

URBAN COMMONS' CRITIQUE OF OWNERSHIP INSTITUTIONS

AN INSURRECTION ON THE WAY?

ARTICLE BY
DANIELA FESTA

Global dynamics play out in cities through two dimensions: finance and real estate, both of which have triggered highly varied forms of commodification of urban space. This is not a disembodied process, but rather is embodied through specific and differentiated instruments. Italian examples are significant because of the extent to which they are able to demand new forms of belonging from the various neoliberal proposals, but also in how they push to the forefront the 'common' aspect that already exists in policies.

FR

This article is available in its original language (French) on the Green European Journal website.

**LA CRITIQUE
DES COMMUNS
URBAINS AUX
INSTITUTIONS DE
LA PROPRIÉTÉ :
L'INSURRECTION
QUI VIEN ?**

Les expériences italiennes de la gestion des communs urbains doivent leur intérêt notamment à la capacité qu'elles ont à faire ressortir l'élément de « commun » déjà présent dans les politiques.

In Italy, a process of 'commodification' began in 2011, with national assets (industrial and banking) being sold off, and it continued with the privatisation of local services via the conversion of nationally and municipally owned corporations into capital companies that were sold – either in whole or in part – to private entities. In 2002, the Italian budget called for the dumping of state assets, including cultural heritage. Shortly thereafter, this was extended to the assets of local authorities too.

Cities proved unable to stave off uncontrolled urban expansion or to remain immune to the pressure of big real estate lobbies. The progressive suspension of urban planning regulations triggered the commodification of land: land use plans generally lost their ability to guide urban development in the direction of the general interest, which had an effect on public space as well. Take Rome, for example. A portion of the Villa Borghese has been privatised, and the Colonna Gallery (today Alberto Sordi Gallery), a historic passage, has been turned into a shopping mall. In Florence, whilst Matteo Renzi was Mayor, Ponte Vecchio, in the heart of the historic centre, was let for a private event (2013); and

Piazza Ognissanti for wedding receptions (in 2013 and in 2015). In these instances, public space is rendered inaccessible to the public to fill the coffers of municipal government.

Management of public services (including transport, postal services, and, for a while, even waste collection in Italy) has shifted to a multitude of public-private partnerships, spurred on by European policy. More generally, the public sector and the private sector have moved towards heightened convergence across the board. Public property is now oriented and organised according to what is considered to be the be-all and end-all: private property. Finally, austerity policies in the post-2008 crisis period sparked a whole wave of privatisations, which has affected access to goods and services. This has reduced access for an ever-increasing portion of the urban population, raising the issue of urban commons.

GENERATING SOCIAL VALUE

Cities can both facilitate and hinder the establishment of the commons. On the one hand, diversity and density are fertile ground for rallying people to test new social strategies. On the other hand, the anonymity, indifference, and individualism that characterise urban living can erect significant barriers to ‘commoning’. It is useful to analyse urban commons to contemplate what might contribute to shifting the discourse on cities, and local

and regional areas, in the era of the dissolving nation state. In fact, contrary to the economic theory of access to so-called rival resources as applied to the commons, Garret Hardin and Elinor Ostrom – albeit through two different angles – have shown that the urban commons are actually not in competition and that value (both in economic and social terms) actually increases through intensive use of the good. But what makes a resource *common* in cities?

Observing urban areas tempers idealism from at least two points of view. The city exposes the ambiguity of the commons, which are not really commons, prior to being defined as such. Commons emerge every day in cities, every time individuals make daily efforts to maintain the cultural, ethnic, and social character of their neighbourhood. It is those very same individuals who feel doubly dispossessed by speculation, which inflates real estate prices based on the uniqueness of the neighbourhood that is established and then pushes out the very people who gave the neighbourhood its character. The commons are not simply produced by widespread grassroots cooperation, or by a push for solidarity and emancipation.

In a biopolitical – and not just predatory – logic neoliberalism itself often produces the commons. In Great Britain, so-called ‘Business Improvement Districts’ – managed by a combination of real estate developers and business interests – develop public space

much like an open-air shopping mall. They integrate various living necessities and services, and then facilitate the commodification of the space through the use of video-surveillance systems and unilateral rules, which are deemed necessary to uphold public safety and protect the property. Bicycle-sharing services, which are becoming increasingly widespread in European capitals are another great example. At first glance they appear to be a service for the commons, yet on closer inspection they are revealed to be a fundamental privatisation of urban space: the monopolistic hoarding of advertisement space. The list of ambiguities at play in urban areas goes on and on: from gated communities to shopping malls, the land grab of urban space is running rampant in cities where, faced with community use, the objectives of redistribution are completely absent or declamatory.

In the 1970s and '80s, the issue of the commons seemed closely linked to the scarcity of resources, demographic growth, worsening poverty and were a part of a paradigm of linear progress supported by state-led corrective policies. Beginning in the '90s, an intellectual shift alongside critical and ecological practices began to question the ideal of *homo economicus* at the heart of this theory. It was this ideal which legitimised privatisation as a solution to resource scarcity. Suddenly, it faced opposition through a demand for deep change and the abandonment of neoliberal

dynamics. There was an increased rejection of the mechanisms of enclosure and the dispossession of the commons – tangible and intangible – within the microphysical space of urban and cognitive capitalism. In this way, the commons can be seen as driving a radically counter-hegemonic process, precisely because they lay bare these dynamics of expropriation whilst establishing another paradigm: solidarity and cooperation.

OWNERSHIP VERSUS COLLECTIVE USE

The way in which we conceive of the public sphere sheds light on the way capitalistic and non-capitalistic activities are intertwined in contemporary economies, the latter having been rendered invisible by the dominant discourse. Yet ownership is at the very core of the neoliberal agenda, and when we begin to question it in urban practice, it begins to seem more and more like a set of politically and empirically diversified relationships, and one that can be radically rethought.

Neoliberal urban policies have often portrayed ownership as an emblem of order and stability and for strengthening the role of institutions. Today, however, there is an ever-increasing recognition of the practices of direct management by citizens. Nonetheless, urban commons are not just a response to capitalist accumulation; they are themselves

productive, establishing a new language, new relations, and unexpected encounters between social and individual practices. Urban commons take form from the practices of commoning, not simply through the legal recognition of a good or a place as a commons, though that is a necessary and desired step. They do not merely reflect a set of defensive space use practices.

The *Ex-Asilo Filangieri* in Naples illustrates how the rhetoric of the social function of ownership is put to use to deconstruct the dichotomy of public as opposed to private ownership. After three years of discussion and experiments within the community, the *Declaration of civic and collective use of the Asilo* was drafted. The *Asilo* is a historic preservation building that had essentially been abandoned. It was registered administratively by the city of Naples and the community for whom it is a commons is an informal community of ‘intangible workers’. Its orientation is strictly focused on accessibility, collective use, and participative governance so that the urban commons does not retreat back within the confines of belonging to a specific community or becoming seeped in a dynamic of dichotomy between those governing and those who benefit. The commons thereby becomes a non-static entity: it is more a verb which defines a way of governing and access, than a place or an asset.

The *Rodotà Commission* in Italy was crucial in defining the commons as “goods that are an expression of functional utility in exercising fundamental rights and the free development of the individual.” Charged with drafting new legislation on public property from 2007 to 2008, the Rodotà Ministerial Commission was the first to provide a legal definition of ‘the commons’. The Commission listed natural resources, including the air, rivers, lakes, forests, fauna, natural preservation areas and cultural goods commons, as commons that must not be subject to the market and must remain accessible to all. Rodotà makes clear that the essential point is not who has

URBAN
COMMONS
ARE NOT JUST
A RESPONSE
TO CAPITALIST
ACCUMULATION;
THEY ARE
THEMSELVES
PRODUCTIVE

ownership but who is involved in the management and given access – how stakeholders are involved in the major decisions that affect them. Commons are indispensable for the market; an instrument for advancing citizens' rights; and belong to everyone. Therefore, an important distinction is made between the appropriation of public space and access to use, with precedence being given to the latter. There was no legislative follow-up to this, but nonetheless, the draft bill fed greatly into debate and citizen action in Italy.

The subject of the commons does not just relate to a necessary restructuring of property rights. It also questions contractual relations and obligations between subjects for the realisation of some common interests. Practices have emerged that reinvent social institutions in a very original way – i.e. devoid of nostalgia. Urban commons are heterogeneous – non-predetermined, but organically established – communities, dynamic social institutions with the purpose of expanding citizenship, rather than restricting it to a certain land or blood community. Urban commons are accumulations that are passed on to us and processes in which we participate directly and productively as residents. We are simultaneously stakeholders and guarantors.

WE ARE SIMULTANEOUSLY
STAKEHOLDERS AND
GUARANTORS

In cities we observe that relationships with premises are circular and reciprocal: a place, such as a theatre or a garden, is defined by those who appropriate it and care for it through complementary practices and vice versa. This reciprocity is not contained within a select closed community. This dynamic of openness and fluidity is a major factor in concrete experiments pertaining to the commons. Several municipal charters on commons have included articles that encourage the establishment of institutions (foundations but also entities such as a *Community Land Trust* to manage community housing) which have general objectives and third party beneficiaries that do not include those who initially agreed to their establishment. It is more of a sea of institutions than a land of property.

A CONCEPT GAINING GROUND ACROSS ITALY

The Rodotà Commission's draft launched the debate on the commons. Since, further examples of 'commoning' have emerged, following the extraordinary success of the referendum on the privatisation of water in 2011 (26 million votes cast). The concept of the *urban commons* (i.e., urban goods and places such as roads, gardens, theatres, cinemas, libraries, etc. that constitute fundamental "resources" for the res-

idents of the city) was integrated into the Italian legal code through a regulation adopted by the City of Bologna and through several decisions taken by the City of Naples. Since then, a more homogenous charter of urban commons has been disseminated in Italy and promoted by Labsus¹. The charter focuses on “citizen-administrated collaboration for the maintenance and regeneration of urban common goods.”

These regulations apply to tangible, intangible, and digital goods that belong to the public sector. The following are promoted: maintenance and participative regeneration of goods “by the citizens and administration, through participatory and deliberative procedures, meeting individual and collective well-being, acting [...] to share responsibility with the administration for the maintenance and refurbishment to improve collective use.” The last word refers to the public authorities that have the power to unilaterally exclude certain goods, but even informal collectives can present recommendations, recognising the common value of a good and offering to care for it.

‘Collaboration pacts’ regulate the activities that ‘active citizens’ develop in concert with the government, which retains its role of selection and coordination. Citizens are asked to intervene directly where local institutions are

unable to provide urban services, because of budgetary constraints or risk of default. The philosophy of these relatively new rules of procedure is based more on a top down interpretation of subsidiarity than on a horizontal one. Powers are delegated to local and citizen institutions with a view to strike a strong practical responsibility into citizens, without questioning the traditional mechanisms of power and decision-making distribution.

This rules of procedure model has been progressively adopted by several cities with different adaptations (77 municipalities have already adopted similar arrangements and a significant number are currently discussing them). The Chieri (Turin) rules of procedure stray significantly from the idea of “participation in government and in maintenance of common goods.” In this case, the text defends a more egalitarian relationship between institutions and citizens with the goal of facilitating participation in the management, not just in the upkeep. The term ‘active citizen’ is replaced by ‘autonomous subject’ or ‘civic community’. A model for ‘urban commons management’ negotiated between the local authorities and citizens is also being disseminated via a measure in an Italian decree called the *Sblocca Italia* law. It bestows the management of a good to citizens who are committed to ensuring its use in a manner consistent with the general inter-

1 <http://www.labsus.org>

THE END RESULT
OF THE URBAN
COMMONS
WILL DEPEND
ON THE ABILITY
OF URBAN
STAKEHOLDERS
TO MAKE
CONSCIOUS,
AND
PRAGMATIC USE
OUT OF THEM

est. Tax incentives are offered. A particularly interesting aspect is the inclusion of provisions for citizen plans for the re-use or recuperation of premises, not just upkeep. The prospect of debt forgiveness may give the misleading impression that participation in commons is an exchange, a consequence of tax debt, but this would be far from – even diametrically opposed – to the idea of emancipation that underpins the re-appropriation of the commons.

Applying the rules of procedure that have already been tested in Italian cities, in such a way as to focus too heavily on a culture of administration, may risk “relativising the state,” specifically in the Italian context where, along with the state, the local authorities are the embodiment of the traditional institutions. If subsidiarity were to be enacted with few resources being transferred, with no accompanying decision-making power or ability to bring cases before the courts, this would create a situation of great asymmetry in the division of powers. Therefore, it is important to establish the right tools to enhance the role of those involved in the management of the urban commons and to place them at the heart of decision-making. The end result of the urban commons will depend on the political will of the local authorities, but also on the ability of urban stakeholders to make conscious, sound, and pragmatic use out of them.

ADAPTING THE CONCEPT OF URBAN COMMONS THROUGHOUT EUROPE

The commons have developed in close contact with similar international networks of experiments in the area. At the outset, over the course of the last 20 years, this was essentially an underground movement of environmental and anti-globalisation movements. The commons cannot be apprehended as a strictly domestic phenomenon. European and political figures must focus their work today on supporting the exchange of best practices and know-how in ‘commoning’, by favouring ‘translation’ and ‘federation’.

Translation, in this case, wouldn't be done by a neutral third party (the translator). Rather, it should be a process that is driven by coalitions of stakeholders who understand the tactical potential of using tried and tested models that have, in some instances, already been adopted by the bravest institutions. To work, this will require a dynamic of federation with a constant back and forth amongst those who have already tested the model to make sure all feel empowered.

This constitutes a strong starting point for embarking on the path, once again, towards a Europe of commons; a Europe able to undertake the transition to using a management and governance model which is alternative, sustainable, and participatory and which enhances the social imagination already at work in the pluralism of commons. All the while, of course, upholding the safeguards necessary to prevent the risk of undermining this, through making purely formal adaptations that – above and beyond declamations – do not meet the need to re-evaluate decision-making and power sharing models and the access to resources and rights.



DANIELA FESTA

is a lawyer, social geographer, and activist. She has a PhD degree in urban and social geography and Post-Doctoral Fellowship in social sciences (EHESS), Paris. She recently joined an European Research Council project at Sciences-Po (Paris) on "inclusive properties". Her main research themes are urban movements and projects, active citizenship, and participatory democracy.