¹ for human life. The Franciscan notion of “use” goes beyond the understanding of common goods as restricted to those which, by their nature, are difficult to appropriate. According to Franciscan epistemology, common goods include those that can be used, are necessary for the life of human beings, and need not be subject to a property regime. In this sense, common goods refer to needs as indispensable elements for a good life.² The Franciscan proposal is much more ambitious than the preceding ones, since the focus is no longer on the *inappropriability* of common goods, but on the possibility of their use.³

However, Western modernity buried the Franciscan governance proposal based on use instead of ownership. As Roberto Esposito has underlined, modernity, with the emergence and consolidation of the nation-state (the greatest political device), excluded the common good “in favor of a dialectic between private and public destined to progressively occupy the entire social scene”.⁴ John Locke perfectly exemplifies how, during modernity, the idea of a world given by God to all human beings required a legal-political framework that would make it possible to divide it between the private sphere (composed of private owners) and the public (the State). In the first chapter of his *Second Treatise on Civil Government*, Locke presents the role of the State and its connection with property:

Political power, then, I take to be a right of making laws with penalties of death, and consequently all less penalties, for the regulating and preserving of property, and of employing the force of the community, in the execution of such laws, and in the defence of the commonwealth from foreign injury; and all this only for the public good.⁵

¹ Giorgio Agamben, *Altissima povertà. Regole monastiche e forma di vita* (Vicenza: Neri Pozza, 2011), 11.

² On this issue, see Carmen Madorrán and Luis Arenas eds., “Pensar las necesidades”, *Pasajes. Revista de Pensamiento Contemporáneo* 66 (2022).

³ For a more detailed analysis of communal use in the Franciscan tradition and its reception in Italian political thought, see Irene Ortiz, “Italian Thought: los comunes y el uso”, *Isegoría. Revista de Filosofía moral y política* 66 (2022), e14.

⁴ Roberto Esposito, “Inmunidad, comunidad, biopolítica”, *Las Torres de Lucca* 1 (2012), 112.

⁵ John Locke, *Two Treatises of Government & A Letter Concerning Toleration* (Connecticut: Yale

These brief lines clarify the central task of the nation-state: the protection of private and public property—including the prerogative to use force—in the name of public interest.

In the fifth chapter of his essay, devoted to the concept of property, Locke states that, although the earth and all inferior creatures belong in common to all men, “every man has a property in his own person: this no body has any right to but himself”.¹ Hence, Locke distinguished self-ownership from private property. While the former means sovereignty over one’s own life and liberties, in the sense that individuals are masters of themselves, entitlement to private property arises from the fruits of one’s labor, even when this activity is performed on something that was before “common”. To illustrate this logic, he gives the example of a deer, which was no one’s property, but “belonged to all in common”.² Once a hunter kills it (mixes his labor), the deer becomes his property. Locke recognizes that there may be some goods that are “common of mankind”, but they are subject to appropriation. Under Locke’s paradigm, owners have the capacity to use and abuse their property. They have, in Proudhon’s words, “an absolute right”.³

However, we must not forget that Locke’s context differs significantly from ours. One need only continue reading the chapter on property in his *Second Treatise* to see that Locke did not acknowledge the finiteness of the planet’s resources when thinking about the possibility of appropriation of natural resources. Rather, like many of his contemporaries and later thinkers, he assumed the opposite: “And thus, considering the plenty of natural provisions there was a long time in the world, and the few spenders; and to how small a part of that provision the industry of one man could extend itself, and ingross it to the prejudice of others; especially keeping within the bounds, set by reason, of what might serve for his use; there could be then little room for quarrels or contentions about property so established”.⁴ Leaving aside the misguidedness of assuming material and resource abundance, Locke conveys a certain notion

University Press, 2003), 101.

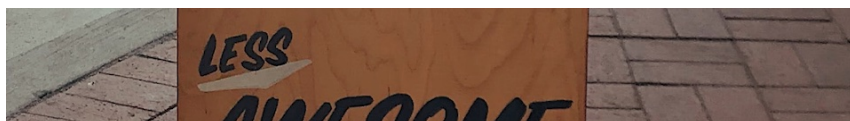
¹ Locke, *Two Treatises of Government & A Letter Concerning Toleration*, 161.

² Locke, *Two Treatises of Government & A Letter Concerning Toleration*, 164.

³ Pierre Joseph Proudhon, *¿Qué es la propiedad? Investigaciones sobre el principio del derecho y del gobierno*, trans. A. Gómez Pinilla (Buenos Aires: Libros de Anarres, 2005), 43.

⁴ Locke, *Two Treatises of Government & A Letter Concerning Toleration*, 165.

of self-restrain in appropriation, which he seems to restrict to those goods that could be put to use. As we know, reality has taken a very different path. Not all appropriation of common goods is based on the work of the new owners, nor does rationality or reasonableness limit access to property to that which is to be used. The notion of property underlying “the plenty of natural provisions” is unthinkable for the men and women of the 21st century. Locke’s proposal, which we take as representative of many other voices, would only be acceptable if we ignore that we live in a finite, bruised world with limited resources—a mistake we cannot afford today.



Inappropriate Nature: Natural Resources as Commons

The fate of the commons has always posed serious challenges. Long before the debate on the commons occupied much of the public attention, Aristotle had expressed, in a few words, what in 1968 Garrett Hardin called “the tragedy of the commons”.¹ In his *Politics*, Aristotle was concerned with those goods, which today would be part of the commons, that do not have a specific number of owners—i.e., goods that are owned by no one. For Aristotle, the commons are systematically sliding towards exhaustion precisely because of the lack of owners who can ensure their protection: “For that which is common to the greatest number has the least care bestowed upon it. Everyone thinks chiefly of his own, hardly at all of the common interest; and only when he is himself concerned as an individual”.²

The ‘tragedy of the commons’ warns of the inexorable end that awaits all those goods that have no owners: their exhaustion. Assuming that individuals

¹ Garrett Hardin, “The Tragedy of the Commons”, *Science* 162, no. 3859 (1968): 1243-1248.

² Aristóteles, *Política*, trans. Manuela García Valdés (Madrid: Gredos, 1998): 90 (our translation).

will only look out for their own self-interest, this will necessarily lead to the exploitation and depletion of the goods they manage but do not own. As Ostrom has pointed out, an “external Leviathan”¹ is often called upon to avoid this situation. Another possibility is the privatization of these ‘nobody’s goods’ by private individuals. Under the premise that only specific owners—public or private—look after their interest and, consequently, protect their property, an inextricable link is established between property and protection that lasts until today. In this sense, we must not lose sight of the fact, as Esposito has pointed out, that “the concept of state property, meaning the public property of the State, has been for a long time and yet not exhausted, the complementary—and not the opposite—aspect of private property”.²

In recent years we have witnessed not only the exclusion of the commons in favor of the public/private polarity, but also a systematic privatization of the public domain in a sense that frustrates any commons-based approach. The proprietary logic that seemingly ignores “the tragedy of the commons” has permeated the debate between public and private, privileging the latter form of ownership. In this sense, the disdain for public management takes this ownership logic a step further, thus annihilating the political imagination necessary to think of the commons. Precisely in this regard, Esposito suggests beginning “by breaking the pincer between public and private which threaten to crush the common, in the attempt, on the contrary, to enlarge its space”.³ In the same way that the common has been pushed to the margins of political thought by the premises underlying “the tragedy of the commons”, public management is placed under suspicion, always accused of being less efficient.

In this context, the question arises as to whether the only way to protect a common good—now that distrust also reaches public goods—is by means “of central regulation, of privatization, and of regulation by those involved”.⁴ Under the supposed threat of destruction of the good that is used (in the case of common goods) or owned (in the case of public or private goods), liberal regimes have defended the logic of property. Based on the preliminary legal subdivision

¹ Ostrom, *Governing the Commons. The Evolution of Institutions for Collective Action*, 9.

² Esposito, *Inmunidad, comunidad, biopolítica*, 113.

³ Esposito, *Inmunidad, comunidad, biopolítica*, 113.

⁴ Ostrom, *Governing the Commons*, 1.

between public and private, the preeminence of exclusively private property has been accentuated in recent years. However, such logic relies on an assumption that is not necessarily true regarding owners' care over their property. This presumed link between property and protection, or care, overlooks the fact that owners are the only ones who can determine the use and purpose of the good in question—including of course its potential destruction. The 'tragedy of the commons' begs the question of how to protect goods that are not subject to appropriation, but only if we assume that protection is afforded exclusively to that which is someone's property.

The absence of a legal framework or status for the commons makes it difficult to frame them in philosophical-political terms. As Michael Hardt and Toni Negri have pointed out, this lack of imagination is largely due to the fact that property has become a natural attribute of thought and action, serving as "a regulatory ideal of constitutional law and the rule of law".¹ In this sense, our present compromises future possibilities by denying any horizon that cannot be detached from what is given.² In the context of the ecological crisis, reflection on the commons appears hijacked by the proprietary logic, which rejects any approach that does not conform to the language of the property-owning subject. Philipp Blom's *Das grosse Welttheater* (The Great Global Theater) points in a similar direction with respect to the inability of philosophical reflection to propose alternative scenarios to the depletion of natural resources. According to the German historian and novelist, the true ruin lies in the fact that our ideas do not allow us to conceive other solution for contemporary language. Thus, it is easier to follow and dismiss any alternative scenario as illusory or nonsensical.³

We believe that this lack of imagination stemming from the dichotomic logic of private or public property has contributed to the deterioration of nature as biosphere. We advocate broadening this framework to include communal governance among the potential strategies linked to the concern about the global ecological crisis. If in the first section we defined nature as biosphere,

¹ Michael Hardt and Antonio Negri, *Comune. Oltre il privato e il pubblico*, trans. Alessandro Pandolfi (Milano: Rizzoli, 2010), 20.

² Fredric Jameson, "La estética de la singularidad", *New Left Review* 62 (2015): 109-141.

³ Philipp Blom, *El gran teatro del mundo*, trans. Daniel Najmías (Barcelona: Anagrama, 2023), 48.

what can we understand by natural resources or goods? We rely on the definition put forward by Alexa K. Lutzenberger, Franciska Lichter and Sara Holzgreve:

natural resources can be defined broadly as the means for human actions and basis of human livelihoods provided by nature; namely the large-scale resource pools like water, air, soil/land. They are extended by all ecosystem functions of earth and solar system usable by humans or funding human well-being (biodiversity, energy) and the extracted raw materials sub-categorised in biotic and abiotic materials.¹

These authors conceive a common as a resource governance system composed of a common pool resource with single units (commons). An identifiable community of users sets in motion a commoning process, with the shared objective of preserving and regulating these resources to ensure sustainable use. In turn, a public discussion will determine the governance model and its implementation.² From our perspective, the consideration of natural goods as commons could facilitate their protection. At the same time, it contributes to a necessary change in the way our industrial societies address nature—particularly in the Global North. The idea of nature as biosphere, composed of ecosystems that are a common good, has little to do with the view of nature as a pantry from which we can extract whatever we want and a dumping ground for the waste we generate. As Lutzenberger, Lichter and Holzgreve write,

For the perspective of the Commons, it is, therefore, necessary to manage all-natural resources, without exception, at the local level according to their global significance as the common heritage of humanity –if we want to preserve them as the essential foundation of life on Earth for future generations.³

Nature as biosphere is not subject to appropriation because it provides the basis for our life and that of future generations (as well as that of many other beings with whom we cohabit). The wishful thinking (and possibly political

¹ Alexa K. Lutzenberger, Franciska Lichter and Sara Holzgreve “Natural Resources as Common Goods”, in *Sustainable Development and Resource Productivity*, ed. Harry Lehman (London: Routledge, 2020), 207.

² Lutzenberger, Lichter and Holzgreve, “Natural Resources as Common Goods”, 209.

³ Lutzenberger, Lichter, and Holzgreve, “Natural Resources as Common Goods”, 209.

naivety) underlying our approach is not lost on us. The fact that any such governance and management system would require close international cooperation in a context of fierce competition for resources is not trivial. However, practical difficulties have never stopped philosophy from imagining desirable horizons and how to bring them closer to reality. Put differently, philosophy has never stepped away from imagining what the great sociologist Erik Olin Wright called *real utopias*.¹

In recent years, different Latin American countries have begun to enshrine a communitarian approach to natural goods or resources in their legislation. In this sense, they can serve as inspiration. Ecuador's 2008 Constitution establishes in article 71 that "Nature, or Pacha Mama, where life is reproduced and occurs, has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes".² The Ecuadorian Constitution not only recognizes nature's right to have its existence respected, but also states that any affected person is entitled to demand its protection: "All persons, communities, peoples and nations can call upon public authorities to enforce the rights of nature. To enforce and interpret these rights, the principles set forth in the Constitution shall be observed, as appropriate". Thus, Ecuadorian legislation includes in this regard any person, at least potentially, regardless of their nationality. In this way, the right of nature established in article 71 can be asserted, in Fraser's terms, by any "affected subject".³ All of them are recognized as having a legitimate interest in nature's protection. On the other hand, articles 72 and 73 also provide that "Nature has the right to be restored. This restoration shall be apart from the obligation of the State and natural persons or legal entities to compensate individuals and communities that depend on affected natural systems". In this regard, "the State shall apply preventive and restrictive measures on activities that might lead to the extinction of species, the destruction of ecosystems and the permanent alteration of natural cycles". The interesting thing about the new Ecuadorian constitution, therefore, is not only that the State must guarantee na-

¹ Erik O. Wright, *Envisioning Real Utopias* (London: Verso, 2010).

² Constitution of the Republic of Ecuador. Available at https://www.oas.org/juridico/pdfs/mesicic4_ecu_const.pdf.

³ Nancy Fraser, "Re-framing Justice in a Globalizing World", *New Left Review* 36 (2005): 69-88.

ture's rights, but that any individual is entitled to demand its fulfillment—and, to a certain extent, to become its protector.

As Argentinian lawyer Alicia Morales Lamberti has pointed out,¹ there are plenty more examples of protection of natural resources within the framework of the commons and intergenerational justice. The ecological paradigm of nature protection is enshrined in article 5 of Bolivian Act 71 on the Rights of Mother Earth, of December 10, 2010:

For the purpose of protecting and enforcing its rights, Mother Earth takes on the character of collective public interest. Mother Earth and all its components, including human communities, are entitled to all the inherent rights recognized in this Law. The exercise of the rights of Mother Earth will take into account the specificities and particularities of its various components. The rights under this Act shall not limit the existence of other rights of Mother Earth.²

Both the Bolivian legislation and the Ecuadorian constitution recognize nature as a subject of rights and in relation to the common interest that it represents not for the benefit of humans, but for all living beings that inhabit it. Nature, or Mother Earth, appears

as a vital indivisible community of interdependent and interrelated beings with a common destiny (...). Mother Earth is a unique, indivisible, self-regulating community of interrelated beings that sustains, contains and reproduces all the beings that compose it, and each being is defined by its relationships as an integral part of Mother Earth.³

From this perspective, nature and its resources cannot be subject to appropriation. Their destiny cannot be decided taking into account only one of the living beings (humans), but must take into consideration all present, past and future living beings.

The Anthropocene or Capitalocene presents us with some theoretical and practical challenges that should not be neglected. We must urgently address the

¹ Alicia Morales Lamberti, "Derechos de la Naturaleza y justicia ecológica intergeneracional", *PROMETEICA, Revista de Filosofía y Ciencias* 18 (2019): 13-23.

² Act No. 71 – Act on the Rights of Mother Earth. Available at <https://faolex.fao.org/docs/pdf/bol144985.pdf>.

³ Morales Lamberti, "Derecho de la Naturaleza y justicia ecológica intergeneracional", 21.

ongoing squandering of natural resources on which our lives depend. The profound damage already inflicted on nature (understood as biosphere) may not be reversed. We have tried to show that the ownership of a good does not imply its protection, since it can be taken care of for short-term or self-interested reasons. Natural goods require a new legal framework that ensures their protection and takes into account the interests of a global and intergenerational community. Proposals for intergenerational justice provide a reference to establish nature's rights "under the principle of diachronic egalitarianism".¹

The natural resources and biophysical limits of the planet demand a legal-political formulation of the commons. As opposed to private property (*dominium*), which confers an absolute power of exploitation to the owner (*dominus*) and analogous State sovereignty (*imperium*), the commons require a particular form of governance articulated through the notion of use. In this context, the commons—as goods that are "beyond private and public"²—displace sovereignty and property. They are rooted on the categories of use and accessibility. Precisely this focus on use and access becomes fundamental in the context of the global socioecological crisis presented in the first section. If the needs of a human population take precedence over the wants of any other (according to David Braybrooke's principle of precedence),³ it seems clear that access to the global commons should receive special protection. Otherwise, we would continue to use nature (in its sense as biosphere) "as if we were the last generation to inhabit the Earth".⁴



¹ Giuliano Pontara, *Ética y generaciones futuras*, trans. Isabel Riera (Barcelona: Ariel, 1996), 106.

² Michael Hardt and Antonio Negri, *Comune. Oltre il privato e il pubblico*, trans. Alessandro Pandolfi (Milano: Rizzoli, 2010).

³ David Braybrooke, *Meeting Needs* (Princeton: Princeton University Press, 1987), 60.

⁴ René Dubos, *¡Un animal tan humano...!*, trans. Manuel Vázquez (Barcelona: Plaza & Janés, 1971), 223.

Conclusions

In these pages we have argued, from an ecological humanities approach, for the relevance of jointly addressing two prominent issues in contemporary moral, political and legal debate: on the one hand, the relationship of our societies with nature as biosphere in the context of the ecological crisis; on the other hand, the paradigm shift regarding the ownership of certain goods within the framework of the commons. Christian Laval and Pierre Dardot recalled that “if the common is to be instituted, it can only be done on the basis of inappropriability, and in no case can it become the object of property”.¹ Thus, we believe that nature understood as biosphere should be inappropriable. In other words, we argue that natural goods, those elements of our ecosystems that are indispensable for our lives, should be conceived fundamentally as common goods. In addition to nature’s rights already enshrined in some legal instruments, as we saw in the third section, it is important to emphasize that the community to which the natural commons refer is a global intergenerational community.²

In this sense, it seems appropriate to recall that the question of intergenerational ecological justice opens a new horizon of thought that escapes from the proprietary logic explained in the second section. It also shapes a new form of philosophical-political imagination. The perspective of the commons, in the light of intergenerational justice, provides a good theoretical framework to think about the finiteness of natural resources and due care of the common. Thus, far from being a “tragedy”, recognizing the inappropriability of nature may be precisely the key to articulate the care of natural resources from a common perspective.



¹ Christian Laval and Pierre Dardot, *Común. Ensayo sobre la revolución en el siglo XXI*, trans. Alfonso Díez (Barcelona: Gedisa, 2015), 271.

² The issue of our responsibility to future generations exceeds the scope of this paper. For a good introduction to the subject, see philosopher Roman Krznaric’s *The Good Ancestor. How to Think Long-Term in a Short-Term World* (London: W.H. Allen, 2021).

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