

# GOLD VI

*Case-Based Contribution  
to Chapter 4: Commoning  
GOLD VI Report on Pathways  
to urban and territorial equality*

**Urban commons and urban**

**commoning: political-legal practices**

**from Naples, Bologna, and Turin**

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# Urban commons and urban commoning: political-legal practices from Naples, Bologna, and Turin

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## CHAPTER

4: Commoning

## SUMMARY

This contribution will explore how urban commons are gaining ground for their ability to foster participative citizenships and peer-to-peer grassroots urban regeneration processes where communities take action to co-create and self-manage neglected areas, abandoned or underused buildings that could become “emerging commons”. These “ex places” (paraphrasing Marc Augé) are present throughout the world, but rarely succeed in obtaining proper institutional recognition. When such places are claimed as “urban commons” the most relevant attempt made by citizens and activists is not to protect the decorum of cities, beautify flowerbeds, or de-responsibilize public and private owners from their duties. Commoners claim an innovative public-community model of self-government, aimed at increasing fundamental rights of an open community of reference.

Right of use, collective governance, shared decisions, community building and mutualism are concepts at the core of the social and political activity of commoning. Legal grammars have been playing an even more important role in the daily translation of urban commons as a language for both administrations and commoners to translate and gain recognition for the new arrangements generated by self-organisation. We will provide examples from the city of Bologna, Naples and Turin, who are developing instruments to institutionalize the management of urban commons.

**We must be careful not to overlap urban commons with urban renewal: while it is true that the former can produce forms of the latter, there is no necessary symmetry. Indeed, “urban regeneration” is usually different, and distant, from the practice of the commons. To distinguish between these two fields, we must look not at a certain type of goods (“former or ex-place” such as an abandoned building or a neglected industrial area used, managed and/or claimed as urban commons claimed) but at the type of activity (commoning) that is produced inside and across them.**

**Commoning** is the political principle of sharing, co-use and co-managing an ex places, turning them into an emerging interdependent resource between a community of reference which is generated through these activities. So, the traditional definition of Common Pool Resources (CPR) as rival and non-excludable goods can be exceeded under certain conditions:<sup>1</sup> they are therefore goods that can emerge as “common” (even if they are materially excludable, like an abandoned building) in the sense of being institutionally (and politically) designed as commons.

So, commoning is a political principle that makes non excludable and excludable urban resource and inspires governance rules that steer rivalry into cooperation.<sup>2</sup> The objectives of this cooperation are not irrelevant. an important lesson: throughout history commons have often been crucial for an essential livelihood (Grossi, 1992; De Moor,



Breathing Helmet for Urban Surviving  
Source: Maria Vittoria Rossi

2017) and nowadays, as the “Italian way to the commons” teaches us, they should be considered as functional to the exercise of fundamental rights.<sup>3</sup> This concerns both immaterial rights (e.g. right to the city, to conviviality, to sharing spaces and opportunities in non-commercial venues) and material rights, such as economic ones. The commons are often essential to supporting denied rights, such as the right to work. So, the activities in an urban commons can also generate income, which are generally considered non-profit.<sup>4</sup> In some cases, at the heart of these economies lies the sharing of the means of production

1. Ostrom, 1990.

2. Micciarelli, 2018.

3. The expression is used by Marotta, 2013; see for all Rodotà, 2012.

4. All not-for-profit organisations pursue altruistic purposes, and the term indicates that the profit made is never distributed among the members but increases the common assets for further use in other voluntary operations.

and a mutualistic approach, i.e. the creation of conditions of direct or indirect income or the distribution of goods and services that could not otherwise be produced under normal market conditions.<sup>5</sup>

Commons contrast an absolutist and quite unlimited interpretation of property rights. For this reason, commons may be confused with collective property. They are different concepts. Suffice to say that in our cities property is essentially public or private. Although commons are not identified with public property, it is very difficult to find examples of urban commons in private hands. This is by no means the case. In the connection between commons and fundamental rights lies the non-indifference of commons to the State and the Market. It is public property that is the most suitable, theoretically and concretely, to allow the development of this type of activity on its assets. In the bundle of rights that the public authorities have over their own property, it is easier for citizens to claim stronger rights of use and management.

## Insights from the cities

**The emerging commons<sup>6</sup> are urban areas claimed as commons, used in non-exclusive forms and through a collective governance that distributes rights among an open community of commoners.<sup>7</sup>**

The openness of the community of reference of a commons, and the different legal tools of use and management of its participants, characterise in different terms the cases of Naples, Bologna and Turin.

The city of **Bologna** started an experiment in the shared administration of urban commons, with the top-down model of a new type of administrative regulation for the sharing administration.<sup>8</sup>

**“The regulation on collaboration between citizens and the city for the care and regeneration of urban commons” have been adopting since 2014.<sup>9</sup> Today the shared administration between citizens and public institutions, is one of the most widespread tools represented by the regulation for the care and shared management of commons.<sup>10</sup>**



## Structure

The legal framework consists of two parts. The first consists of the cited regulation, approved by the City Council. The second part consists of different and single “collaboration agreements” (“patti di collaborazione”) which directly involve associations and groups of citizens, who agree in a sort of contract of temporary use with the public officers upon everything that is necessary in order to realize interventions of care and regeneration of the commons. There are different typologies of collaboration: the occasional care, the constant and continuous care, the shared management and the regeneration.<sup>11</sup>

Next Step  
Source: Massa Critica

5. See Micciarelli and D’Andrea, 2020.

6. Stravides, 2014; Micciarelli, 2014.

7. Today in Italy, one of the most important networks uses such definition: the merging commons and civic use network See: <https://www.facebook.com/retebenicomuniemergenti/>

8. Arena, 1997.

9. English version retrieved from <http://www.comune.bologna.it/media/files/bolognaregulation.pdf>

10. Here is a continuously updated list: <https://www.labsus.org/i-regolamenti-per-lamministrazione-condivisa-dei-beni-comuni/>

11. For an in-depth analysis see de Nictolis and Iaione, 2021.

Despite the provision for ‘shared management of public spaces’ signed with a plurality of “active citizens” (Art. 13), the agreements are based on a bilateral relationship between the administration and one single private subject (associations, committees, and also corporations). Ordinary and extraordinary maintenance costs tend to be outsourced to active citizens.

### Critics

Shared administration can be considered a revolutionary approach but can have distorting consequences: using citizens to cover public sector failures;<sup>12</sup> reducing social conflict;<sup>13</sup> encouraging competition between associations that need spaces to organize their activities and projects.<sup>14</sup> Citizens do not participate in the drafting of the main regulation, but only in the definition of the collaboration agreements, thus the second-level administrative act. So, these agreements are at the heart of the system. They are represented as a flexible instrument in which the distribution of the burdens of responsibility among the parties involved is defined. However, because the lack of participation of active citizens in the writing of the main regulation makes it designed mostly for the needs and convenience of the public administration rather than for commoners.

Moreover, In Bologna, while the number of collaboration agreements increased, the number of evictions of social spaces claimed as urban commons also increased (e.g. see the various evictions suffered by Labas, XM24 and Bancarotta in Bologna).<sup>15</sup>

On the other hand, the Municipality of Naples (2011-2022) has tried to legitimise different forms of re-use of public spaces, even if they emerged from social conflict. Eight spaces originally occupied by activists who claimed common use: former Filangieri Juvenile Prison - now “Scugnizzo Liberato”, former

Schipa School, Villa Medusa, former Lido Pola, former Opg - now ex-Opg Je So’ Pazzo, former Teresiane Convent - now Giardino Liberato di Materdei, former Santa Maria della Fede Convent - now Santa Fede Liberata, former asylum Filangieri, now L’Asilo Filangieri. Altogether we are talking about 40,000 square metres of public heritage, largely lost to the city’s memory after decades of neglect.

### Starting from an extensive interpretation of the “civic use rights” existing in Italy in agro-pastoral communities, it carried out a bottom-up model of new legal institution: the urban civic and collective use.

The urban civic and collective use (Uso civico e collettivo urbano) started with the occupation by the art workers of the Asilo Filangieri, in 2012 and is still ongoing.<sup>16</sup> This occupation (like that of the Cavallerizza in Turin) is internal to a broader political movement of art, culture and spectacle workers who - since 2011 with Cinema Palazzo and Teatro Valle in Rome - have occupied several abandoned theatres and cinemas, claiming them as urban commons.<sup>17</sup>

### Structure

Both collective land governance systems and commons remind us that the priority is not to identify one or more juridical subjects that hold governance powers, but the governance system itself.

In traditional civic uses, rules are the output of customary law (even if they are highly formalized and recognized by law), whereas in urban commons, there is a political and legal decision-making process that gives rise not only to rules of use for the management of a building but also small, concrete “heterotopias”. From the right to collect wood in a forest or livestock grazing (link in “traditional” civic uses), to the right to use spaces to perform theatre rehearsals in an underused

12. Mandorino, 2015.

13. Marella, 2013; De Angelis, 2010.

14. Competition can also be interpreted as a positive factor, see Donati, 2013: 358

15. Bologna, sgombero di Bancarotta: la protesta in Comune e le divisioni in Consiglio, Il Corriere di Bologna, 11 giugno 2022, retrieved from [https://corrieredibologna.corriere.it/bologna/politica/22\\_aprite\\_11/bologna-sgombero-bancarotta-protesta-comune-divisioni-consiglio-a1192014-b9a0-11ec-bfb8-12418f32aacd.shtml](https://corrieredibologna.corriere.it/bologna/politica/22_aprite_11/bologna-sgombero-bancarotta-protesta-comune-divisioni-consiglio-a1192014-b9a0-11ec-bfb8-12418f32aacd.shtml). Some active citizens’ groups have been active in modifying this regulation from the grassroots level. Now there are at least three popular petitions (two in Rome and one in Bologna) pushing for the recognition of other models of urban commons’ governance.

16. There are many articles and studies on the experiments in Naples. I quote here only those related to the first experience, l’Asilo Filangieri, [www.exasilofilangieri.it](http://www.exasilofilangieri.it)

17. Cirillo, 2014; Ciccarelli and Allegri, 2011.

18. Capone, 2016; Micciarelli, 2017.

public building, among others.<sup>18</sup>

The open governance system was firstly experimented at the Asilo for three years (2012-2015), during which commoners set up a 'declaration of rights of use' (23 articles), that can be seen as a median path between a 'civil constitution' and regulations on the use of a park or other public space.<sup>19</sup> This 'in house' rule-writing is a political matter before it is a legal one.

In each urban commons, a different declaration of civic use has been written, in which, among other things, it is established: how people are entitled to use the spaces, how decisions are made, who has the right to propose activities or work inside, what political actions to support, what are the borders of a community, what is a broader meaning of violence and safe space. In the emerging process of this constituency, the draft proposed by commoners is publicly discussed and recognised by public authorities. Instead of attributing a concession to an association, the Neapolitan municipality has recognised this structure as emerging commons with different administrative acts, considering first the non-exclusive right of the inhabitants to use them; moreover, the assembly ecosystem therefore performs the dual function of organisational-relational model and is recognised by the municipality both as the management body.<sup>20</sup>

Here the consensus of commoners in the drafting of the main legal framework is a crucial aspect. This has been made possible through the mutual acceptance of dialogue (the commoners and the Municipality), and also through a participatory intervention of a new institution, the "Permanent Observatory for Common Goods" which has performed support and study functions by linking the proposals of commoners and those of the institutions in

the drafting issues.

For a deeper insight into this administrative process see [\*Path For New Institutions: Urban Commons In Naples Legal and political acts for the recognition of Urban Civic and Collective Use.\*](#)

**This was the output of a "creative use of law" or a legal hacking process.<sup>21</sup> Indeed, it subverted the classic scheme where citizens pose claims and institutions provide solutions.**

In this case, both collective land governance systems and commons remind us that the priority is not to identify one or more juridical subjects that hold governance powers, but the governance system itself.

### Critics

Declarations of civic and collective use contain complex elements of political self-reflexivity that are aimed at addressing more than just the efficient governance. This is also a limitation, because the collective and participatory drafting both of governance rules and legal framework makes the process slow. Moreover, studies on commons show that heterogeneity, although it can be a value, also creates organisational challenges and increases the risk of failure.<sup>22</sup> Indeed, a distinctive characteristic of this model is its openness: the non-exclusive use and the heterogeneity of the governance powers of that community (features that distinguish them from traditional CPRs). So, interpretation of the governance system is more disputable by newcomers who join after the rules have been defined and recognised.

Moreover, it is a model that engages the public authorities to play a greater supporting role. Also for this reason, although adopted in several cities, it is a less replicated model than the one in Bologna.<sup>23</sup>

19. Here are the main administrative acts of the city of Naples: <https://www.comune.napoli.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/16783>

20. To read network updates and documents see [Commons Napoli Metropolitan Network](#)

21. Micciarelli, 2022.

22. See Ostrom, 1998.

23. Per due recenti casi di adozione dell'uso civico e collettivo urbano see: [The Espacio Feminista Plaza Las Pioneras, in Montevideo, award the Premio de Arquitectura Panamericano in 2020 and the new Regulation on urban commons adopted by the city of Padova.](#)

Lastly, “institutional learnings” are not only a matter for public authorities that own buildings. Commoners must also learn to deal with institutions, rules, sanctions and limitations on their decision-making power. This aspect is very difficult to acquire. Neapolitan emerging commons have experienced periods of small cyclical community crises, and this can produce as much the renewal of experiences as their more or less minor crises.

The **City of Turin** tried to place itself in the middle. **The Turin Co-City approach explored the traditional forms of public-private partnership, but also interacted with – and innovated – the legal tools called ‘pacts of collaboration’**, provided by the Regulation on Commons of 2016 and then revised in 2019.<sup>24</sup> An attempt was made to proceed with a (top-down) regulation that recognised both the Bologna and Naples models, also with theoretical support and the civic alliance between Neapolitan and Turin experiences of urban commoning, especially between the Cavallerizza and the Asilo.

### Structure

The regulation n. 391 voted on 16/01/2020 recognised both the collaboration agreement and the collective urban civic use.<sup>25</sup> The most significant innovation is another legal structure for the governance of the commons: Commons Foundation (Fondazione Bene Comune) (art. 17). The Municipality can entrust the short-term usufruct of a public building of its own (even a monumental estate of historical and artistic importance such as the Cavallerizza mentioned above) to a special private-base entity. Private individuals or public bodies may contribute to the formation of the Foundation’s assets with contributions of various kinds, even at a later date.

### Critics

The model is based on the idea of separating the property (and not only the governance) of an urban common from its public owner. The explanation is that Municipalities and local governments are legitimated to sell the goods; so, if we want to preserve the real estate claimed as a commons in the future, we must sell it to another entity, that can be structured with a collective governance (the Foundation). The slogan “privatise so as not to privatise” therefore means that a public good should be communalised by entrusting it to a private entity which should, however, carry out common interests.<sup>26</sup> One of the criticisms I have personally made is that this is economically unsustainable, because the Foundation’s assets are essentially the real estate itself: without real liquidity, and without the involvement of local or state resources, the costs of ordinary and extraordinary maintenance would be exorbitant. This would inevitably lead the Foundation either to bankruptcy or to rent out larger and larger parts to lucrative stakeholders.<sup>27</sup> To avoid this happening, the involvement of financially important partners becomes intrinsically necessary: a mechanism that would easily be able to exploit the asset for extractive and speculative purposes unrelated to the grammar of the commons.

After an extensive debate and struggle, the Turin regulation produced a mediation: the asset of the Foundation would remain the property of the City and at the end of the period of short-term usufruct and after this unspecified period, in agreement with the community of reference and verified that the statutory purposes are respected, the Municipality owning the property can definitively transfer it to the Foundation.

24. De Tullio and Violante Torre, 2020.

25. There are significant technical differences between the Neapolitan civic use and the two institutes of the Turin regulation that apply it (Art. 15 and Art. 16). On this topic, see *ibidem*.

26. Mattei, 2019.

27. See the audition in the joint Commissions n. 2° CCP, 1° CCP, 5° CCP of the Turin City Council (18 July 2019). The recording is available at: <http://www.comune.torino.it/multimedia/istituzionale/19/1907/19071521/gioved-18072019---2-ccp-1-ccp-5-ccp.shtml>

The Foundation is a potentially important governance model, but unfortunately, we do not know whether and how it works in reality, because unlike the Bologna and Naples models no “common good foundation” has been adopted for any public or private property. Moreover, in concrete terms, despite the new regulations in force, the commoning experience of the Cavallerizza (tightly bound with the Asilo in Naples and other similar ex places) was eviction by public force in 2019.

## Conclusions

There is no better governance model of the commons in an abstract sense. What is radically different is the target of commoning: which actors are driven to collaborate and take care of the urban commons? *The Bolognese approach* favours a spirit of collaboration between active citizens (in pre-constituted social formations) and institutions (which govern this collaborative relationship) capitalising and empowering the associative environment already present in the territory. *The Neapolitan approach* through the recognition of the right of collective use of urban spaces favours the creation of open social formations of commoners, building an institutional capacity among those excluded from traditional institutional processes, in particular informal and economically disadvantaged target groups; so here the empowering of social movements activity and the dialogue with the institutions is also aimed at reforming both in participative shapes and forcing institutions to take responsibility for the commons. Finally, *the Turin approach* opens up the possibility of involving private actors who are part of the city’s economic fabric, separating the commons from the public heritage and creating spurious communities of reference.

In my opinion, if the commons are closely linked to the concept of self-organisation, this must also concern the dimension of choice of rules. **What needs to be enabled, then, is the possibility for citizens not only to participate in the rules given by local administrations, and on their own terms to take part in calls for tenders and projects, but to enable citizens to redesign the very administrative tools available.**<sup>28</sup>

**In any case, to push the participatory regeneration of abandoned spaces, we need some legal and hermeneutical cornerstones.** In Italy, this role was played by the ‘principle of horizontal subsidiarity’, which presumes that the institutional level closest to the issue at hand is the most appropriate one, and this also concerns individuals or in association.<sup>29</sup> However, this is not the only constitutional reference that has supported the emergence of an administrative strand on urban commons. Another important reference is the Art. 43 of the Italian Constitution, that provides as follows: “For purposes of general utility, the law may originally reserve or transfer, by means of expropriation and subject to compensation, to the State, to public bodies or to communities of workers or users certain enterprises or categories of enterprises, which refer to essential public services or energy sources or monopolistic situations and have a character of preeminent general interest”. Another key legal reference is a constitutionally oriented hermeneutic interpretation of equality<sup>30</sup> and social function of the right of use which breaks down the monotony of the right of property.

**But one thing must be clear: even in Italy, the regulatory framework is totally insufficient.** Although all the cases described are different, urban commons need a specific administrative framework, even

28. For an in-depth theoretical-practical study on commons governance toolkit and how to implement policies in the UE arena, see [Home • Cultural Creative Spaces & Cities \(spacesandcities.com\)](#)

29. The art. 118 last paragraph of the Italian Constitution provides as follows: “State, regions, metropolitan cities, provinces and municipalities support autonomous citizens’ initiatives, as individuals or in association, in order to carry out activities of general interest; this is based on the principle of subsidiarity”.

30. De Tullio, 2020.



in Italy, such as in many other countries, a national legislation recognising the commons as such is still missing. The constitutional principles cited above cannot guarantee, alone, adequate administrative tools. On the other hand, not having such constitutional principles cannot be a good excuse for local governments in other countries. Other references to principles and values can be used in many Constitutions. Moreover, in many national legislations there are regulatory frameworks that could be explored and used as hermeneutic support.

**It is then necessary to create alliances between local governments and commoning movements around the world. Through the exchange of good administrative practices, we can replicate the most advanced forms of governance, mutually improving them. Exchanging these precedents globally is a way to hack often inadequate national legislation, creating new common institutions from the grassroots.**

Collective and inter-municipal writing processes of declarations of civic use  
Source: cavallerizza bene comune

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In particular, the present paper has contributed to Chapter 4 on “Commoning”, which focuses on the trends and pathways in relation to the governance, planning and provision of access to housing, land and basic services. The chapter explores how local and regional governments can promote approaches focused on collective action that contribute to urban equality.

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