

TRUSTEESHIP OF COMMON WEALTH

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Let me start by putting out a formula that underlies my thinking:

Corporations + Commons = Capitalism 3.0.

This formula summarizes what I am getting at when I talk about our current economic operating system, which I call Capitalism 2.0. This operating system has many tragic flaws. The three biggest are: it destroys nature, it widens inequality, and it really doesn't make anybody happy.

I looked at a graph of surveys of happiness in the US and it really hasn't gone up in the last 50 years. It makes you wonder what the last \$20 trillion in GDP was good for – not much. This is assuming that happiness is the point of it all, which of course economists don't do.

The topic that I picked for tonight is trusteeship and, in particular, trusteeship of common wealth. Current discussions about the commons involve defining a set of assets that have special characteristics, and then treating these assets differently from the way corporations treats their assets.

What do I include in 'the commons'? The commons is like a river with three forks: nature, culture, and community. These are loose labels and there are millions of pieces contained within them. Nature includes air, water, biodiversity and so forth. These are all gifts we collectively inherit from creation. We didn't make them. They are just here for us. One of the fundamental bases of the

notion of trusteeship is that, if we receive these gifts from creation, we have a moral obligation to pass them on to the next generation in at least the same condition as we received them. Each generation has this responsibility. There's an Edmund Burke quote that every generation has a contract with its preceding and its subsequent generation. I think of it as a real contract, and we have to collectively start thinking of it as a real contract. The trusteeship function is about fulfilling this contract with the coming generation.

The cultural commons is a label for the gifts of knowledge, art, science, philosophy, mathematics and so on – all the things universities are about. And community commons include a potpourri of things from the neighborhood playground to the Internet to Social Security, which are ways of binding people together. It's our 'we-ness' as opposed to our individual selves.

All of this represents the commons. But I want to make an important distinction here between commons that just *are*, that have been given to us like the air, and *organized* commons that we as humans consciously create. We have an asset base out there that has been given to us. Right now that asset base is unorganized, essentially. It's just there. Nobody has title to it. Nobody runs it or manages it and, ergo, its price is zero and, ergo, corporations take from it at will. That's really the root of the problem, that these commons are unorganized and unprotected. The task for the 21st century is to organize some of these unorganized commons which are being destroyed by corporations with help from the state.

Two things corporations do extremely well are, first, to *enclose* – which means to privatize or take whatever they can take from the commons, whether

it's broadcast spectrum or minerals or even our minds; and second, to *externalize*, which is the inverse. Enclosure is taking good stuff out of the unorganized commons, and externalizing is dumping bad stuff into the unorganized commons. It's sort of a double whammy attack from the corporate sector, which is gobbling the commons up.

Corporations seeking to maximize profit have no ability to stop doing what they are doing. That's what used to be called 'the tragedy of the commons,' only it's really the tragedy of the corporate calculus which says, "There's something out there and I better get it because if I don't, somebody else will get it first." The problem is not that the commons is inherently self-destructive; the problem is that the commons is undefended and vulnerable to predatory corporations. But we *can* manage commons if we set up the right structures. That's where I'm going with this tonight.

Ideally, what the state should be doing is creating a balance between corporations on the one hand and organized commons on the other. Of course, the state is *not* doing that at the moment, but that's what we should be aiming for. We should be building up the commons sector, organizing assets that belong to us morally and theoretically, but don't yet belong to us legally and economically. We should be reclaiming them so that our ownership of them is clear and corporations can't just grab them. We should wind up with a system where, if a corporation wants to take from, or dump into, a commons, it can't just do so. It would have to negotiate with a trust that owns the commons on behalf of future generations and all living citizens equally.

The simplest example of this is the sky. Under a system of commons trusteeship, corporations wouldn't be able to pollute the air the way they do now. The air would be managed by a trust and corporations would have to buy permits to dump their waste into it. So what was previously just a freebie for corporations, with the costs being externalized to pollutees and future generations and other species, would no longer be a freebie. Furthermore, the total amount of pollution would be set by the trust at a level that protects future generations.

So how do we organize the commons? How do we fulfill our collective responsibility to future generations to pass on our shared inheritances?

Trusts are a legal form. They are a legal fiction, if you will, just as corporations are a legal fiction, only the trust fiction has a different purpose from the corporation fiction. The purpose of a trust is to preserve assets for beneficiaries. For example, let's say you are a wealthy parent and you want to pass on some of your wealth to your children or grandchildren. What do you do? You call a lawyer and say, "Create a trust." You appoint someone as trustee, who will take the assets you want preserved and manage them on behalf of the people you want to receive them, the beneficiaries. The job of this trustee is to be one hundred percent loyal to the beneficiaries. There's nothing in it besides a management fee for the trustee.

There's a whole history – legal cases, common law and so on – about the responsibilities of trustees and how they can't deviate from their loyalty to beneficiaries and if they do deviate, the beneficiary can sue. That's the remedy built into the system.

So here we have a model that exists and organizations like the Nature Conservancy have taken this model and applied it to particular pieces of nature. Sometimes they acquire 100 percent ownership of a property and hold it in trust, and sometimes they acquire easements, which are sort of half-property rights that allow private owners to still own the land but let the trust own the development rights. It's cheaper to buy the development rights than to buy the entire property so there's a lot to be said for that sort of structure.

So we have examples of trusts that are in the business of preserving bits and pieces of nature, and that's the model I want to expand. I want to expand it into a system that has a lot of trusts in charge of a lot of nature, and especially the most critical ecosystems like the atmosphere. These trusts would own property rights and be the balance to corporations.

It's important to understand that trusteeship is different from stewardship. Stewardship, like sustainability, is a nice-sounding word that doesn't mean much. There are no standards, no accountability. Trusteeship is different. It's very explicit. It's built into the legal DNA of our society. If you are a trustee, you can be held accountable. You have a specific management objective, which is to preserve an asset on behalf of somebody else, and if you don't do that you are legally liable. It's a lot tighter than being a steward.

Let me back up here and ask, Why go to all this trouble of building a new commons sector with these new institutions? Why not just stick with what we have, corporations and government?

I have thought about this for a long time. I grew up as a New Deal liberal who thought that government was the answer to most of our problems. But then I came to realize something that is hard for many people to accept. We have two experiments going on in our country at the same time. We have democracy, experiment number one, and we have capitalism, experiment number two. They're both running simultaneously and they affect each other. How do they affect each other? After two hundred years, the answer is pretty clear: capitalism distorts democracy more than the other way around.

If you really analyze government in America, it's accountable to two stakeholders: the people and corporations who give politicians money, and voters. You can argue about who has more influence between the two. I believe the money-givers do, but either way, both money-givers and voters have one thing in common: they both want rewards now. Thus, government is not really set up to be responsible to future generations. That is a fundamental flaw of both government and corporations. That's why we need a third sector. We need a sector that's different from the two we have right now, both of which have very short time horizons and are essentially responsive to existing wealth holders.

There are brief moments, openings if you will, when the dominance of existing wealth holders recedes temporarily, but the rest of the time corporations and their owners pretty much run government. We might wish it to be otherwise, but that's the way it is. And if that's the way it is, we need a strategy that fits that reality.

I think the strategy should be this: use the next political opening – the next hiatus in corporate dominance – to build the commons sector; that is, to build institutions that, once set up, will be able to protect our common wealth because they have the property rights and governance structures to do so. Government must be involved in the creation of that sector because it requires property rights, and the job of government is to allocate property rights. The government can, for example, assign broadcast spectrum to Rupert Murdoch or to public broadcasters, just as it can assign pollution rights to corporate polluters or to trusts accountable to future generations and living citizens equally.

So if we have a political opening sometime in the 21st century, as I believe we will, we should use that opening wisely. Knowing that the opening is going to be brief, we should use it to create organized commons that have their own property rights, their own self-governance, and their own stakeholders. Once they are up and running, they'll be as self-perpetuating as corporations, and if corporations take over the government again, that's all right.

One of the key pieces of an organized commons sector would be what I'd call the American Permanent Fund. It would be modeled after the Alaska Permanent Fund, which since the 1980s has paid equal yearly dividends to every Alaskan, derived from state oil revenue. Like the Alaska Fund, the American Permanent Fund would pay dividends one person, one share. Of course, it would be nationwide, rather than just one state.

Where would the dividends come from? Not from oil underground, but from the sky above. They would come from limiting pollution, cranking down carbon

emissions to a safe level, and auctioning these dwindling emission rights rather than giving them free to polluters. The Permanent Fund could have other revenue sources as well, but that would be the main one for a while.

Once people started getting their dividend checks, they would like that and want to see more, which is kind of how Social Security grew. It started small with a one percent payroll tax, and the first benefit check was something like \$40. But once people saw how the system worked, they liked it and it grew.

That's how I see the commons sector growing. We have a political opening. We set up a system. It may start small. The important thing is to set it up right so the ownership and property rights are locked in. Then money starts to flow through these new pipes, and the more money that flows through them, the more equity we create. And what's really nice is that we get that equity, that equality, not by drilling for oil, but by protecting the planet for future generations.

As I said at the beginning, our current system of capitalism is extremely unequal. The latest study shows that the top five percent has more wealth than the bottom ninety-five percent. And the system is designed so that more wealth flows to the owners of old wealth. The pipes in the commons sector would offset this. The more money we have flowing through these pipes, the more equality we'd get. That's the long-term vision. That's what I call Capitalism 3.0.

Under Capitalism 3.0, we're still going to have corporations. And of course we're going to have government. But we're adding something new. We're organizing what already belongs to us. We're taking an active role as trustees. That's the notion of trusteeship of common wealth.

Times have changed, and so must our thinking. Two hundred years ago, when Americans were thinking about democracy and freedom, there wasn't this problem of corporations running over the planet. It wasn't something Adam Smith or Madison or Jefferson even dreamed about, because there were just a handful of corporations at the time. When the Founders designed a system of checks and balances, there wasn't any need for trusteeship. Now there is a desperate need.

We have to create new institutions that are appropriate for the 21st century. The commons trust is a scalable model. It can work locally, regionally – for example, in the northeast Greenhouse Gas Initiative – and nationally. It can even work globally, but that's another lecture. ■