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## Landscape: from common good to human right

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**Abstract:** This paper analyses how the current concept of landscape, which overcomes a scenery-based characterisation and a confinement to classical aesthetics and art, relates to the notions of the common good, commons and commons pool resources (CPRs). I consider landscape as a complex process in which human beings (with their history and culture) and their environment are mutually defined. On the basis of this approach to landscape studies, and by considering contemporary documents on landscape (i.e. the European Landscape Convention, the Latin American Initiative for Landscape and the UNESCO Florence Declaration) I analyse the similarity between the notion of landscape and the concepts of common good, the management of commons and the commons pool resources institutions. Through theoretical research supported by practical examples (e.g. community gardens) I argue that landscape can be defined as a common good, can include the commons, and the collective management of lands and common pool resources institutions. The paper relies on an excursus through the theories and legal documents, with a specific regard to the theoretical foundations of these different notions. The analysis carried out in the paper leads, in the end, to the possibility of defining the ‘right to landscape’. Even if the concept is new in the literature, and a right to landscape is not recognised as a right per se, it is already implicated and studied in many international rights laws. Three approaches to landscape as a right have been distinguished: the right to landscape as a perceived landscape (a collective right), as a right to the environment and a right for addressing human rights. I integrated these approaches by arguing that landscape is a domain in relation to which human rights can be claimed, and that landscape can be considered as a right to which human beings are entitled.

**Keyword:** Common good, common pool resources, commons, landscape, landscape perception, right to landscape

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## I. Introduction

This paper addresses the relationships between the concept of landscape and the notions of the common good, the commons and commons pool resources (CPRs). The paper does not aim at a complete review of these notions in the literature, but develops an analysis of how the current idea of landscape, by overcoming its scenery-based characteristics, can be defined, at the same time, in terms of the common good, the commons and CPRs.

The first section, *Landscape: a debated definition*, explains how the concept of landscape has evolved in the literature, in the humanities in particular, from a view and a beautiful scene, towards a cultural relationship between the environment and human beings. One of the most comprehensive definitions of landscape is provided in the European Landscape Convention, which states that landscape “means an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors” (Council of Europe 2000a: Article 1). On the basis of this definition, my analysis focuses on the perception of landscape as a common good, its management as a common, and the institutions of CPRs.

In the second section, *Landscapes and the common good*, the notion of common good is analysed by tracing its origins in the ancient Greek city-state up to the Middle Age management of the towns, with reference to Roman Law and the Medieval communes. The analysis of common good as *publica utilitas* (Settis 2013) is considered pivotal, not just because it pursues a historical analysis, but also because it is based on a political and social definition of landscape. Stating that landscape is a *publica utilitas* means that landscapes are public goods. The implications of this include the safeguarding of social-political relationships happening within landscapes, as well as the protection of the environment, with a special regard to future generations. Even if the concept of common good might be considered too vague and too wide, and even if it is a term often assumed as an *a priori* in the debate on landscape, the expression *landscape as commons good* is used to denote a commitment towards the improvement of the relationship between nature and culture in many documents. Commons and CPRs are more specific notions, engaged in the direct management of landscape.

The third section, *Landscape and commons*, analyses how the term commons refers to the communal and shared use of lands or goods. Commons today constitutes a debated topic with a wide research field. This section addresses its evolution and its political and etymological relationship with the concept of landscape. Landscape and commons were intertwined by a *lex loci*, customs and laws which regulated the communal management of the land. As argued by Olwig “The commons is the material landscape of common lands shared by a community of commoners with customary use rights in the land” (Olwig 2013, 31). Commons

relates to landscape from several specific dimensions: (1) the historical, as commons relies on a customary and collective management of lands; (2) the theoretical, through the revival of research and studies on commons; (3) the practical, through activism and the contemporary experiences of commoners. The fourth section, *Landscape, the tragedy of commons and the commons pool resources institutions*, develops the historical dimension through a brief excursus in Garrett Hardin's theory (Hardin 1968) and Ostrom's framework accounts of common pool resources' management (Ostrom 1990). Emphasis is put on two main elements marking the difference between Hardin and Ostrom's approaches toward the commons. Hardin is influenced by Malthus and a view of society that is based on the idea of *homo homini lupus* or, as he says, '*dog eats dog*' (Hardin 1968, 1246). Hardin's model assumes that individuals are short-term, self-interested, rational actors seeking to maximise their own gains. Ostrom (1990) introduces a specific framework for the management of common resources. She demonstrates how local property and common pool resources can be successfully managed by local users through a common property regime, without the necessary intervention of the State or Government. The collective management of CPRs is related to landscape because CPRs are a part of landscapes. Furthermore, the collective management of landscapes is considered necessary in documents such as the European Landscape Convention. Bottom-up participation and collective governance are among the main goals of the contemporary management of landscapes.

The fifth section, *Implications of commons in contemporary political theories*, develops an *excursus* aimed at the explanation of the contemporary meaning of commons. It briefly analyses how social and non-governmental practices involved within contemporary commons can be considered as a criticism of the capitalistic and globalised economical model, insofar as they often imply urban/natural place re-appropriation and non-governmental management of the land. This section also analyses the perception of landscape (both urban and rural) as an element which contributes to building the identity of society. Section 5.1, *Reclaiming the commons for urban transformation: community gardens as an example*, reports some case studies on re-appropriation of urban spaces through community gardens.

The sixth section, *Human rights and landscapes: the documents*, introduces a debate about landscapes, the common good and human rights. The issue of human rights in the relation of landscape to perception and collective management. Three documents are analysed: The European Landscape Convention (2000), the Florence UNESCO Declaration (2012) and the Latin American Initiative on Landscape (2013). The aim is to demonstrate that human rights and landscape are linked, not only with regards to conflict zones or to native territories (Olwig 2011b, 44) but, also and specifically, with respect to everyday landscapes and environments that are threatened and damaged. It is therefore important to consider how thinking about the relation between landscapes and human rights can be thought of as a 'right to landscape', an idea that, even if it is not recognised as a right *per se*, is implicated in several international rights' laws (Strecker 2011, 57).

The right to landscapes becoming a matter of collective perception is analysed from a theoretical point of view in the seventh and last section, *Human rights and landscapes: a matter of perception?* This section takes into account three different perspectives on defining the *right to landscape*: (1) A right to a landscape as a right to a perceived landscape. How people perceive landscapes determines their right to have those landscapes. In this case the right to a landscape can be considered a collective right. (2) A right to landscape as a right *per se* (a landscape considered as a complex ecological *milieu*, consisting of animals and plants). In this case we can consider the right to the environment as the closest approximation to the right to a landscape as a right *per se*. (3) A right to a landscape as a framework for addressing human rights (Egoz et al. 2011). In this case landscape is considered a substantive space for actual human rights.

The conclusion of this paper provides a definition of landscape which accounts for different forms of management. Landscape is considered as a matter of perception, constituted and created by the relationship between human beings and the natural environment. If we can overcome the characterisation of a landscape as something merely beautiful and connected with good scenery, i.e. we focus on an ethical landscape rather than on a beautiful landscape, concepts such as the common good, commons and CPRs enter, by right, into the domain of landscape. I argue that considering landscapes can be collectively managed and can be considered as a good belonging to the population, for which it can be claimed as a right, might contribute to solving different social conflicts, and enhance the safeguard of landscapes at different levels.

## 2. Landscape: a debated definition

The aim of this section is to show how the modern concept of landscape has evolved from meaning a pictorial scenery to a social and cultural expression of the human relationship to the environment. The ultimate goal is to analyse how these latter conceptualisations have allowed us to rethink landscapes in relation to commons, the common good and CPRs.

It is interesting that in The New Oxford American Dictionary (NOAD 2005) 'landscape' is defined as: "all the visible features of an area of countryside or land, often considered in terms of their aesthetic appeal". The reduction of landscape to a scenery and its beauty is neither a coincidence nor a novelty in modern thought. On the contrary, it is a problematic heritage of the modern characterisation of the term in the Western world as a beautiful view. The goal of this paper is to clarify how the notion of landscape was born, how Western ideas on landscape have developed, and consequently, how we relate today to something that we call 'landscape'.

It is worth mentioning that the cultural approach to landscape, represented by the French School (Berque 1995, 2000, 2006; Roger 1995, 1997; Paquot and Younès 2009; Bonnaud and Younès 2014) traces the history of the modern western concept back to the art and poetry of the early modern age in order to define landscape as a cultural and aesthetical product, born from the relationship

between specific cultures and their environment. The French tradition affirms that some societies of past centuries were not landscape-aware, and the emergence of the concept of landscape is a specific characteristic of China – almost 2000 years ago – and Modern Western Europe (Berque 1995, 2008). This analysis relies on four empirical criteria to identify the awareness of landscape, or what Berque calls ‘*épiphanie du paysage*’ (Berque 1995, 34), that is not just a simple aesthetic appreciation of landscape, but rather its emergence in the theoretical language. These criteria are: (1) linguistic representations (e.g. use of one or more words for landscape); (2) oral or written literature to describe landscape (e.g. poems which sing the beauty of landscape); (3) pictorial representations of landscape (e.g. paintings of which main theme is landscape); and (4) pleasure gardens. Around the V century BCE, the first written book about landscape painting appears in China: *Introduction to landscape painting* by Zong Bing (Berque 2008, 43). In this book, the term used to describe landscape (namely landscape painting) is *shanshui*, which is composed of two elements: *shan* (mountains) and *shui* (river). The term is still used in contemporary Chinese to designate natural landscape, and relies on the ancient Chinese philosophical distinction between *yin* and *yang*. Mountain is usually associated with the symbolic element of *yang* (positive, male, active) and river is associated with *yin* (negative, female, passive). Yet, as other authors point out, *shanshui* does not mean a mere *wilderness*, because the role of human being (as perceiver and dweller) is always visible or implied in the representation of Chinese landscape (DeLue and Elkins and 2008, 102, 277). A sensitivity towards landscape thus developed in China almost 2000 years ago, and then spread to its neighbours Korea, Japan and Vietnam. This taste for natural landscape developed among artists, painters and writers within the higher social classes.

Something similar happened later in Western Europe. According to Augustin Berque, the western concept of landscape was invented by city-dwellers and artists during the Modern Age. Before that, ancient western civilisations, such as Ancient Greece, did not have in their language a word for landscape. The appearance of the idea of landscape is related to a different relationship with nature and environment (Berque 1995, 61). This particular relationship is connected to the aesthetic characterisation of place: the dwelling place is transferred into a picture, into a drawing, and later, in the postmodern age, into a postcard. Through this transformation it becomes a place to admire, to watch and paint, and not necessarily a place to dwell. In Europe, it is not the case that the concept of landscape was born during the Modern Age, since it reflects a specific way of seeing nature and of conceiving it as a view and as a resource to exploit. On the contrary, before the Modern Age ‘*proto-paysages*’ (proto-landscapes) were characterised by a relation with the environment mediated by laws, symbols, and religious and mythical elements (Berque 1995, 39; see also Ritter 1978 and the poem *The Walk* by Shiller 1795).

The etymology of the term landscape makes this shift more evident, but it complicates the debate: landscape comes from *land* plus *ship* (condition; state), the suffix evolved in *-scape* (cognate of *shape*). The mainstream landscape theorists’ version thought that the term appeared just in the Modernity and the suf-

fix-scape designated something showing, exhibiting or embodying quality or a state, thus related to the visual shape of a land. Recently Olwig (1996, 2002; see Cosgrove 2004) argued that the term landscape (*landskap*; *landschap*; *Landshaft*) was already used during pre-modernity in the Germanic/Scandinavian languages meaning a configuration of territory, an assemblage of political community and place. This account conveys the idea that the original meaning of landscape does not refer to a view, but rather to something closer to the idea of commons, to a body of politics (Olwig 1996) and to the management of the land by a community. As Cosgrove specifies: “The unity of fellowship and rights within the community and the space over which fellowship and rights held sway constituted the *Landschaft*. In this sense its usage might be paralleled to the English ‘country’” (Cosgrove 2004, 61). Olwig argues that the modern visual approach to landscape comes directly from paintings, art and the pictorial representation of the land starting from the Renaissance. The modern use, still so dominant in the contemporaneity, appeared thus in the late XVI and early XVII centuries and came to be perceived in the modern sense as a scene.

The modern meaning of the term is far more evident in the Latin languages. In French, Italian and Spanish, landscape is respectively *paysage*, *paesaggio*, *paisaje*. The French term *paysage* (from whom the others seem to have derived) is not attested before the XVI century (Williams et al. 2016, 848). It refers to landscape paintings and it holds the meaning of an ensemble caught by a single glimpse. Landscape in the Latin languages seems thus to be a modern term. According to Roger, the territory or what is called ‘pays’ (country, land, coming from the latin *pagus*) becomes ‘paysage’ (by adding the suffix -age) through the aesthetical action of the modern subject (Roger 1997, 17–18). More than other languages, the Latin ones exemplify the ‘artialisation’ of the land though the concept of landscape. As a matter of fact, the appearance of modern landscape as a scenery occurs literally through a window (Roger 1997, 73). If we look at the painting *The Virgin and Child before a Firescreen* by Robert Campin (1425–1430), the landscape there is depicted with precision and in detail in a window in the background of the room. According to Roger (1997) it is in this picture that we can identify the birth of European landscape, and he uses the concept of ‘artialisation’ of landscape to describe this event and, more generally, the idea that landscape is an aesthetical production. *Artialisation* is defined as the artistic intervention in nature, that can be performed directly (*in situ*) or indirectly (*in visu*, by means of the gaze).

The double nature of the term landscape, its ambivalence between aesthetics and management, between a scene and a reality for the community is still evident in the contemporaneity. The critics of the visual approach are several and they have contributed to the evolution of the concept beyond scenery.

From a philosophical point of view, the criticisms of a scenery approach to landscape and place are often formulated in the context of wider and more general criticisms of Modernity and of the Modern Cartesian space, characterised as empty, calculable, infinite and homologated (Panofsky 1927; Heidegger 1951, Dardel 1952; Virilio 1984a,b; Augé 1992; Casey 1993, 1997, 2002; Ingold



2011; Menatti 2011, 2013; Olwig 2011a, 2016). On this basis, research on place (Cresswell 2004), place attachment, *topophilia* (Tuan 1974), restorative environments (Kaplan 1995) and ecological psychology (Heft 2010) has opened a new perspective to analyse the relationship between human beings and landscape and in overcoming the idea of landscape as merely perceived through vision.

Following this lead, landscape theory has shifted to a cultural based approach, which explicitly criticises the idea that landscape is an object, a scene, or a view and that is the same for all ages. As Cosgrove points out, although landscape is considered as a way of seeing, a more comprehensive analysis may convey that it has its own history that cannot be separated from a wider history of economy and society (Cosgrove 1984–1997 preface to the II edition, XIV). The idea of landscape represents a way of seeing – a way in which some Europeans have represented, to themselves and to others, the world and their relationship with it, and through which they have commented on social relations. Furthermore, in Cosgrove’s view, landscape constitutes a ‘discourse’ through which social groups have framed themselves and their relation with both the territory and other social and political groups.

During the last decades, the cultural approach to landscape has produced different definitions. The one given in the European Landscape Convention is particularly relevant from theoretical and political points of view: “Landscape is an important part of the quality of life for people everywhere: in urban areas and in the countryside, in degraded areas as well as in areas of high quality, in areas recognized as being of outstanding beauty as well as everyday areas” (Council of Europe 2000a: Preamble). Every landscape is the product of the interactions and of the perceptions of an *area*: “Landscape means an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors” (Council of Europe 2000a: Preamble).

This definition of ‘landscape’, as both a perceptual relation and a practical interaction, has direct connections with the concepts of commons, the common good and common pool resources, as we will see in the following paragraphs. The scenery approach is difficult to eradicate from the theory and management of landscapes.<sup>1</sup> Even so, much of the contemporary research about landscapes tries to overwhelm the classical view/scenery concept of landscape.

I also consider that a more comprehensive definition of landscape can rise from a dialogue between the humanities and the sciences. Ecological psychology, for instance, implements research on the perception of landscape thanks to the concept of affordances, as elaborated by the psychologist James Gibson (Gibson 1979; Heft 2010). This attempt at linking the ecology of perception with a cultural theory of landscape conceives of landscape as the product of the interaction between culture and the *affordances* of a place. It is exemplified in the idea of a

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<sup>1</sup> See for instance Olwig 2016 who criticises the wilderning of landscape – in the lake District in England – as a new form of enclosures, and the heritage of the Modern Western concept of landscape scenery and globalisation.

*processual landscape* (see Menatti and Casado 2016). Through this theoretical framework, landscape is considered as a process. It is an evolving interaction between the environment (with its complexity of affordances and invariants) and the perceiver in the place, whom, through his nature and culture, establishes a relationship with the environment.

The connection between ecology and landscape is also considered pivotal by ecologists, architects and landscape planners (Hendler 1988; Bourassa 1990; Caldwell 1990; Naveh 1991, 1995, 2005; Nassauer 1995, 2007, 2011, 2012). The concept of landscape is thus intertwined with the different modalities of living and perceiving it. Daniel (2000) argues that visual landscape quality assessment (in the XXI century) is a product of the relation between different perspectives: expert and designer parameters, sensory and perceptual parameters, and cognitive constructs (Daniel 2001, 268). These three kinds of parameters respectively show three notions of landscape: as a view, as a cultural-rich environment, and as a portion of territory considered as the prerogative of ecologists, architects and other specialists. In order to operate on landscapes, all of these aspects should be considered and merged together (Daniel 2001, 278). Similarly, Nassauer (2012) proposes a stricter collaboration between aesthetics and ecology, namely in architecture and design, by drawing upon the definition of landscape provided by Jackson (1984): “always artificial, it is always synthetic, always subject to sudden or unpredictable change. Landscape is where the slow, natural processes of growth and maturity and decay are deliberately set aside and history is substituted” (Jackson 1984, 156–157). By going through the main theories of landscape perception, Nassauer (1995) aims at reconciling ecology and aesthetics, and the philosophies of perception and aesthetical preference more generally. In her view, one of the key elements needed to analyse and manage landscapes is human perception. Cognition and values affect landscape, and are in turn affected by it (Nassauer 1995, 230). Human preferences for landscapes clearly demonstrate that perception, cognition and evaluation are interrelated processes. Similarly, Kaplan argues that the human perception of landscapes is not optional in defining landscape (Kaplan 1987, 26).

Landscape is thus a complex concept born from art theory, often entrapped into being defined as a beautiful view, scenery, or vista. The concept of landscape represents specific aesthetical preferences, but it is also constituted by a broader a process through which lands/spaces/places/territories are shaped by different demands and requirements.

For these reasons, an analysis of the link between the concepts of commons/the common good/CPRs seems both urgent and theoretically relevant, as we are to understand the deep stratification that constitutes the nature and the value of landscapes. After this brief excursus into the history of the concept of landscape, the following sections aim at clarifying the evolution of the terms commons, the common good, and common pool resources and their use in relation to the concept landscape. These are different, yet interrelated, notions which are usually applied to the description and management of landscapes. They are



required to be taken into account in order to discuss how landscapes can evolve, be perceived and organised in the contemporary globalised world. From a theoretical point of view, each term entails a specific idea of politics, democracy and participation.

In the following sections I propose a brief analysis of these concepts in order to clarify their differences, as well as to understand in what terms landscape can be characterised respectively as a common good, a commons or as a common pool resource. I will also show the parallelism between human rights and the concept of landscape.

### 3. Landscapes and the common good

The concept of *common good*, as developed in the context of landscape theory and landscape studies, is the most philosophical and broadest of the three concepts. It is also the most inclusive. In many cases saying that landscape is a common good, in fact, implies including also commons and common pool resources. Some scholars (Sgard 2010, 5) distinguish between the common good (*singular*), and common goods (*plural*). Common goods could be considered as common pool resources (Earth's ecological resources: water, air, etc.). Common good, instead, means, *sensu lato*, something belonging to the community and endowed with a political appeal. Namely, the common good is something of general interest; it is related to the debate on contemporary forms of democracy and values (Olwig 2003, 15), sustainable development and ethical ecological issues, and concerns future generations. Mostly, the sentence 'landscape is a common good' has political meaning, although often implicit.

Two elements are worth specifying: the political value of the term, and the fact that it promotes a shift from an aesthetical account of landscape to an ethical one.

One of the first definitions of the common good can be traced back to Ancient Greece and Aristotle, for whom the common good represents something of political value belonging to the city-state (*polis*), to the citizens, and their well-being fulfilled inside a political community of equals (i.e. those who had the right to be citizens). Because citizens are considered by nature as social or political animals, they can achieve their ends (*téloi*) as individuals only in the context of a political community, or city-state (*polis*) – the ideal form of which is based on justice, equality and freedom (Aristotle, I, 1252). Furthermore, the common good is also related to young generations and to the education system. In book VIII of *Politics*, Aristotle writes that education cannot be left to families (Aristotle: VIII, 1337a, 21), and that a common education shapes each citizen so as to enable him to serve the common good. City is thus prior to the individual (Aristotle: VIII 1337a, 26). It does not belong to anyone and it is not private property, but rather it represents a common good towards which all the efforts of the citizens have to be focused. Even if the issue of *polis* and political elements is complex and widely debated in relation to Aristotle's work, it is important to point out the role of the community

in defining what is considered as common good and how it is pursued as a value for everyone.

On the western side of the central Mediterranean Sea, the Latin definition of common good is “*res omnium communis*”, a value shared by everyone and any damage to which affects everyone’s life (Berger 1991, 677). The expression belongs to the Roman law and it means that “*res communis* is the property of all, which signified that things like the high seas, the air and rainwater could not be the object of private rights” (Baslar 1998, 40; see also Rose 2003; Hyde 2010; Broumas 2017).

Ancient theories have inspired contemporary definitions of landscapes as a common good. Settis (2013), an Italian archaeologist and art historian, uses the Latin expression *publica utilitas* as a synonym for the common good in order to define ‘landscape’ and to denote a shift from an aesthetic account of landscapes to an ethical one, from a landscape *to look at* to a landscape *to live in*. According to Settis, the safeguarding of landscapes means the safeguarding of the environment, and thus of the physical and mental health of citizens. Making political decisions and acting in terms of *publica utilitas* implies operating for the good of present and future generations. For this reason, the common good and *publica utilitas* are two expressions that he uses to refer to landscapes. They can be used as synonyms, without any problem in mixing the adjectives *public* and *common* (Settis 2013, 6).

The possibility of associating ‘public’ and ‘the common good’ has deep historical roots. The idea of the common good expressed by Settis is, in fact, eminently political and social. It comes from the medieval tradition of *bonum commune*, and refers to what benefits a society (*bonum commune societatis*). This term can be found in the writings of medieval philosophers (e.g. Thomas Aquinas), and it is used to denote a specific characteristic of the political administration of medieval towns. During the middle Ages (especially from the XI to XIV century) the term appeared in towns’ constitutions to express the main aim of government in urban plans and wealth administration. Settis refers to city plans and documents, which during the Middle Ages shaped the Italian territory. A supremacy of the public interest over the private one is considered pivotal in these documents. The basic elements of landscape safeguarding and protection can be found in many Italian acts and legal documents, from the medieval communes’ constitutions called ‘*statuti*’, to the modern laws of the Italian State, issued in 1909, 1920 and 1939, and up to the Italian Constitution itself (1948).

Settis’ analysis underlines two different elements: the rights of present and future generations, and equal social dignity. Firstly, speaking about the common or public good implies taking care of the generations that will follow: landscapes must be delivered to those who will inherit them. Thus, in discussing landscape, the concept of the “rights of future generations” (Settis 2013, 7) is introduced as a new formulation of the old concept of *publica utilitas* in relation to the responsibility of every generation towards future ones.

Responsibility towards future generations is connected with equality. Landscape as a common/public good becomes a political topic relative to the

management of landscapes by the State (in this case the good is a public one) in order to create social justice and equality between citizens in terms of possibility and access to landscapes. Landscape thus has a social and cultural function, and it concurs with the creation of the principle of equality among citizens: taking care of landscapes is a realisation of a commitment towards justice.

Another important point in Settis' research is the use of the concept of the environment in a way that widens the definition of landscape: the safeguarding of landscapes contributes, among citizens, to the development of the notion of the environment as a constitutional value, connected to the protection of health, and considered "as a fundamental right of the individual and collective interest" (Settis 2013, 9). Safeguarding landscapes requires (and implies) a commitment towards the environment, and once again, towards the basic rights of human beings, e.g. the right to health and, consequently, the right to a healthy environment. Settis' argument is relevant today as it points out the necessary connection between the safeguarding of cultural landscapes and the right to a healthy environment. This is a clear overcoming of a mere aesthetic concept of landscapes, in favour of a wider one, which includes the environmental and moral dimensions in terms of ecology and citizens' rights. Such a view integrates philosophy (because the concept of landscape implies the concept of nature); history (because landscape implies the idea of a collective memory); ethics (because landscape has to do with our behaviour); social disciplines (because landscape implies the ideas of community and identity); politics (because the idea of citizenship is implied). Landscape thus becomes a political priority and a political object (Besse 2009). In this perspective, the beautiful landscape is replaced by the good landscape where all the actors and stakeholders participate in its management, with the aim of a communal safeguarding of the land.

The comparison between landscapes and the common good *sensu latu* is often brought out in political speeches and claims of activists. It is also true that the majority of landscape safeguarding projects and worldwide landscape documents assume that landscape is *a priori* a common good, from a social and a political point of view. The analysis of some legal documents in the following sections will support this idea.

Yet, from a pure historical point of view landscape is also a 'commons'. The communal use rights of the land are prior to the Modern definition of landscape and they maybe constitute the most interesting evidence that landscape is a commons as well as a part of the territory administrated and shared by a community.

#### 4. Landscape and commons

The term 'commons' generally refers to the communal and shared use of lands or of goods. However, further specifications are required, insofar as commons constitutes a debated topic with a wide research field.

From a historical point of view, 'commons' derives from the English legal word for common lands. These were the lands shared by the inhabitants for pas-

turage and harvest before the beginning of the phenomenon of enclosures. The devastating consequences of this shift for material and cultural commons are the object of a wide literature (Neeson 1996; Bollier 2002; Boyle 2003; Bollier and Helfrich 2012; Linebaugh 2012; Olwig 2016). During the XVI century, England was mostly composed of open fields. After the Agrarian and the Industrial Revolution, the majority of open fields had been converted into enclosures or private fields (Rodgers et al. 2011; Zuckert 2012). Commons also appeared in other European countries, North America and Africa (Alden Wily 2012; Olwig 2013). Commons did not refer to an open-access resource, since they were not entirely free. Technically, the commons were largely uncultivated lands to which the tenants of the manor had use rights (rights of usufruct) to particular resources (e.g. firewood, pasture), even though the manor owner was the *de facto* owner of the land. He allowed, according to custom, the lands to be commonly shared and used by inhabitants. What prevented the immediate and wholesale enclosure of common land, was a long-standing recognition of the right to specific, often highly regulated, customary use rights (Wirtén 2012). What has been called a *lex loci* was, in fact, a common law that regulated the use of land. This was based on relationships among different actors, which were later eliminated by enclosures. Therefore, the basis of commons can be found in custom and a shared management of lands: i.e. in the concept of a common use right (the right to use the commons as a symbolic or tangible land).

Landscape and commons are intertwined by a *lex loci*, customs and laws which regulate the communal management of the land. The relationship between landscapes and commons can be expressed in several ways. Firstly, as defined by Olwig, “The commons is the material landscape of common lands shared by a community of commoners with customary use rights in the land” (Olwig 2013, 20). The connection between landscape and commons is realised through the political value that both landscape and commons assume in democratic processes. The phenomenon of the European commons is considered as a political institution through which citizens shared values and a democratic management of the land (Olwig 2002, 2003, 2013). Furthermore, the link between commons and landscape is exemplified by the suffix *-scape* in the word ‘landscape’, which could be related to the suffix *-ship*, meaning political and decisional implications. As Olwig specifies: “The *-scape* in landscape has been spelled differently throughout the ages, but it is fundamentally a variant of the suffix *-ship*, which is found in words such as citizenship and township, not to forget variants of landscape such as the Old Norse *landskapr*, the modern Swedish *landskap* (*landskab* in Danish), or the German *Landschaft*. In all of these words the suffix can be defined as generating the meaning of an office or institution in relation to the prefix” (Olwig 2003, 15; see also Olwig 2013, 32). According to Olwig, the Germanic and Scandinavian territories were a publicly constituted institution that was analogous to a township, though larger. The commons formed an area in which the citizens of such institutions had rights of use in the common land. These rights were rooted in land and landscape which were institutionalised through the commons (law of land,

of towns) and were a symbol of a practical citizenship – which was prior to the institution of Modern State.

Besides the political role in creating a community through the shared use of landscape, commons also have recreational, restorative and democratic value. According to Olwig (2003), contemporary parks are the direct descendants of commons because they arose as a form of compensation for enclosures, following an ideal that can be traced back to the pastoral poems. Namely, to Virgil's Arcadian shepherds as described in *Eclogues* and *Georgics*. "As many working English commons were being enclosed for intensive agriculture, many estate owners chose to devote a large portion of the lands surrounding the manor house to grassy parks that were explicitly inspired by the pastoral Latin tradition. These parks were seen by many to be expression of the democratic ideals of characteristics of England [...] and as such the spread of these park to continental Europe during the Enlightenment was a reflection of inspiration of that England gave to democratic thinking" (Olwig 2003, 17).

Landscape and commons share a political communal vision of the management of the land. They both imply a direct management of the land from the inhabitants. Their history and etymology carry evidence of a sense of identity and a politics. Commons refer to use rights of the landscape, but not only that. They represent a cultural way of managing landscape that carries a political communal sense, based on customs, sharing, equality, participative democracy and justice. Their political bases shaped the European territory, before they were erased by the introduction of different use rights and stances, putting an end to their collective perspectives and aims.

Talking about commons today requires the analysis of different concepts, among which we include CPRs and common goods, especially from an economical point of view. The analysis has strong political and cultural implications not limited to Europe, especially if we consider the revitalisation of commons practices and of communal shared management of the land.

Yet, before specifying this point, we need to introduce the theoretical role played by Garrett Hardin's famous paper about '*the tragedy of the commons*'. This paper marked an important step in these studies and in the work of E. Ostrom on common pool resources institutions.

## 5. Landscape, the tragedy of the commons and the common pool resources institutions

The debate on commons and common good raised an increased interest during the 1970s when Garrett Hardin, a professor of human ecology worried about nuclear world war and overpopulation, published *The tragedy of the commons* (1968). Hardin's paper was part of the larger debate of the 1960s and 1970s taking place in ecology and environmental ethics on the exhaustion of natural resources.

According to Hardin, the commons concern a shared resource system, which leads necessarily to their exhaustion without the regulation of their use. Following

Malthus' theory, Hardin argued that populations tend to grow "geometrically" and exponentially (Hardin 1968, 1243). In a finite world this means that the *per capita* share of the world's goods must steadily decrease. Given that the space available to the terrestrial population is limited, the common resources available for humankind are finite. In prospect, this situation could evolve towards what he calls "the tragedy of the commons". This is explained using an example of a herdsman, which has been often formalised as a prisoner's dilemma (Dawes 1980; Ostrom 1990, 3): "It is to be expected that each herdsman will try to keep as many cattle as possible on the commons [...] as a rational being, each herdsman seeks to maximize his gain. Explicitly, or implicitly, more or less conscious, he asks "What is the utility to me of adding one more animal to my herd?" (Hardin 1968, 1244). When evaluating the positive and negative consequences of his behaviour the rational herdsman concludes that it is better for him to add another animal to his herd. And another, and another... Therein the tragedy of commons, because each man is locked into a system that compels him (according to Hardin's sociological view of the world) to increase his herd without limit, in a world of limited resources: "Ruin is the destination towards which all men rush, each pursuing his own best interest in a society that believes in the freedom of the commons. Freedom in commons brings ruin to all" (Hardin 1968, 1244).

In this scenario, the only possible options might be the management of the commons by private property or by State property. Private property, besides exhausting natural resource, encourages pollution: "The owner of a factory on the bank of a stream – whose property extends to the middle of the stream – often has difficulty seeing why it is not his natural right to muddy the waters flowing past his door" (Hardin 1968, 1245). According to Hardin, the problem has a deeper cause. Even if the problems connected with the commons and pollution need coercive laws or taxes to be managed, they are ultimately the consequences of overpopulation. It is thus clear that the main issue in Hardin's view is the *freedom to breed*: "To couple the concept of freedom to breed with the belief that everyone born has an equal right to commons is to lock the world into a tragic course of action. Unfortunately, this is just the course of action that is being pursued by the United Nation" (Hardin 1968, 1246). Pessimistic regarding the possibility that an ecological conscience could rise in the future, Hardin proposes to control breeding, which is the issue at the core of the problems related with common goods. Because a *laissez-faire* system (letting individuals choose as they like) will not "as if by an invisible hand" solve over-population, Hardin proposes coercive restrictions on breeding which could take a number of forms. According to this approach, the commons, if justifiable at all, is manageable only under condition of low-population density. As the human population has increased, the commons has to be abandoned (Hardin 1968, 1248).

In the end some theoretical clarifications are needed about Hardin's paper: his idea of society is based on the idea of *homo homini lupus* or, as he says, '*dog eats dog*' (Hardin 1968, 1246). Hardin's model assumes that individuals are short-term, self-interested rational actors, seeking to maximise their own gains.



He is in favour of the primary role played by the State and by state laws in the management of the commons. His main preoccupation is population growth (Harvey 2011, 101). The main problem with regards to the commons is related to breeding, and the control of (human) breeding is the only possibility for the commons to survive.

The origins and implications of this last point are well analysed in Locher (2013) who digs deeply into Hardin's beliefs and in the cultural context to which he belonged. By quoting Hardin's text on biology (Hardin 1950), he points out how the latter has always been a supporter of eugenics (he joined, and in 1970 became the director of the American Eugenic Society). Furthermore, Locher underlines the biopolitical implications of Hardin's theory, according to which the control of breeding is not just a matter of conscience and firm belief, but is a matter of intervention policies by the State (Locher 2013, 27). Locher also points out how Hardin was strongly committed against immigration in the name of the environmental cause (Locher 2013, 34). In the end the term "the tragedy of the commons", quoted so often after Hardin's paper, should better remind us not just of a liberal theory (which would be an incorrect interpretation of Hardin's theory), but rather of the biopolitical, conservative, eugenic context from which it was developed.

Nevertheless, in spite of the disturbing implications of Hardin's paper, the logic connected to his approach has been often shared by many scholars.<sup>2</sup>

Hardin's approach to commons was criticised in the book by Nobel Prize winner Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (1990). Ostrom's essay focuses on the management of common pool resources (CPR), defined as: "A natural or man-made resource system that is sufficiently large as to make it costly (but not impossible) to exclude potential beneficiaries from obtaining benefits to its use" (Ostrom 1990, 30; see also Ostrom and Ostrom 1977). Unlike pure public goods, common pool resources face problems of congestion or overuse, because they are subtractable (see also Samuelson 1954; Burger et al. 2001; Ostrom 2005; Röhring 2005; Sgard 2010; Helfrich 2012). Common pool resources may be owned by national, regional or local governments as public goods, by communal groups as common property resources, or by private individuals or corporations as private goods. When they are owned by no one,

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<sup>2</sup> As Ostrom points out, there is a broad debate: for instance, even before Hardin, another scholar H. Scott Gordon expresses a similar logic by requiring the intervention of the State in governing the commons (Gordon 1954). In the same way, Dales (1968) concludes, as Hardin and Gordon, that where a number of users have access to common-pool resources, the total of resources units withdrawn from the resource will be greater than the optimal economic level of withdrawal (see also Baden and Noonan 1998). Furthermore, Ostrom argues that the tragedy of commons is used by Hardin to describe the problem of overpopulation (not to mention the conservative and Malthusian exits to which he arrives). Moreover, since 1968 the term 'the tragedy of commons' has been used to describe several situations – from the management of natural resources up to urban crime, international cooperation, and to the government inability to stop the overspending and so on – in a strongly conservative perspective (see Ostrom 1990, 3).

they are used as open access resources. In this essay Ostrom demonstrates from a theoretical and practical point of view – by showing several examples: in Japan, Switzerland, Philippines, USA, Spain – how local property and common pool resources can be successfully managed by local users through a common property regime,<sup>3</sup> without the necessary intervention of the State or the Government. She questions both Hardin's and Olson's<sup>4</sup> models, and more generally the applications of the prisoner's dilemma game in this context. As she specifies: "I discussed three models that are used to justify the policy recommendation that external government authorities should impose solution on individuals who jointly use CPRs: Hardin's tragedy of the commons, the prisoner's dilemma game, and Olson's logic of the collective action. All three models lead to the prediction that those using such resources will not cooperate so as to achieve collective benefits. Further individuals are perceived as being trapped in a static situation, unable to change the rules affecting their incentive" (Ostrom 1990, 182). One of the main theoretical points of the debate is expressed in these two last statements, that is to say, a new anthropological and social point of view in analysing humankind's actions and praxis in the management of a landscape and its resources. The liberal and pessimistic view of Hardin on human beings gives way, thus, to a more complex economical and practical perspective. Ostrom questions the *homo homini lupus*'s assumption and challenges the presumption that universal institutional panaceas must be imposed by external authorities in order to solve smaller-scale problems. As she specifies, the three questioned models could: "Predict strategies and outcomes in fixed situations approximating the initial conditions of the models, but they cannot predict outcomes outside the range. They are useful for predicting behaviour in large-scale CPRs in which no one communicates, everyone acts independently, no attention is

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<sup>3</sup> We have to clarify that in a common property regime the appropriators, as Ostrom call the takers of CPRs, maintain the resource system as common, instead of dividing it into private property. Common property regimes protect the core of the resource and allocate the fringe through complex community norms of consensus decision making. CPRs are not open access resources, they are governed by an institution, although local, collective and based on a complex decision-making process.

<sup>4</sup> *The logic of collective action* is the title of a book published by Olson in 1965. It presents a political and economic theory based on concentrated benefits versus diffuse costs, namely the so called law of private benefits and public losses. In his book, Olson specifies the concept of free-rider whom, in economics, is someone who benefits from resources, goods, or services without paying for the cost of the benefit. Olson points out that only a selective and separated incentive will incite an individual to behave in a way oriented to the group. The individuals will act collectively only to supply private goods, but not public goods. When a group becomes larger, the idea of community is endangered by the so called "free-rider problem". Large groups have problems providing common goods because each group member has a lower share of benefits (Olson 1965). As Ostrom points out (Ostrom 1990, 6), Olson specifically sets out to challenge the grand optimism expressed in group theory: that individuals with common interests would act so as to try to further those interest. She quotes one of the most famous statements in Olson's book: "unless the number of individuals is quite small, or unless there is coercion or some other special device to make individuals act in their common interest, rational, self-interested individuals will not act to achieve their common or group interests" (Olson 1965, 2; see also Ostrom 1998).

paid to the effects of one's action, and the costs of trying to change the structure of the situation are high" (Ostrom 1990, 183).

In her analysis of different cases of CPR's management around the world, Ostrom develops a framework which takes into account several elements: the institutional choices, the evaluation of benefits, the number of appropriators, the size of CPRs, the amount and type of conflicts, and the *status quo* rules in use. The pivotal point is that the appropriators who are using the CPRs are considered as a part of an autonomous institution, and not merely a group of individuals seeking profit (Ostrom 1990, 216). Accordingly, while the Malthusian perspective sustained by Hardin argues in favour of public intervention, Ostrom, instead, proposes a different economical and sociological perspective. As pointed out by Harribey (2011; see also Berge and van Laerhoven 2011), Ostrom aims at overcoming both the philosophy of individual property rights derived from Locke's thought, and the philosophy of 'Leviathan' – that is, of the power of the state – theorised by Hobbes. In other words, she rejects both monopolies by the market and by the state. Her core political idea, grounded in a framework based on self-organisation and self-governance (Ostrom 1990, 58), is that actors (citizens) create institutions in order to respond to issues in which collective action is required. CPRs' governance is neither determined by the invisible hand of the market, nor dependent on a social contract under the veil of ignorance – like argued by Rawls (1971) – but derives from the knowledge of a given situation and the self-coordination of a restricted community.

Given this scenario, the application of the concept of CPRs in the context of landscape theory could be analysed in relation to two pivotal points: (1) who lives in a landscape has an attachment to it,<sup>5</sup> a social, cultural and political bond, and (2) she/he does not necessarily aim at the exploitation of the land's resources. The relation between the management of landscape and the exploitation of natural resources can depend on various and multifaceted factors, including ethical commitments. In this context, when clarifying the concept of common pool resources, Ostrom introduces, the concept of *subtractability*, which accounts for a broad range of possibilities for subtraction (Ostrom 2005, 25). Goods and facilities can be fully subtractable upon consumption, but it can also happen that when the flow of goods/service decreases, users may be tempted to try to obtain as much as they can, or they may try to manage the flow and the consumption, instead. A recent example of this situation is constituted by the Switzerland pavilion at Expo 2015 in Milan, which was built as an image of ethical worldwide awareness about CPRs consumption. The pavilion was constituted by four towers full of different resources (i.e. apples, rice, water) and the visitors were allowed to take as much food as they wanted. As the towers gradually emptied, the platforms on which the visitors stood also started to descend. The consumption of the goods ultimately depended on the ethical commitment of people. The aim of such experiment was

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<sup>5</sup> See Lewicka 2011 for a review of research on place attachment.

to demonstrate that common resources cannot be managed without a social commitment and a collective responsibility.

The local management of CPRs in the framework proposed by Ostrom is limited to auto-organised systems for the management of natural or artificial resources. Yet, its value resides in the wider political approach to landscape management: the fact that local communities can share a common idea about resource management (Ostrom 2010, 14). This framework constitutes a real alternative to both private management (private goods) and public goods (Ostrom 1990, 9–15), even though is not necessarily in opposition to them. “The ability shown by the local communities managing the resources denies openly one of the main dogmas of the “conventional theory”: that the only subjects who could solve problems affecting collective interests would be the “bureaucratic Leviathan” (the control by a central government of the majority of the resource systems) or the market (with the creation of a system of private property rights)” (Castiglioni et al. 2015, 15; see also 17 and the concept of *local empowerment*). The local management of CPRs also enhances stability in time and space, making CPRs institutions long-enduring and adaptable to global economic and political changes. In many case-studies CPRs’ institutions become political, and social actors are “able to facilitate the ‘mediation process’, the transformation of the collective identity and self-perception and, therefore, the behavior of policy target groups” (Gerber et al. 2008, 227).

In addition, CPR institutions principles can be related to the European Landscape Convention (Castiglioni et al. 2015). These principles are, among others: clearly defined boundaries, congruence between appropriation and provision rules, collective choice-arrangement, monitoring, graduated sanctions, conflict-resolution mechanisms, minimal recognition of rights to organise, and nested enterprises (Ostrom 2009, 90). The European Landscape Convention, based on a subsidiarity political principle, gives an active role to people in the decision-making processes about landscapes (Council of Europe 2000b, II, 24 and Chapter I – Article 1). The Convention also takes inspiration from legal documents, such as the European Charter of Local Self-government (Strasbourg, 15 October 1985), and implements the role of populations in the safeguarding, protection and management of landscapes.

The connection between CPR management and landscapes is based on the fact that the ecological and economical resources of landscapes can be successfully managed both locally and collectively. Some authors underline that the CPR literature avoids considering the cultural and symbolic value of the commons (Bolthouse 2013, 389). For this reason, Olwig (2003) proposes to integrate the rational institutional framework based on CPRs with the historical, cultural and symbolical evolution of the commons, considered as an essential component of landscape: “Commons is not simply an institution, but also a symbol of the human ideals and values necessary to the maintenance of such institutions’ (Olwig 2003, 18). I argue, consequently, that the role of the framework proposed by Ostrom in CPR institutions has a practical and theoretical value. It is based on a different

consideration of the role of the human being in the management of landscape and in their responsibility towards it. Yet it needs to be considered together with the idea of commons and common good. Landscape is a wide concept and each of the terms analysed so far – common good, commons, CPRs – account for the management and safeguarding of its complexity.

It should also be considered that Ostrom's essays have contributed to the spread of a new political idea in the management of landscape, and a new idea of common resources. A 'worldwide commons' movement has been developed, bringing forth a new idea of management, not only of natural resources, but also of material and immaterial goods. The literature has been thriving, underlining the diversity and the complexity<sup>6</sup> of the phenomenon of the commons (see Ostrom 1995; Berge and van Laerhoven 2011) as well as developing the economic, political and philosophical dimensions of the debate (see Ostrom 2009, 2010; Heller 2010, 2012). The following section specifically addresses the political implications of the commons in the debate on landscape.

## 6. Implications of commons in contemporary political theories

From a political point of view, the theory of commons may imply a questioning of the liberal theory of the state in the management of land, and the contestation of private property as the only solution for both the problem of poverty and the management of CPRs (Harvey 2011). According to Harvey, the real issue at stake when questioning Hardin's liberal theory is the pre-eminence of private property. From the classical essays of Locke to Smith, to contemporary economic theories, private property is not questioned, with the exception of Marx. His line of thought is followed by several scholars (Harvey 2011, 105; see also De Angelis 2007; Hardt and Negri 2009). In some chapters of volume one of *Capital*<sup>7</sup> (1909), Marx discusses the process of expropriation and dispossession of commoners, which he refers to as "primitive accumulation" (Marx 1867). He describes it as the process that creates the precondition of capitalist development by separating people from their means of production and that, from XVI to XVIII century England, is known as 'enclosure'.

The antiglobalisation movements have been denouncing the risks for common property since 1980, and the term 'new enclosures' has been coined to express it. Protests, fights, battles, and even wars took place both in South America and Africa for the control of commons and natural resources (Caffentzis and Federici 2014). Commons as a political model has been characterised both as an alternative model of social organisation, and as a link between diverse struggles ranging from those of agricultural workers demanding land and patents in the context of agriculture (Shiva 2005; Caffentzis 2012; Caffentzis and Federici 2014), to envi-

<sup>6</sup> See Ostrom 1995 and 2009a for the governance of complex social-ecological systems.

<sup>7</sup> Chapter 27th: *Historical tendency of capitalist accumulation* and chapter 33rd: *Expropriation of agricultural population from the land*.

ronmentalists calling for a reduction in the pollution of the atmosphere, to those who fight for commons in intellectual property rights. Commons have been often claimed as a new institutional and organisational framework – both local and global – in defining a non-capitalist society.

In addition, as we will see in the following paragraphs, commons theory is a matter of reclaiming urban landscapes and ordinary places. Before doing that, a theoretical specification needs to be made: when discussing commons, and specifically about the management of CPRs, an issue of scale emerges. The problem of the commons becomes a problem of how the commons (mostly CPRs) can be managed at a global level. As Harvey points out in discussing Ostrom's theory: "The lessons gained from the collective organization of small-scale solidarity economies along common-property lines cannot translate into global solutions without resort to nested hierarchical forms of decision making" (Harvey 2011, 102). For this reason, a distinction between global commons and local commons has to be introduced. Global commons mean the international and global resources. The United Nations (2015) uses the term global commons in conjunction with global governance and the governance of the commons. Commoners, activists and researchers criticise this approach. It is seen as another way of interfering in the management of resources by private and State property. The criticisms of global commons here refer, for instance, to the fact that rainforests are turned into ecological reserves, managed by private parties or by states, and the same holds for other natural resources expropriated from collective management (Bollier 2012, 672). "Over the past few decades, the intergovernmental system has proclaimed its capacity to meet the needs of the world's population and environment through global public goods. This concept – a hybrid of Keynesian internationalism and corporate/financial neoliberalism – illustrates the lack of understanding and vision in the present management of the global commons." (Quilligan 2012, 268). Commons are considered an expression of local management, by a self-organised community and the characterisation as global is often refuted.

Nevertheless, the introduction of the concept of *global* into the theory of commons might be more widely accepted if it refers to an analysis able to interrelate different local practices with local activisms in order to create a new global social contract, and a democratic basis for global governance. Theories of global commons are useful insofar as they propose an alternative global political system (or world system). Some critics of globalisation consider, for instance, the concept of global as the interrelation of different and multifaceted locals (Nancy 2007). *Global* in this sense could be the encounter among different *locals* which imply approaches to the management of the landscape, based on self government, democracy, justice, equal access to resources and human rights.

For this reason, by discussing about commons, authors like Hardt and Negri (2009), Caffentzis and Federici (2014) and Harvey (2011) question the whole globalised economical system and they propose another political world system, a different *Weltanschauung*. The importance of commons for people and the role of all the commons (common goods, common pool resources and the public good) in



creating social identity at a local level has been stressed. Hardt and Negri (2009), for instance, explain the notion of *cultural common*, by arguing that commons are also about the culture and the social practices we share: “We consider the common also and more significantly those results of social production that are necessary for social interaction and further production, such as knowledge, languages, codes, information, affects, and so forth (Hardt and Negri 2009, VIII).

The social practices involved within the commons call for a political analysis of place re-appropriation and non-governmental practices, and also philosophical research on the perception of landscape (both urban and rural) as one element which contributes to building the identity of society. Following the anthropology and sociology of *surmodernity* (e.g. the concepts of place and non-place by Marc Augé), a new idea of place, as both global and local, has emerged in the last decades: place as perceived and politically experienced by insiders and outsiders, who interact with its memorial, historical and cultural features. Place and people who live in any kind of local/global landscape, are mutually defined, and this aspect implies a multifaceted and dynamic, rather than fixed, identity (Menatti 2013). Recently the idea of landscape as a common good and as commons has spread: the awareness towards ecological global issues has contributed not only to considering global resources as a common patrimony to be safeguarded, but also to the importance of every varied, urban and rural landscape as a common good. This process has favoured an increase in the commitment by the citizens towards the place where they live, and in the attempts to try new forms of governance and non-institutionalised practices to safeguard their own landscapes.

### **6.1. Reclaiming the commons for urban transformation: community gardens as an example**

Commons have come to play a major role in the wider reclamation of public space and the rethinking of the configuration of urban sprawl. Urban commons encourage a rethinking of the configuration of cities (De Angelis 2003; Harvey 2012; Eizenberg 2012, 2013; Radywyl and Biggs 2013). Public (urban) space is related to the construction of social and group identities (e.g. Lefebvre 1974), and it has been considered fundamental in developing social change. For Hardt and Negri (2009) and Harvey (2011, 104) it is possible to consider the metropolis as a factory for the production of commons.

This relationship between commons, social life and urbanity is reminiscent of De Certeau’s theory, according to which *spaces*<sup>8</sup> of urbanity are constituted by a network of practices that shape the territory and create everyday resistances to globalisation (De Certeau 1984).

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<sup>8</sup> There is an interesting distinction between space and place in De Certeau’s theory: space is the lived place, whereas place is the simple location, a configuration of position. Space exists when one considers movements, vectors, actions. It occurs with the operations that orient it. Space is like the word when it is spoken, it is a practised place. (De Certeau 1984, 117).

An example of the configuration of urban landscape through commons is constituted by community gardens. Eizenberg (2013) explores the phenomenon of community gardens in New York City through the lens of Lefebvre's theory. According to Lefebvre (1974), space is constituted by *material space* (the actual space, its object, its shape). It implies *representations of space* (the knowledge of space and its production), and it is also a *lived space*, which is the emotional space as it is perceived by the subject. Commons can be analysed according to various parameters, yet the distinction proposed by Lefebvre allows us to consider them as the interplay of a complexity of elements, and to describe space as an interrelation between continuously evolving political and social factors. In Eizenberg's research community gardens are perceived as "part of a wider phenomenon of urban contestation by which space is utilized to voice and fight for alternative socio-political arrangement" (Eizenberg 2012, 767). From Eizenberg's essay we can infer that in 2012 in New York City there were more than 500 gardens, managed by local inhabitants. There are three kinds of community gardens, examples of interculturalism and of senses of identity which can coexist in the same town. They are: the *Casita gardens* managed by people who perceive themselves as Latinos (coming mostly from Puerto Rico); the *farm gardens* (where food is produced) managed by African Americans (first or second generation immigrants in the city coming from the Rural South); and the eclectic culture gardens managed by white members who are mostly environmentalists and activists.

Community gardens are an example of the appropriation of commons by the urban population. They imply different political views, and they are well spread all over the world. As another example, in Santiago de Chile, a town of almost seven million inhabitants, a very urbanised sprawl and an urbanisation dominated by a planning based on a model of big north American conurbations, community gardens represent a political and multi-social experiment. Spread from the north to the south of the city, these community gardens (*huertos urbanos*<sup>9</sup>) are generally crop fields, where people sell their products. They are surrounded by artisans' shops, or constitute attempts at the appropriation of historical areas. Especially in difficult and poor neighbourhoods, community gardens constitute a political challenge, a way of occupying the urban territory, as well as a commitment against social differences and crime.

In sum, community gardens redefine the relationship between the private and the public. They are expressions of communalism, solidarity, participation and a commitment towards ecology. They imply new forms of agriculture and food production. They constitute a new policy for public space based on commons. They create a new sense of community, where simple social interactions transform a concrete space (Muller 2012). Even though there is no strong evidential support regarding a relationship between the reduction of crime and the presence of com-

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<sup>9</sup> <http://www.plataformaurbana.cl/archive/2016/05/31/huertos-urbanos-en-barrio-yungay-permiten-la-apropiacion-comunitaria-de-lugares-historicos/>.

munity gardens in a neighbourhood (Frazier and Jung 2016), some research has explored the link between community gardens, people's well-being, and urban biodiversity (Dennis and James 2016).

Generally, urban commons are described as an important vehicle for "fostering sustainability within cities as they require behaviours, cultures and institutions consistent with equitable and transparent sharing of resources" (Radywyl and Biggs 2013, 160; see also Marshall 2007). There are several studies that have analysed the role of urban commons in promoting environmental change, sustainability, and resilience within the city (Colding and Barthel 2013; Colding et. al 2013; Weston and Bollier 2014). They show how the process of re-appropriation of the urban landscape, operating in parallel at different scales and in relationship with local/state governments, enable a radical reconfiguration of the urban environment.

Furthermore, commons are related to governance, ecology and human rights, and they are considered as a model for ecological governance. In this sense commons "is a governance system for using and protecting all the creations of nature and society that we inherit jointly and freely, and hold in trust for future generations" (Weston and Bollier 2013, 124). It is also argued that commons and ecological commons are related not just to physical resources, but also to sociocultural phenomena (Weston and Bollier 2014, 124). For this reason, in the following paragraph I will analyse how the wider concept of landscape can also include the management of the commons and CPRs, and leads to a relationship with human rights. I have demonstrated in the previous paragraphs that landscapes can be considered as common goods, as commons, and include CPRs. Landscapes, as the definition given by ELC reminds us, are areas (urban, natural, protected, belonging to a community, belonging to the State). Landscapes are perceived by the population and managed and co-managed in different ways, according to customs, expectations and traditions. I also add that landscapes are firstly perceived, and in the perception of a landscape, the rights belonging to human beings and the rights to the environment itself are intertwined in the representation of the nature-culture binomial.

## 7. Human rights and landscapes: the documents

The previous paragraphs analysed the theoretical and practical similarities as well as the contact points between the concept of landscape and the notions of commons, common goods and CPRs. In the last years, both research and practical documents have included the concept of landscape in the theory of common good, commons and CPRs, but it is only recently that the definition of 'landscape' as a human right has been introduced. This novelty carries new issues for the theory of law and the interpretation of human rights, as well as from a practical point of view. Legal documents which define landscapes as a (human) right could implement the protection and the safeguard of landscapes at different levels and scales, and might spread a major commitment to landscapes and the environment.

In this section I will discuss three international documents which, with their conceptualisation on landscape, cover the European Union (European Landscape Convention), Latin America (Latin American Landscape Initiative [LALI]) and the entire globe (Florence UNESCO Declaration). All of these documents consider landscape both as a common good and as a human right. This new lexicon is a sign of how landscapes have recently been considered not as just an aesthetical and scenery-based patrimony, but as a good belonging to the community, shared and managed at the local level, with protection being extended out at the global level.

As I have already underlined, more than a decade ago the European Landscape Convention connected the definition of landscape to perception by stating that landscapes are: “an area as perceived by people, whose character is the result of the action and interaction of natural and/or human factors” (Council of Europe 2000a: Preamble). In this document, landscapes refer both to excellent areas and degraded ones. This point clearly constitutes a complete change, as well as an overcoming of the paradigm which confined beautiful landscapes to private properties or parks, while letting thoughtless planning take place in the rest of the territory. In this document, landscapes are “an important part of the quality of life for people everywhere: in urban areas and in the countryside, in degraded areas as well as in areas of high quality, in areas recognized as being of outstanding beauty as well as everyday areas” (Council of Europe 2000a: Preamble).

With regards to the analysis carried out in this paper, ELC adds more precisely that landscapes constitute: “A *common heritage* with an important role in the cultural ecological, environmental and social fields [...] contributing to human well-being and consolidation of the European identity [...] the quality and diversity of the European landscape constitutes a common resource” (Council of Europe 2000a: Preamble). It is also added that: “Acknowledging that the quality and diversity of European landscapes constitute a *common resource*, and that it is important to co-operate towards its protection, management and planning” (Council of Europe 2000a: Preamble). The terms *common heritage* and *common resource* both refer to cultural rights, cultural patrimony, and to the idea that landscapes are constituted by valuable resources that need to be safeguarded, protected, and collectively managed. The terms clearly refer to the concepts of the common good and common pool resources, respectively.

It is also important to make it precise that even if the exact terms *commons* or *right to landscape* are not mentioned in the ELC, documents and research on this same document pursue the link between landscapes and human rights. For example, the Evora Declaration on the European Landscape Convention (2011)<sup>10</sup> states that landscapes play an important role in the collective memory and in the sense of a community, and that their quality is connected to human rights. This docu-

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<sup>10</sup> The Evora Declaration refers to the Meeting of the Workshops for the Implementation of the European Landscape Convention which took place in Evora (Portugal) in 2011. Document from the Council of Europe CEP-CDCPP (2013).

ment points out that landscapes are related to well-being and democracy, and can be considered as a common good. Recently a document of the Council of Europe titled “Contributions of landscape and of the European Landscape Convention to democracy, human right and sustainable development” (2017),<sup>11</sup> which is the result of a study group on ELC, argued that landscapes appear to be the spatial realisation of democracy, human rights and sustainable development (CEP-CDCPP (2017) 5F: 8). The document also argues for the need to promote the territorial dimension of human rights and democracy by improving the landscape characteristics of the living environment of populations (CEP-CDCPP (2017) 5F: 9). According to this document, ELC transformed the concept of landscape into an individual and collective right, independent of property rights (CEP-CDCPP (2017) 5F: 27). It is also added that the universality of human rights is not in opposition or in contradiction to the diversity of landscapes. This is demonstrated by the fact that ELC is considered pivotal, and it is mentioned (or even considered as a starting point) in several documents about landscape, not limited to Europe. The ELC itself implicitly refers to the Universal Declaration of Human Rights (art. 2) and to the European Convention on Human Rights (art. 14).

In 2012 an “International Protection of Landscapes” meeting was organised by UNESCO and by the International Traditional Knowledge Institute. It was held in Florence on the occasion of the 40th Anniversary of the World Heritage Convention. The Florence Declaration on Landscape 2012 was produced during this session.<sup>12</sup> It can be considered an implementation of the European Landscape Convention. The UNESCO Convention explicitly starts from the ELC’s premises and tries to give a wider and more universal (yet not homologated) definition of landscape. It expresses a concern for the worldwide degradation of landscapes due to industrialisation, urbanisation and other risks caused by global changes. The document states that “landscape is a common good, the right to landscape is a human necessity” (UNESCO 2012). The document also states that the safeguarding of landscapes is impossible without taking into consideration the “local and traditional knowledge that have generated them” and that the management of landscapes cannot exclude the interrelation among “social, economic and aesthetics elements as answer to global challenges” (UNESCO 2012). By relying on a concept of landscape which is holistic, dynamic, multicultural and adaptive, it encourages intergovernmental, transnational and public-private cooperation. The UNESCO Declaration proposes a definition of landscape that is at the same time global and local. It also affirms the importance of safeguarding and improving landscape for “promoting participatory and bottom-up programmes together with activities based on local knowledge” (UNESCO 2012). This text seems to improve and complete the approach introduced in the European Landscape Convention. Although very brief, the document shifts from the universalism of cultural heri-

<sup>11</sup> CEP-CDCPP (2017) 5F. The document has been prepared by Michel Prieur and Yves Luginbühl, as experts of the Council of Europe.

<sup>12</sup> <http://whc.unesco.org/en/news/943/>.

tage to multiculturalism and the diversity of landscapes. It constitutes another crucial effort in considering landscape not as just based on scenery, beauty and excellence, but also as comprehensive of all kinds of landscapes. It includes both outstanding values and everyday life with local values (see also Moore 2012, 8).

These ambitions, and the necessity of changes in landscape theory, are also evident in a third document: the Latin American Landscape Initiative (LALI 2012).<sup>13</sup> LALI is defined as a: “declaration of fundamental ethical principles to promote the recognition, valuation, protection, management, and sustainable planning of Latin American landscapes” (LALI 2012, 5). The text, written and signed by architects from all over Latin America, takes inspiration from the two previous documents, the European Landscape Convention and the Florence UNESCO Declaration. Specifically, LALI defines landscape, among other elements, as: “a right that all the human beings should be able to enjoy, the enjoyment of which generates commitment and responsibilities” (LALI 2012, 12). Furthermore, it encourages: “the right of the citizens to live in culturally significant surroundings and to guarantee access to the same and the possibility of enjoying it” (LALI 2012, 13).

These three documents are examples of the multi-scale promotion of the idea of landscape, and they lead us to the last point of this paper: landscape and human rights.

## 8. Human rights and landscapes: a matter of perception?

Landscapes and human right are linked together, not only with respect to conflict zones or to native territories (Olwig 2011b, 44) but, also and specifically, with respect to everyday landscapes and environments that are threatened and damaged. It is, therefore, important to consider how thinking about landscapes can be transformed into thinking about the ‘right to landscapes’, and that the right to landscapes, even if it is not recognised as a right *per se*, is implied in many international right laws (Strecker 2011, 57). The issue of the right to landscape has recently brought general political attention and has been claimed, for instance, during the 2013–2014 protests in Gezi Park in Turkey. At that time scholars and intellectuals shared the idea that there is a fundamental right to landscapes (in this case a park was implicated), considered as a right to healthy and culturally-rich environments that everyone is entitled to demand. This right is often accompanied by a request for justice and political equality.

Yet from a theoretical and legal point of view, justifying a *right to landscape* is not simple, and from a practical point of view the attribution of the rights presents several problems. The pivotal points are whether the right to landscape is a collective right or an individual one, if it belongs to human beings, or even if nature (constituted by the environment and the animals) itself has a right *per se*. Therefore, I propose the following distinction:

<sup>13</sup> <http://lali-iniciativa.com>.



- (1) A right to landscape as a right to a perceived landscape (how people perceive landscape determines the right to have a right landscape). In this case the right to landscape can be considered as a collective right.
- (2) A right to landscape as a right *per se* (landscape considered as a complex ecological *milieu*, consisting of animals and plants). In this case we can consider the right to the environment the closest approximation to the right to landscape as a right *per se*.
- (3) A right to landscape as a framework for addressing human rights (the perspective proposed by Egoz et al. 2011). In this case landscape is considered a substantive space of actual human rights.

The first point directly refers to the European Landscape Convention, according to which landscape is an area as perceived by people. The role of human perception is the key factor in determining what is a right to landscape (Olwig 2011b, 39). In the etymology of the term 'landscape' lies a distinction between different kinds of rights. According to Olwig, the part of the word *land* refers to private property rights, individual rights and territorial rights. On the other hand, *-scape* emphasises perception and hence the community rights, customary use rights and the common laws. Two different logics are involved. The first one is related to a geometrical and spatial approach (Olwig 2011b, 39). The second focuses on customs and belongs instead to the cultural and traditional realm. It is more difficult to analyse and understand. A comprehensive definition of landscape is required in this case. Olwig introduces the concept of 'right rights to the rights landscape' implying that a broader definition of landscape (both private and common) will be useful for the diversification of landscapes and to the definition of a shared right. "The *right* right to landscape is thus, I would conclude, the right to a diversity of landscape, not just to the landscape of property's uniform space, but also the use right to a common landscape shared by a variety of individuals and communities, human and natural" (Olwig 2011b, 48).

The analysis provided by Olwig focuses on the fact that landscape constitutes a balance between individual and collective rights. Similarly, the ELC, together with the others documents analysed above, promotes a balance between these two kinds of rights. Landscapes as perceived by a community are a realm where collective and individual rights are intertwined and represented. Furthermore, the consideration of landscapes as commons (a territory shared by a community) encounters, from a theoretical point of view, the terrain of human rights. A specific community claims the right to management and to a shared property on a portion of the landscape based on a specific perception.

Even if a right to landscape did not explicitly exist, landscape, as characterised in this paper, entails collective rights, individual rights and, I add, also the rights to heritage, health and culture. By speaking about the 'right to landscape', several legal rights could be included in what now is no legal right, but "is implicated in a number of areas of international human right law" (Strecker 2011, 57). Cultural rights, health rights, heritage rights and environmental rights are all implicated

and included in the right to landscape, yet with a lot of reductions (for instance the cultural right is often referred to minorities), and sometimes in contradiction with individual property rights (Strecker 2011, 60).

It is necessary to take into consideration that “a substantive right to landscape may not exist, but a democratic right to participate in the planning process does” (Strecker 2011, 61). Hence, the European Landscape Convention promotes the participation of the public in landscape policy making. It establishes “procedures for the participation of the general public, local and regional authorities, and other parties with an interest in the definition and implementation of the landscape policies” (Council of Europe 2000a: art 5c; see also article 6d). The participatory landscape governance expressed in the European Landscape Convention takes inspiration from the Aarhus Convention<sup>14</sup> (1998; see Jones and Stenseke 2011, 30). Furthermore, in the explanatory report (2000b), and also in the subsequent guidelines of the Council of Europe, it is stated that: “landscape is a key element of individual and social well-being and that its protection, management and planning entail *rights* and responsibilities for everyone” (Council of Europe 2008: introduction). Landscapes imply: “*rights* and responsibilities of populations to play an active role in the processes of acquiring knowledge, taking decisions and managing the quality of the places where they live” (Council of Europe 2008, § 1.2). As stated in this document, landscape protection entails rights and responsibilities for everyone. Furthermore, the participatory landscape governance is considered as the political and social consequence of all the documents analysed above.

The possibility of a right to landscape is stated in several documents. Yet, human rights are specifically individual rights, due to their history and to the theory implied (Strecker 2011, 66). Considering the social and political empowerment that communities and social groups have acquired in the last decades, namely by claiming a direct role in the management of the territory, it is desirable that: “the individualistic conceptualization of human rights is expanded to include collective interests” (Strecker 2011, 67).

The definitions of rights to landscape refer to a collective right, a balance between individual and collective rights and more specifically the local management of a territory through collective participation in the planning process is implied.

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<sup>14</sup> The UNECE (United Nations Economic Commission for Europe) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, also known as *Aarhus Convention* is a document signed in 1998 at Aarhus, in Denmark and entered in force in 2001. It is a multilateral environmental agreement, signed by several states in Europe and mostly in Central Asia, which promotes and enhances environmental governance and it establishes a number of rights of the public (individuals and their associations) with regard to the environment: the right to access to environmental information, to public participation in environmental decision-making and the right to access to justice (<http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>).

So far, given the lack of a specific legislation on landscape as a collective human right, with the exception of law for minorities, the closest approximation to the right to landscape is the right to environment. Yet the right to environment and the concept of environment itself open up a further issue as it may be related to a right to landscape as a right *per se*.

Landscape as a right *per se*, in fact, pertains to the ecological and environmental domain and implies that landscape is considered as – or at least a part of – the environment. In the first version of the Universal Declaration of Human Rights (UDHR), the right to environment is not specifically considered (for historical reasons, among which we could mention the connection between the Nazi regime and the *Blut und Boden* ideology). Yet, articles 22 and 25 of the UDHR<sup>15</sup> respectively state that: “Everyone as a member of society has the right to social security, and is entitled to realization [...] of the economic, social and *cultural* rights indispensable for his dignity and the free development of his personality” (article 22) and “The right to a standard of living adequate for the health and well-being of himself and of his family” (article 25). These can be considered points of contact between human rights and a right to landscape, especially as they focus on cultural rights, well-being and health. It is also being pointed out that from the 1970s on it has been difficult to generate international treaties which specifically defend the human right to the environment (Rixecker 2011) with few exceptions: e.g. The United Nation Human Right Council Resolutions.<sup>16</sup> We have to wait until 1972 when the Stockholm Declaration is adopted by the United Nations (called

<sup>15</sup> <http://www.un.org/en/documents/udhr/>.

<sup>16</sup> The first one in 2008 (7/23) states: “The Human Rights Council, concerned that climate change poses an immediate and far-reaching threat to people and communities around the world and has implications for the full enjoyment of human rights, [...] (1) decides to request the Office of the United Nations High Commissioner for Human Rights, in consultation with and taking into account the views of States, other relevant international organizations and intergovernmental bodies, including the Intergovernmental Panel on Climate Change, the secretariat of the United Nations Framework Convention on Climate Change and other stakeholders, to conduct, within existing resources, a detailed analytical study of the relationship between climate change and human rights, to be submitted to the Council prior to its tenth session; (2) Encourages States to contribute to the study conducted by the Office of the High Commissioner”. The second one (Resolution 10/4. Human rights and climate change) in 2009 was more clear and, recalling the 7/23 resolution, states that: “Noting that climate change-related impacts have a range of implications, both direct and indirect, for the effective enjoyment of human rights including, inter alia, the right to life, the right to adequate food, the right to the highest attainable standard of health, the right to adequate housing, the right to self-determination and human rights obligations related to access to safe drinking water and sanitation, and recalling that in no case may a people be deprived of its own means of subsistence” and it requires procedures, debates and actions to address this issue. These considerations were fundamental for the Climate Summit held in Copenhagen in 2009. In 2012 the Human Right Council adopted another resolution (18/22) which more or less expresses the same principles and from a theoretical point of view seems that a basis for a deep interrelation between human right and environment has been recognised as effective. (<http://www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/HRCClimateChangeIndex.aspx>).

also United Nations Conference on the *Human Environment*<sup>17</sup>). The Stockholm Declaration links human rights and environment by stating that: “Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations” (Stockholm Declaration: Principle 1). From a theoretical point of view, the link between human rights and environment is clear. Nevertheless, it could be argued that there is not a right belonging to nature, landscape, or environment *per se*. This is related to the wide debate in environmental ethics on the instrumental/intrinsic value of nature and the critics of anthropocentrism as generators of values depending on the role of human beings (see Regan 1983; Callicott 1986; Singer 1990; O’Neil 1992; Jamieson 2008). So far, the right to the environment is a human right which belongs to human beings, and it is claimed with the goal of protecting the relationship between them and the territory where they live. On this view, environment is neither dissociated from human beings – as creators and moulders of the environment – nor can it be considered as an implementation of the nature-culture binomial.

Another theoretical problem is that the environment is usually not related to the concept of landscape, mainly because the consideration of landscapes is still trapped in its classical aesthetical definition. I have argued, on the contrary, that the right to landscapes could be more inclusive than the right to the environment, considered in its ecological dimension. Landscape constitutes a more complex realm, as it is inclusive of the environment, of cultural references, and of social and political meanings.

For this reason, the right to landscapes can be considered as a new and emergent right: “It is rather the proposition that *landscape* is an existential component of humans, and is something that cannot be taken away from them therefore relating the whole notion of landscape to human rights. This interpretation introduces a strong ethical dimension to the idea of landscape” (Egoz et al. 2011, 26). Similarly, the right to landscapes has been defined as a “right in development” (*a droit en devenir*). The right to landscapes can be considered an extension and a combination of the rights to the environment, and of the rights to cultural heritage (Déjeant-Pons 2011, 52). By following the European Landscape Convention, Déjeant-Pons explains that the *right in development* implies the responsibilities of a population in playing an active role in the decisions about their landscape, and it should concern primarily public and political involvement. It is the right to information, participation and an access to justice for the citizens in their management of landscapes (Déjeant-Pons 2011, 54). It is considered a *right in development* because it involves timescales and long standing processes about the future and the development of landscapes.

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<sup>17</sup> <http://www.un-documents.net/unchedec.htm>.

In sum, the third interpretation (a right to landscape as a framework for addressing human rights) seems to unify the previous two. It aims at generating a body of knowledge that will support human rights, from the specific perspective of landscapes. By *right to landscape*, in fact, a range of new studies is considered, where: “we explore ways in which landscape could become a positive tool to promote social justice” (Egoz et al. 2011, 4). As Egoz specifies, social justice and landscape is not a new topic (see: Cosgrove 1984–1997; Mitchell 1994; Olwig 2002; Peil and Jones 2005; Olwig and Mitchell 2009). In addition, several researchers have demonstrated how living in a culturally-rich and healthy landscape promotes social cooperation and the sharing of resources (e.g. a commons). It has been demonstrated that there is influence of landscape on people’s health, in ancient times as well as in the present (Kaplan and Kaplan 1989; Ward Thompson 2011; Roe and Ward Thomson et al. 2013). Yet, by introducing the concept of *right to landscape*, a social, cultural and political definition of landscape is involved, which is already expressed in the European Landscape Convention and addressed by several other authors. What this definition shares with the concept of human rights is:

- Universality: even if a big debate can be opened between the universalism of the human rights and cultural relativism.
- Both human rights and landscape are important for survival as well as the emotional and psychological needs of human beings. “By expanding on the concept of human right in this context of landscape as a confluence of physical subsistence and psychological necessities we offer a new framework for addressing human right. This original framework can thus generate alternative scenarios for constructing conflict-reduced approaches to landscape use and human wellbeing” (Egoz et al. 2011, 5).

Consequently, in this scenario landscape becomes a *medium* for the political arena and a political value. It acquires a primary role in addressing human rights, without being trapped in an opposition of nature-culture or environment-human beings. Egoz et al. (2011, 17) repeats this point by showing how the tangible and intangible elements belonging to landscape (physical elements, resources; social, economic and cultural values) overlap with human rights (rights that support existence and rights that support dignity). It is argued that the right to landscape could constitute a framework and a basis for the individuals, communities, nations and indigenous people and it could imply a concrete possibility to exercise their rights to land and landscape. This assumption is based on a wider definition of landscape characterised both as a cultural realm and a natural setting. This new analysis leads to the fact that various elements (natural and cultural), belonging to landscape and providing wellbeing, may coexist only in a definition of landscape as human right.

#### 4. Conclusions

On the basis of the analysis provided in the previous section, I propose some theoretical points:

- *Landscape is a common good.* This idea is often taken for granted, and included in many documents. A deeper analysis reveals that landscape is considered a – both material and immaterial – good belonging to the community. Landscape is shared, protected and safeguarded so that it can be inherited by future generations. Landscape is the relation between nature and culture, which is expressed in patrimony and cultural heritage. A sense of responsibility, both from the political and social points of view, is implied by this idea. The theoretical focus is posed on the political value of the landscape, and on the fact that its characterisation as a common good promotes a shift from an aesthetical account to an ethical one.
- *Landscape can be constituted by commons.* By analysing the relationship between landscape and commons, I follow Olwig's lessons when he explains that "The commons is the material landscape of common lands shared by a community of commoners with customary use rights in the land" (Olwig 2013, 31). The history of commons testifies to a shared use of the lands. Its management is based on a *lex loci* and on customs. The commons imply the relationship between the material land and the culture. Moreover, the connection between landscape and commons is established through the political value assumed by landscapes and commons in democratic processes. Today, by saying that landscapes are constituted by commons, we also include the issue of the re-appropriation and the collective management of a land/part of a territory in every kind of landscape. Landscapes, in fact, are considered as "an important part of the quality of life for people everywhere: in urban areas and in the countryside, in degraded areas as well as in areas of high quality, in areas recognized as being of outstanding beauty as well as everyday areas" (Council of Europe 2000a: Preamble).

This means that the collective management of landscape can also happen in urban areas. Community gardens are an example of a sensitivity towards landscape developed worldwide. Urban commons are described as an important vehicle for "fostering sustainability within cities" (Radywyl and Biggs 2013, 160). The studies which analyse the role of urban commons in promoting environmental changes, sustainability and resilience within cities show how the process of re-appropriation of the urban landscape – operating in parallel at different scales and in relationship with local/state governments – enable a radical reconfiguration of the urban environment (Colding and Barthel 2013; Colding et. al 2013; Weston and Bollier 2013).



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- *Landscape can be constituted by common pool resources collectively and locally managed.* Landscape includes resources. This idea comes from the consideration that landscapes are our environment. For many decades, landscapes have only been studied as related to aesthetics – in the classical sense of the appreciation of a view or preferences for beautiful scenes – and as a consequence have been separated from the ecological domain. On the basis of the contributions of a line of research that attempts to connect a unifying landscape study with ecology (Hendler 1988; Caldwell 1990; Bourassa 1990; Naveh 1991; 1995; 2005; Nassauer 1995; 2007; 2012; Heft 2010), I argued that a broad definition of landscape includes ecological/natural resources and their management. I have analysed how the framework proposed by Ostrom (1990) is preferable in this respect, as it provides a collective and a local management of landscapes. In addition, it brings forth the idea that the appropriators who are using CPRs can be considered as the active subject of an autonomous institution, and not merely a group of individuals seeking profit. I have pointed out that documents on landscape (such as European Landscape Convention) are based on a principle of subsidiarity, and advocate for an active role of the people in the decision making processes about landscapes (Council of Europe 2000b: *Explanatory Report*, II, 24 and Chapter I – Article 1). It is worth mentioning that the Convention takes inspiration from legal documents such as the European Charter of Local Self-government (Strasbourg, 15 October 1985), and implements the direct role of populations in the safeguarding, protection and management of landscapes. It is important to add that, according to Olwig (2003), the rational framework based on CPRs needs to be integrated by considering the cultural, symbolic and political features belonging to the commons, and consequently to landscape in general.
  - *Landscape is a right.* One of the results of the analysis carried out in this paper is that people can be entitled to a right of landscape, and it may be considered as a human right. Given the correlation between landscape and health, both physical and psychological, which has been shown in many studies (for a review see Menatti and Casado 2016), I argued that every human being is entitled to the right to a culturally rich and healthy landscape. The right to landscape, even if it is not recognised as a right *per se*, is already implicated in many international right laws (Strecker 2011, 57). Three approaches to landscape as a right have been analysed:
    - (1) A right to landscape as a right to a perceived landscape (how people perceive landscape determines the right to have a right landscape); in this case the right to landscape can be considered as a collective right.
    - (2) A right to landscape as a right *per se* (landscape considered as a complex ecological *milieu*, consisting of animals and plants), in this case we

can consider the right to the environment the closest approximation to the right to landscape as a right *per se*.

(3) A right to landscape as a framework for addressing human rights (the perspective proposed by Egoz et al. 2011). In this case landscape is considered a substantive space of actual human rights.

I integrated these approaches by arguing that landscape is a domain in relation to which human rights can be claimed, and that landscape can be considered as a right to which human beings are entitled.

In conclusion, the possibility to include the forms of management and the question of rights in the definition of landscape derives from the consideration that landscape is not just a beautiful scene, it is not confined to its scenery-based characteristics, but is a complex process (see Menatti and Casado 2016), in which the human-beings and the environment are mutually defined.

Only if we go beyond a beautiful landscape, and we consider an ethical landscape which comprises the environment, the cultural tangible and intangible elements, is it then possible to think of forms of governance which account for the rights of both the human-beings who live in it and the landscape itself.

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