

COLLABORATIVE CONTROL AND THE COMMONS: SAFEGUARDING EMPLOYEE RIGHTS

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Abstract: The logic of the commons is applied to the U.S. labor pool. It is argued that the labor pool is an "active" commons, a commons in which the resource as well as the users of the resource can change voluntarily. For this commons to be tended properly, technical solutions are ineffective and inappropriate; both employer and employee must have trust in the mechanisms that tie them together. Collaborative control is given as a possible framework for making the morality shift necessary to avoid ultimate tragedy.

As humanity has evolved into a complex, technological, resource-consuming global village, certain ideas have gained credence. One of those is that natural resources are finite, that we must become stewards, not exploiters, of the world in which we live. Our understanding of the interdependent nature of global community has been enhanced by the tradition of the *commons*—a shared, finite resource set that we must husband carefully and with respect both for our fellow as well as future users of the commons.

While the limited complexion of rocks, fields, and plains has routinely been acknowledged, *labor* has less often been understood as one such critical resource. It is our contention that we must look at the labor pool as a commons and manage it for the better of all; otherwise we face what the prime exponent of the idea of the commons describes as "ruin to all" (Hardin, 1968, p. 1244).

The Commons

The reader is likely familiar with Garrett Hardin's 1968 article "The Tragedy of the Commons" that details the consequences of granting individuals equal and unrestricted access to communal resources. Hardin describes what a commons is and what effects come from acting as rational (that is, utility-maximizing), self-interested humans with respect to a commons. Each rational user will increase his or her use of resources, gaining all the benefits but suffering only a portion of the harms. Soon the resources will be depleted, and all the users will be ruined.

Hardin asserts that the problem of the commons is one that has no *technical* solution. He defines a technical solution as one that involves only "the techniques of the natural sciences, demanding little or nothing in the way of change in human values or ideas of morality" (Hardin, 1968, p. 1243). The problem of the commons has no technical solution because nothing can increase the size of the commons. Sooner or later, the commons must reach the point where it can handle no more users.

Hardin's reasoning runs counter to the Adam Smith-inspired notion of the "invisible hand," the idea that self-interested actions ultimately—if unintendedly—benefit society. The economists' claim is that the self-interest of producers and purchasers can be relied upon to bring supply and demand into equilibrium, thereby minimizing costs and accomplishing the most efficient allocation of resources. But within the environment of the commons the invisible hand no longer can make everything "right"; in fact, market mechanisms themselves are what eventually bring ruin upon the users of the commons. The law of unintended consequences still holds, but the consequences of giving free rein to self-interest are bad, not good.

What does Hardin recommend as a solution to the problem of the commons? Barring technical remedies, which increase the supply of the scarce resource, the only way to solve the problem of the commons is to change the morality of those using it—thus reducing the demand for the scarce resource. However, after noting that private—as opposed to collective—property ownership averts the problem (a solution not always possible), Hardin maintains that appeals to conscience will not work either, because conscience "is self-eliminating" (Hardin, 1968, p. 1246). The argument here is based on natural selection. Those with a social conscience will refrain from engaging in self-interested behavior. But those without a conscience will engage in such behavior—and gain the immediate personal advantages of so doing. Those with a conscience will eventually die the death of the sacrificial lamb—content in the knowledge that their selfless acts eased the problem of the commons for a season. But as those without a conscience become the surviving majority the problem of the commons can be expected to surface with renewed vigor—a vigor untempered by the selflessness of those now-extinct persons of conscience.

Given the failure of appeals to conscience, the only solution Hardin finds is coercion—not the kind of coercion that comes to mind when the word is spoken, of broken kneecaps or oppressive officials, but "mutual coercion, mutually agreed upon by the majority of the people affected" (Hardin, 1968, p. 1247). Hardin admits that no one likes coercion or should enjoy it; he just feels that we must live with it. He also admits that such a system would probably not lead to perfect procedural justice—but, he says, "Injustice is preferable to total ruin" (Hardin, 1968, p. 1247). Reforms must come; the choice we face is not between action and no action, but between action leading to hope (reform) and action inevitably leading to ruin (the status quo). While this solution leads to a restriction in personal liberty, it enhances the "goodness" of society by freeing it from the doom brought upon it by the logic of the commons. Hardin writes, "As the human population has increased, the commons has had to be abandoned in one aspect after another" (1968, p. 1248).

The Resource of Labor

The labor pool has generally been considered both a renewable as well as an expanding resource, and therefore not subject to the logic of the commons.

However, the U.S. labor force experienced a sharp decrease in growth during the 1980s. During the 1960s and 1970s the labor force grew at an average of between 2 and 3 percent per year. The 1980s saw that increase drop to about 1.5 percent per year, as the peak of the Baby Boom was already in the pool by 1980. One could forecast many different scenarios for labor-force growth for the 1990s, but the most likely one is for continued slowing of growth, probably to a rate of about 1 percent per year. This rate would be lower than at any time since the Depression years of the 1930s. A lower growth rate than that could be the lowest ever experienced in this country (Johnston & Packer, 1987, p. 78).

But it may not be the lowest we shall see. The "Baby Bust" that followed the Baby Boom will be revealed in the decreasing numbers of young workers in the 1990s. This trend can be expected to turn around somewhat by the end of the decade, but fewer numbers of young workers and the aging of the labor pool are forces firms will need to deal with for some time to come (Redwood, 1990, p. 78).

And the labor force will have a different composition in the future than it does now. Much of the growth in the labor force for the foreseeable future will come not from white males but from women and minorities. Historically, these groups have been denied equal access to education—particularly in crucial areas such as math and science. With the increasingly technical nature of many jobs, self-interested firms will find themselves bidding up the salaries of the available pool of technically trained workers and committing resources to educating existing workers—all in an effort to expand a labor pool now recognized as subject to the law of the commons.

The Resource of Labor and Technical Solutions

A technical solution for the decreasing growth rate—and eventual decline—of the size of the U.S. labor pool would arise if total demand for goods and services decreased as a result of a stable population. However, given the overwhelming evidence in favor of the acquisitive nature of humans, we are not optimistic that this situation will arise.

Another technical solution is possible if one assumes that no limits will arise on the productivity and efficiency increases gained through the use of technology. If technology can replace humans forever, until humans are no longer necessary for work to be accomplished, then any discussion of the labor pool becomes irrelevant. Other conversations, such as how to ensure the continued survival of the human race, must occur.

We believe that this assumption is not valid. Technology *can* help alleviate the problem of the commons by reducing the amount of labor required by the firm. The question becomes for how long this solution will hold. It could hold for months, years, even decades. However, we believe technology will never completely replace humans in the work force. Technology must be implemented. For the foreseeable future we will have humans running machines; even in the fully automated factory humans must be involved in marketing, scheduling, inventory

acquisition, and so forth. We believe this involvement by humans will continue, that technology will not replace human labor completely at any time.

Increased productivity could also provide a technical solution. One person working harder and better can produce what two people could produce at the old productivity level, goes the argument. However, there will come a time when the human can only move his or her hands and feet so fast, the limits of human potential will have been eclipsed, and productivity growth for unaided humans wanes. Apparently the human machine is as subject to the law of diminishing returns as are other productive systems.

Similarly, layoffs—no matter the reason for them—increase the size of the available labor pool, lessening the problem of the commons in the short term. But, again, layoffs do not present a long-term solution. Those laid off either find jobs with other firms or become discouraged and drop out of the labor force and onto the welfare rolls. Either way, the pool of available labor decreases, and the noose of the commons tightens.

If the supply of humans is a barrier to progress, why, one might ask, don't we simply find more humans? The current inquiry has focused upon the U.S. labor force, but it is certainly no secret that many companies have had facilities outside U.S. borders for many years. Will this not solve our problems? Through foreign production the boundaries of our own labor pool are indeed extended. As mentioned earlier, we are far from using up the available supply of labor. But no, the labor pool still is not infinite.

In fact, the labor pool outside the U.S. is increasingly guided by the same basic demographic forces at work inside the U.S. Host countries that have proven themselves most attractive to U.S. companies for offshore production have consistently benefited from large low-cost labor pools. As such countries have developed, they have adopted free-market economies—economies that rely upon self-interest for their successful operation. As self-interest becomes the predominant moral quality within such societies, individuals tend to delay marrying, to delay having children, and to have smaller families. The "four Tigers"—Hong Kong, Singapore, South Korea, and Taiwan—have all experienced this pattern; can one expect the next set of newly industrialized countries to be any different? We think not. And even if they are different, population growth cannot continue *ad infinitum* unchecked; the ecosystem itself regulates the number of biological inhabitants it can support through natural means.

The Resource of Labor and Self-Interest

Whatever the socioeconomic system within which they interplay, employers and employees have been guided by self-interest in their interactions for years, decades, even centuries (Schwartz, 1986). Because historically the balance of power has been in the employers' favor, they have tended to not give employees all the rights due to humans—rights such as those enunciated by Donaldson (1989, 1991). This tendency culminated in this country in the sweat shops and factories of the late 1800s.

As employees recognized that their lives were not improving, that working conditions, pay, and other aspects of their work lives led to not the good life but a life in some respects not worth living, they began to take action. That action typically was to join together in a "union"; the reasoning was that together the workers could gain more power than they had separately, enough power to stand up to the company. Thus was born the adversarial labor-management relationship the United States "enjoys" today, the fruit of acting with high regard for self-interest and low regard for societal interests.

And this relationship worked well enough for awhile. Productivity increased by leaps and bounds; labor asked for more money and more benefits; companies, swelled by the (inevitably) short-lived world market domination the United States experienced in the 1950s, were willing to give in to keep getting that increase in productivity. Profits, it must have seemed at the time, would always take care of those increasing costs. Those heady days have come back to haunt us.

The increasing number of mergers and acquisitions only exacerbated the problem. When our labor force was increasing by 2-3 percent per year, companies found it easy to deal with a problem employee by firing him or her; there were plenty of other people either already in the labor force or entering it to choose from. On the other side, unless an employee was in a highly technical job in a very small industry, there were plenty of companies to choose from when taking a job. If an employee was not happy, he or she could always change companies, even change regions with the increased mobility of those times.

Now, however, companies have a decreasing number of new entrants to choose from; fewer people are necessarily looking for work. And the merger boom of the 1980s, combined with industry shake-outs, has left a fewer number of companies for the employee to work for (Coffee et al., 1988, pp. 105, 118n, 129n). A company might go outside U.S. borders for workers; an employee might start his or her own business; but the problem is merely postponed, not eliminated. And for technical jobs, jobs that require some type of advanced training, the market which companies can tap is even more limited, as many of the countries that can provide cheap labor cannot provide technically trained workers.

The disaster brought upon by the logic of the commons may not come for a long time. Besides technology increases, we are nowhere near exhausting the available labor on the planet. However, it is our firm belief that the disaster will come if changes do not occur. If disaster is inevitable without changes, no matter when that disaster will occur, is it not the proper to make the changes that will prevent disaster sooner rather than later? We believe it is proper to implement change now rather than waiting until the disaster is indeed upon us.

The Labor Pool as an "Active" Commons

It certainly looks as though we have a problem of the commons with regard to employee-employer relations. We have limited resources; we have self-inter-

ested actors who can use up the resource; and we have a situation that no technical solution can cure. Egocentric goals and social goals are incongruous. But there are two crucial differences between a field of grass and a pool of labor. First, unlike the common grazing area, labor is not free to the employer. However, it is a limited resource, there is a power imbalance in favor of the employer that causes labor to be undervalued, and thus the benefits associated with the hoarding of that resource outweigh the costs associated with its hoarding. Second, the field is *passive*. It does not possess the ability to get up and walk out when it is being misused. It cannot negotiate better terms. A commons of humans can do so. Does this make the labor pool not a problem of the commons?

It is our contention that the labor pool *is* a problem of the commons, but one of a different complexion—an “active” commons. The problem must still be solved by a shift in morality. In the typical commons problem, this morality shift must happen in one group of people. For example, the herdsmen using the field must decide, through one mechanism or another, that they will not act as much in their own self-interests as before, that they will take societal good into account when deciding how many cows to keep in their herds.

An active commons requires a shift in morality in two groups of people. With the labor pool, these two groups would be the labor pool itself, as the resource, and the people who employ them, as the users of the resource. Both sides of the labor-management equation have acted in their self-interests. It is this ferment of self-interests that has given us the labor-management problems we now have. And it will take a shift in morality for these problems to lessen. Action on one side will not solve the problem. This shift in morality must be away from self-interest and toward the good of society. As Adam Smith said, “The wise and virtuous man is at all times willing that his own private interest should be sacrificed to the public interest of his own particular order or society” (1976, p. 235). Moral imperatives aside, enlightened self-interest demands that due consideration be given to the effects of individual action upon community. Just as it is in no one’s interest for the commons to be depleted, it is in neither the employee’s nor the employer’s interest for the labor pool to be exploited. The virtue of self-interest—whose demands result in the ultimate ruin of the commons—must be tempered with considerations of justice and benevolence if community is to be preserved (Collins, 1988, pp. 122-130). And community *must* be preserved, for without it not only our collective being but our personal identities are silenced. As the “active” commons comprises fellow members of our own community, its destruction effects much more than the loss of an irreplaceable resource; ruination extends to our very spirit.

Morality in Labor-Management Relations

But, one might argue, why do we need this morality shift? The current system, if not representing the best of *all* worlds, seems to represent the best of all *possible* worlds. That may be true now, but it is demonstrably not true if the status quo is maintained, if the actions currently taken continue to be taken.

If employers consistently act in their self-interest, they will continue to demand wage and benefit concessions from their workers, or lay off workers, or move plants away from troubled sites. These increasingly mobile workers will become even more discontented, and will be well equipped to look for work elsewhere; in fact, those workers possessing technical skills are likely to be in heavy demand. Even the unskilled foreign workers the company retains in its new offshore plants will eventually become discontented; the freshness of a regular wage will inevitably wear off, and they will want to be treated like humans instead of machines. Productivity will fall commensurate with worker discontent, and the very survival of the firm will be eventually compromised through its self-interested actions. Surviving firms will be left to bid for technical workers and professionals, thus bidding up the price of the qualified workers—similar in fact to what has happened in major league baseball. Soon consumer prices will rise, leading to a lack of competitiveness.

If employees act in their self-interest they will continue to demand wage and benefit increases and job guarantees. Those companies agreeing to such demands will find their costs of doing business increasing too fast, pushing them to the brink of insolvency. Those employees who are most mobile face a loss of a sense of community and family problems. In all of these cases productivity is compromised; firms and employees are hurt; and the nation as a whole becomes less competitive. The status quo is the road to disaster.

Wait, the counterargument might run. Can we not rely on individual conscience to rescue us from eventual tragedy? The answer to that question really depends on one's view of the nature of humans. Evidence already in, however, would argue *against* relying on conscience. While there are some cases of enlightened employers and equally enlightened labor unions, these cases are swallowed in the shadow cast by those employers and unions that insist on defining "good" as that which benefits themselves today—only themselves, and only today. In such an atmosphere, is it any wonder that trust between the groups cannot exist? The only wonder is that it exists anywhere, even in those few corners of light. If appeals to conscience are relied upon, some employers and some employees will follow. But the majority won't, and those who won't gain a short-term competitive advantage that, given Hardin's argument that conscience is recessive, may well spell the end of the enlightened groups.

But can not private property unite self-interest with economic well-being? It is safe to say that we do not want to go back to the system of companies owning employees, as during the dark period of our history when slavery was acceptable practice. But what about the employees owning the corporation? Would this help ease the problem of the commons? It would seem possible, even probable; but again we reach the stumbling block of human nature. Trust is still required within arrangements such as the employee stock-ownership plan (ESOP), and those individuals charged with managing ESOPs may or may not be trustworthy—especially if the same managers who preside over the firm are also in control of the ESOP, as is often the case (Dunn & Daily, 1991, pp. 61-74). It does

not seem that private property offers a complete solution to this problem. But a complete solution is required.

We then come to the only solution left, the one Hardin found himself faced with in his analysis—that of mutual coercion, mutually applied. Again, the coercion spoken of here is not the usual physical force but a set of rules to be followed in an interaction, along with mutually agreed upon and enforced penalties for those who do not follow the rules.

What might this mean in the case of the labor pool commons? Not necessarily prohibition of any behavior, although some would call for an end to union walkouts and no breaking of the employment contract, while others might condemn plant closings and the layoff of employees. We do not have to go that far; at least we should not have to. The idea of mutual coercion is not that any one group—or all groups—should give up *all* their rights. Employers and employees must both possess as well as enjoy the free exercise of rights. But rights imply responsibilities; “when one person has a moral right, some other person or persons have corresponding obligations” (Brandt, as cited in Werhane, 1985, p. 15). Donaldson, in his discussion of international rights, recognizes that these rights entail “specific duties for corporations” (1991, p. 53).

All too often these reciprocal rights and duties have been ignored by one group or the other as the relationship between employees and employers has been cast in adversarial terms. We must change our way of thinking about the labor-management relationship. We must stop using the word “sides” when discussing one group or the other. Employers and employees cannot afford to be on opposing sides of the table. They must come together in the middle of the table without figurative or literal blood being shed. They must put aside self-interest or the commons will be depleted, bringing ultimate ruin to both groups.

For this to occur, the fundamental relationship between employer and employee (meaning anyone who works for the organization, from CEO to assembly line worker) must be based on a type of *trust*. This type of trust does not imply that both groups must trust one another’s good intentions, although that would be the ideal. What we mean by trust in this case is that both groups must trust the mechanisms tying them together. Both groups must agree that these mechanisms will not reduce their liberty unfairly; in other words, that each group is not giving up more liberty than the other group. It is this that must be “legislated,” or worked out in writing with sanctions for those who break the agreement. It is this “legislation” that is the coercive force. The two groups do not have to agree on everything at the start. What they must agree on is the legitimacy of the process.

What is the fundamental relationship between employee and employer? Simply that the employee sells his labor to the employer in return for tangible and intangible goods—wages and benefits. Philosophers and social theorists are fond of referring to the *implicit* contracts that exist between employers and employees; we are simply suggesting these be formalized with the purpose of building concern for the common good.

Conclusion

How should the implicit contracts between business and labor be formalized? A possible framework, called collaborative control, has been put forward by Lad (1992). His examples involve firms within an industry. These firms are faced with a turbulent environment and a problem that none can solve alone. Recognizing their interdependence, firms collaborate to police themselves and form a rule-making system. Businesses collaborate with government to monitor and enforce the rules, but they recognize that governmental regulation is not the best solution in a turbulent environment. The resulting interorganizational network obviously is a collaborative enterprise that controls the network by setting and enforcing rules, hence the name "collaborative control."

Lad notes that a major principle underlying collaborative control is that transaction costs of the self-regulatory system are less than transaction costs of governmental control. Thus, the primary responsibility for formulation and enforcement of rules rests with the parties involved, and the government becomes a third-party enforcer of last resort. Lad also asserts that the workability of the collaborative control system is tied to the relative political power of the participants.

This framework answers all of the problems noted by Ostrom (1990) in dealing with common-pool resources (of which the commons is an example). The problem of *mutual monitoring* refers to whether each party will be willing to let the other monitor its activities. This problem is the key to self-regulation, for if mutual monitoring is not allowed, then *credible commitment*, Ostrom's second problem, becomes impossible (the transaction costs of breaking rules are less than the costs of keeping them [Williamson, 1975]). If commitments are no longer credible, new rules and institutions become public goods, which are subject to the tragedy of the commons—Ostrom's problem of *supply*.

Lad's interorganizational enforcement network supplies the mutual monitoring needed. Credible commitment is thereby gained, and commitment is reinforced by the lower transaction costs of the system. Therefore, the enforcement network can promulgate new rules without those rules turning into public goods subject to the law of the commons.

The labor-pool "active" commons can be fit into this framework with few problems. Trust, that essential ingredient in overcoming the problem of the commons, is present in this framework. Collaborative control brings trust into the picture by bringing both groups together to agree on principles—moral principles, Hare (1992) would call them—to guide their relationship. The implicit contract between management and labor would be formalized in these principles. Such principles could include fair distribution of profits, fair compensation levels, fair treatment of labor, promises of the workers' best efforts, promises to work together in good faith, and so on.

Government would be involved in the process in the sense that it helps both groups to understand that what is best in the long run is collaboration, not

competition. Also, government can keep the negotiators working toward that end. Both groups, thus understanding it is in their ultimate self-interest to collaborate, work together to design the collaborative enterprise. For example, a collaborative enterprise set up according to the principles mentioned above would include a profit-sharing plan, a rule that the salary of the CEO be no more than 20 times the average yearly earnings of hourly workers, standards set for hourly workers' output, and labor-management committees set up to monitor interactions between the two groups.

Both groups, also understanding that in spite of ultimate self-interest they might choose to break the rules, enlist the government as a coercive force of last resort. Most transactions will be handled within the system, in accordance with a formalized rule structure formed by the two groups. For example, grievances of employees against supervisors would be sent initially to a labor-management committee for review and attempts at a settlement. Only if no settlement was possible internally, including a review by the CEO and the union president working together, would government arbitration be necessary.

This perspective is consistent with the notion that business and government operate within the constraints of an implicit social contract—a philosophy held by Adam Smith, Jean-Jacques Rousseau, John Locke, and others. Smith, while holding a fundamental value for individual liberty, has suggested that if pursuit of self-interest fails to advance the social welfare, or advances social welfare only through generating harms to others, governmental intervention is justified (Collins, 1988, p. 130). Much as Friedman has argued that businesses be free to pursue profit "within the rules of the game," Smith suggests "every man, *as long as he does not violate the laws of justice*, is left perfectly free to pursue his own interest" (as cited in Collins, 1988, p. 131 [emphasis added]). The principle is the same: pursuit of self-interest is not an *absolute* right, but needs to be tempered by considerations of the common good. And it is just so with the commons, for reckless pursuit of self-interest will bring ruin to all. It is in recognition of this tragedy that Smith, Friedman, and Hardin separately come to the same conclusion: the visible hand of government must at times intervene to preserve the collective good.

One of the better practical examples of such an intervention is provided by the side agreements associated with the North American Free Trade Agreement (NAFTA). The economic arrangements attending the NAFTA were relatively easily resolved; it was the social issues which became a stumbling block to ratification. These issues were divided into the two general categories of environmental concerns and workplace safety. The challenge was to develop a consistent set of standards coupled with an effective enforcement mechanism that respected national sovereignty. The side agreements to the NAFTA which were eventually negotiated call for each of the parties to the treaty to agree to third-party arbitration in the event of alleged violations of the associated environmental and/or workplace accords. What is this, if not Hardin's mutual coercion, mutually agreed upon?

These types of agreements do much to balance personal liberty and community good, a balance that is necessary for any society to flourish. No society where "Do anything you want" is the operative moral rule can stay together; any such society would be more like a Hobbesian state of nature. Just as Hobbes' individuals form contracts, giving up some liberty in exchange for long-term stability and safety, we must have formalized, mutually enforceable agreements between management and labor to help us tend the commons of labor. Otherwise, the inevitable, inexorable logic and tragedy of the commons will certainly doom us to economic, and perhaps social, failure.

For two centuries now the economist has taken us upon his knee and convinced us that the good society will quite naturally emerge as self-interest is pursued. Some of us have doubted, arguing that respect for justice needs to be afforded explicit consideration. Certainly risks are assumed when a basically good system is "tampered" with—but when the alternative is eventual tragedy, can we do otherwise? We would do well to take courage from the words of Hardin:

The ability of human beings to determine the rules of the game they play creates a subtle dialectic. How it will all work out we cannot know. But the tragedy of incompatible rights can be averted only by asking the Promethean question *And then what?* People who hate competition, or who are terrified by a Promethean inquiry into the consequences of competition, can play no role in the diminution of tragedy. (1980, p. 55)

Note

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