

Water rights, climate, 'Payment for Ecosystem Services' and post-neoliberal strategy from Johannesburg to Rio+20

**presented at the Norwegian Development Studies Association Conference
'Development for a Finite Planet: Grassroots perspectives and responses to
climate change, resource extraction and economic development'**

Oslo Centre for Interdisciplinary Environmental and Social Research, 26 November 2012

Patrick Bond - Centre for Civil Society

**in the School of Built Environment and Development Studies,
University of KwaZulu-Natal, Durban**

rights talk, water and climate

- context: 'sustainable development' to 'Green Economy'
- how appropriate is it to emphasize 'rights talk' as a means of **countering corporate-neoliberal pressure**?
- by invoking the **right to water** and attempting to define it in the context of neoliberal municipal management, *does a generic commitment to **rights trump the market**?*
- or instead, **work within the market** in a manner consistent with Payment for Ecosystem Services principles?
- if there is a deep problem with rights talk, is '**commoning**'-talk potentially a substitute for the purpose of framing?
- **Payment for Ecosystems Services as neoliberal** distraction
- but **ecological debt** is the next terrain of struggle

Rio+10

A GIFT FROM THE CORPORATE WORLD!

johannesburg
World Summit
2002



Type 2 Partnerships, water privatisation, carbon trading

Brundtland Commission (1987):

Sustainable development is development that meets the needs of the present without compromising the **ability of future generations to meet their own needs.**

contains within it two key concepts:

- 1) the concept of 'needs', in particular the **essential needs of the world's poor**, to which **overriding priority** should be given; and***
- 2) the idea of **limitations** imposed by the state of technology and social organization on **the environment's ability to meet present and future needs.*****

**hijacked
en route**

Sustainable Development: From Brundtland to Rio 2012

John Drexhage and Deborah Murphy,
International Institute for Sustainable Development (IISD)

*over the past 20 years [sustainable development] has often been **compartmentalized as an environmental issue**. Added to this, and potentially more limiting for the sustainable development agenda, is the **reigning orientation of development as purely economic growth**... The problem with such an approach is that **natural resources are in imminent peril of being exhausted** or their quality being compromised to an extent that threatens current biodiversity and natural environments... Sustainable development has found a de facto **'home' in climate change**.*

World Bank's 'impeccable' logic of green capitalist pollution trade

DATE: December 12, 1991

TO: Distribution

FR: Lawrence H. Summers

'I think the economic logic behind dumping a load of toxic waste in the lowest wage country is impeccable and we should face up to that... Africa is vastly underpolluted'

(preparing for original Rio Earth Summit, secret memo of Bank chief economist Larry Summers, later US Treasury Secretary and Obama's economic manager – full memo: www.whirledbank.org)



José Lutzenberger: *"Your reasoning is perfectly logical but totally insane."*

A man wearing a white tank top and a light-colored hat is sitting in a field of tall grass at night. He is looking to his right. The scene is illuminated by warm, glowing lights that create a bokeh effect in the background.

Collor fired Lutzenberger; Summers became US Treasury Secretary, President of Harvard and Obama's economic czar

'Care must be taken to ensure that cities and roads, factories and farms are designed, managed, and regulated as **efficiently as possible to wisely use natural resources** while supporting the robust growth developing countries still need... [to move the economy] away from **suboptimalities and increase efficiency** – and hence contribute to short-term growth – while protecting the environment.'

not mentioned by World Bank:

**** financial speculation in commodities and nature,***

**** export-led growth, or***

**** irrationality of so much***

international trade, including

wasted bunker fuel for shipping

Inclusive Green Growth

The Pathway to Sustainable Development

***my critique posted at
<http://www.triplecrisis.com>***



THE WORLD BANK

May 2012

why are banks so desperate?

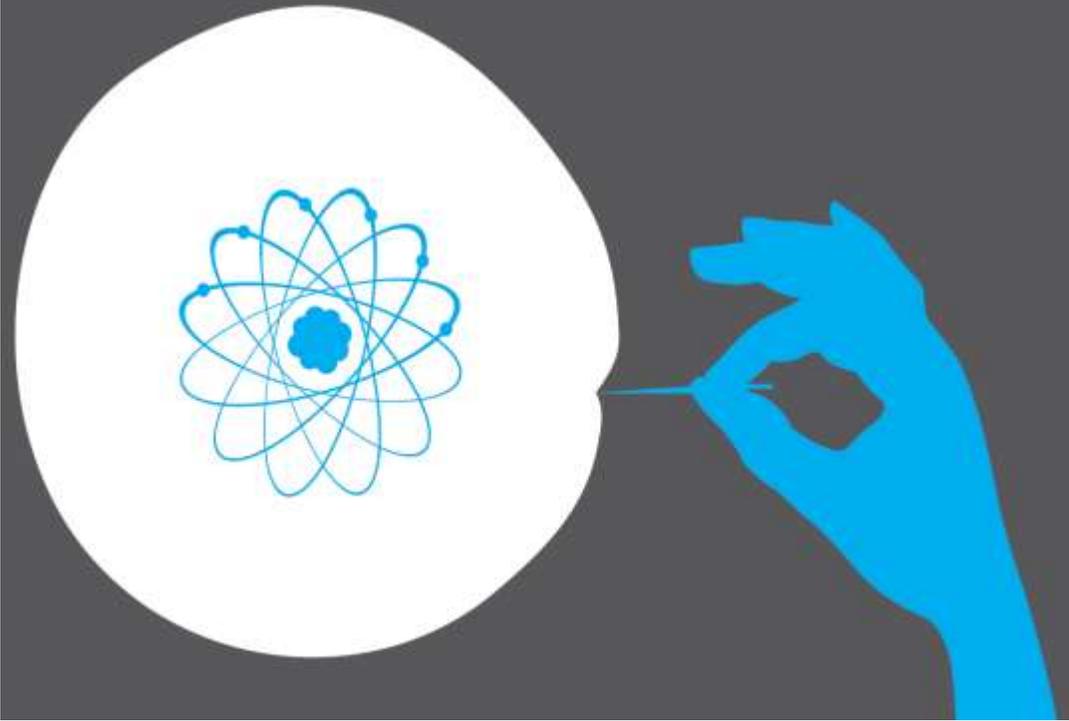
*UK Climate Change Minister
Greg Barker, 2010:*

*"We want the **City of London**, with its unique expertise in innovative financial products, to lead the world and become the **global hub for green growth finance**. We need to put the **sub-prime disaster behind us**"*



Unburnable Carbon –

Are the world's financial markets carrying a carbon bubble?



Carvier Limited: "3 million units available!!" from Brazil – the ethical alternative to carbon credits?

By Chris Lang, 6th June 2012



A company called Carvier Limited is advertising 3 million "Sustainability Credit Units" from an area of forest in Brazil. Predictably enough, REDD-Monitor had a few questions for Carvier Limited. And, perhaps just as predictably, Carvier Limited has so far not responded.

Here's what we know so far about Carvier Limited and its "Sustainable Credit Units" from Brazil. Carvier Limited was incorporated in the UK in September 2011. The company describes itself as a "Carbon Reduction and Management Services Provider". Barinua Nwtko is the company director. Nwtko is also director of another company called Tamar (London) Ltd.

On 30 March 2012, Tamar (London) Ltd was one of four companies that were "ordered into provisional liquidation by the High Court on public interest grounds" pending a court hearing on 29 June 2012. Courts appoint a provisional liquidator to avoid the risk that companies' assets disappear before legal insolvency proceedings are completed.

The other three companies ordered into provisional liquidation were Johnnystone Limited, Brad Baker Limited and Tullett Brown. The director of Johnnystone Limited is John Nwtko. The director of Brad Baker Limited is Bradley Ferry, who is also a director of Tullett Brown. Barinua, John and Daniel Nwtko own a total of 74% shares in Tullett Brown.

Tullett Brown was a commodity trader, specialising in precious metals (gold and silver) and carbon trading. In March 2012, World Finance named Tullett Brown "Commodities Broker of the Year in Western Europe". Simon Greenspan, a broker with Tullett Brown, accepted the award on behalf of Tullett Brown. Here's what Greenspan had to say about carbon trading:



Follow Chantel

3 million units available!! BMV UCS Sustainable Units - the ethical alternative to Carbon Credits!!

Our Brasil Mata Viva Sustainable units are third party verified against objective, credible and transparent standards, and also recognised by the United Nations. The units are completely traceable through the QR code on the certificates.

We are currently one of 2 companies globally that have access to the BMV UCS units.

We specialise in unique carbon offset projects that result in real, quantifiable, permanent sequestering of Co2 and additional greenhouse gas emissions.

It is the first Sustainable Unit to market (3 Pillars of Sustainability), the superior alternative to carbon credits that just look after the environmental aspect.

- The Sustainability Credit Units transform businesses as it relates environmental issues into solution enablers instead of simply being the creators of the problems which impact it's operations.
- It ensures its own sustainability with the conservation of the supply base of natural resources such as water and raw materials.
- It can improve the company's classification, reducing risk and increasing reliability for the market.
- It takes care of the 3 pillars of sustainability (Social, Environmental, Economic) thus adopting the CSR banner as a whole in one package.
- A portion of the money will come back to a charity, fund or organisation of your choice.

For more information contact chantel@carvier.co.uk or leave a comment for my response.

Reagrd

21 hours ago

"It's an area of the market that Tullett Brown, not only are we very excited about, we are very passionate about it. At Tullett Brown we've only ever invested in areas of the market that have truly stood the test of time, such as gold and silver and property. When our analysts were looking for the next great area of growth it was fairly obvious to them. It was the planet, it was the environment. The preservation of the planet allows us at Tullett Brown to give our clients what they truly seek, which is sustainable returns for many years to come."

HOODWINKED IN THE HOTHOUSE

False Solutions to Climate Change

second edition

Green Economy 'false solutions'



Rising Tide North America and Carbon Trade Watch



Indigenous Peoples' Guide FALSE SOLUTIONS TO CLIMATE CHANGE



DON'T BE FOOLED!

'Green Economy' false solutions: technology

- *dirty 'clean energy': nuclear, 'clean coal', fracking shale gas, hydropower, hydrogen;*
- *biofuels, biomass, biochar;*
- *Carbon Capture and Storage; and*
- *other whacky geoengineering gimmicks (Genetically Modified trees; sulfates in the air to shut out the sun; iron filings in the sea to create algae blooms; artificial microbes to convert plant biomass into fuels, chemicals and products; large-scale solar reflection e.g. desert plastic-wrap)*

Payment for Ecosystem Services

Compensating the poor and other land users for practices that maintain healthy, 'service-producing' ecosystems may be an important part of strategies for sustainable and equitable development. Serious problems arise, however, when such compensation schemes are framed as markets.

-Kathy McAfee, SF State University

main *False Solution*: **global carbon market**
core to multilateral climate governance

At Rio+20: Values versus prices



by **Patrick Bond**

Director the [University of KwaZulu-Natal Centre for Civil Society](#)

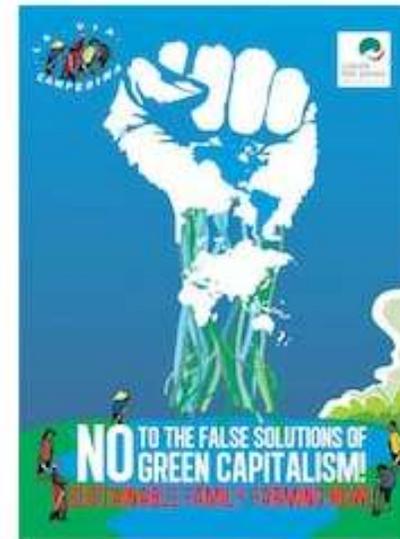
[RIO DE JANEIRO, JUNE 18, 2012] – Given the worsening world economic crisis, the turn to 'Green Economy' rhetoric looms as a potential saviour for footloose financial capital, and is also enormously welcome to those corporations panicking at market chaos in the topsy-turvy fossil-fuel, water, infrastructure construction, technology and agriculture sectors.

On the other hand, for everyone else, the Rio+20 Earth Summit underway this week in Brazil, devoted to advancing Green Economy policies and projects, appears as an overall disaster zone for the people and planet.

Meanwhile in Mexico, the G20 meeting of the real powerbrokers this week included a Green Economy session. But more serious distractions for the elites include ongoing Southern European revulsion at harmful public policies cooked up by bankers, and potential war in the Middle East. Perhaps a few environmentally-decent projects may get needed subsidies as a result of the G20 and Rio talks, and we'll hear of 'Sustainable Development Goals' to replace the fatuous UN Millennium Development Goals in 2015.

But the overarching danger is renewed official faith in market mechanisms. No surprise, following the logic of two South African precedents: the 2002 World Summit on Sustainable Development in Johannesburg (Rio+10) and last December's Durban COP17 climate summit. There, the chance to begin urgent environmental planning to reverse ecosystem destruction was lost, sabotaged by big- and medium-governments' negotiators acting on behalf of their countries' polluting and privatising corporations.

Market fixes to market failures?



Martinez-Alier and Spangenberg reverse this logic:

"Unsustainable development is not a *market failure* to be fixed but a *market system failure*: expecting results from the market that it cannot deliver, like long-term thinking, environmental consciousness and social responsibility."

In the same spirit, Sunita Narain of the Centre for Science and Environment in Delhi chastised ISEE's conventional economists in a plenary:

"There are a million struggles in India against pollution that Martinez-Alier calls the 'environmentalism of the poor', in contrast to the Green Economy which is the environmentalism of the rich."

Narain contined,

"The issue is not the price of nature, it's *rights* and it's the values of democracy, of governance, of society, of humanity. Let's be very clear: in today's Green Economy as it is being shaped in Rio Centro and by many economists, these principles will not help us move ahead. Let's not get lost in yet another shallow, empty concept."

It's critical to pose the Green Economy from this class-analytic and eco-centric standpoint, especially because inside the official Rio Centro, negotiations on a bland pro-market text continue through Saturday. There, progressive civil society strategies to insulate basic human and natural rights – e.g. to water – are being foiled by negotiators and by the host neoliberal Brazilian government which is channelling reactionary positions from Northern negotiators, especially from Washington, Ottawa, Tokyo and Tel Aviv, the main saboteur-regimes when it comes to water justice.

According to Anil Naidoo of the Ottawa-based Blue Planet Project, "the new negotiating text is out and it is terrible! We expected the attacks to continue as we have made strong gains through our pressure, but clearly we must again fight for our human right to water and sanitation." In spite of excellent anti-privatisation activism by Naidoo's allies in dozens of cities across the world, water commercialisation remains a major threat, especially thanks to the World Resources Institute's mapping of scarcity on behalf of thirsty transnational corporations.

David Harvey

rights-talk as antidote? The 'right to the city'

is now the point of massive collision—dare we call it class struggle?—over **the accumulation by dispossession** visited upon the least well-off and the developmental drive that seeks to colonize space for the affluent. **One step towards unifying these struggles is to adopt the right to the city as both working slogan and political ideal, precisely because it focuses on the question of who commands the necessary connection between urbanization and surplus production and use.** The democratization of that right, and the construction of a broad social movement to enforce its will is imperative if the dispossessed are to take back the control which they have for so long been denied, and if they are to institute new modes of urbanization. (New Left Review, 2008)

rights talk at Rio

- Rio+20 'Zero Draft' initially had a strong statement consistent with standard second-generation rights constitutional language:

67. We underline the importance of the right to safe and clean **drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights. Furthermore, we highlight the critical importance of water resources for sustainable development, including poverty and hunger eradication, public health, food security, hydropower, agriculture and rural development.**

rights talk at Rio

- Manila-based IBON International, Paul Quintos (2012) warned,
We have been witnessing a **systematic attempt by some powerful states to weaken, or 'bracket' or outright eliminate nearly all references to human rights** obligations and equity principles in the text for the outcome of Rio+20... 'Right to safe and clean drinking water and sanitation' – delete! But they agree to **'efforts to improve access' because they can always say that they are privatizing water utilities** in order to encourage private investments and therefore improve access. Whereas rights assigns the duty to the state.
- after lobbying, rhetorical win in final Rio doc: *The Future We Want*:
121. We reaffirm our commitments regarding the human right to safe drinking water and sanitation, to be **progressively realized** for our populations with full respect for national sovereignty...

how do these narratives play out in South Africa?

context: many struggles for decommodification

- SA activists are at cutting edge of several ongoing campaigns to turn basic needs into *human rights*:
 - ***access to information***
 - ***free antiretroviral medicines to fight AIDS;***
 - ***free water (at least 50 liters/person/day);***
 - ***free electricity (at least 1 kiloWatt hour/person/day);***
 - ***free basic education;***
 - ***thorough-going land reform and decent housing;***
 - ***the right to work;***
 - ***prohibition on services disconnections and evictions; and***
 - ***a 'Basic Income Grant' .***
- All such services should be *universal (not means-tested)*, and financed in part through cross-subsidies by *penalizing luxury consumption*.



Eskom

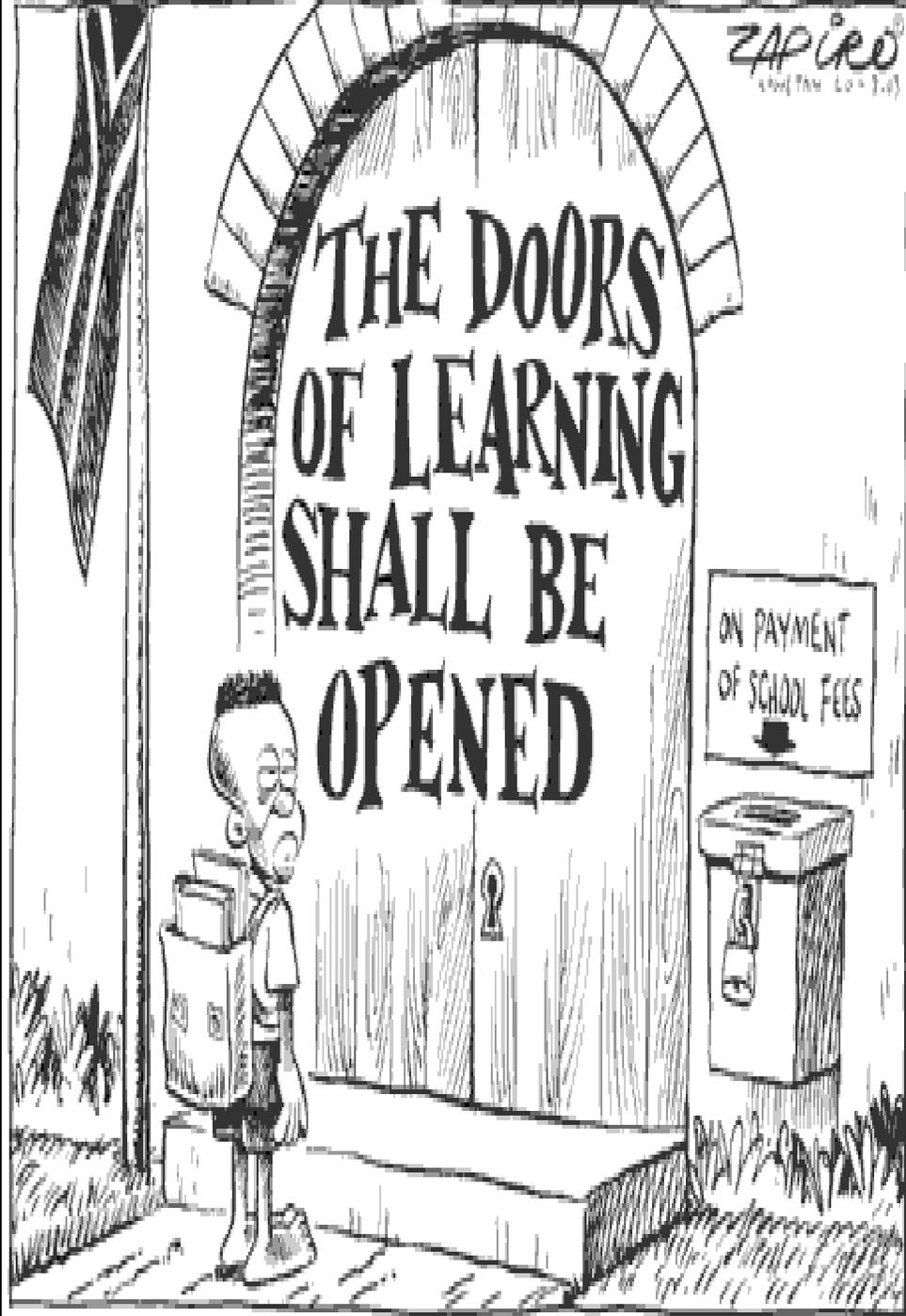


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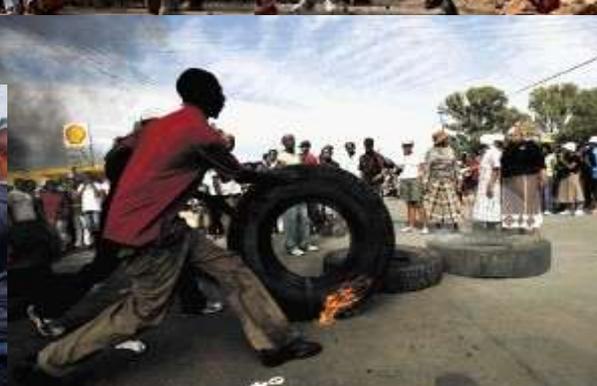
THE DOORS OF LEARNING SHALL BE OPENED



South Africa's 'service delivery protests'







*case study of service
delivery protest:
decommodifying
water in South
African townships*



South Africa's **right to water?**

- *'everyone has the right to an environment that is not harmful to their health or well-being... everyone has the right to have access to... sufficient water'*

– Bill of Rights, Constitution of the Republic of SA, 1996 – subject to 'progressive realisation of rights' and budget constraints clauses

can this right be made justiciable?

- *2003-09 lawsuit by Soweto activists and Coalition Against Water Privatisation (CAWP) against Johannesburg government (and Paris-based Suez): <http://www.law.wits.ac.za/cals>*

two core aspects of *Mazibuko v Johannesburg* case

- *How much water?*
 - *City of Joburg and Suez (2001): 25 litres/capita/day*
 - *Phiri activists, CAWP, CALS (2003): 50 lcd*
 - *High Court (Tsoka in April 2008): 50 lcd*
 - *Constitutional Court (Oct 2009): 'we don't DO policy'*
- *What delivery mechanism?*
 - *Joburg, Suez: pre-payment meters*
 - *Phiri et al: credit meters (as in white areas)*
 - *High Court: pre-payment meters are discriminatory*
 - *ConCourt: no problem with pre-payment meters*

lessons from *Mazibuko*

for activists, intellectuals, lawyers

- broader commons framing, including Rights of Nature
- use human rights narrative purely for defensive purposes (injunctions against disconnections), not to change policy (confirming Critical Legal Studies' 'contingency' theory)
- use rights narrative for social education and mobilisation (Treatment Action Campaign) but beware demobilisation potential
- for real relief: reconnection, turning meters into 'statues', 'commoning' and mutual aid, social mobilization and protest



routes for *Mazibuko* and fellow activists: in or out of liberal-democratic-capitalist box

- *Into the courts deploying Constitutional rights narrative*
- *Into the streets using pipe spanner*

What does the 'box' suggest?

- liberal-capitalist context, World Bank, Suez
- Constitutional language, ANC reforms
- economic theory of pricing nature

critiques of socio-economic 'rights talk'

(mostly from Critical Legal Scholars e.g. Roithmayr, Madlingozi, Pieterse, Brandt)

- *individualist: private/familial instead of public/political*
- **consumption-oriented, without linkages to production, ecology**
- *'framed not to resist but to legitimise neoliberalism' (Daria Roithmayr)*
- **leaves in place society's class structure, 'bleeds off any real move to dismantle these processes through redistribution and reparations' (DR)**
- *technicist discourse: alienates mass base and society in general*
- **mass-based organisations become the 'client', are 'domesticated' (Tshepo Madlingozi), are told to halt protests during litigation**
- *rights are 'watered down' with Constitutional clauses of 'progressive realisation', 'reasonable' measures and 'within available resources'*
- **legal alleyways distract from a more transformative route to politics**
- *for class reasons, judges are amongst society's most conservative elites*
- **capitalism won't deliver these goods!**

is there an alternative narrative?

'commoning'

<http://onthecommons.org/content.php?id=1467>

Commons movement: A growing social and political movement that believes *the commons is a crucial sector of the economy and society and useful prism for talking about resources that should be shared...*

A wider appreciation for the enduring importance of the commons has developed over the last eight years, especially among *people deeply involved in the politics of water issues, the internet, the over commercialization of culture and public spaces.*

This world view is now reaching into many other arenas, including *economics, the environment, social justice and numerous citizens movements around the world.*

is 'commoning' an alternative?

<http://onthecommons.org/content.php?id=1467>

The commons is a new way to express a very old idea—that **some forms of wealth belong to all of us, and that these community resources must be actively protected and managed for the good and all.** The commons are the things that we inherit and create jointly, and that will (hopefully) last for generations to come. The commons consists of **gifts of nature such as air, oceans and wildlife as well as shared social creations such as libraries, public spaces, scientific research and creative works.**

is 'commoning' an alternative?

Michael Hardt (coauthor of *Commonwealth*):

On the one hand, the common refers to the earth and all of its ecosystems, including the atmosphere, the oceans and rivers, and the forests, as well as all the forms of life that interact with them. The common, on the other hand, also refers to the **products of human labor and creativity that we share, such as ideas, knowledges, images, codes, affects, social relationships, and the like.**

Karen Bakker warning on commoning:

appeals to the commons run the risk of romanticizing community control. Much activism in favour of collective, community-based forms of water supply management tends to romanticize communities as coherent, relatively equitable social structures, despite the fact that **inequitable power relations and resource allocation exist within communities.**

water within larger Joburg eco-social critique

- activist awareness of **ecological aspects of water as a commons is growing** especially because of climate change,
- **Johannesburg region is crucial** because it is most intensive site for (non-smelting) electricity usage in South Africa,
- **water tables ruined** through Acid Mine Drainage,
- **main resource (gold) is nearly exhausted**, and **manufacturing base is uncompetitive** with imports from E.Asia
- as a **financial and services centre** Johannesburg has thrived, but sustainability of such activity is limited given the country's vast problems with current account balances, foreign debt and an unstable currency;
- Joburg region (along with South Durban and CT) has main **environmental justice activist cadreship.**

right to compensation, for 'ecological debt'?

- increasing demands that **wealthy industrialized countries pay reparations** for climate change damage under the rubric of 'climate debt';
- numerous forms of **ecological debt** could be calculated (e.g. Texaco's \$8 bn polluter-pays fee in Ecuador) and paid for by overconsumers in Global North;
- Ecuador's **Yasuni Park** (Amazon) - 'leave oil in the soil' - request to former Norwegian development minister Eric Solheim revealing: **climate debt? carbon markets?**;
- avoid subjecting climate justice politics to '**Greenhouse Development Rights**' which individualize the climate crisis and which potentially commodify the air

difference in the two discourses (rights & commons)

- water is demanded as **an individualized consumption norm** in one (rights) and is **'shared'** in the other (commons);
- Bakker: rights advocates' 'widespread failure to adequately distinguish between **different elements of neoliberal reform processes**, an analytical sloppiness that diminishes our ability to **correctly characterize the aims and trajectories of neoliberal projects of resource management reform**';
- rebuttal from Johannesburg activists is that rights discourses – even as purely rhetorical demands for a constitutional entitlement, used to empower ordinary people – can serve as a **step: *through rights to the commons***;
- **world's only hope is global-scale environmental planning** (sometimes termed eco-socialism): ***through commons***

in sum...

NEEDED: *new ideas and strategies that can transcend consumption-based rights demands, along with coherent critiques of the full range of practices that undermine our ability to perceive and respect water and other aspects of nature as a commons.*

These strategies may emerge through fusions of community, environmental and labour in the alliance-formation that necessarily occurs during eco-social justice struggles, as rights-talk meets its limits, and as the commons appears as a new frontier.