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CAN THE EARTH CHARTER MOVEMENT PROMOTE THE COMMON GOOD?

2017

The Way Forward?

I agree with Brendan Mackey. We need to use the process of the Earth Charter as a counter-narrative to conventional state of world affairs. We could certainly update the document in line with some current problems. Moreover we have to maintain the existing practical wisdom, thanks to methodologies adapted to an appropriate ethical dialogue around the specificities of each territories and each communities. Indeed, if « I am because We are »¹, we can use such a living document « on care for our Common Home »².

I. Why is the Earth Charter a relevant instrument to promote the Common good?

A. Acting by the Common good

If the purpose of political communities is to secure not merely the conditions of living, but those of living well³, the pursuit of happiness requires participation in public life and the cultivation of virtue, rather than the maximisation of wealth. Such a western conception can also find equivalent in other cultures than the occidental one. Approaches to the Common Good are not homogenous, and, at times, can be antagonistic⁴. They might also differ from Western Countries to Africa⁵ or China⁶. One theme emerges: political theory cannot prescribe normative principles without taking into account the realities of social and political life.

Acting by the process of the Common Good does not primarily mean an injunction or a delivery of reproducible solutions. It rather poses problems that supposes to consider the capacity, sometimes the vulnerability, of the persons to evaluate situations, and their behaviors as an expression of desire. This implies to take into account the diversity of territories, collective choices and mechanisms of change, especially in a *glocal* context. Governing by the Common Good requires a systemic approach to spatial sustainability, moving away from an approach that is primarily focused on technical or structural issues. On top of it, virtue cannot be legislated directly⁷. The Law can require many kinds of virtuous actions and forbid many kinds of vicious actions, but motives for action are not subject to direct legal control.

¹ D. Cornell, N. Muvangua, *uBuntu and the Law: African Ideals and Postapartheid Jurisprudence (Just Ideas)*, Fordham University Press, 2012.

² See for instance the Encyclical Letter, *Laudato Si'*, of the Holy Father Francis, *On Care for Our Common Home*, <https://laudatosi.com/watch>

³ C. D. Reising, "Aristotle's Common Good: A Historical Analysis of Aristotle's Politics" (April 29, 2014). Young Historians Conference. Paper 9. <http://pdxscholar.library.pdx.edu/younghistorians/2014/oralpres/9>

⁴ For instance, David Hollenbach and Michael Novak, two important Common good thinkers, clearly depart from each other. Hollenbach defends an approach to the Common good which is rooted in a communitarian notion of society based on the social nature of the human person. Novak develops a libertarian approach based on his understanding of the human person as an individual endowed with the capacity for insight and choice, from which derives the principles which are the bases for human dignity.

⁵ Common Good & Ubuntu: An intercultural dialogue, *Journal Bridge-Builder* #3, 2013, www.commongoodforum.eu

⁶ A. H. Y. Chen A.H.Y., "The Concept of 'Datong' in Chinese Philosophy as an Expression of the Idea of the Common Good". In Solomon D. and Lo P.C. (eds) *The Common Good: Chinese and American Perspectives*. Dordrecht: Springer, pp. 85-102.

⁷ L. B. Solum, « Virtue Jurisprudence: Towards an Aretaic Theory of Law », L. Huppes-Cluysenaer, N. Coelho (eds) *Aristotle and The Philosophy of Law: Theory, Practice and Justice*. *Ius Gentium: Comparative Perspectives on Law and Justice*, vol 23. Springer, Dordrecht, 2013.

B. Soft and Hard Law

As a French citizen and lawyer, I might have been tempted to defend above all the Environment Pact promoted by our dear President Emmanuel Macron before the United Nations Assembly. « *With the law, with this Global Pact for the Environment, we've got to go further in transforming our societies and taking resolute action* »⁸. Indeed a Hard Law can represent a 'solution' imposed by a big Leviathan⁹ to give legally binding effect to various soft law principles, and to enable creative and innovative case-appropriate solutions¹⁰. Making our planet great again might also need avoiding reductionism, and striving for the quest of new meaning through a process of perpetual reinterpretation. Such a philosophy would be moved by the dynamics stemming from the interaction between conflict and conciliation. Surprisingly such an ethical philosophy of « conciliation »¹¹ is also regularly referred to by Emmanuel Macron, notably through his famous vocabulary: « ... *and at the same time...* »¹². The value of the Earth Charter lies in such an ambition to manage complexity and overcome antagonisms.

On top of it, our original Movement also encourages the ethic of action¹³ through practical reason and human agency. Indeed the People's treaty is a bold living document for: learning, understanding and designing common narratives. It enrolls communities to clarify what they want or can do together in a integral perspective. Deep engagement with practical reason and practical knowledge provides the framework to understand two key features of law: normativity and authority¹⁴.

Indeed we need to normalise the idea of calling out the ethical dimensions of public policy. Too many public devices offer the legal capacity to do so, but do not rely on the practical and cognitive capacity of target populations. The capacity for deliberation requires a reserve duty of the regulatory center, which could recognize the plurality of possible conceptions of justice, rather than seeking to impose its own conception. This supposes to encourage mechanisms of political innovation based on people's ethical choices, and correlatively on legal tools to reflect the social order, to assume the mechanisms of change and the efficiency of public policies.

II. How could we act?

How can we be inspired by the People's Charter and activities developed around the world to promote the Common good according to our specific local cultural background?

If the Common good represents as a bridge-building device, how should we prioritise and mutualise our activities?

The life of a community is not a succession of game-theoretical 'coordination problems', where the desired ends are agreed, the need for coordination is evident to all, and the scheme of collaboration, once settled, is stable over time. The meaning of the practical question 'How should we act?' is not limited to a series of patterns of coordination and patterns of those patterns. Members of the community can identify a range of projects, commitments, and goods to be achieved by coordinated action, with competing priority rankings.

A. Learning

⁸ The Global Pact for the Environment: <https://onu.delegfrance.org/The-Global-Pact-for-the-Environnement>

⁹ D. Dyzenhaus, T. Poole, (Eds.), *Hobbes and the Law*, Cambridge University Press, 2012.

¹⁰ S. Biniaz, « 10 Questions to Ask About the Proposed « Global Pact for the Environment », Sabin Center for Climate Change Law, Columbia Law School, August 2017, p. 2.

¹¹ G. Marcela, « From conflict to conciliation and back again: Some Notes on Ricoeur's Dialectics, Society for Ricoeur Studies Fall Conference, George Mason University, Virginia, EUA, <https://tinyurl.com/y9sfhy9x>

¹² L. Bigorgne, A. Baudry, O. Duhamel, *Macron. Et en même temps...*, Plon, Paris, octobre 2017.

¹³ G. E. M. Anscombe, *L'intention [Intention]*, Coll. Bibliothèque de Philosophie, Gallimard, 2002.

¹⁴ G. Webber, « The Question Why and the Common Good », Queen's University Legal Research Paper n° 75, Jurisprudence, Forthcoming, 2016 ; « Asking Why in the Study of Human Affairs », *The American Journal of Jurisprudence*, Volume 60, Issue 1, 1 June 2015, Pages 51-78.

We could mutualise our knowledge on sustainable development, ethical appeal and vision for the Common good, while diminishing anthropocentric bias and strengthening the notion of a planetary ecological community.

Such a dynamic of the Common good could be studied considering three dimensions¹⁵:

1° Community property, or Governance issues

2° The attempt to reconcile personal interest and communal goals

3° The nature of everyone's real access (efficiency) to the community property situated in its « context »¹⁶. The ECI should remind us of our limitations and the moral call to be effective as well as empathic¹⁷.

B. Understanding through Experience

The ECI should encourage the way people produce, share, and build on knowledge, for instance through open education or « education through research »¹⁸. People might first acquire openly-licensed word problems. Then they would re-write the exercises to include language geographically specific or relevant to their community. In turn, they could share their modified problems with others who may wish to use them. Open Education Resources would ensure consistency among materials, and reduce substantial costs associated with producing and distributing course materials.

C. Designing common narratives

Each Affiliates could provide a comprehensive grounding for creating a common narratives and the testing of ideas addressing the economic, ecological, and inter-cultural or religious in nature challenges. We do not need to change human nature. We need to reveal it. We need a story that talks about our connection to one another - from the Western notion of the Common Good, or the Confucian idea of equilibrium, to the Ubuntu philosophy, or the Ho' o pono pono¹⁹ process for instance.

¹⁵ H. Gillis, « Gaston Fessard and the Nature of Authority », *Interpretation - Journal of Political Philosophy*, vol. 16, n°3, spring 1989.

¹⁶ F. Bastiat, *What Is Seen and What Is Not Seen*, Selected essays on Political Economy, Seymour Cain Trans, Irvington-on-Hudson 1995, 1848.

¹⁷ R. Niebuhr, *The Nature and Destiny of Man: A Christian Interpretation*, from the Gifford Lectures, (1941), Westminster John Knox Press, 1996.

¹⁸ C. Becchetti-Bizot, G. Houzel, F. Taddei, *Vers une société apprenante. Rapport sur la recherche et développement de l'éducation tout au long de la vie*, A l'attention de Madame la ministre de l'Education nationale, de l'Enseignement supérieur et de la Recherche, mars 2017.

¹⁹ K. Matsui, « Managing conflicts and promoting peace: the Ho' o pono pono », Bridge-Builder #10, www.commongoodforum.eu