Countering the Paradigm of 'The Tragedy of the Commons': Exploring Concepts of the Commons and Collective Action Institutions in Aotearoa New Zealand

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Abstract

This article argues that a broader understanding of people's relationships to place is needed to develop ways of environmental management that are both ecologically *and* socially sustainable. It proposes that ideas of the commons and collective action institutions provide valuable perspectives to assist this quest. In doing so, it firstly introduces the concept of the commons, and common property particularly. Secondly, a discussion of the relevance of research into the commons and collective action institutions in Aotearoa New Zealand is provided, especially in light of the increasing number of co-governance and co-management arrangements being established following settlements between Māori and the Crown under Treaty of Waitangi-based reconciliation processes. Thirdly, the article presents findings of an ethnographic study into narratives of ownership, cross-cultural governance and commoning practices at Ōhiwa Harbour in the Eastern Bay of Plenty.

Introduction

2018 marks fifty years since American ecologist and philosopher Garrett Hardin published 'The Tragedy of the Commons', a seminal article in the journal *Science*. His predication of the inevitably destructive nature of human self-interest remains both a powerful idea in conventional thought and has stimulated wide-ranging research into commons practice, including water, forests, fisheries and marine settings, the Earth's atmosphere, infrastructure, urban and rural environments, technology and software, and knowledge sharing and co-production.

Historically, the term 'commons' described land that was held 'in common' by villagers in medieval Europe. According to Hardin, when people share a common good in pursuit of their own interest in a context of an ever expanding population, this works towards the tragic destruction of the commons. By the mid-20th century, he argued, these population-based and other pressures (such as industrial) on natural resources meant human inability, within prevailing belief and organisational systems, to use shared natural resources sustainably.

Hardin employed the metaphor of 'a pasture open to all', which was destroyed as each 'herdsman seeks to maximize his gain' (Hardin 1968:1244). While he followed Adam Smith's rationale of people's inherent desire to maximise profit and rejected other possibilities for

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economic organisation, he opposed the Smithian concept of an 'invisible hand' that ensured protection of the public good. He dismissed, moreover, the use of modern technology to tackle the 'tragedy of the commons', feeling that instead society needed to give up some individual freedoms in order to be saved from collapse (ibid: 1243).

While Hardin's work revitalised the concept of the commons, took its exploration further than previous scholars, and extended its meaning to refer to shared natural and cultural resources, in envisaging commons only as laisser-faire open-access regimes he did not take account of other possibilities – such as governing and managing the commons with mutually agreed rules and processes in place. Subsequent to Hardin's declaration of the tragedy of the commons, there has been a further expansion of efforts to redefine commons and to address their undoubted predicament.

According to a recent assessment of the International Association for the Study of the Commons, such scholarship 'has revealed what Hardin did not recognize: that a wide range of shared resources can be sustainably managed through commons governance approaches. Analysis of large scale regional and global environmental problems through the lens of commons governance may offer pathways to alternative solutions to some of the most intractable problems facing society today.'[2]

This article considers the contribution that research into the commons in Aotearoa New Zealand can make to advance practical thinking in this area. In doing so, the author aligns herself with current commons research that continues to overturn Hardin's assumptions of the commons as a site of open-access. An attempt is also made to critically engage with the similarly challenging outlook that Gregory Bateson, presented on interaction between humans and nature[3]: namely, that the 'major problems in the world are the result of the difference between how nature works and the way people think' (Bateson 2012).

Following a discussion of the commons in terms of property rights in natural resources, an outline of the concept's usefulness in the post-Treaty settlement context is presented, based on the findings of an ethnographic study into the governance and 'ownership' of Ōhiwa Harbour, a potential common good in the Eastern Bay of Plenty.

The Commons and Institutions for Collective Action

What became the conventional concept of the commons after Hardin's pronouncement of the tragedy of the commons conflated the commons and open access regimes for cultural and natural resources, rather than describing them more appropriately as regimes of 'common property' or 'common pool resources'. While in both open access and the common property regimes access and use appear to be unlimited, commons are in fact best understood as regulated by a set of clearly defined rules. Commons, moreover, differ from public property (such as the foreshore and seabed) in terms of their *collective* governance and management. As James Quilligan asserts:

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[2]https://www.iasc-commons.org/event/world-commons-week/, accessed: 18/10/2018

[3]Ahead of his time, social anthropologist Gregory Bateson, in *Steps to an Ecology of Mind* (1972), developed a new way of thinking about human existence on earth. Similarly to Hardin, he was concerned about the increase of the world's population. However, his focus was on the ecological crisis that, he argued, also had root causes in 'technological progress' and 'certain errors in the thinking and attitudes of Occidental culture'. In terms of Western thinking he adds: 'Our "values" are wrong' (Bateson 1972:490).

the differences between the world's two basic forms of collective property – public goods and common goods – are often blurred. One of the great challenges before us is to create powerful and broadly recognized distinctions between public goods and commons/common goods – the shared resources which people manage by negotiating their own rules through social or customary traditions, norms and practices (2012:73).

Thus the commons and common property can be understood in an aspirational way; in other words, as a valuable good which, in contrast to public, private and open access regimes, 'is managed and perhaps jointly owned by a relatively autonomous local user group' (Wagner 2012: 618).

Such possibilities can be seen in Elinor Ostrom's theory in *Governing the Commons: The Evolution of Institutions for Collective Action* (1990). Ostrom proposes eight design principles for creating 'long-enduring common pool resource institutions' or a well-functioning commons: clearly defined boundaries of individuals and families with access rights to the resource, which in itself has to be clearly defined; appropriation rules; collective-choice arrangements; monitoring; graduated sanctions for those who violate the rules; conflict-resolution mechanisms; minimal recognition by authorities of the right of the 'commoners' to devise their own institutions; and, if the commons are part of a larger system, they need to be organised as nested enterprises and governed in multiple layers (Ostrom 2008 [1990]:90).

Since Ostrom outlined this framework, human capability in establishing institutions for collective action, especially for the governance of natural resources used by many individuals in common, has been examined in many different geographical contexts and historical examples have also been scrutinised.[4] Institutions for collective action, whether they are dealing with irrigation, fisheries, computer software or any manner of things, are all based on a normative system of rules. Social practice, in other words, turns a common good into a commons; in Linebaugh's words, 'there is no commons without commoning' (Linebaugh 2008).

Integral to commoning practice is a property rights system that, as Ostrom has argued, needs to be established as part of a set of fundamental principles to make commons regimes successful, despite difficulties imposed by the globalised market economy (2008 [1990]). She and others have made clear that it is open access regimes, not common ownership, which lead to the tragedy of the commons (Hardin 1968). It has been pointed out that:

> [m]any alternative forms of property have been found to work effectively when well matched to the attributes of the resource and the harvesters themselves, and when the resulting rules are enforced, considered legitimate, and generate long-term patterns of reciprocity….In spite of Hardin's persistent metaphor, today many people…have begun to appreciate that there is a world of nuances between the state and the market (Laerhoven and Ostrom 2007:19).

Ostrom's examples of long-enduring institutions for collective action have been joined more recently by Tine De Moor's identification of an enormous rise since the 1990s of 'citizens' collectives' of diverse types, especially cooperatives, across domains such as care, energy, and agriculture in Western Europe:

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[4]Bollier and Helfrich (2012) provide a comprehensive overview of current research on the commons.

> The main common feature of [such] institutions for collective action is that they are self-regulating and self-managing: the members of the institution design the rules themselves – sometimes in conjunction with local government (De Moor 2013:7).

Co-management and co-governance regimes for natural resources, other forms of collective action institutions, are now also being established. Co-management (a term more often used than co-governance) has been described as involving various dimensions: power sharing, institution building, requiring and building trust and social capital, process, problem-solving, governance, conflict management, innovation, knowledge generation and social learning (Berkes 2009:1693-1694). Todd Taiepa et al. define co-management as 'a continuum of arrangements involving various degrees of power and responsibility-sharing between government and the local community' (1997:237).[5] Fikret Berkes joins David Natcher et al. (2005) to assert that 'co-management is not merely about resources; it is about managing relationships' (Berkes 2009:1692).

Thinking of environmental governance in terms of relationships may also challenge the notion of 'ecosystem services' in which 'each aspect of ecology, each species and biological process, is measured to see how much (and whether) it serves human needs and those of a neoliberal market' (Strang 2014:106). By stressing the significance of social relations in collaborative governance and management, Berkes and others tackle what has been critiqued as Ostrom's greatest omission (as she acknowledged in her later work: Ostrom 2005, 2007): social success factors (Poteete et al. 2010; Berkes 2009) and power relationships.[6] As Ostrom's design principles themselves indicate, a well-functioning commons cannot be open to all without rules: while commons and collective action institutions are based on sharing, cooperation and self-organisation, they nevertheless limit access and participation to those within these institutions. Therefore the underlying power relations of these institutions need to be a focus of research into the commons.

Commons Research in Aotearoa New Zealand

Commons research in Aotearoa New Zealand has recently looked at tribal systems of resource management and their compatibility with Ostrom's theory (Kahui and Richards 2014). However, literature using the commons as a perspective on natural resource management and scoping collective action institutions in Aotearoa New Zealand has been scarce. Ali Memon and John Selsky are among those who have explored the Resource Management Act (RMA) from a commons perspective. While commending the RMA for its holistic view on the environment they note that the Act 'is underpinned by the assumption of the private-property regime as the most desirable for natural resource management, not the common property regime' (Memon and Selsky 2001:12).

This article argues that much more research into the commons and institutions for collective action is needed to address key concerns in Aotearoa New Zealand, particularly as conflicting narratives of the 'ownership' of natural resources take centre stage in the Crown–Māori

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[5]While the concept of co-management has developed from the 1980s (after the term was first used for salmon management in the United States), the practice of formalised power-sharing in fisheries and forestry management has been documented in Norway, Japan, and India in the 1890s and subsequently with regard to wildlife management and protected areas in Canada and Africa (Berkes 2009:1693).
[6]Personal communication with Keebet and Franz von Benda-Beckmann, Max-Planck Institute for Social Anthropology, Halle (Germany), 27/04/2011.

reconciliation processes; co-governance and co-management arrangements and proposed power shifts therein are tested throughout the country; and the majority of Pākehā (European New Zealanders) remain spectators of these developments. In terms of debates that concern property rights and 'ownership' of material and immaterial things, for example, Alex Frame – in a poignant analogy to Hardin's 'tragedy of the commons' – is instructive:

> …there may be a 'Tragedy of the Commodities' in the New Zealand context, whereby privatisations of public land, natural resources, and other state assets, have compelled Maori to formulate and pursue claims to 'ownership' of these assets. The 'commodification' of the 'common heritage' has provoked novel claims and awakened dormant ones in a manner destructive of New Zealand's social cohesion. Claims to water flows, electricity dams, air-waves, forests, flora and fauna, fish quota, geothermal resources, seabed, foreshore, minerals, have followed the tendency to treat these resources, previously viewed as common property, as commodities for sale to private purchasers. Not surprisingly, the Maori reaction has been: if it is property, then it is our property! (Frame 1998:10)

In recent years, Treaty of Waitangi[7] settlement negotiations have resulted in various innovative responses to this conundrum. These include a new form of ownership being added to the legal landscape of ownership and property in Aotearoa New Zealand: a river as a legal person. Instead of previous arrangements by which the Crown partially returned waterways to iwi (generally translated as tribe), such as transferring lake beds without their corresponding water columns, the 2014 Whanganui River settlement recognised the river and its tributaries as a legal person. The river is now regarded as an indivisible living whole from the mountains to the sea, one which assumes the status of a legal subject of its own. Providing a legal personality for the Whanganui River reflects the Whanganui iwi view that the river is their ancestor and therefore cannot be owned. The settlement provided that the river bed would leave the Crown's ownership and be vested in the river itself, and that the river's rights will be upheld by two people – one chosen by the people of the river, the other by the government (Hardcastle 2014; Salmond 2014).

The Whanganui River settlement can be examined from different angles and understood in various ways. At one extreme, it can be argued that it simply avoids the question of formal ownership, so that the existing power relationships between Māori and the Crown are not compromised. On the other hand it, and other agreements of a similar kind, can be seen as genuine attempts to reconceptualise human–nature relationships, and even to allocate rights to nature.[8] At the very least, such settlements may be symbolic explorations of 'ways in which the New Zealand legal system might reflect the best concepts and values of both our major

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[7]The Treaty of Waitangi/Te Tiriti o Waitangi was signed in February 1840 by Lieutenant-Governor Hobson and a number of Māori chiefs to formalise relationships and to consolidate British colonisation. Following a long period in which governments pursued assimilation, the 'Māori renaissance' (Hill 2009:150-151) from the 1970s – which stimulated Māori protest against further land alienation and generated struggle for greater autonomy – evoked a new recognition of the Treaty and saw the establishment of institutions dealing with its interpretation and application, most importantly the Waitangi Tribunal (a permanent commission of inquiry established in 1975) and later the Crown's negotiating institution, which was renamed the Office of Treaty Settlements in 1995 and is now part of Te Arawhiti – Office for Crown Māori Relations. Hill (2004, 2009) provides a detailed history of Crown-Māori relations.
[8]See Barraclough (2013) for a discussion on 'How far can the Te Awa Tupua (Whanganui River) proposal be said to reflect the rights of nature in New Zealand?'.

founding cultures' (Frame and Meredith 2005:135).[9] The Whanganui agreement certainly supports the concept of a common property regime and emphasises the relational aspect of the river's management.

A recent call for a 'Taonga Relationships Act' grounded in the Māori world view expands on such developments (Hikuroa 2018). Legislation along such lines would possibly address an issue that Marama Muru-Lanning, in her study on the Waikato River, has pointed to: while the Treaty claims process inevitably raises issues of ownership, '[f]or Māori, legal ownership is not necessarily the 'end game'. What is vital in the process of Māori claim-making is the restoration of mana' (2010:159). The co-governance agreement reached between the Waikato-Tainui iwi and the Crown over the Waikato River 'is an implied agreement to not determine legal ownership of the river, at least at this stage. The emphasis is on managing the river to improve its health, rather than owning the river' (Muru-Lanning 2010:160).

General power relationships are not radically transformed by means of agreements between iwi and the Crown of the nature described above. However, as I explore below with reference to the Ōhiwa Harbour, a shift in focus from national to local governance[10] in dealing with such waterways is likely to shift local power relations, albeit only gradually. This may provide space for rangatiratanga (generally translated as autonomy) and mana (which covers such concepts as authority, prestige and status) to be reinstated and exercised locally. More research needs to be done, however, in terms of the impact such local level agreements have on power relations between the Crown, iwi and the wider public generally.[11]

Having provided the general context of commons research in Aotearoa New Zealand, I will now introduce my own research at Ōhiwa Harbour in the Eastern Bay of Plenty. This ethnographic study examined every-day Māori and Pākehā social relations and narratives of ownership at the harbour, and investigated opportunities for managing the harbour as a common property through collective action, particularly by the Ōhiwa Harbour Strategy partnership, a cross-cultural collaborative governance entity. Rather than focussing on Ostrom's design principles, this research offers insights into the commons as a 'social imaginary' (Wagner 2012): the local social and power relationships and the opportunities and limitations that they provide to manage the harbour as a common rather than a private or public good.

Introduction to Ōhiwa Harbour

Ōhiwa Harbour is a shallow marine area that constantly changes its appearance, its 'moods' as a local said, largely because of the coming and going of the tides. It forms a 26 square kilometre body of water at high tide, and exposes 80 percent of its seabed at low tide, when only the main channels remain filled with water, standing out like arteries from the grey to brown mudflats. Undoubtedly incorporated into the forces of the sea, the harbour's relatively small mouth – a gap between the eastern end of the extended Ōhope Spit and the much shorter Ōhiwa Spit on the opposite side – creates a bounded body of its own.

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[9]For an analysis of the implications of the Whanganui River Treaty Settlement for the practice of rangatiratanga see Warren (2016).

[10]Following Jan Kooiman, governance, in contrast to government, is 'a mix of all kinds of governing efforts by all manner of social-political actors, public as well as private; occurring between them at different levels, in different governance modes and orders' (Kooiman 2003:3).

[11]In terms of community participation and power sharing more widely Kelsey (1997), Trnka and Trundle (2014) and Cleaver (2007) provide useful discussions of the notions of empowerment, responsibility and agency.

The harbour is known for its abundant birdlife and kaimoana (seafood). The latter is reflected in Ōhiwa's other name, Te Kete o Tairongo (Tairongo's food basket), but is in terms of its kaimoana in a much depleted state. With the exception of the urban settlement of Ōhope, with its approximately 2,000 people on the Ōhope Spit, Ōhiwa is now a rural, sparsely populated area, with fewer than 1,500 people living in the remaining Ōhiwa catchment. In contrast, prior to around 1800, when whalers and traders started to arrive in the area (Walker 2007), and until 1865, when much of the land around Ōhiwa was confiscated, the headlands, hills and islands in the harbour were busy with human activity.

Despite its relative quietness nowadays, the harbour's cultural diversity,[12] and the diversity of its social networks, reflect its national and global connectivity: it is situated in a messy modernity rather than being an isolated, geographically-bound community. In other words, social identity appears to be de-territorialised, in particular for Pākehā. Ōhiwa communities, then, do not conform to the New Zealand administrative definition of a community, whose 'boundaries…must coincide with the boundaries of the statistical mesh-block areas determined by Statistics New Zealand and used for parliamentary electoral purposes' (New Zealand Government 2012[2002]:s6 part 2(2)). That being said, my research indicates that there is still 'localness' in the area: that the emotional and cultural bonds that people have and develop with regard to the harbour provide fertile ground for the sense of a common locality and local identity. The harbour constitutes an important part of people's identity.

This however appears to reflect a private feeling which does not, ostensibly in any case, lead to a narrative of an all-inclusive 'Ōhiwa Harbour identity' and thus 'Ōhiwa Harbour community'. Perhaps this speaks to Anthony Cohen and Arjun Appadurai, who emphasise the de-coupling of actual social relations from the concept of community, and stress its symbolic and imagined character. Whatever the case, it is useful to explore local social interaction at Ōhiwa Harbour to understand what these social relations are. As Vered Amit suggests:

> Existing collectivities cannot always be reproduced, and efforts to mobilize new ones can fail, but the imagination of community is always fundamentally orientated towards the mobilization of social relations (2002:10).

Furthermore, Amit aligns with Barth and Cohen, who have observed that community is constructed in relation to others, at boundaries – including those that provoke 'the creative engagement between community and change' (Amit 2002:12).

In terms of its administrative and normative organisation, Ōhiwa Harbour is integrated in a complex institutional and legislative system. This creates manifold relations between Crown agencies, local authorities (the harbour is divided between the Whakatāne and Ōpōtiki districts), tāngata whenua (Te Upokorehe, Whakatōhea, Ngāti Awa and Te Waimana Kaaku/Ngāi Tūhoe in particular), landholders and businesses. It is a multi-layered structure of rights, duties, powers and privileges to use, to control and to alienate, as prescribed in Acts of Parliament and local policies legitimised by the democratic system. Two working groups

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[12]In 2013, in the Whakatāne District 66% of the population identified as Europeans, 43% as Māori, 2.5% as Pacific peoples, 2.4% as Asian, 1.7% as 'New Zealander', and 0.2 % as Middle Eastern/Latin American/African (Statistics New Zealand 2013a). In the Ōpōtiki District these figures were 52% European, 60.6% Māori, 2.9% Pacific peoples, 2.5 % Asian, 0.2 % Middle Eastern/Latin American/African, and 1.2% 'New Zealander' (Statistics New Zealand 2013b). Since people can report more than one ethnic group, the percentage figures do not add up to 100

oversee and implement the Ōhiwa Harbour Strategy (OHS), signed in 2008 by seven parties: the Bay of Plenty Regional Council (BOPRC), Whakatāne District Council (WDC) and Ōpōtiki District Council (ODC), together with the tribal groupings Upokorehe, Ngāti Awa, Whakatōhea, and Te Waimana Kaaku/Ngāi Tūhoe (Bay of Plenty Regional Council 2008). The working groups, the Ōhiwa Harbour Strategy Implementation Forum (OHIF) and the Ōhiwa Harbour Strategy Coordination Group (OHSCG), traverse administrative, organisational and cultural boundaries.

Theory, Research and Methodology

Contrary to conventional anthropological practice, I first developed an interest in the theoretical themes of this research before deciding to embark on a fieldwork-based research. I started with an intense interest in questions of ownership of natural common goods, and ways in which this could be integrated with their local governance. Inspired especially by both Ostrom's theory of the commons (Ostrom 2008 [1990]; Bollier and Helfrich 2012) and work on institutions for collective action (De Moor 2013), I sought to apply their general notion of identifying alternative ways of envisaging private and public property and ownership through a case study on Ōhiwa Harbour.

The study takes both everyday community and local government levels of operation into account, and explores both challenges and possibilities in the quest for a shared, ecologically sustainable landscape. While the research focussed on a specific rural and semi-urban area, its findings are likely to resonate with experiences elsewhere.

A three-layered approach was employed to investigate the social organisation of Ōhiwa Harbour as a property (adapted from Benda-Beckmann et al. 2009). This approach postulates that relations between people in respect to 'things' (property relations) depend on cultural ideologies, legal-institutional frameworks of rights (categorical property relations), and actual social relationships and practices (concrete property relations). It explores, especially, the considerable differences that exist between categorical and concrete property relations. Only by considering all three layers and their interdependencies can one provide a full picture of what property and ownership actually means in everyday life.[13]

This approach was then applied in a complex field, that of a local governance area in Aotearoa New Zealand, an arena where such investigation is difficult because of the multiplicity of social and power relations at work. Moreover, in the Ōhiwa area neither people nor agencies had any explicit agenda for 'commoning' or building an institution for collective action. However, the governance of natural resources, and more broadly of place, emerged as highly relevant to both the local population and official agencies around Ōhiwa Harbour.

An ethnographic research methodology which allowed the inquiry to become a crystallising process indicates the continuing relevance of Bronislaw Malinowski's method of immersion in everyday interactions, relationships and events. My experience of this at the Ōhiwa Harbour in 2013 and 2014 produced rich ethnographic data that I would not have been able to gather by interviewing and document analysis alone. My direct and extended engagement with people

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[13]For an overview of the discussion of property in anthropology see Busse (2012:113-116), Hann (1998) and Benda-Beckmann et al. (2009). For a comprehensive study on property and ownership as a social process also refer to Rose (1994).

and place allowed for in-depth listening to research participants, establishing their relationships to place, and examination of future potential.

Shared Landscapes: Ownership and Governance of Ōhiwa Harbour

My research at Ōhiwa Harbour shows that local norms and everyday practices regarding a property, in this case a valued good such as Ōhiwa Harbour, are crucially connected with people's relationships to place. Employing the lens of 'the commons', the study specifically explores people's capacities and agency to work and govern together, to 'depropertise' and to develop a shared, cross-cultural, 'ecologised' view and practice of the landscape, albeit within a world that sees increasing propertisation, enclosure and marketisation of resources and places.

Furthermore, investigating Ōhiwa Harbour establishes that property is inherently relational, and that ownership is decided in light of people's relationships to 'things', including – as strongly demonstrated in this research, a place that is a 'living being'. That connection to place constitutes the basis for determining its ownership has in fact been a frequently invoked notion at Ōhiwa, as this quote exemplifies:

> [Who owns Ōhiwa Harbour?] *People…. Before the Mataatua waka arrived Te Whānau-a-Apanui had a relationship with it because their waka…landed out there actually around Westend…. And you have one of their ancestors; she lived in a cave, up in that harbour as well so hence Te Whānau-a-Apanui's relationship. And then, after that Te Hapū Oneone. That's where the majority of Upokorehe descended from. That's why I say 'to the people' not to a select group. 'Cause Ngāti Awa can argue that they own it. Tūhoe, I suppose, they can argue because they have had a long relationship with that area. Upokorehe have always been from times immemorial and so I suppose they'd have the largest claim, you know, if anything. So, I'd say the people. And then you've got the colonials arriving and then people having a relationship with Ōhope now. So it's not just one group. So it's people. (Eru, Te Waimana Kaaku/Tūhoe, Waimana)*

While both tāngata whenua and Pākehā display common human reactions to place, and share strong emotional and spiritual connections to Ōhiwa, they define the harbour's values in different, culturally and historically framed expressions of attachment and belonging – namely, *turangawaewae* and *home,* and *taonga* and *paradise*. Whereas tāngata whenua attest they are collectively part of Ōhiwa, and Ōhiwa is part of them, Pākehā indicate that they have acquired a personal sense of belonging, with some of them also virtually expressing a bodily attachment that is akin to Māori perspectives. What is certain, however, is that Ōhiwa is regarded as a common property by all those who feel and value their connection to it.

All the same, most people at the harbour seem unaware of this underlying sense of shared ownership, still less of the opportunity for reconciling Māori–Pākehā relations that, as Park (2006) has suggested, lies in the landscape. Divergent memories and ways of remembering the human appropriation and transformation of the harbour – particularly the dispossession of local iwi and hapū (generally translated as sub-tribe) by the confiscation of much of the surrounding lands in the British colonial project of the 1860s – continue to have an effect on the ethnic boundaries between Māori and Pākehā. Multiple and fluid networks of people and communities further discourage the imaginary of a cross-cultural, collective Ōhiwa Harbour identity.

The administrative division of the area, and the specialised system of government and agencies that make the rules and administer the various dimensions of the harbour (including its water, its fish, its abutting reserves and so on), also compromise a view of the local landscape as a shared place. Under the Marine and Coastal Area (Takutai Moana) Act (MACA), and in terms of the radical (or underling) title of the land in the catchment area, the Crown remains the ultimate property holder. Rather than changing 'public ownership' of the foreshore and seabed to common ownership, the legislation provided only a weak avenue for iwi and hapū to acquire proprietary title in the perhaps misnamed Common Marine and Coastal Area (Boast 2011). MACA, passed in 2011, reflects not only an on-going commodification of the natural environment in Aotearoa New Zealand, but also perpetuated narrow understandings of public, private and common property, putting difficulties in the way of creative developments in these arenas.

That being said, there are signs that depropertisation and collective action are also taking place in Ōhiwa. During my study, many interviewees and others stated that 'the people' or 'everyone' owned the harbour, suggesting a concept – however inchoate – of shared and common ownership. Only a few research participants envisaged the Crown as owning the harbour. But while the idea of common ownership is popular, as this and other examples on a larger scale show, common and public ownership are not usually differentiated. Thus, the stark difference in terms of the power balance that each option entails is not usually part of public debate. Furthermore, a property's legal ownership is not what ultimately counts in the eyes of people, but rather its accessibility (van Meijl 2013) both physically and (in regard to tāngata whenua particularly) in terms of its management and (for Māori) the exercise of mana (authority, prestige, status) by iwi and hapū. For Ōhiwa Harbour, I have shown that mana moana (authority over the sea) is a form of ownership (Rother 2016). In the context of the Treaty of Waitangi reconciliation processes, and Māori negotiating their practices of indigeneity with the Crown, the economic dimension of such concepts of ownership is particularly evident and confirms that capitalist and non-capitalist practices are overlapping (McCormack and Barclay 2013).

In fact, Ōhiwa, locals often dismissed the concept of ownership altogether, in effect averring that property should be a social process based on actions:

> Nobody should own the harbour, we should all be in the same boat and keep it in pristine condition; nobody can do that by themselves. (Graham, Whakatōhea/Upokorehe, Hiwarau)

> [Who owns Ōhiwa Harbour?] All the people who live around it. And even those that don't, who interact with it in some way as visitors. And the agencies who have some mandate in some way to do something with it. I mean I…just don't see ownership….Nobody owns it, nobody should own it. We all collectively as people and groups and organisations, no, we don't own it! Nobody owns it. Even we don't own it collectively. We have…stewardship over it, kaitiakitanga of it. (Tim, European Pākehā, Bay of Plenty Regional Council)

Separate, nascent institutions for collective action exist among the Ōhiwa Harbour citizenry. On the one hand, multiple care groups and the Upokorehe Resource Management Team take ownership in the Ōhiwa property by engaging in the restoration of the native bird population and safeguarding the local fishery respectively. Both sets of groupings have been initiated by dedicated volunteers from different cultural frameworks but sharing interests in conservation

and kaitiakitanga (stewardship, spiritual guardianship). While they have started to borrow concepts from each other, however, their practices remain largely disconnected.

At the local government level, on the other hand, the Ōhiwa Harbour Strategy (OHS) partnership fosters a sense of common ownership in the harbour. This collectivity, which may also be regarded as an emerging institution for collective action, is grounded in the interpersonal relationships of its partners, particularly the Ōhiwa Harbour Strategy Coordination Group, some of whose members see themselves as part of a 'Ōhiwa family'. It is an unusual group in that it allows for the harbour's management to be personalised, whereas similar co-governance arrangements, such as those legislated in Treaty settlements, often only have high-level committees of the type of the Ōhiwa Harbour Implementation Forum, which is the official decision-making body for the Ōhiwa Harbour Strategy.

The OHS partnership, which is dominated by a strong Bay of Plenty Regional Council relationship with Upokorehe, has not only had positive effects at the institutional level but also created opportunities for Māori and Pākehā working together in 'moments of interaction' – such as with mangrove removal working bees and the Nukuhou Saltmarsh biodiversity plan. Crucially, the OHS has evolved into a 'bridging organisation' (Berkes 2009) that is gradually widening its scope, for example by inviting local farmers into its space.

However, while the OHS partnership may be seen as having created a 'third space' in the local normative order, conveying notions of common and intercultural ownership of Ōhiwa Harbour, its transformative power is limited by the local government system. Even though, particularly, iwi, hapū and other groups are recognised 'as equals' (Fieldwork Notes, 29/06/2014; 1/07/2014) and consulted by officials, an apolitical notion of joint kaitiakitanga is emphasised. This reflects an approach at national level. I would contend that such an approach is a substitute for actual power-sharing by the authorities with both Māori and Pākehā 'communities', and a measure which impedes the realisation of rangatiratanga. As yet the OHS partnership has not fundamentally changed the degree of agency exercised by both tāngata whenua and Pākehā in Ōhiwa Harbour's governance. This said, the OHS partnership does provide an important stage for iwi and hapū representation consistent with the Treaty of Waitangi, and it is now beginning to actively involve Pākehā members of the community in this evolving partnership. Thus, while the dominant legal system has not yet fully overcome its colonial legacy, efforts to operationalise a Treaty-led partnership are both effecting a commons perspective at inter-personal level and creating a space for collective action.

One of my interviewees summarised the intrinsic contradictions between the legal-institutional, the cultural-ideological and what could be regarded as an ideal approach – the Ōhiwa Harbour being owned by itself – when he told me:

> *If you pull out the cadastral map, the legal parcel map, it's chopped up into all sorts of bits and pieces. Who owns it? I don't think anyone owns it. It's nature. It's nature. Nature owns it. But…I think that Māori have the kaitiaki for it. And they also would say that they have the mana whenua status for it and I would agree with that….And rangatiratanga and mana whenua status mean that it is their place. So…if we were talking about a hierarchy I'd have nature then I'd have our iwi and hapū and then I'd have the rest of everybody….And I put those who actually legally own it somewhere at the bottom. It's just that they happen to technically, legally, own the bloody thing. But nobody owns it, nature owns it. (Kelvin, New Zealander, Bay of Plenty Regional Council)*

How might such contradictions and constraints be overcome in the future? In what ways might intercultural, preferably self-governing communities of ownership in natural resources become more viable, and nature given the agency it is sometimes declared to have? Neither a stronger legal anchorage of the OHS partnership in, nor its independence from, the dominant normative order seem to be ways forward, at least in the foreseeable future. As Richard Boast observes, New Zealanders appear to generally agree with the 'large role played by the state in our land law system' (2013:182). Indeed, as the Ōhiwa Harbour example demonstrates, local arrangements between the state, indigenous people and other communities can work well on a certain level.

Nonetheless my research has also shown that the OHS is essentially embedded in a top-down approach to governance. While the state certainly has an important role to play because of the different levels of scale concerned, both in terms of resource ecology and democratic decision-making, embracing commons ideas at the state level could foster self- and multi-level governance. As David Bollier and Silke Helfrich (2012:xii) suggest:

> …the viability of bottom-up commons often depends upon supportive institutions, policy regimes and law. This is the new frontier for the Commons Sector: developing new bodies of law and policy to facilitate the practices of commoning on the ground. For this the state must play a more active role in sanctioning and facilitating of commons, much as it currently sanctions and facilitates the functioning of corporations. And commoners must assert their interests in politics and public policy to make the commons the focus of innovations in law.

In Aotearoa New Zealand the realisation of rangatiratanga and kaitiakitanga appears to be a quest not only for Māori but also for a growing number of Pākehā. They question the role the state is assigning to the market, and some are engaged in building local, self-governed collective action institutions, seeking to change local democracy and develop multi-level governance.

In terms of natural common goods, F. Stuart Chapin and Corrine Knapp propose to cultivate an 'environmental citizenship' (2015:39) by considering place attachment as a 'reservoir of potential stewardship, if locally valued places were to deteriorate, as, for example, in response to climate change' (2015:38). Conversely, this implies that actors at all levels of governance (Kooiman 2003) need to 'recognise that reconciliation and identification with Nature depends upon the encouragement of more collective social forms and long-term relationships with place' (Strang 2005:52).

Theorists of the commons and collaborative resource management have pointed out that the integration of the knowledge systems of the various parties involved is a crucial factor in successful collective action institutions and co-governance/management. Accordingly, research is already exploring the benefits of building on both indigenous knowledge and Western science in relation to the environment (Berkes 2009).

In addition, however, I suggest that applied anthropological research into aspects of the knowledge commons – such as Pākehā and Māori memory and ways of remembrance, the changing practices of public memory being created in rural museums, or the changing of place names – has the capacity to advance our understanding of cross-cultural negotiations of

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landscape. Commons research in Aotearoa New Zealand needs also to critically engage with concepts such as rangatiratanga, kaitiakitanga (Kahui and Richards 2014), and in conjunction with such approaches the commons perspective could usefully be applied to such areas as farming, forestry and (particularly) freshwater governance.

Further research might also consider the urban-rural 'disconnect' in order to formulate ways to 'ecologise' (Kohn 2015) that encompass both Māori and Pākehā, rural and urban, as well as new immigrants. Recent novel Treaty settlements, such as those for the Whanganui River and Te Urewera, might usefully be discussed in all parts of society, including (and perhaps especially) in schools.

Anne Salmond has argued that while the Whanganui agreement:

> …is still constrained in many ways by power relations and legislative frameworks based on very different assumptions about how the world works, [it] shows that creative jurisprudence and experimental practice is possible. Rather than defining waterways and forests and fisheries as "common-pool-resources" (still an anthropocentric construct)… it is evidently not unthinkable in New Zealand to pursue the idea that lakes, harbors [sic], and forests may have their own life and rights. As the Whanganui agreement suggests, it is possible to experiment "across worlds" (or between ao), shaping "how things could be" (2014:304).

In the context of testing such considerations at Ōhiwa Harbour, it could be asked, following Nin Tomas and Kerensa Johnston (2004) in terms of the foreshore and seabed legislation: what does the Ōhiwa taniwha (spiritual guardian) Hinetahi think? Likewise, the question could read: what do the birds of Ōhiwa think about how things could be? To explore these questions and to challenge anthropocentric constructs of the natural world would take commons research to another level.

In Aotearoa New Zealand queries of this kind have an especially rich arena – the 'in-between' space of mixed Māori and Pākehā worldviews; a space which has been emerging since the mid-1970s (Bönisch-Brednich and Hill 2002). A shared urgency to restore and maintain healthy landscapes and seascapes may help drive the progression of this 'third space' towards a specifically Aotearoa New Zealand identity – one that is grounded in people's relationships with the natural world, as opposed to (or complementing) Crown policies for promoting biculturalism. Those relationships could lead to robust collective action institutions for places such as Ōhiwa Harbour if they, as Bateson suggested, incorporated alternative and radically different perceptions and realities of the natural world from those currently dominating our thinking.

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