THE INSTITUTIONAL ECONOMICS OF JOHN R. COMMONS

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Abstract

This article is an introduction to the work of John R. Commons's institutional economics and argues that his work offers a coherent framework for analyzing economic behavior, institutional change, and conflict resolution. Commons's approach begins with institutions and transactions, emphasizing how working rules structure, constrain, and enable individual action. The article develops his five interrelated principles—scarcity, efficiency, futurity, custom, and sovereignty. There is an examination of three major dimensions of Commons's thought: his behavioral foundations, his adaptation of Weberian ideal types, and his theory of conflict resolution. Particular attention is given to Commons's view of individuals as active, socially situated actors whose choices are shaped through negotiation, persuasion, coercion, and collective action. His concept of reasonable value is presented as a pragmatic alternative to both laissez-faire naturalism and utopian institutional design. Rather than seeking a perfect equilibrium, Commons emphasized investigation, comparison of institutional arrangements, and attainable improvements. Commons's framework remains relevant for twenty-first-century economic analysis because it provides a method for evaluating alternative institutions in terms of practical criteria.

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1 Introduction

John R. Commons was an important, albeit not today well-known economist, of the late 19th and early to mid-20th century. His most important work was completed later in his career in the late 1910's through the 1930's including the books "*Legal Foundations of Capitalism*", "*Institutional Economics*" and "*The Economics of Collective Action*". His most important theoretical work was later in his career because of the approach he took to economics. As William Dugger has identified, Commons was a participant observer who was not just a classroom lecturer but rather an active participant and observer of the important economic policy debates of that time (Dugger, 1979). This meant that he worked inductively from his experiences in the field to a comprehensive economic theory at the end of his career.

Besides being a teacher and researcher, Commons and his fellow faculty and students played a major role in socioeconomic policy including unemployment insurance, public utility regulation, workers compensation insurance, minimum wage policy, federal reserve policy and much else. Commons work life spans the progressive era and he was essentially retired by the time his students and colleagues became part of Franklin Delano Roosevelt's New Deal policy activity. His students worked on social security insurance and many other New Deal programs. Commons guiding spirit was perhaps best expressed when he wrote that he was, "trying to save capitalism by making it good" (Commons, 1934, p. 143).

Walton Hamilton, although not officially acknowledged as a founder of the American school of institutional economics, wrote an influential piece about the approach. In March 1919, Hamilton wrote a piece in the American Economic Review entitled "The Institutional Approach to Economic Theory". Hamilton provides an excellent contrast between value economics and institutional economics:

> Such an explanation cannot properly be answered in formulas explaining the processes through which prices emerge in a market. Its quest must go beyond sale and purchase to the peculiarities of the economic system which allow these things to take place upon particular terms and not upon others. It cannot stop short of a study of the conventions, customs, habits of thinking, and modes of doing which make up the scheme of arrangements which we call "the economic order" (Hamilton, 1919, p. 311).

In this sense Hamilton can be interested as stating that institutional economics encompasses but it is broader than value economics. The key point is that "things to take place upon particular term" is a key to understanding the important leap that Commons would later make as well.

Common's last book was "*The Economics of Collective Action*" which was published posthumously in 1950, and his earliest writing was in 1891 accounting for nearly 60 years of publications. Much has been written by modern scholars, especially over the past twenty-five years, regarding John R. Commons thinking. A very simplistic use of Google Scholar reveals that writings that cite or use the term "John R. Commons" was minimal and flat in the 1950's thorough the 1980's. It then doubled in each decade following thereafter up to the current times. This may simply be a function of more publishing and more journals in academia today as compared to previous decades. Regardless, it tells at least part of a story that interest in John R. Commons has seemingly grown over time.

Many authors over the past seventy years have commented on Commons and his writing and thinking. Even sympathetic writers have found Commons to be a confusing writer. At the same time, there is often an acknowledgement that there is a lot of treasure in the material for the patient reader. For example, A.B. Wolfe wrote in "Commons' style is quite as difficult and repetitious as Veblen's. Moreover, the book, ranging widely in jurisprudence and ethics, broke ground which the average economist could traverse only with great labor" (Wolfe, 1936, p. 195). Later in the same piece however, Wolfe comments that, "we shall miss our guess if the Institutional Economics does not prove to be an epoch-making book" (Wolfe, 1936, p. 206). Edward Carlin wrote in the journal Social Forces in 1952 that:

> It is not an overstatement to say that the theoretical work of John R. Commons in no sense created the interest accorded the work of John M. Keynes. Perhaps this is as it should be. The history of economic thought, however, is replete with examples of work which created little enthusiasm when first published but which later came to be accepted as a source of insight and inspiration. The thesis of this article is that Common's theoretical statement has not received the attention which it has deserved (Carlin, 1952, p. 379).

This piece will play a small role in the ongoing resurrection of John R. Commons economic thinking.

New authors rediscovered Commons in the late 20th century such as Vincent Ostrom, Elinor Ostrom, Oliver Williamson, Charles Whalen, Yngve Ramstad and others. The 1970's began to see something of a renaissance of thinking about Commons. Yet even in this decade, most of the references to Commons are brief and still focused mostly on his labor history work. The 1980's began to see the true beginnings of a robust literature on Commons led by figures such as John D. Chasse, Yngve Ramstad and with contributions by Jeff Biddle, Malcolm Rutherford, Charles Whalen and many others. The general feeling was that Commons had developed a transactional view of economics that involved alternative

mechanism to address conflict resolution amongst individuals and going concerns. This broad research greatly enhanced our collective understanding of the economics of John R. Commons.

It is true that Commons theory doesn't correspond to what we traditionally think of economic theory with equations and the foundations of rational choice decision making. As Clive Lawson has demonstrated, Commons was doing theory just not the kind of theory that economists traditionally conceive of as theory (Lawson, 1994). In particular, Commons is operating with individuals but at the same time recognizing that social structures and rules are real phenomena (in this case institutions) and have an influence on individual's actions and behavior. Neoclassical economics ignored the reality of rules other than preferences and budget constraints.

This essay is designed to present a broad but relatively comprehensive overview of the economic thinking of John R. Commons. We will focus on his two foundational concepts of institutions transactions and his five key principles, as a starting point and then dive into three key themes that Commons used including behavioral foundations, ideal types and conflict resolution. The concluding comments will include a brief exploration of how John R. Commons economic thinking can be applied in the 21st century.

2 An Overview: John R. Common's Economic Conceptual Framework

In the 1890's, Commons was particularly fascinated by questions of political and economic power exercised in society. In terms of economic power, he paid attention to natural monopolies in the American economic landscape. Commons was also interested in the problem of the concentration of political power. Commons was familiar with the marginal and equilibrium economics that was being developed by Austrian, English and even some American economists. In one of his early books, entitled "The Distribution of Wealth" from the 1890's, Commons attempted to use the marginal analysis tools to assess questions about why certain factors of production earned certain levels of remuneration. Although this attempt was criticized and even Commons considered it a failed attempt, it had the kernel of where Commons was trying to go. Specifically, he was pointing to the fact that social factors, customs and laws were casual factors in determining the growth and distribution of wealth.

It was in this early work that Commons developed his ideas of the impact of social rules and customs on human behavior. He used the term institution and argued that "institutions are not mechanical organizations imposed from without but are definite modes according to which persons deal with one another" (Commons, 1892, p. 4). Here we see that early in his career, Commons was focused on the idea that these social customs would shape people's beliefs, preferences and behavior and that even people's rational behavior was shaped by these forces. This was in direct contrast to the ideas being developed in marginal analysis economics that was ahistorical by nature.

Commons fully developed analytical framework starts from the institution and the transaction. He wrote in 1931 that:

> If we endeavor to find a universal circumstance, common to all behavior known as institutional, we may define an institution as collective action in control, liberation and expansion of individual action. Collective action ranges all the way from unorganized custom to the many organized going concerns (Commons, 1931, p. 649).

Thus, an institution consists of any collective that is exerting influence on individuals be it organized bodies with intent or unorganized and spontaneous social rules and customs[1]. This definition is precisely what Lawson (1994) means when he states that Commons is doing a hybrid between individualism and holism. The collective or social forces play a key role in several dimensions of how the individual will act but the individual retains a degree of free will in their own actions. Further, we observe that different individuals under different institutional arraignments will face expansion or control and thus there is a degree of interdependence between all of us that is guided by institutions.

Commons borrowed from Yale law professor Wesley Hohfeld a set of jural relations for the grammar of institutions whether they be organized or unorganized (Hohfeld, 1917). Hohfeld divides our relationships as based on rights, duties, privileges, no rights between each other. Another way to think about these jural relations is how Commons expressed them, "stated in language of the operation of working rules on individual action they are expressed by the auxiliary verbs of what the individual can, cannot, must, must not, may, or may not do" (Commons, 1934, p. 71). He "can" or "cannot", because collective action will or will not come to his aid. He "must" or "must not", because collective action will compel him." (Commons, 1934, p. 71). Duties correspond to what a person must or must not do

[1] This is an important point as many scholars claim that Commons only focused on legal rules from judicial bodies. He did but he clearly understood the power and existence of unorganized social rules and customs as well.

and rights are what the other side of that transaction can expect. When a duty for a person ends, they have a privilege to take or not take an action. On the other side, the person whose rights ends loses the ability of the sovereign to come to their aid.

A transaction is a relationship between parties of a legal-economic nature that is designed to allocate resources based on institutions. The institution (or Commons uses the term working rules[2]) are the social rules and laws that guide transactions and set expectations for the participants. The transaction is guided by the institution in place, but conflict may also lead to a transaction or set of transactions causing a change in institutions over time. There are three kinds of transactions including bargaining, managerial and rationing. The bargaining transaction is one of exchanging goods and services between legal equals. The managerial transaction is between a legal superior and legal inferior as between employer and employee. The rationing transaction is also between a legal superior and legal inferior where the resources are being allocated based on a process other than prices. A rationing transaction refers to an internal corporate process or a government process where one actor is setting the distribution of resources for another actor. The key to understanding Commons is that the mutually dependent institution and the transaction between actors are the analytical focus of the model.

Out of these analytical tools, Commons developed his five key principles that would guide his economic thinking. These are our best guide for his brand of economic thinking and theorizing. He stated multiple times that there were five principles to his own economics: 1) scarcity, 2) efficiency, 3) futurity, 4) custom and 5) sovereignty. Each of these principles can help us understand his economic thinking.

The concepts of scarcity and efficiency can be taken together. Efficiency relates to engineering economics and scarcity relates to proprietary economics. The engineering economics concept is the relationship between human beings and nature broadly defined. This is where the concept of efficiency enters his thinking regarding the engineering economy. Efficiency was measured as the ratio between human labor hours and output or production. Efficiency can also be measured as it increases wealth through the production

[2] Commons uses the terminology institution or working rule in different publications. In either case, his definition is the same. It is not entirely clear why he chose to use different terms other than Commons seems fond of using multiple terms for the same concept which is part of what makes his reading quite confusing especially for modern readers but the same problem appeared to be present for authors of his time as well.

of use value for the community. This is reflected in the tradition of production functions and more historically as the labor theory of value. Commons writes that:

> The engineers' concept of wealth, if it excludes ownership, is quite the correct concept of wealth. Wealth is merely the physical attribute of use-values, no matter who owns the materials, or labor, or output, and no matter if the use-values are over-supplied and their scarcity-value is thus so diminished that nobody cares to own them (Commons, 1934, p. 256).

The scarcity and proprietary economics concepts are tied to the relationship of human beings to each other. This is the concept where scarcity plays a role and is measured by income. Commons laid out the distinction when he wrote that

> Income is the price received by the owner, based on his right to withhold service from others in the proprietary process of bargaining or waiting until the others will pay a satisfactory price. Income is the proprietary acquisition of assets; output is the engineering augmentations of wealth, or Cromwell's commonwealth. (Commons, 1934, p. 256)

Other institutional thinkers were clearly more negative on the issue of scarcity such as Thorstein Veblen. They were very much against the use of output restriction and scarcity which in their thinking only reduced overall community assets.

Commons, on the other hand, does reflect and believe that restriction of output plays an important social role. He argues that the double meaning of the word "service" is the heart of the conflict between economic theories. Some of the 19th century commodity economist believed the true measure of community wealth was simply the increasing output of use value. But more recent economists recognize that scarcity and the regulation of production must also occur. He writes that, "the regulation must be made by somebody, either by the rationing of Communism or the self-interest of Capitalism. … This is indeed a service to society, if it is well done." (Commons, 1934, p. 256-257). What does Commons mean by well-done? He argues that the 18th and 19th century economists, at the advent of the industrial age, believed that some form of natural law, natural rights, private property rights or even divine providence would lead to the regulation of output from the market. Commons is arguing that business people do play a productive role in society in helping to regulate the market in contrast to other institutional thinkers. He does believe that the terminology we use, especially supply and demand, and production fail to capture the dynamic aspects of the process. He therefore is more neutral on the concepts of efficiency and scarcity and the relationship between these concepts.

All five concepts are interlocking and crucial to Commons thinking. Futurity is the idea that human beings are always looking forward and trying to understand the actions and

reactions of their fellow human beings especially in a transactional setting. Institutions exist to guide and create some level of certainty between the participants as they look forward and try and anticipate others moves and countermoves in a transaction. They provide a level of predictability regarding how others will act or forebear to act if a person or going concern takes an action or forebears to take an action. However, conflict may cause a breakdown in predictability and lead to pressure for changes in institutions.

There are unorganized and organized institutions. Customs are the term for unorganized or spontaneous working rules. They are, like their organized brethren, the working out of conflict between parties in a transaction that to the creation, stability and eventual evolution of the custom. Commons divided custom into habits, common law and common practices. Common law was the decision of judges, especially in the Anglo-American legal system that in deciding conflicts created new working rules or reinforced existing working rules. Common practice was the identification of peer and social pressure to conform to certain social practices. Habit was an individual trait whereby the individual may or may not adopt common practices of the community.

Finally, sovereignty was the idea that certain going concerns (such as central governments) had no higher authority above them and further that they had a monopoly on violence. In this context, Commons had a specific idea about the evolution and purpose of sovereignty. This one is particularly important because it highlights some of the superficial criticism of Common's economics. Critics have argued that Commons was enamored with the legal system and legal process as an arbiter of institutional adjustment and change. But in fact, we see here why this is not so. Commons writes that

> It [his version of sovereignty] corrects the anarchistic doctrine of the early economists that private property is an original, natural and inalienable right that cannot be taken away by the state, as well as the socialistic, and even occasional lawyer's doctrine, that property is the mere creature of sovereignty and can be changed in whatever way the sovereign may command (Commons, 1925, p. 376).

Commons did not believe that government could simply change property at will. This is where sovereignty and custom converge in the realization that there will be many social forces that both hinder and push for institutional adjustment. The use of these interlocking concepts helps demonstrate how a Commons based economics would work.

2.1 Doing Commonsonian Economics

How do these five elements add up to an economic theory or conceptual framework for doing economics? They do not per se give us a clean and neat economic theory as was

developed in the latter half of the 20th century sense that provides specific predictions between independent and dependent variables. They should be viewed as interlocking stories that point us towards which socioeconomic phenomena, we should be paying attention to in our environment and how these elements would interact to produce and reproduce social reality. The elements of scarcity, efficiency and futurity point to cognitive forces that drive human behavior. Humans in their interactions with each other and nature are driven by a balancing of efficiency and scarcity to provide the material needs of society. Futurity, in a very simple sense, means that we are looking forward as we seek to understand and predict what our fellow human beings will do and act in certain situations. Customs is another word for institutions or working rules and are the agreements in a society or community over how each must act or forebear to act in addressing the problem of futurity. Finally, sovereignty is the system in any society of how conflict over customs will be resolved.

An analyst or investigator should seek to start with understanding the institutions or customs that any community or society has selected to resolve conflict between various parties. The analyst can then understand and assess various institutional alternatives that may play a role in resolving current and future conflict. This analysis could include constitutional rule making (rules for deciding on rules) or normal rule making. The institutions or customs are the unit of analysis. The remainder of this paper will flesh out these ideas from Commons. We will explore Commons thinking from within three key themes, 1) behavioral foundations, 2) ideal types and 3) conflict resolution. From there, we will have a clear and comprehensive view of John R. Commons economic thinking and then explore how it might be used in the 21st century.

3 Behavioral Foundations of Commons Economics

Any economic or social theory has at its foundation a theory of human behavior. This behavioral theory can take any number of dimensions and proceed from an organic view of society or an individual point view or some hybrid exposition. This theory usually contains some notions of what motivates or drives people in their social interactions. For Marxism, people can be placed into classes and those class identification will drive economic behavior. Neoclassical economics is driven by the rational economic actor who makes consistent and stable consumption choices and the firm that makes profit maximizing choices. Austrian economics relies on the idea of entrepreneur who is constantly scanning the horizon for signals and opportunities to act. Thorstein Veblen, a key founder of

institutional economics, criticized the neoclassical behavioral model and argued that people were mainly driven by habits of thought and those habits were often constructed by the vested interests of society. Where does that leave John R. Commons thinking on these matters? The scholar and institutional economist Geoff Hodgson is a notable, albeit sympathetic, critic of Commons behavioral foundations work. "Commons' volitional economics relied on the wills of agents that had no explicit explanation in psychological, biological, or other terms" (Hodgson, 2003). Is Hodgson's critique on target? It is true that Commons did not provide a full explanation of the shaping of the human will or volitional acts that are the basis for his transactional theory of economics.

An interesting question is the issue of John R. Commons methodological stance or approach on individualism versus an organic approach to social theory. Put another way, was Commons employing an individual or collective methodology? In fact, Commons was using a mixed method that involved both individuals and the collective. In the 1990's Professor Clive Lawson of Cambridge University did some careful work and analysis on the methodology of Commons. He found that Commons picked a middle path (Lawson, 1996). Commons both starts with individuals and then places the individual in going concerns and the working rules that structure the activity and behavior within and between going concerns. These going concerns and their working rules are real social structures that employ working rules or institutions to both constrain and liberate individuals in their interactions with each other.

Many of the previous critics of institutional economics claimed that the institutionalists were using an idea of collective will or an organic conception of society acting as a whole and not built on the foundations of individuals. Whether this is an appropriate critique of others, it does not reflect the work of John R. Commons. Commons does not invoke a notion of the collective will purpose or collective purpose in any of his work or writings. To the extent he does, the public purpose or will is a summation of individual experiences. Going concerns, which are collections of individuals, may act in a collective manner to set working rules but even here, Commons acknowledged that this is based on the work of individuals.

This insight leads us to ask about the nature of human cognition and behavior that is presented in Commons work. There is a section early in the book Institutional Economics that is a critical part of understanding John R. Commons overall program to build a different type of economics. This section speaks to his sense of human understanding and cognition.

In particular, the argument that Commons doesn't have a clear theory or framework on human cognition is simply wrong.

Here is what Commons writes in paragraph two of section III of chapter 2:

> But if the mind itself is a unit of activity, then it actually creates its own ideas. An idea is not a copy of reality—it is a useful imagination by which we get our living or get rich. And since getting a living is also resolved into units of activity, then a more complicated classification of ideas is required (Commons, 1934, p. 93).

Common's human cognitive theory is that our minds are active in that they construct ideas that determine what we observe and what we pay attention to when we are engaged in the various forms of transactions. He was contrasting his own thinking with that of John Locke and more broadly the 18th century enlightenment that everyone's mind is a mirror of reality and that any rational people will essentially come to the same conclusion about the nature of truth. Then he writes that

> Ideas are the intellectual tools with which we investigate. We shall reconstruct the familiar hierarchy of ideas to fit them to our subject-matter. This subject-matter is the transactions of human beings in producing and acquiring wealth by cooperation, conflict, and the working rules that control, liberate, and expand individual transactions (Commons, 1934, p. 76).

We have a clear idea that the subject matter is humans interacting and transacting with each other and importantly, each of the humans thinking about acting and interacting that is crucial in the study of institutional economics.

Pragmatism, in its various forms, plays an important role in the later work of Commons especially John Dewey and Charles Sanders Peirce. The ideas of both men are integrated into the institutional economics of Commons. David Hume gives us that belief is important as the mind actively organizes and reorganizes impressions about the external world in contrast to the view of John Locke where the internal mind is simply a mirror of the external reality. But in Hume, this process is a construct at the individual level. Peirce brings forward the idea that it is a common or social understanding that can be agreed upon where we next move to go beyond the individual construct of Hume. Commons translates Peirce into the idea of custom as opposed to habit. Habit is related to Hume and individual perceptions, whereas custom is a form of social compulsion based on a social understanding of a situation and expectations of other actors' behavior.

But with Peirce, we are stuck with a physical science view of the world and thus Commons turns to John Dewey. Dewey talks about the desirable social consequences as the test of truth of an idea. As Commons writes about his use of Dewey,

> The human will experiences the relations between factors, as well as the factors themselves, else it could not know how to get remote results by controlling the strategic factors which in turn modify other factors; and a result far greater than

> the individual could accomplish is actually accomplished by machines and institutions (Commons, 1934, p. 647).

This is a really key idea that helps us understand the hybrid approach to the individual will and the social influence on the will being used here.

Combining all three of them, institutional economics for Commons is the

> Its subject matter is the whole concern of which individuals are members, and the activities investigated are their transactions as governed by an entirely different, not a law of nature, but a working rule for the time being of collective action. (Commons, 1934, p. 157).

Alexa Albert and Yngve Ramstad, in the 1990's, wrote two important and complementary papers about Commons psychological foundations (Albert and Ramstad, 1997). They emphasize many key points, but perhaps most importantly, the issue they place at the heart of Commons behavioral theory is that it is negotional in nature of the relationship between parties or agents. These authors want to focus specifically on the social nature of the mind that Commons was attempting to explicate and use in his own economic thinking. They write that, "negotional psychology is a process in which a participant is endeavoring to influence the other participants towards performance, forbearance or avoidance. Commons accordingly emphasized that negotional psychology is a psychology of persuasion, coercion or duress" (citing Commons (1934, p. 91) in Albert & Ramstad, 1997, p. 882). Albert and Ramstad argued that Common's starting point for analysis was the social and legal rules and customs in contrast to neoclassical economics which starts with individual's desires and preferences.

John R. Commons, despite many criticisms levied against him, did in fact have a theory of human cognition even if it didn't look like the traditional economic thinking (Hodgson, 1989). He envisioned a human being that was an active participant in observing and understanding the world. Further, Commons theory reflected that humans attempted to persuade or even coerce each other into certain actions as they struggled and negotiated in the face of resource scarcity. The ability of one human being or collection of human beings in the form of a going concern to affect another was based on the working rules and customs that had been established in that community or society.

3.1 Commons and Weberian Ideal types

The second piece to address in Common's thinking is his methodological approach of using ideal types. The ideal type, as advocated by Commons, ties back to his thinking and theorizing around behavioral foundations. These behavioral foundations drive the agents in the ideal type and our understanding of actual versus expected outcomes in the economic

transactions that are being observed. The ideal type is Commons methodological tool through which we can observe and understand economic transactions and behavior.

Towards the end of his career in his 1934 book, "*Institutional economics*" and in a few articles dating back to the late 1920's, Common's refers to and uses the sociologist Max Weber's Ideal Types in his work. Given the importance placed by Commons on Weber's approach, it is useful to briefly review the original idea. Max Weber laid out his ideal types in two articles in 1904 (*Objectivity*) and then later in 1920 (*Economy and Society*) (Weber, 1904 [1949], 1920 [1978]). The two articles are quite different, and Commons generally seems to be referring to the 1920's version of Weber's ideal type. The 1920's version of ideal types, as discussed by Weber, starts with the construction of meaning that drives a hypothetical actor not an actual actor in the economy. From here, two other actions are undertaken by the analyst. First, they must understand and construct the best or most rational to achieve the end outcome and secondly, they must assume that this hypothetical actor has: 1) rational perspective, 2) complete information, 3) full awareness of their own actions and 4) does not make any obvious mistakes. The ideal type is then confronted with reality and empirical evidence. If there is clearly a mismatch, the ideal type must be altered or changed. Weber does not provide a lot of clarity regarding how to move forward from this point but does say that ideal type analysis is used in classifying phenomena, creating new terminology and most importantly for creating new ideas to understand social reality.

Commons use of the Weberian ideal types can be considered a reverse engineering of his own style of scientific research and investigation that he had used for over thirty years dating back to the late 19th century. It was only in the late 1920's for Commons, after Weber had published his second piece on ideal types, that Commons realized that this was what he had been doing all along. Commons began citing and using the ideas of Weber's ideal types in the late 1920's after the publication of his book the "*Legal Foundations of Capitalism*".

In a 1927 article in American Economic Review where he reviewed Richard Tawney's book, "*Religion and the Rise of Capitalism*", Commons uses his notion of ideal type to critique Tawney's contributions (Commons, 1927). This book review of Tawney is insightful for how Commons wanted to use the ideal type methodology. Tawney is making the broad argument, according to Commons, that capitalism was an economic system dominated by the spirit of unlimited acquisition of wealth and throwing off old moral codes and social mores regarding savings and wealth. Commons states that he thinks Tawney may be misstating his case that the capitalist spirit is the only factor that matters. Further, Commons argues that the so-called producing classes can be productive or unproductive depending on the circumstances.

Most importantly, Commons faults Tawney for his singular focus on only one element to explain the rise of capitalism and what he identifies as a propaganda form of ideal type analysis.

A second attempt by Commons to use ideal types occurred in a 1929 article in American Economic Review entitled "*Modern Capitalism: A Book Review*" by the German social thinker Werner Sombart (Perlman & Commons, 1929). The review was coauthored with fellow Wisconsin economist Selig Perlman. They first state that Weber's ideal type is intended to place the scientific observer in the shoes of the persons engaged in a social or economic activity. They analyze how Sombart is constructing an ideal type of the handicraft form of economic production and then contrast that economic mode to that of modern capitalism. Sombart uncovers that a medieval handicraft ideal type is based on the generation of a modest amount of use values versus unlimited accumulation of money without regard to any other person's welfare. The difference in motives is what drives the economy from mode of handicraft to a mode of capitalism. Again, we observe here the use of a singular motive to explain different economic systems and how a change in motivation explains the shift from one system to another.

This paper is so useful because it helps us understand the pragmatic approach to ideal types of Commons. Perlman and Commons are critical of Sombart in that his work contains a dialectic in conflict with each other between profit and justice. Commons argues that the American experience, in contrast to the European experience, is that there is view that some types of profits are reasonable and other types of profit generation practices are unreasonable. There is not an inherent conflict or binary choice that must be made between profit and justice. With his critique of Tawney, we observe how Commons was concerned that the focus on a singular motive was a problem. Here, we observe Commons and Perlman moving beyond that critique to the idea that multiple ideas can be in tension and resolved rather than simply pitted against one another. Commons and Perlman write that:

> What we contend is that Sombart has here developed a truly objective principle-scarcity versus abundance-which needs not the isolation from reality of either the capitalist spirit of endless profit regardless of others nor the handicraft spirit of justice regardless of endless profit. … It is not an abstractable spirit of ethics to be contrasted with the spirit of profit; it is rather the way in which the struggle for profit adapts itself to conditions of scarcity contrasted with conditions of abundance (1929, p. 82).

With Sombart, we see that a further evolution of Common's thinking is that the tension between various motivations is what matters in driving institutions and institutional change and ultimately economic performance.

Finally, Commons writes extensively on ideal types in section six of the Reasonable Value chapter of his book "*Institutional Economics*". Much of this piece is quite like what he wrote with Perlman. However, in this piece, Commons is more targeted in the problems facing Weber's ideal types and provides with a greater sense of how the ideal type can be used in the context of his concept of reasonable value. It is worth dwelling on the fact that Commons outlined four ideal types. These four types help us understand which is the appropriate use that Commons wants to highlight for use in institutional economics. The four types are 1) pedagogical, 2) propagandist, 3) scientific and 4) ethical. Pedagogical ideal type is one where we understand one specific human form of motivation that operates under particular conditions. He uses the example of Carl Menger's diminishing utility ideal type that explains why he want to obtain less of a commodity. The propagandist ideal type is where the analyst places themselves in the shoes of the going concern being studied but looks at only via their own bias. He writes that, "hence our ideal type is likely to be constructed on the basis of our own emotions, as when Werner and Sombart overlook the violence and exclusiveness of guilds and unions towards outsiders" (Commons, 1934, p. 156). He points to the fact that every economist could simply select their own factors and their weights of those factors and concept an ideal type to fit their own bias. How does Commons propose to address this problem? Commons states the investigator must place him or herself in the shoes of the participants and understand their values. They should avoid the dual problems of Mengers problem which is presupposing a simple singular value of self-interest and the opposite problem of selecting for all motives which Commons terms "superhuman". This was similar problem exposed by Commons and Perlman's critique of Sombart's work.

The third ideal type is known as the scientific approach. This is one where the goal is to classify and understand the relationship between whole and parts. Commons argues that this where Weber was focused but also where he failed in his use of the ideal type. On page 84, Commons writes that:

> The ideal type, as a whole part relation, is formed by the investigator to be used as a guide in investigation, but it is fixed in advance of the investigation. Hence if facts are discovered which do not fit the type, the type itself, as formulated by Weber, does not change to fit the facts (Commons, 1934, p. 84).

The final ideal type, the ethical ideal type, is where Commons lands in his own thinking. There are several factors that Commons identifies that is key to his form of ideal type investigation. Unlike Weber, it is based on the transactions between parties and is time focused and looking to the future rather than the past. Second, it is focused on customs not based on individual subjective feelings as in Weber but rather:

> The social pressure that compels uniformity of action by all individuals within the jurisdiction. Such a definition, drawn from such sources, indicates penalties and sanctions imposed on those individuals whose capricious emotions, valuations and wills do not conform to that which we call the working rules (Commons, 1934, p. 92).

Commons is clear in his explanation of the problem of utopian or singular thinking. Weber and others believed that the capitalist spirit was the prime move or motive of capitalism and used this in their ideal type investigation. Commons identified the Weber's key singular value as unrestrained profit maximization. The problem with this approach is that any or all motives can then be ascribed to this ideal type of capitalism. Weber and Commons, believe that a fixed ideal type is the utopian problem where a system of scientific beliefs does not change in the face of changing acts and evidence. Commons departs from Weber's use of ideal types in saying that the outcome that is pointed towards in an attainable versus unattainable idealism. He writes that, "reasonable values and reasonable practices are the highest attainable idealism of regard for the welfare of others that is found in going concerns under existing circumstances of all kinds, at a given historical stage of development" (Commons, 1934, p. 92). The investigator will look at the various working rules of a going concern, whether it be a corporation, church, not-for-government entity, and these working rules should be compared across these entities.

Overall, the Common's version of Weber's ideal types provides a framework or methodology of investigation that can be used in institutional economics. That said, there are critics of the Commons approach. The critiques are mostly because it is considered too pragmatic and too incremental. Morris Copeland perhaps laid out the best critique of Commons institutional economics when he wrote in a 1936 review of the book:

> His is a theory of economic planning by selection of the best existing practices. If one's task is only to select the best from a group of houses already built, a somewhat limited investigation of the theory and facts of house construction may suffice (Copeland, 1936, p. 346).

This is typical critique of the Commons approach that by eliminating the possible futures, forces us to limit our imagination of what can be attained in economic life. This may explain why some of the more radical institutionalists have rejected or minimized Commons contributions and thoughts. The response to this critique is that Commons wanted ideas for institutional change and adjustment to come from the people and those engaged in the work versus experts and elites.

4 Commons and Conflict Resolution

The third piece we will discuss is how Commons brings together his behavioral foundations and ideal types to assess the nature of economic performance we observe in the world. In essence, a clash between opposing economics agents with differing world views is addressed via a conflict resolution mechanism and in doing so institutions are reinforced or evolve as an attempt is made to move back towards reasonable value. This is perhaps the most important achievement of Commons theoretical and conceptual work. This ties back to Albert and Ramstad's comment that the starting point of Common's analysis were institutions and transactions. Commons spent much of his career as both an investigator and creator of institutions.

Many authors have pointed to Commons way of thinking as based on the resolution of conflict between individuals and going concerns in an economy (Whalen, 2013; Broda, 2013; Gruchy, 1940). The resolution process either reinforces existing institutions or establishes new institutions or working rules that will be the basis for the custom that drives human behavior. As Malcolm Rutherford writes about Common's approach,

> Commons's primary concern was with the resolution of problems and conflicts, whatever their source, and his analysis is of choice, of selection, of judicial and political processes through which disputes are resolved or certain solutions to problems (Rutherford, 1983, p. 732).

Another author Philippe Broda in his penetrating work on Commons and his focus on conflict resolution wrote that,

> The development of Commons's ideas about the resolution of social conflicts was not linear. Every time he felt that he was faced with an impasse, the institutionalist author changed direction. But every new solution induced a new type of problem. (Broda, 2013 p. 870).

This helps explain why Commons only engaged in more theoretical work later in his career and that this theoretical work was informed by his many years in the field of practice and investigation.

Over the course of his career, Commons did focus on several devices to address conflict resolution and the settlement of institutions for guiding the customs of society. He started his career with a focus on two devices including proportional representation in legislative bodies and a second focus on persuasion and self-improvement of people. Earlier in his career, Commons was engaged with the social gospel movement. The social gospel movement was a primarily protestant movement to engage Christian teachings on social issues of the day and many prominent American figures were drawn into its orbit (Evans, 2017). It was most prominent in the period of the 1890s and 1900's and Commons for a

time was part of the movement. The device for conflict resolution was a moral one where people needed to change their perspective on like and key social issues and this was the focus of one Commons earliest books, "Social Reform and the Church". For reasons that are not entirely clear, Commons dropped this line of thinking later in his work.

The second early approach for Commons was proportional representation, which in contrast to the current U.S. system of winner take all, is frequently used in many other democracies and is a system where parties or coalitions gain votes proportional to their electoral gains. Commons was an officer in the U.S. Proportional Representation League in the late 1890's (Commons, 1907). These initial explorations by Commons ended at a fairly early stage of his career.

From there he moved toward a transactional view where he explored various other devices especially arbitration and collective bargaining. For each of these, he found both advantages and disadvantages of these devices. Commons did not leave us with a clear and comprehensive theory of the development and performance of these various devices. However, he did provide many clues for thinking about these various social devices could and did work to address scarcity and conflict.

Given his interest in labor problems, Commons spent a significant amount of time addressing solutions to employer-employee conflict. Charles Whalen points us to the various institutional devices that Commons examined in his career regarding industrial peace between employers and employees. Whalen writes that, "Commons's essay allows us to identify four possible means of establishing industrial peace—automatic methods, rough methods, misrepresentation, and investigative methods" (Whalen, 1998, p. 320). The investigation approach was perhaps the device that Commons most clearly settled on throughout his career. This process involved a body that would bring together disputants to resolve a conflict in a structured process that included expert investigators. The investigators job was not to resolve the crisis but rather to guide and inform the participants. Ultimately, the participants would work through the process to find common ground.

Commons spent a significant amount of time addressing idealism versus investigation as the basis for institutional analysis and change. Commons argued that previous theories were based on idealism in creating harmony out of conflict of interests. His examples were that individualistic theories based their addressing conflicts of interest through private property and collective economics such as Marxism based on collective property. The problem in Commons view is that these theories are based on ideals or some state of a perfect world and not an investigation of the reality on the ground. He summarizes

these various approaches as: 1) do nothing school, 2) exploitation school and 3) pragmatic school (Commons, 1934, p. 117). Commons believes that while we can build off the first two schools of thought, the best approach remains the pragmatic school. A key focus is on investigation versus simply relying on ideals and blackboards to address problems related to conflict of interest. Commons then discusses that there are thousands of natural experiments occurring in collective action to create order not a harmony out of conflict of interest and that is the focus of the pragmatic school approach.

Given his focus on institutional devices to resolve conflicts, the question is whether Commons has given us a coherent set of performance metrics upon which to judge the relative success of any given approach. Charles Whalen does directly address this question as to what the metric is or measuring stick for which we would examine performance of these institutional options. The measuring sticks identified by Whalen that Commons uses include, "resolve problems in a manner consistent with individual liberty", (Whalen, 1998, p. 321), "reinforce the common ground shared by competing interests" (Whalen, 1998, p. 325), "seeks to structure institutions so that security begets dynamic efficiency" (Whalen, 1998, p. 325). It does seem to be the case that there is clear guidance in commons about how to think about the metrics for conflict resolution including security, dynamic efficiency and reinforcement. There are not the simple metrics of welfare economics perhaps, but they provide a multi-objective toolkit for analytical use.

Phillipe Broda also gives us some insights into the performance objectives that motivated Commons. He mentions for example that, "all proposals were submitted to a test of practicability. Here too the concept of reasonableness – the highest practicable idealism" and he also writes that Commons was sympathetic to solutions that, "the consent of the parties involved in an attempt to resolve disputes was vitally important" and finally "this reformist agenda was designed so as not to impinge upon individual freedom" (Broda, 2013, p. 863 and p. 866). A new criterion has emerged that individual freedom is to be assessed as part of the objective matrix and again a focus on practicability versus utopianism.

Therefore, despite the frequent criticism of ambiguity in his work, there are performance metrics of both a procedural and substantive nature in Commons schema. The procedural criteria focus on the sustaining of individual and going concern choice and the substantive criteria focus on creating stable expectations via security and need to move towards solutions that are dynamically efficient and preventative in nature. Common's work belies the use of a simple and insufficient performance standard like Pareto efficiency. That

said, Commons can be said to draw from a variety of sources including economics, law and ethics in establishing a criterion upon which to judge institutional adjustment and change.

5 Concluding Comments

John R. Commons, after nearly a century, has perhaps not influenced the economics profession in the way he could have. That said, there can be no dispute that many of John R. Commons institutional policies and those of his students have influenced decades of policy into the 21st century. The discrepancy may be because the Commons model does not present the user with specific predictive model. Commons did not in his own work specify a set of dependent and independent variables. One could imagine a specification where behavior is specified as a function of a set of independent variables including institutions or working rules. While not entirely clear, the model would include other influences on human behavior and performance. Commons does divide the world into engineering economics and proprietary economics. People may act out of both efficiency motives related to engineering economics and scarcity motives related to proprietary economics. Despite these problems, John R. Commons did have a unique and powerful framework that can guide economics in the 21st century.

What does the Commons approach give us? A conceptual framework through which we can generate research questions, organize our empirical evidence and observations consider alternative institutional structures. The Commons framework points us as to where we observe and look in our complex and dynamic social reality as to the issues that matter. From these observations we can draw up research questions that contain issues that are of interest to us and to our community. These research questions should be focused on alternative institutional structures and the potential implications of those structures on economic and social performance. For example, Commons noted that industrial accidents caused a great deal of problems for both employer and employees as well as for the broader community. He sought alternative solutions to those problems and in doing so created an investigational research approach.

A brief example might help consider a Common's approach to today's issues. In the contemporary world, we observe great conflict over the way we should generate energy between nonrenewable source such as oil and gas and renewable sources such as wind and solar. The Commons approach, once the problem has been identified, would be to first understand the set of existing jural relations between the parties and the nature of customs

that drive transactions. This might be that custom and jural relations favor the nonrenewable energy sector due to existing tax policy and regulatory policy choices. Commons would likely advocate for an approach that brought together the various parties in the dispute including employers and employees for the nonrenewable sector with representative form the renewable sector to find common ground. Commons would place and emphasis not just on the substantive outcome that might be targeted such as net zero emissions but on the procedural aspects for how that might be achieved over time. In Commons time, the goal was to reduce worker accidents and improve worker economic security while still ensuring that employers were profitable. Some of the modern analytical and empirical tools could still be used in this analysis as Commons was not an opponent of statistical and statistical analysis by any means. He was an opponent of the idea that there was some natural law that could not be violated in the course of human social events and activity.

William Dugger summarized, in an important way, the approach of John R. Commons as grounded in a specific understanding of philosophy, economics and ethics writing,

> He [Commons] blazed his own trail into a theory of law as the evolution of reasonable rights. In other words, one can view law as establishing natural rights through deduction and (divine) revelation, as establishing rational rights through utopian reasoning and dictatorship, or as the process of creating reasonable rights through empirical investigation and collective action. Commons's search for the reasonable rather than the natural or the rational is the key to his reforms (Dugger, 1975, p. 375).

In the 21st century, we face a series of crises and challenges facing human society. In the face of these problems, humanity needs to use its most creative and constructive approaches to find solutions that provide hope and comfort for people. John R. Commons was a reformer and economist who actively sought to participate in and provide institutional adjustments that work for people. In 1972, the institutional economist A. Allan Schmid wrote that, "Yet this is our challenge. If we are able to supply warranted predictions of the consequence of alternative institutions" (Schmid, 1972, p. 901). This seems to remain our challenge with perhaps even more urgency than in the 1970s. One will not find easy solutions for the 21st century from Commons, his solutions made sense for his time. John R. Commons does show us the way, along with those who followed in his footsteps of other Great Lakes School economists such as A. Alan Schmid, Daniel Bromley, Charles Whalen, David Schweikhardt, and many others to find institutional options that promote broad based human security and prosperity.

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