

**Nyssens, Marthe ; Petrella, Francesca. *The Social and Solidarity Economy and Ostrom's approach to common pool resources: Towards a better understanding of institutional diversity?*. In: Jean-Louis Laville, Denis Young, Philippe Eynaud, *Civil Society, the Third Sector and Social Enterprise : Governance and Democracy (Routledge Frontiers of Political Economy)*, Routledge: Oxford, 2015**

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## **Abstract**

In this chapter, our objective is to arouse dialogue between Elinor Ostrom works in the field of common pool resources and the analyses of the production of quasi-collective goods and services by social and solidarity economy (SSE) organisations. This dialogue concerns the analysis of ownership systems as a bundle of rights, the collective nature of the goods and services provided and the collective production of norms. We identify points of agreement and of divergence between these two approaches. Both approaches invite to move beyond a conception of the economy based on a state–market dichotomy and to recognize its plurality and complexity. Moreover, these analyses are not limited to an analysis of property regimes and underline on the importance of norms. However, on the one hand, the nature of the collective interest clearly differs between the two approaches and on the other hand, SSE's approach underscores the political dimension of this institutional work of producing norms, which cannot be confined solely to the issue of trust.

## **Introduction**

Since the mid-1970s there has been a strong emergence of concepts that underline the existence of organizations distinct from the private capitalist sector and the public sector:

social economy, solidarity-based economy, social enterprise, ‘non-profit’, third sector, etc. These observations invite us to move beyond a conception of the economy based on a state–market dichotomy and recognize its plurality and complexity. The works of Elinor Ostrom share this perspective and contribute to the recognition and understanding of an ‘eco-diversity’ seen as a necessary plurality of institutional forms.

That is why in this article we propose to set up a dialogue between the analyses of the quasi-collective production of goods and services by Social and Solidarity Economy (SSE) organizations and Ostrom’s works on common resources, from three angles: the analysis of property regimes, the characteristics of the goods and services provided, and the production of norms. We shall identify the convergences and divergences between these approaches to see how Ostrom’s works can raise questions for the SSE. The analysis will be centred on an Ostromian reading of common resources and not on the abundant literature on the new ‘commons’ which expands this idea, thus moving away from the common resources studied by Ostrom. The article is structured by this aim of dialogue.

In the first part, we underscore the importance of studying complex institutional forms which go beyond the state–market dichotomy to solve the problems related to the management both of common resources and of quasi-collective goods and services. Starting out from this observation, we shall show how analysis of the property regimes of SSE organizations and of Ostrom’s common resources question, each in their own way, the classic definition of property and the supposed supremacy of capitalist ownership.

In the second part, we start out from the need to widen the analysis to other types of goods than purely public and purely private goods (Ostrom, 1990). Common resources, like the quasi-collective goods and services produced by the SSE, are neither pure public goods nor classic private goods but also have a collective dimension, which is not adequately taken into account in actors’ individual decisions. However, the nature of the collective interest at stake can be seen to be different in the two situations.

In the third part, we analyse the role of the collective production of norms to create an environment of trust in a context of imperfect information and agents’ limited rationality. Trust is a central issue, both in the management of common resources and in the production of many quasi-collective goods and services. Ostrom concludes that letting the actors themselves

produce common rules can generate a sustainable management of common resources insofar as certain principles are respected. These principles of co-production of rules and self-management echo the foundations of the SSE: they also raise questions for it in terms of its governance and its concrete application of management autonomy and internal democracy. On the other hand, works on the SSE underscore the political dimension of this institutional work of producing norms, which cannot be confined solely to the issue of trust.

### **Apprehending and understanding the diversity of institutional forms: an analysis of property regimes**

Since the mid-1970s, we have seen a deployment of various approaches which aim to underline the existence of a real ‘third sector’ in our economies, distinct from the capitalist private sector and the public sector – the ‘non-profit sector,’ the social economy, the solidarity economy, the social enterprise, etc. A strong European tradition sees the third sector as bringing together cooperatives, associations, mutual societies and increasingly foundations, or in other words, all not-for-profit organizations (organizations not owned by shareholders) that are also labelled the ‘social and solidarity economy’ in some European countries. This legal-institutional approach is usually combined with a normative or ethical approach which underlines the essential common features of these different types of organizations: their aim is to provide a good or service to their members or to a community, rather than generating profits, and their specific governance rules (independent management, democratic decision making process and primacy of people and labour over capital in the distribution of income) thereby expressing a long historical quest for economic democracy.

The emergence of this type of concept requires us to move beyond a representation of the economy based on the state–market dichotomy.

Ostrom’s works on common resources (cf. next point) belong to this perspective. She shows that many institutional arrangements distinct from the traditional public and private sectors are possible and sustainable:

Some scholarly articles about the ‘tragedy of the commons’ recommend that ‘the state’ control most natural resources to prevent their destruction; others recommend that privatizing these resources will resolve the problem. What one can observe in the world, however, is that neither the state nor the market is uniformly successful in

enabling individuals to sustain long-term, productive use of natural resource systems. Furthermore, communities of individuals have relied on institutions resembling neither the state nor the market to govern some resource systems with reasonable degrees of success over long periods of time.

Ostrom 1990: 1

Ostrom starts out from the principle that, in traditional theories, the actors are seen as being caught up in a set of constraining rules, influencing their behaviour, and over which they have no control. For her, the (local) actors are capable of self-organizing to ‘govern’ common resources by producing the system of rules, adapted to the local context, which allows sustainable exploitation of these resources. Her approach thus also contributes in a fundamental way to recognizing and understanding an ‘eco-diversity’ seen as a necessary plurality of institutional forms. In this regard, she in a way confirms Laville’s (2006) statement of an indispensable recognition of institutions capable of ensuring a ‘pluralization of the economy’:

The answer to this question can only be sought through institutional inventions anchored in social practices; it is these practices that can point to the pathways for reinserting the economy in democratic norms.... It is a question of looking to practices to inform us about their existence and analyse them, in other words to start from the ‘real economic movement’ and not from a project for social reform social imposed on reality.

Laville 2006: 257

This is a first point of convergence between Ostrom and the SSE analyses.

A second point of convergence between the SSE and Ostrom’s works flows directly from this recognition of institutional diversity. It is a matter of questioning the traditional conception of the ownership of an enterprise. As Weinstein (2013: 3) underscores, for Ostrom, ‘the question of the commons is not separable from questions about the place of ownership and the forms of ownership in the economy’. Whether it be a matter of the ownership of common resources or of SSE organizations, these institutional forms indeed challenge economic theory in several regards.

Ownership is generally defined in terms of the joint possession of two formal rights: the rights to control and the rights to residual earnings (Hansmann, 1996). The residual character refers

to rights not previously assigned in a contract. Thus, residual earnings consist of the financial surpluses, including the realization of the assets by a possible sale of the rights, once all financial commitments have been honoured. The rights to residual control consist of the rights to control that have not been assigned by law or contract to other stakeholders (in particular the managers of the enterprise) and may be limited to the right to elect the board of directors and a restricted range of decisions such as transferring the enterprise to a third party or dissolving it.

The institutional forms studied by Ostrom and those of the SSE diverge fundamentally from this representation. On the one hand, the investors are not the owners of the organization although that, according to the ownership rights school, this is the optimal situation; on the other hand, the property rights regimes are much more varied than the one presented by the dominant theory. These points will be developed successively.

First, in the field of the SSE, the investors are not the owners of the organizations. In the case of associations, various categories of stakeholders may sit in the organs of governance: the direct beneficiaries of the activity, the employees, the volunteers, the public authorities, donors, or the local community; however, these stakeholders do not have the right to individually appropriate the financial surpluses of the organization, in view of the constraint of non-distribution of profits. In the case of cooperatives, the twofold character of the associates is fundamental. While the cooperators hold one or more shares, they are there because they have a relationship with the cooperative either as employees, users or suppliers.

In the case of the governance of common resources, Ostrom is interested in systems where the ‘appropriators’, i.e. those who may withdraw units of resource, self-organize. The appropriators may be:

herders, fishers, irrigators, commuters and anyone else who appropriates resource units from some type of resource system. In many instances, appropriators use or consume the resource units they withdraw (...). Appropriators also use resource units as inputs into production processes (...). In other instances, the appropriators immediately transfer ownership of resource units to others, who are then the users of the resource units (...).

Ostrom 1990: 31

These appropriators do not generally have the relationship of investors in the strict sense (investing financial capital with a view to maximizing its financial return) but are either consumers (fishers who take fish for their own consumption) or producers (fishers who sell their catch, irrigators who use the water for their own fields).

Secondly, the property regimes of the SSE and those of common resources also deviate from the principle of joint possession of the rights to residual control and residual earnings.

In an association, no one has the right, in the strict sense, to appropriate the earnings, which leads some authors to declare that 'Nonprofit organizations do not have owners' (Glaeser, 2003: 1). However, these organizations are indeed constituted by a set of assets for which the rights to residual control, such as the right to elect the members of the board of directors, are assigned to one or several agents. The idea of assets is used here in a broad sense to designate any potential flow of earnings or future services. The persons who have control in the organization, following the principle 'one person, one vote,' are 'collectively' tasked with reinvesting the residual earnings in the organization. Ultimately, these residual earnings, collectively assigned, return in multiple forms to what Gui (1991) calls the 'beneficiary category,' which will vary according to the purpose of the organization: for example, the users of the service (e.g. persons being socially integrated), but also the persons who control the organization, as in the case of mutual interest organizations such as sports clubs, or common-resource organizations such as those studied by Ostrom. While an individual distribution of the net financial surplus is forbidden in non-profit organizations, an assignment of residual benefits nonetheless takes place.

In a cooperative, part of the earnings is channelled towards the non-shareable reserves, the collective fund of the organization, and the capital, when it is remunerated, is so in a limited way. The shares cannot be sold on the stock market and are only transferrable on certain conditions laid down in the statutes. The principle 'one person, one vote' means that the number of shares held by a member does not influence his or her weight in the control of the organization.

Drawing on theorists who define property as a 'bundle of rights' that are divisible, separable and alienable (see esp. Commons (1893) and Alchian and Demsetz (1973)), Elinor Ostrom and her colleagues (Schlager and Ostrom, 1992; Ostrom, 2010) stress the separability of the

right to have access to the resource, the right to appropriate the products of the resource, the right to manage the resource, the right to determine who will have an access right and how that right may be transferred, and finally the right to sell these last two rights. The first rights and the last one are akin to the residual earnings and the others to the right to residual control. According to Ostrom, property regimes are plural because these rights are independent and can be combined in different ways.

Ostrom's position is not to identify a specific property regime as the most effective *a priori*: 'the valid question is how various types of institutional arrangements perform comparatively when confronted with similarly difficult environments' (Schlager and Ostrom, 1992: 260).

She answers this question rather through principles derived from hundreds of specific case studies. Rather than identify recurrent rules, she thus extracts principles of conception common to durable institutions managing common resources, which we shall detail below. Moreover, the appropriators often don't possess the right of alienation, which has generally contributed to the success of collective management by strengthening the cohesion of the local communities (Poteete et al., 2010: 47).

Regarding the analysis of the forms of ownership of the SSE and commons, institutional diversity is impossible to ignore, and it calls into question both the classic state-market dichotomy and the classic definition of property. These forms testify to the plurality of property regimes, particularly through the possible separation of different property rights and the multiple combinations that can result from this, calling into question the supremacy of private property in the strict sense.

### **Between public good and private good: Mutual interest or general interest ?**

Common resources, as examined by Elinor Ostrom, are characterized by the fact that it is difficult but not impossible to exclude beneficiaries from access to them. But the access is limited, i.e. subject to competition in its consumption, as in the case of water, forests or ocean fisheries. The problem lies in over-exploitation, with each individual having a personal interest in using the common resource in such a way as to maximize his individual use while distributing the operating costs over the collectivity. These situations are described, in Elinor Ostrom's terms, as 'social dilemmas' inasmuch as the short-term maximization of individual

interests leads to a suboptimal outcome for the whole group and hence for each participant (Ostrom, 1998).

The type of production stemming from SSE organizations can be described, in many cases, as ‘quasi-collective’ goods and services: childcare services, social integration through economic activity, short-circuit cooperatives, social finance, etc. In addition to the direct benefits for the users, these initiatives simultaneously generate benefits for the collectivity as a whole (a better functioning labour market, social cohesion, local development, public health, sustainable development, etc.). These goods or services are described as quasi-collective because, while the user and his/her consumption can be clearly identified, the benefits created are collective. These benefits are not always taken into account in agents’ consumption or production choices, which leads to suboptimal situations in terms of the general interest.

While common resources and quasi-collective goods are comparable in the need to integrate, through collective action, collective externalities that would not be taken into account in agents’ individual decisions, some important differences must nonetheless be stressed.

In the case of common resources, management needs to be entrusted to a specific category of more or less homogeneous stakeholders, the appropriators, who are generally direct beneficiaries of the resource (as consumers or producers). A ‘subgroup’ for Ostrom is a group potentially capable of collective action because its members have similar rights, responsibilities and interests in the resource (Poteete et al., 2010: 92). Ostrom does indeed acknowledge a certain heterogeneity (ibid.: 54) in these groups in economic terms (wealth), or socio-cultural terms, but all generally have the same kind of relation to the resource as appropriators.

There is a move from a situation in which ‘individuals act independently, to one in which they coordinate activities’ to produce benefits ‘shared by all appropriators’ (Ostrom, 1990:40). We are thus rather in the configuration of a mutual benefit organization, exactly as in the case of producer or consumer cooperatives, which are based on a dynamics of self-organization by the actors, even if there is a general interest dimension, inasmuch as society has an interest in the resource being managed in a way that guarantees its sustainability.

However, the notion of collective benefit or social utility in SSE analyses goes far beyond a conception of the collective interest. This social utility, which is multiform (Gadrey, 2006), is generally mobilized by SSE organizations as part of their mission: lower cost for public bodies, contribution to the fight against inequality, environmental profit... For SSE organizations, these benefits are no longer a phenomenon induced by the economic activity ('an externality') but are at the core of the objectives they promote (Laville and Nyssens, 2001).

In the case of these quasi-collective goods produced by the SSE, the day-to-day management is often entrusted to professionals, possibly alongside volunteers under the aegis of a board of directors and a general assembly. In contrast to Ostrom's commons, these collectives are generally more heterogeneous. They represent a diversity of stakeholders (members of civil society, employees, users, the public authorities, etc.), reflecting the general interest dimension that characterizes this type of organization. This is the framework in which the European literature on the social enterprise introduces the possibility of the involvement of a diversity of stakeholders in the very structure of governance of the organization (see Borzaga in this volume; Petrella, 2008; Defourny and Nyssens, 2010). Although these actors pursue interests that are at least partially divergent, the aim is to construct a collective interest from their adherence to a common social purpose. The question of the construction of the collective interest arises from a compromise among different action logics that are sometimes contradictory or in tension.

So for Ostrom, organizations are driven by the appropriators of the resource, who organize collective action to secure common benefits. In the case of the SSE, the construction of a social finality goes beyond a narrow definition of the interests of the direct beneficiaries and often requires dialogue among a heterogeneity of stakeholders, which gives, among other things, another position to the public actors in the name of their contribution to the general interest.

Indeed, an important difference emerges here between the SSE and the governance of common goods, since the state or local governments generally contribute to the production of quasi-collective goods and services by the SSE, through various forms of financing and regulation, and even, in some cases, through the presence of public authority representatives in the decision-making bodies of the organizations. State participation takes its place in a

historic context of compromise between the state and associations in offering these services, resulting in close interactions between these two actors.

For Ostrom, the role of the state is to give institutional legitimacy to the systems set up by the appropriators. They must be recognized by the state. She also stresses in her works the need to develop polycentric institutions (a situation in which several decision-making centres coexist, at different scales, and are at least formally independent while contributing to the supply and production of the common resource); the state may be involved in some of these levels, especially the higher ones (Ostrom, 2010). However, fundamentally, the role of the state is to 'recognize' and so legitimate the agreements as deployed by the local actors.

Because in the case of common resources there is open access to appropriation of the resource, the question of financing is not central, even if the question of the implicit price arises raised when the rules for sharing exploitation and maintaining the resource are discussed. By contrast, the question of fixing the price emerges more directly in the case of the provision of quasi-collective goods, since the financing of the collective benefits by the collectivity is a matter of the highest importance.

Although both approaches address the difficulty of providing goods and/or services that have a collective dimension, the nature of the collective interest clearly differs between the two. In the case of common resources, the collective interest is essentially the interest of a group, which is more a case of mutual interest, even if the sustainable management of a resource includes a general interest dimension. By contrast, in the production of collective goods or services, the collective interest is that of the society as a whole and is more akin to the general interest. This general interest dimension means that more importance is given to the role of the state in the production of these goods and services and to a stronger hybridization of commercial, public, and voluntary resources.

### **Co-producing rules in an environment of trust : the institutional dimension of organizations**

Questions of trust and imperfect information are central to Ostrom's works as in works on the SSE.

In response to the postulates of perfect information and perfect rationality of the neo-classical model, Ostrom stresses that, in reality, actors are very often in situations of profoundly imperfect information characterized by great uncertainty (Kiser and Ostrom, 2000: 61). If economic theory addresses the question of trust in situations of imperfect information, not only are these reduced to a probabilizing uncertainty but it says little about the institutional forms favouring this trust. Faced with these blind spots, Ostrom's essential questioning is the analysis of the mode of governance of common resources and therefore the rules, i.e. the institutional framework, that allow sustainable exploitation of these resources. On the basis of analysis of hundreds of cases of commons management around the world, she shows that appropriators are capable of creating local, sustainable institutional arrangements, which take account of the specific context and make possible an effective management of common resources and prevent over-exploitation. She derives from them some general principles for sustainable management of common resources. For an agreement to be effective and sustainable and engender trust and reciprocity among the members, several general principles must be collectively defined and applied by the members themselves, taking account of the local conditions and the long-term preservation of the resource (Ostrom, 1990):

1. Rights to extract the resource must be clearly defined;
2. Appropriation and provision rules must be congruent with local conditions and benefit must be proportional to the costs undertaken;
3. Collective-choice arrangements must be set up;
4. There must be rules for monitoring users and resources;
5. Graduated sanctions must be applied;
6. Conflict resolution mechanisms must be set up;
7. The state must recognize the organization in place, i.e. the right of local users to make their own rules;
8. The whole system must be organized in multiple layers of nested enterprises in the case of common resources connected to a larger system.

Ostrom thus shows that it is important to set up a hierarchized system of rules that includes operational rules (determining the conditions of access to and use of a resource), 'collective choice' rules (to deal with conflicts and dysfunctionings) and 'constitutional choice' rules which frame collective choices, for example by determining who may modify these rules (Weinstein, 2013: 7).

A central conclusion of Ostrom's works with regard to economic theory thus concerns the bringing to light of the importance of letting the actors discuss among themselves to draw up their own rules (Holland and Sene, 2010). Ostrom does not stop with the analysis of property regimes but analyses the institutional work of the appropriators. This analysis relates to the instituting capacity of organizations, i.e. their ability to collectively produce rules of decision and operation. Involving the actors in the institutional arrangements that they have created is primordial, especially in the mechanisms for monitoring the application of the rules, so as to prevent opportunist behaviours.

Trust is also a central issue in the production of many quasi-collective goods: information is fundamentally imperfect, the product being marked by 'the uncertainty of service relationships' (Gadrey, 1996: 97). It is indeed difficult to evaluate the quality of quasi-collective services, whose objectives are multidimensional, with quality being based on a co-construction between the supplier and the user (Laville, 2005). While the imperfect nature of the information may partially explain the existence of associations (Hansmann, 1980), it is generally agreed that the constraint of non-redistribution of profits does not suffice to protect the users (Nyssens, 2008). In this context, it is therefore important to consider the modalities that make it possible to create a relation of trust.

The involvement of a diversity of stakeholders in the ownership of organizations is one way of dealing with the imperfect character of the information and creating a relation of trust among them, whether they be the users, the public authorities or the employees (see Borzaga this volume; Nyssens and Petrella, 2009).

However, Elinor Ostrom draws our attention to the importance of creating norms to ensure the durability of collective action. The principles she invokes echo the foundations of the association and more generally of the SSE. They are relevant to the SSE in terms of its governance and its concrete application of the principles of independent management and internal democracy.

Ostrom's analysis refers to the instituting capacity of organizations, i.e. their capacity to collectively produce rules of decision and operation. Recognizing the actors' capacity to construct and deploy institutional arrangements is indeed an essential dimension of producing

lasting agreement among the stakeholders concerned. Involving the actors in the institutional arrangements they have created is thus primordial in maintaining an environment of trust.

These observations question the positioning of associations and the SSE vis-à-vis the institutional environment, which, is viewed as given and as a constraint for many SSE organizations. What then becomes of the capacity of the associative actors and the SSE to produce their own operating rules and norms and indeed, through these rules, to contribute to institutional change by playing a part in reshaping the modalities of public action?

While Ostrom underlines the importance of drawing up norms in the framework of the management of uncertainty and the production of trust, analyses of the SSE highlight the fact that institutional work relates to the political dimension the SSE. It is a matter of recognizing the political embeddedness of organizations, defined as the set of interactions between the public authorities and the SSE, reflected in mutual effects whose intensity and modalities vary considerably in time (Laville, 2006). While the SSE cannot be apprehended without integrating analysis of the public regulation to which it is subject and whose isomorphic pressures it has to cope with, at the same time the forms it takes cannot be determined by public regulation alone. SSE organizations play a part in the co-construction of the norms and in this case of public policies. It is indeed necessary to recognize the ‘institutional work’ of the actors at the meso-economic level, which Lawrence and Suddaby (2006) term ‘institutional entrepreneurship.’ Ostrom concludes that letting the actors themselves produce common rules can generate a sustainable management of common resources insofar as certain principles are respected. On the other hand, her works say very little about the role of these local institutional arrangements at the level of the social and political transformation of our economies, in contrast to some approaches to the SSE and the solidarity economy in particular.

## **Conclusion**

Although the starting points are different, our analysis confirms the heuristic interest of pursuing the dialogue between SSE analyses and those of the governance of common resources. Our analysis leads us to identify the common points and divergences in terms of analysis of property regimes, the nature of goods and services that are neither public nor private, and the collective production of norms, giving rise to some reciprocal questionings.

These approaches have in common the fact that they underscore the importance of examining the forms of governance of goods and services with a collective dimension, which differ from public and for-profit private forms. These approaches contribute to the recognition of a necessary ‘eco-diversity,’ i.e. a plurality of institutional forms (Ostrom, 2005) which challenges the classic state–market dichotomy and thereby promote an approach to property in terms of bundles of rights that can be combined in multiple ways. These analyses thus show the great diversity of the property regimes that contribute to the construction of a common interest. In these property regimes, the right of alienation – rarely granted in the case of the services studied – or the right to residual earnings are subject to specific rules reflecting in some sense the fundamentally collective heritage underlying these regimes and questioning the supremacy of capitalist property as put forward by the property rights school.

However, the nature of the collective interest clearly differs between the two approaches. In the case of common resources, the collective interest is essentially the interest of a group, the appropriators, making it more of a mutual interest, even if the sustainable management of a resource includes a general interest dimension. By contrast, in the case of the production of quasi-collective goods or services, the collective interest concerns the whole society and is more a matter of the general interest, requiring a dialogue among a heterogeneity of stakeholders. This general interest dimension leads to a more important place being given to the state, whose role cannot be limited to ‘recognizing’ the local institutional arrangements, as envisaged by Ostrom, but includes an essential role in the financing and regulation of these goods and services. This is one of the major divergences between Ostrom’s works and those on the SSE, since she ultimately remains ambiguous on the question of the role of the state.

Finally, from an institutional standpoint, the two approaches also insist on the need for the stakeholders to produce collectively, transparently and in a negotiated way, the rules governing decision-making, operation, and the allocation of any surplus. These analyses are therefore not limited to an analysis of property regimes. Ostrom particularly stresses the involvement of the actors in the institutional arrangements they have created, especially in the arrangements for monitoring the proper application of the rules defined, so as to prevent opportunistic behaviours and create a climate of trust. This may explain why many initiatives implemented ‘top-down’ by public authorities have failed to secure the commitment and mobilization of the local actors. The creation of grassroots public spaces capable of

constructing institutional arrangements is one of the essential conditions for producing a lasting agreement among the stakeholders concerned; this may be of concern to SSE organizations, which are often locked into systems of constraints with the public authorities. Ostrom subtly analyses the set of rules – to be deployed by the actors themselves – required for the sustainability of systems of governance. However, according to the SSE analyses, beyond their function of producing effective rules and relations of trust, these institutional local arrangements have a public dimension contributing to the construction of regulations. Recognizing the institutional dimension of the SSE also means analysing its participation in the deployment of norms and regulations both at the level of the organization and beyond and so asserting its public dimension, which remains a blind spot in Ostrom's works. These norms and regulations in fact shape the fundamental equilibria of our societies, in particular the place of the market, the state and civil society. To recognize the institutional dimension is to recognize their contributions of SSE organizations to shaping a more sustainable society. Here there is a major issue for the present time, particularly around the question of the political dimension of the management of both common resources and collective goods.

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