

Institutions

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Creating and Appropriating Urban Spaces – The Public versus the Commons: Institutions, Traditions, and Struggles in the Production of Commons and Public Spaces in Chile

The commons as social production

Probably the most widely acknowledged approach to the idea of the commons is that of political economy, best represented by the work of Elinor Ostrom and her response to the pessimistic tradition inaugurated by Hardin and his idea of the *tragedy of the commons*. Ostrom's approach focuses mostly on management and polity structures, i.e. institutional design, that allow communities to make use of a natural (common-pool) resource over time and generations while preventing depletion. The concept of self-governance of the commons is built upon empirical research and argues against calls for external intervention, either state or market-oriented.¹

The discussion about understanding urban space as a commons, however, must delve into a somewhat different and older tradition, namely the constitutional and political tradition that defines the common as both a right and a metaphor of the limits to the power of the sovereign. In this regard, the work of Peter Linebaugh in examining the genealogy of Magna Carta and the link between economic and political organization of life in English history sheds light on the focus our discussion should have. Linebaugh shows how the commons have been the subject of struggles throughout history and even how we can understand the development of capitalism as one strongly based on a continuous process of dispossession, or in a more straightforward manner, “the removal of people from the land or from their means of subsistence.”²

Although it is possible to say that all commons are socially built, that is to say, transformed into a common-pool resource by the interaction between humans and nature, it is also valid to observe that, to a certain extent, the fact that urban pub-

lic space is produced instead of being what we could call a given (such as natural resources) makes a big difference, even as obvious as it may seem.^{3,4} This view of the commons as a social product is endorsed by Massimo De Angelis, who stresses that the process of turning commons into rights in the medieval English case didn't have to do with those rights being granted by the sovereign, but instead with him being forced to acknowledge them.⁵ De Angelis proposes to understand commons not simply as a resource but rather as a triad:

First, all commons involve some sort of common pool of resources, understood as non-commodified means of fulfilling people's needs. Second, the commons are necessarily created and sustained by communities. [...] the third and most important element in terms of conceptualizing the commons is the verb "to common" – the social process that creates and reproduces the commons.⁶

The *pobladores* movement as a commoning force against the state

The approach to commons as a verb ("to common" or "commoning") will be useful to situate and analyze our case study. The process of 'governing the commons' in the urban realm and specifically in the case of public space, which is certainly and essentially political, must be perhaps also understood as 'producing the commons.'⁷ In this context, the struggles of *pobladores* for the right to the city can be understood as a process of producing new commons (urban space as such) without the participation of the state or even a confrontation with it. The *pobladores* movement can be considered an example of commoning not only because of its practices, but also how its struggles shaped its identity and structure as a collective. Judith Revel and Antonio Negri have stated that what is common to men (and women) is not their origin, 'their soil,' but instead what they build collectively.⁸ The common, therefore, is not being but doing and, in that context, the history of struggles for the right to the city by the urban poor in Latin American cities and particularly in Chile can be seen from a new light.

In a very informative book about the history of the *pobladores* movement,⁹ we find the following excerpt from a life story by one of the first inhabitants of the *población* San Gregorio, founded in 1959, talking about the process of collaborative self-construction:

[...] the idea was to help each other. It was nice because when we finished our houses we continued working as a whole to pave our sidewalks, build a community room, buy a TV, pay for the funeral of someone whose family didn't have the money [...]. It was just like that, we helped each other, it was lovely, there was friendship and solidarity.¹⁰

This is a precise example of what Linebaugh calls commoning: “the practice of commoning can provide mutual aid, neighborliness, fellowship, and family with their obligations of trust and expectations of security.”¹¹ Therefore, the common here, as Revel and Negri would say, is social organization, and the urban space produced in the process of organizing can also be conceptualized as commons.

I will argue that, in terms of the production of space, there is an alternative tradition to the public and private to be found in the organizational forms of the lower classes and specifically of a political subject characteristic to Latin America: the *pobladores* (poorly translated into English as slum dwellers). Furthermore, notwithstanding the absence of a participatory culture within the state,¹² it is possible to assert that the development of institutions responsible for the production of the city and public space throughout the twentieth century is in direct relationship with the struggles led by different social movements, particularly the *pobladores*.

My working hypothesis is that this rich tradition of what we could call ‘potential commons’ has been historically hindered by the Chilean state, both purposely and as a result of the gaps and voids in its institutional framework, and I intend to show this through the case of Peñalolén Park. This park, built in a private lot previously occupied by an informal settlement for almost seven years, parts of which are still standing, was created by both local and national governments as a strategy to prevent the Toma de Peñalolén from turning into an example for other homeless groups in the country to take private land and later demand the state to purchase it for building homes. The cornerstone for this strategy was to frame using the land for housing as an alleged process of privatization of public space.

The high importance of public space in Chilean society has different explanations: some of them refer to a material reality, namely the lack of green spaces in cities, particularly in poorer districts, while others have to do with Chile's political history. In this last regard, the idea of public space as a ‘space for encounter’ echoed the policies for reconciliation led by democratic governments after 1990. From a theoretical approach, it is possible to link that use of the concept of public space to the ideas of influential thinkers like Jürgen Habermas and Hannah Arendt, who understand

public space as a space for rational dialogue and consensus building. This position has been labelled by Seyla Benhabib as a ‘discursive model,’ as long as it takes for granted that political subjects have equal conditions to participate of such a space. Chantal Mouffe has also emphasized how both Habermas and Arendt overlook antagonism as a key feature of political public space.¹³ More recently, Delgado and Malet have criticized social democratic elites in Europe for using public space as a means to distract and discipline the masses. The authors argue that this conception legally implies state property and full authority over that space, and politically means a sphere of “harmonious and pacific coexistence of heterogeneous society.”¹⁴

Public space, the commons and the Chilean context: Traditions and institutions

Since independence, Chile’s republican state has always been ruled by statutory law; the second article of the Chilean Civil Code states that “custom doesn’t constitute right, except for those cases where the law complies with it.” On the other hand, since the Spanish conquest and during colonial times, urban development based on the checkerboard layout was meant to appropriate land in order to distribute it later to Spanish crown representatives, military authorities, Catholic Church congregations, and soldiers turned into private tenants. Thus, the concept of the commons is not a familiar one within Chilean history. The only references to the contemporary idea of the commons both in the Civil Code and the Constitution speak of “the things that nature has made common for all men.” Paraphrasing what Elizabeth Blackmar has stated about the suppression of Indian common property in the US, in Chile the chances are reduced to the binary “simple opposition of public and private.”¹⁵

The existence of a sort of ‘third sphere’ has only been discussed in the context of the public-private partnership model of urban development, but not necessarily (maybe not at all) in the sense of the commons theory. These discussions (as in the case of the so-called POPS – Privately Owned Public Spaces) and in general, the whole idea of the public and public space, have always been led and defined at the formal level almost solely from the point of view of the ruling elites.

In the Chilean institutional framework, public space is a poorly defined concept. As Sergio León has shown, the Ley General de Urbanismo y Construcciones, LGUC (Planning and Building General Law) and its General Ordinance only state that pub-

lic spaces are “national goods of public use, destined to leisure and circulation,”¹⁶ basically public roads and urban parks at different scales. In turn, national goods of public use (NGPUs) are defined by the Civil Code in the following manner: “National goods are those which possession belongs to the nation as a whole. If their use also belongs to every member of the nation, as in the case of streets, squares, bridges and roads, the adjacent sea and its beaches, they will be called national goods of public use or public goods.” The inclusion of national goods of public use within a larger category is an important issue, because as Elke Schlack has aptly noted, “the law links public space with public property, that is to say, with the control of the state.”¹⁷

Besides this weak legal definition, public spaces in Chile are also affected by its complex structure of administration. The best example are roads: small streets at the neighborhood level are competency of municipalities, urban main streets are under the responsibility of the Ministry of Housing and Urban Planning (MINVU, an acronym for its Spanish name) through one of its branches, while urban highways are developed and administered by the Ministry of Public Works. This same scheme can be found in the process of devising, designing, and administering public spaces, with several agencies involved and without public notion of their competencies and juxtapositions. In the case of Santiago, the problem is aggravated by the fact that there is no city authority but instead thirty-four municipalities that form the metropolitan area. For example, MINVU is responsible for the development of large urban parks, although funding may come from the Regional Government and municipalities may also take part in those initiatives by supplying land.

During the last two decades, democratic governments have developed different programs at the central level to foster the creation of new public spaces or to renovate damaged traditional spaces. Probably the most important among them, in terms of built surface, was the Urban Parks Program, led by MINVU between 1992 and 2002.¹⁸ This program sought to develop recreational parks mostly in disadvantaged zones of the city; after completion, parks were administered by the Parque Metropolitano de Santiago (PMS), an institution originally created to manage the park of the same name at San Cristóbal Hill (the largest urban park in Chile, with a surface of about 700 hectares). However, this model was used only for the seventeen parks built under that program in Santiago and did not turn into a sort of metropolitan public space authority able to manage the over 250 parks in the city; this will later prove an important element in the discussion of our case, as the complexity of administration has seriously influenced the design and development of Peñalolén Park.

Pobladores as a political agent beyond state and market

Notwithstanding this tradition of centralized power within the Chilean republican state, during the second half of the twentieth century, several social movements linked to the struggles for the right to housing, and, from a more contemporary view, the right to the city, attempted to produce their own living space through *tomas* (literally takings) of former farming lands or derelict lots in order to build informal settlements which then, in time, evolved into definitive neighborhoods. It is possible to identify a historical and social tradition in the phenomenon of the *tomas*, where the *pobladores* developed a particular identity related to class consciousness and political struggle, and where the built environment was the result of a participatory, community endeavor.

Several scholars, among them sociologists and historians, have stated that it is necessary to go beyond modern social categories in order to understand the *pobladores* as a political subject in Latin American history. Mario Garcés has insisted on the idea that the *pobladores* movement differs from the traditional conception of working class, precisely in that the former do not relate to industrial work as in the case of ‘classic’ Marxist theory and leftist thought. Moreover, Garcés states that the working class: “was always only a fraction of the popular class and that a huge number of poor men and women never achieved the worker condition,” remaining in a category that he defines as “sub-proletariat”; however, both women working as laundresses or domestic maids and men working in temporary jobs or as independent artisans “were key protagonists of the *pobladores* movement.”¹⁹

Most historical studies about the *pobladores* movement focus on the period between 1957 and 1970, beginning with the founding of Población La Victoria, the first massive and successful *toma* from the second half of the twentieth century,²⁰ and ending with the inauguration of Salvador Allende as president. During that period, the housing problem in Santiago became critical due to the continuous migration from smaller cities throughout the country and the lack of public institutional policies adequately addressing the issue. Most *tomas* followed the same pattern: people who lived along the banks of rivers and canals, many of whom were registered in the public social housing programs and tired of waiting for the possibility of acquiring a house, then organized to occupy nearby land in order to build houses themselves. This land usually met two criteria: it belonged to the state (mostly to CORVI, the State Housing Corporation, whose financial and organizational capac-

ities were insufficient to meet the goals of public policy) and it was located in the city outskirts.

Even though the first examples of *poblaciones* created out of occupied land dated back to the 1930s, as in the case of the famous Población La Legua (1931), as already mentioned, during the 1950s the housing problem and the population's discontent became critical, not only due to a population increase but also due to the expectations created by the government of President Carlos Ibáñez del Campo (1952–1958), a former dictator from the 1920s revamped as a populist politician. Ibáñez had won the elections with a great majority and during the first years of his mandate he introduced major changes to public administration, based on concepts like 'coordination,' 'rationalization,' and proposing 'plans' for 'integral solutions'²¹ that aimed, in the case of housing, to end the shanty towns by building a large number of units. However, these announcements and plans did not work as planned, mainly due to lack of coordination between government and industry, with the former failing to provide announced incentives for the construction industry, but also certainly due to the inability of the government to bolster the aforementioned new institutions. Near the end of the decade, the economic crisis related to the low price of copper led to a decrease in public investment and consequently to the failure of the housing plans.

In 1957, the 'success' of La Victoria as a *toma* created a new mentality among the urban poor, namely the certainty that, in light of the shortcomings of the state, it was up to them to satisfy their need and fulfill their right to housing. Although the following governments between 1958 and 1970 acted with more efficacy and diligence with regard to the housing problem, the number of *tomas* and the *pobladores* movement as a whole continued to grow, taking the form of a political subject (for example, their organizations evolved both in form and content, from the National Front for Housing to the National Federation of *Pobladores*). In terms of urban development, *tomas* and *poblaciones* were part of the sprawl model of urbanization that characterizes Santiago, which has been mostly driven by speculation and links between public policies and the private surpluses of land commerce.

One of the foundations of the conservative and neoliberal revolution forcibly imposed during the last forty years in Chile was the dismantling of social organizations, especially those related to the working class. This process first took the form of straightforward repression in the seventies and eighties during the dictatorship. During that time *pobladores* were politically very active, not only in the resistance

within established *poblaciones* but also in creating new *tomas* (then known as camps) in the early eighties;²² some of these were evicted, however some developed into more formal settlements. In many aspects, this policy on civil organization was given continuity by democratic governments after 1990, when the violent repression successfully evolved into a strategy of transforming individuals from a social subject into a client of public policies. In terms of urban space, the 1990s were marked by the development of public-private partnerships to build motorways and the construction of new parks (the already mentioned Urban Parks Program) as a means to pursue social equality, but also as tools for granting social peace without necessarily involving communities (for instance, the *pobladores*) in the process of production of such infrastructures. The other key element of the decade in terms of production of space was the massive construction of social housing, based on the still current model where the state allegedly plays only a subsidiary role and the private sector builds housing units for people already registered through public procedures. This scheme worked to alleviate the huge deficit in terms of numbers and it was labelled as a non-traditional export by the Chilean government.

However, this model produced serious social segregation and degradation given the state criterion of buying the cheapest possible land, which meant locating housing in former farming land without urban infrastructure and repeating the pattern of the *tomas* of the 1950s and 1960s. In this context, the *pobladores* behind the Toma de Peñalolén managed to identify location as a central argument of their struggle, acting directly against the ‘public’ rationale and recovering the tradition of ground-up processes of production of urban space.

Peñalolén Park: A failed possibility for a new commons?

The discussion about the use of the commons as a concept to analyze public space in the Chilean political context can be further explained through the example of the Toma de Peñalolén and its subsequent transformation into Peñalolén Park, a sports and recreation area currently under construction in the eastern part of Santiago. To a certain extent, this case is exemplary of the complex institutional arrangement underlying the production of public space in Chile, due to the way social movements, central and local governments interact within the restrictions and agendas of the political and legal framework. It is also an interesting example of

how the *pobladores* movement can be seen as a driving force behind the possibility of creating new commons in Chile and therefore as a threat to the dominant public-private model of production of space.

The Toma de Peñalolén was a land taking that began in April 1999, occupying a large private lot (approximately twenty-three hectares) that belonged to Miguel Nasur, a somewhat polemic businessman linked with football and public transportation. Although there were almost 140 families living in the lot before that year, the land taking was notorious for its massive scale and almost perfect coordination: in a single morning, 500 families, most of them coming from other historical neighborhoods (*poblaciones*) in the same municipality, entered the lot and installed their tents, then their shacks. Within less than a year, there were around 1,800 families living in the *toma*, giving the taking its ‘definitive’ shape. Less than fifty percent of these people were former Peñalolén residents. During its first year, the *toma* developed into an ordered settlement, with an inner street network; later on, the municipality provided provisional sewerage via a government-funded project, while it also regularly paid for electricity bills. With the aid of organized groups from older *tomas* in the area, the dwellers rapidly established their claim in the public opinion, namely: to obtain housing subsidies from the government in order to remain in the lot instead of moving to ‘normal’ social housing located in the outskirts of Santiago.

The incumbent mayor at the time, Carlos Alarcón (center-right wing) did not take action against the occupation (in fact, there were rumors from early 1999 that the taking could take place, but the municipality didn’t actively try to prevent it); on the contrary, he kept himself at a distance, trying to gain the *pobladores*’ support by providing certain municipal services like trash collection or water supply. However, this strategy did not work as he had hoped and in the 2000 elections he was replaced by Claudio Orrego, a Christian Democrat and a former Minister of Housing and Urban Planning, who was a member of the coalition in power and therefore attempted to address the political problem posed by the *toma* by involving the central government in its solution.

Since taking office, Mayor Orrego has adopted a twofold position towards the *toma*: while he favored the idea that its inhabitants should get definitive housing in Peñalolén, avoiding expulsion, he rejected their claim to remain in the lot. During his first term (2000–2004), the public discussions about the *toma* were actually centered on the negotiation between the *pobladores* and the central government about the purchase of the land in order to build social housing in it; with this in mind,

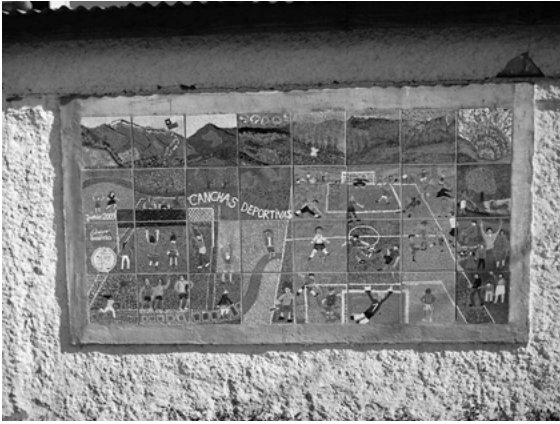


Figure 1. Mosaic developed by Peñalolén community organizations depicting their visions for the park, 2009.

Orrego named staff close to him to form a ‘political committee’ in order to channel the demands by the *pobladores*, contain them and try to convince them that they were not to remain in the lot but would have to leave for housing somewhere else in Santiago. By this time, the landowner had changed his strategy in court from trying to get the *pobladores* evicted to forcing the state to buy the land at a ‘market price.’

When running for his second term, Orrego devised the idea of a large public park for Peñalolén, although the location he first proposed during the campaign was the Quebrada de Macul, a mountainside ravine that in 1993 had been the scene of a great flood that killed thirty-four people and left more than 32,000 homeless.²³ Only afterwards, in early 2005, did the mayor publicly address the project for a new park on the land occupied by the *toma*, coining the idea of a ‘Chilean Central Park’²⁴ that would play the role for the disadvantaged in Chile that the famous New York park played for immigrants (Figure 1).

The proposal of a park can be read as a strategic political decision regarding the conflict posed by the *toma*: by proposing the development of a public space, politicians, with help from corporate media, reframed the focus of the conflict, transforming the *pobladores*’ struggle for the right to the city and housing into an organized pressure group with a sort of ‘privatizing agenda.’ With such a move, local authorities gave the central government the chance to maintain the status quo in their housing-related land policy, namely buying the cheapest land possible, while closing the door to other initiatives claiming centrality and integration.

The association between local and central government proved effective in every scale of comparison when the Ministry of Housing and Urban Planning made a change in the Metropolitan Zoning and Land Use Plan of Santiago in order to transform the use of the private lot from residential to green area, thus significantly reducing the price of the land. The owner had to politically negotiate with the government and the purchase of the lot was set at a low price, which however was still five times the price MINVU would have paid for land earmarked for social housing.

This operation marked a watershed in the process of contested production of space, because the land occupied by the *toma* entered the status of ‘national good’ and therefore became state property; however, as has been explained, that does not necessarily mean that this good became open to public use. The proposal by central and local government in order to build a park in the lot became a sort of indisputable argument within the struggle for the right to the city (in this case, centrality), considering that it posed the prestige of a public space for everybody against the ‘private interests’ of the *pobladores*.

Thus, the latter were in a way dispossessed of the ‘national good’ they had helped to create in the first place through their organization and struggle. Besides acquiring the land legally, the state appropriated it symbolically, denying to a certain extent the possibility of imagining urban space from a different perspective than the binary (and misleading) opposition between private and public (meaning state property). Later, and maybe mirroring the problems and mistakes of the public institutions of the 1950s, the park went through different projects and directions, transforming from a community park (the prestigious promise of democratic public space) to a sports facilities park, largely controlled by the central government and designed to host part of the 2014 South American Games (Figure 2). But that’s a different story to tell.

Conclusions

In a historical moment where the Chilean elites congratulated themselves on the success of the so-called ‘transition to democracy’ and an economic model that portrayed mass production of state-financed housing as one of this process’s highest achievements, the *Toma de Peñalolén* implied a harsh refutation to these discourses and set the state and corporate machineries into motion in order to prevent this ex-



Figure 2. View of the velodrome built in Peñalolén Park for the 2014 South American Games, 2014.

periment of creating a ‘new commons’ from becoming a wider and deeper movement to imitate historical precedents.

When trying to define what the concept of the commons applied to public spaces would mean in the Chilean context, it is important to review history in order to understand the weak role and position that ‘civil society’ has endured throughout history within a context heavily marked by the existence of a highly centralized, presidential state with authoritarian tendencies. On the other hand, the growing influence of corporate power in the decision-making process regarding urban development, especially since the 1980s, defines a context where the commons approach necessarily implies a counter-cultural stance or even a radical political position.

Is it possible to define urban public space in the Chilean context as a commons? Probably this is not an accurate question, in the light of the cases analyzed here; maybe the proper question should be: how can we foster the idea of the commons as a collective endeavor and a culture of collaboration in the process of rethinking institutions and processes of production of public space in Chile? History generously provides us with examples; the current challenges are to develop methodological tools and imagine new political arrangements to change the *state* of things.

Notes

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- 2 Peter Linebaugh, *The Magna Carta Manifesto. Liberties and Commons for All* (Los Angeles: University of California Press, 2008), 49.
- 3 Elinor Ostrom, "Collective Action and the Evolution of Social Norms," *The Journal of Economic Perspectives* 14, no. 3 (2000): 137–158.
- 4 Henri Lefebvre, *The Production of Space* (Oxford: Blackwell, 1991).
- 5 An Architektur, "On the Commons: A Public Interview with Massimo De Angelis and Stavros Stavrides," *e-flux journal*, no. 17 (2010).
- 6 Ibid.
- 7 Edella Schlager, "Common-Pool Resource Theory," in *Environmental Governance Reconsidered: Challenges, Choices and Opportunities*, Robert F. Durant, Daniel J. Fiorino and Rosemary O'Leary, eds. (Cambridge: MIT Press, 2004), 145–175.
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- 9 Mario Garcés, *Tomando su sitio. El movimiento de pobladores de Santiago, 1957–1970* (Santiago: LOM Ediciones, 2002).
- 10 Ibid.
- 11 Linebaugh, *The Magna Carta Manifesto*, 59.
- 12 Olga Segovia, ed., *Espacios públicos y construcción social. Hacia un ejercicio de ciudadanía*, (Santiago: Ediciones SUR, 2007).
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- 16 Sergio León, "Conceptos sobre espacio público, gestión de proyectos y lógica social: reflexiones sobre la experiencia chilena," *EURE* 24, no. 71 (1998): 27–36.
- 17 Elke Schlack, "Espacio público," *ARQ* 65 (2007): 25–27.
- 18 Opazo, *Espacio transitorio*, 106.
- 19 Garcés, *Tomando su sitio*.
- 20 Matías Ocaranza, "Renovación sin gentrificación. Proyecto de vivienda social y propuesta de metodología participativa para el mejoramiento urbano en la Población La Victoria," (Dipl. Arch. thesis, Universidad de Chile, 2010).
- 21 Garcés, *Tomando su sitio*.
- 22 SUR, "Tomas de terreno," *Hechos Urbanos* no. 18 (1983): 1.
- 23 Luigi Brignardello, interview with author, August 7, 2013.
- 24 El Mercurio, "Proponen creación de parque en terreno de toma de Peñalolén," *El Mercurio*, May 15, 2005.