

Thinking Like a Mountain

Supplement

Thinking Like Commons: A Nonproprietary Form of Ownership. The Italian Case Study

Veronica Pecile

In 1969, Ursula Le Guin wrote *The Left Hand of Darkness*, a book considered prophetic in many respects. On the planet Winter, covered with perennial ice and organized along feudal lines, Genly Ai, a human from Earth, is sent to persuade the inhabitants to join an interplanetary league. In order to do so, the protagonist embarks on a long journey across the far North, where everything is frozen: “When we walked on the crisp snow, no shadow showed the footprint. We left no track. . . . No sun, no sky, no horizon, no world.”¹ Shortly after his arrival, Genly Ai is told the philosophy of life that inspires the inhabitants of Winter: “Terrans tend to feel they’ve got to get ahead, make progress. The people of Winter . . . feel that

¹ Ursula Le Guin, *La mano sinistra del buio* (*The Left Hand of Darkness*), translated into Italian by Chiara Reali (Mondadori, 2024), 233.

Thinking Like a Mountain

progress is less important than presence.”² This is a radically different way of being in the world from that which predominates on Earth:

Winter hasn’t achieved in thirty centuries what Terra once achieved in thirty decades. Neither has Winter ever paid the price that Terra paid. . . . At any one point in their history, a hasty observer would say that all technological progress and diffusion had ceased. Yet it never has. Compare the torrent and the glacier. Both get where they are going.³

Between the torrent and the glacier, capitalist society has decisively chosen the first path. In this model, the natural world is nothing more than an immense resource to be exploited, valorized, and made increasingly productive. To achieve this, many techniques are employed, including the law, and countless tools, such as private property. Yet today, alternative ways of relating to the world are reemerging—cooperative, non-extractive, nonhierarchical. The commons is the

² Le Guin, *La mano sinistra del buio*, 46.

³ Le Guin, 89.

Thinking Like a Mountain

name given to another way of owning, of relating to things in a nonproprietary mode.⁴ Throughout modernity, the commons have been the flip side of private property: not the absence of property, but a broader form of belonging, in which the interests of nonowners prevail over those of owners, the use of an asset prevails over the property title, and collective rights are deemed more important than individual ones. To borrow the words of Le Guin, a relationship between people and things in which presence is more important than progress.

The global financial crisis of 2008 marked a turning point in recent history. It was the culmination of a long period, beginning in the late 1970s and continuing over the following decades, during which public goods and services were progressively privatized and the logic of profit penetrated every sphere of existence. This crisis was not only economic but also expanded into several other dimensions: social and political,

⁴ This refers to the famous expression of a jurist. See Paolo Grossi, “Un altro modo di possedere. L'emersione di forme alternative di proprietà alla coscienza giuridica postunitaria” (“Another way of owning. The emergence of alternative forms of property in post-unification legal consciousness”), published by Giuffrè, 1977.

Thinking Like a Mountain

with the resulting proliferation of wars, famine, and mass migration; institutional, given the inability of supranational institutions to govern these processes, as well as the loss of legitimacy of instruments, such as international law, designed to do so; and ecological, with the rapid increase in disasters caused by climate change, the specter of imminent resource depletion, and the race for appropriating resources by any means. After all, the crisis is not a mere stumble in the development of capitalism but its driving force; it is through crisis that the system of production reorganizes itself, valorizes new resources, and reaffirms the boundary between the exploiters and the exploited. Following the crisis triggered by the 2008 collapse and through experimentation with direct democracy and self-governance, a global movement for the commons emerged: a constellation of mobilizations resisting the privatization of resources, services, and spaces to claim the right to manage these things as commons rather than as public or private property.

A key dimension of the commons movement lies in its engagement with legal experimentation. Activists advocating for the commons employ

Thinking Like a Mountain

the law in a counter-hegemonic way—not to reinforce the prevailing logic of profit, but to achieve a political project aimed at redistributing resources and wealth within increasingly unequal societies. In Europe, the legal strategies drawn upon by the commons movement have included, for example, recourse to the courts to claim collective rights over spaces and resources, as happened in Spain in the past decade under the pressure of a strong movement for the right to housing; entry into local government to determine the management of urban areas, for instance in Barcelona during the municipalist experience of Barcelona en Comú; the adoption of supranational legal instruments to enhance public participation, such as the European Citizens' Initiative.

The most significant outcome of the legal experimentation carried out by the commons movement is the questioning of the pivotal institution governing relations between individuals and things: property. Activists advocating for the commons are engaged in a “hands-on” critique of the concept of property as it is understood in modern thought. In opposition to property conceived as individual, exclusive,

Thinking Like a Mountain

and absolute, they are enacting a concept of property grounded in collective terms, in which access to and use of space or resources take precedence over formal ownership. In this way, the interests of the nonowners are safeguarded and power is redistributed.

Turning to the Italian context, the privatization of public goods and services is a process that has been underway since the 1980s, shaped by the contribution of various political actors. The result is a State that no longer functions as the principal provider of goods and services, but rather operates as one among many market actors engaged in these activities. The struggle for the commons emerged within this context and was further intensified by the adoption of austerity policies following the 2008 crisis. A pivotal episode and a founding moment for the movement was the 2011 water referendum, in which citizens were asked to decide on the privatization of water resources and services throughout the country. The event set in motion a nationwide mobilization of various political and civic groups united by the principles that resources linked to the exercise of fundamental rights, including water, constitute “common

Thinking Like a Mountain

goods” (in Italian, beni comuni) to be governed collectively and beyond the imperatives of the market.

A key element of the Italian commons movement at that stage was the alliance between activists advocating for the commons and a number of legal experts who had long been studying alternative forms of property within the Italian and continental legal traditions. The Rodotà Commission, a body of legal experts appointed by the Ministry of Justice in 2007 to reform the sections of the civil code concerning public property, played a fundamental role in supporting the mobilization. The commission proposed a legal definition of the commons that continues to be highly influential for all subsequent mobilizations asserting the common nature of spaces and resources. According to this framework, the commons are things that express functional utilities for the exercise of fundamental rights and the free development of the person. The commons must be protected and safeguarded by the legal system for the benefit of future generations as well. Owner of the commons may be public or private persons. In any case, their collective use must be

Thinking Like a Mountain

guaranteed, within the limits and in according to the procedures established by law. When the owners are public legal persons, the commons are managed by public entities and are placed out of commerce; their concession is permitted only in the cases provided for by law and for a limited duration, without the possibility of extension. The commons are, among others: rivers, streams and their sources; lakes and other waters; air; parks as deemed by law, forests and wooded areas; high-altitude mountain areas, glaciers and perennial snows; lidos and stretches of coastline declared an environmental reserve; wildlife and protected flora; archaeological, cultural, environmental and other protected landscape areas.⁵

This definition is significant for several reasons. Firstly, it draws a clear connection between commons and rights: the commons are those resources that, when collectively governed, enable the exercise of fundamental rights not only for present generations but also for future ones. Secondly, the definition does not provide a

⁵ Rodotà Commission, "Report on the Amendment of the Provisions of the Civil Code Concerning Public Property," June 14, 2007, <http://www.senato.it/service/PDF/PDFServer/DF/217244.pdf>.

Thinking Like a Mountain

fixed inventory of commons, emphasizing instead that they emerge whenever a community establishes a certain type of relationship—characterized by direct democracy and self-government—with the resources in question. In other words, the commons “are made” through the practice of movements and, as Silvia Federici observes, this concerns “the quality of our relationships; it is a principle of cooperation and mutual responsibility towards the Earth, the forests, the oceans, and animals.”⁶

The bill defining the commons drafted by the Rodotà Commission never became law, as the government fell before it could be enacted. However, it exerted a great influence on legal thought, social movements, and jurisprudence in the ensuing years. For example, in 2011, the Court of Cassation ruled that certain areas of the Venice lagoon, known as the fishing farms, could not be placed on the market because local communities have a collective right to use these resources, which must be preserved and take precedence over individual interests: “Where

⁶ Silvia Federici, “Il femminismo e la politica dei beni comuni,” *Rivista telematica di studi sulla memoria femminile* 20 (2012): 63–77.

Thinking Like a Mountain

real estate, regardless of ownership, is intended, due to its intrinsic characteristics, particularly those of an environmental and landscape nature, for the maintenance of the social state . . . said property is to be considered . . . ‘common,’ that is to say, regardless of ownership, instrumentally linked to respect for the interests of all citizens.”⁷

Over the years to come, the Italian movement for the commons developed much of its political militancy within urban settings. An emblematic case of the struggle for the commons is Teatro Valle, a public building occupied in 2014 by a group of precarious workers in the arts and cultural sector to prevent its sale on the market. Under the slogan “culture as a common good,” the theater soon became the hub of a nationwide network of initiatives aimed at reclaiming artistic and cultural spaces, providing sites in which people could experiment with self-government and direct democracy and claim their rights to education, culture, and health in spaces that

⁷ Court of Cassation, “Cass., sez. un., February 16, 2011, no. 3813, on the determination of the maritime state ownership of fishing valleys in the Venetian lagoon,” Demanio Civico, February 16, 2011, <https://www.demanio-civico.it/giurisdizionesuperioriocassazione/22-cass-civ-sez-unite-sent-16-02-2011-n-3813/>.

Thinking Like a Mountain

would otherwise have been either abandoned or privatized. Examples of mobilizations active during those years in the struggle for the cultural commons include Teatro Macao in Milan, the former Cinema Palazzo in Rome, and the Colorificio Toscano in Pisa. Particularly in southern Italian cities, the struggle for the commons sought to reconstruct, from a grassroots level, elements of public welfare that were being dismantled at the time, offering, for example, educational activities, legal assistance for migrants, and social and health support to the most disadvantaged. More broadly, the movement for the commons in cities has aimed to counteract rising poverty and socioeconomic inequality exacerbated by the financial crisis and subsequent austerity measures. In short, the commons have functioned—and continue to function—as a counter-model of urban government, seeking social and economic emancipation and the redistribution of power and wealth.

Although its practice has largely developed in urban settings, the movement has developed a series of legal tactics that may be useful for reclaiming spaces and resources as commons

Thinking Like a Mountain

even in contexts far from cities. Among these, the deployment of an alternative conception of property stands out—recognized within the legal system and recently revived by activists advocating for the commons: civic use, an archaic form of ownership originally introduced to protect the collective rights of certain communities over resources such as woodlands and pasture in rural and premodern contexts. During the recent mobilization for the commons in Naples, activists occupying the former Asilo Filangieri—a historic building in the center of the city that the municipality intended to repurpose for private use—claimed the building’s status as a commons on the basis of its civic use. In the occupied space, activists organized cultural and artistic activities as well as grassroots services for the population, such as educational laboratories, a library, and a social garden. Their claim was that, just as in the past this type of property had been used to safeguard access to certain common resources, so today it can be invoked to claim collective use of spaces in which fundamental rights can be exercised. The adoption in 2016 by the City of Naples of a regulation drafted by the activists themselves, stating that the former Asilo and other occupied

Thinking Like a Mountain

spaces are commons by virtue of their civic use, marked a genuine revival of this institution, which had otherwise been relegated to a marginal role within the legal system.

The revival of civic uses and their transformation into a contemporary legal instrument is occurring not only in cities, but also in certain rural and mountain areas, including the Bergamo area. In Lombardy, a regional law enacted in 2008 regulates activities related to agriculture, fishing, forestry, and rural development, dedicating several articles to civic uses. These constitute rights of enjoyment over certain lands that belong to specific communities enabling access to resources such as for grazing or wood. In 2025, a regulation issued by the Regional Council finally implemented this law and laid the foundations for a model of territorial development in which certain natural resources, such as forests and pastures, are recognized not only as the historical expression of a collective right but also as ecological infrastructures instrumental in mitigating the effects of climate change and protecting local economies that rely

Thinking Like a Mountain

on sustainable land use.⁸ The region thus became the scene of a legal and political experiment in which environmental law can evolve and interspecies relations may be nurtured beyond the imperatives of profit.

With the reintroduction of civic uses, collective rights that appeared to have been obliterated by private property are reemerging, along with a radically different way of conceiving our relationship with the natural world. The struggle for the commons is precisely this: the reaffirmation of the common character of what capitalist modernity has sought to define as private, to be exploited and monetized. The ongoing debate on the rights of nature signals this shift in collective sensibility: Can a river, a forest, an ecosystem possess rights? And if nature becomes a legal subject, can it be removed from the logic of profit, exploitation, and destruction?⁹

⁸ For more information on the contents of the regulation, see Claudio Budano, “Gli usi civici in Lombardia: analisi del nuovo regolamento regionale,” Mister Lex, May 16, 2025, <https://www.misterlex.it/doc/usi-civici-lombardia-analisi-nuovo-regolamento-regionale/>.

⁹ On the nature of legal subjects, see the “classic” text by Christopher Stone, “Should Trees Have Standing? Toward Legal Rights for Natural

Thinking Like a Mountain

In her recent novel *When I Sing, Mountains Dance*, Irene Solà articulates the voices to the women and men—and even the plants, animals, clouds, and ghosts—inhabiting the Pyrenees mountains. Halfway through the book, the mountain itself becomes the speaking subject: “Don’t come looking for me,” it begins, “leave me alone. Blind as I am. Immense as they made me. . . . You have no need for my voice nor for my perspective? Leave me be.”¹⁰ It then warns that “when you’ve guzzled my fresh water,” a disaster will occur in the form of a climate crisis: “The sky will suddenly darken, rivers of lava will flow, setting everything aflame, the sea will make way and everything will shake as volcanoes explode and the air fills with smoke and ash. The mountains we’d been, the houses and the dens and the lairs and the terraces and the crests we had been, shall cease to be.”¹¹

By recognizing the eccentric articulation of people, things, and rights called the commons,

Objects,” *Southern California Law Review* 45 (1972): 450–501.

¹⁰ Irene Solà, *lo canto e la montagna balla*, translated into Italian by Stefania Maria Ciminelli (Blackie Edizioni, 2020), 97.

¹¹ Solà, *lo canto e la montagna balla*, 111.

Thinking Like a Mountain

the law offers a fundamental tool for subverting the hierarchical and extractive relationship we maintain with all nonhuman entities. In an era of climate crisis and economic inequality, it is time to remember that we are not isolated individuals but open communities, and to invent new ways to safeguard collective interests and rights.

Thinking Like a Mountain

Biographical Notes

Veronica Pecile is a scholar exploring how law shapes our relationship with the natural world. Her work focuses on property, commons, and the legal foundations of climate justice, combining legal theory with historical and field research. She has held postdoctoral positions at Harvard Law School, ETH Zurich, and the Swiss Institute in Rome. She is currently a researcher at LUMSA University and an affiliated scholar at the École des Hautes Études en Sciences Sociales in Paris. Her book, *Law, Social Movements and the Politics of the Commons* (Routledge, 2025), examines how social movements use law to reclaim common spaces and reimagine ownership in times of crisis.