

Socialist Licenses? A Rejoinder to Michel Bauwens and Vasilis Kostakis

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Abstract: This article is a critical reflection on Michael Bauwens and Vasilis Kostakis' paper "From the Communism of Capital to Capital for the Commons: Towards an Open Co-operativism" (tripleC 12 (1): 356-361)

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1. Introduction

Michel Bauwens and Vasilis Kostakis have made a proposal for a "media choice of socialist licences" which is based on the Copyfarleft-License of Dymtri Kleiner. In this reflection I try to critically analyze his proposal.

At the beginning Bauwens and Kostakis' thesis is: "the more 'communist' the sharing license we use (that is, no restrictions on sharing) in the peer production of free software or open hardware, the more capitalist the practice (that is, multinationals can use it for free)" (p. 357). Being a prominent example the GNU GPL¹ is called a "communist license". Is there something in that?

At first one has to understand the nature licenses have under the given conditions. Licenses are permissions, thus contracts, "granted by a party ('licensor') to another party ('licensee') as an element of an agreement between those parties" (Wikipedia definition, <http://en.wikipedia.org/wiki/License>, accessed on April 5, 2014, 12:40:50 BST). They are based on the precondition of excluding all other people by the "right holder". The power of exclusion given by law can be converted into a "permission for all" by way of tricky constructions combined with the obligation to put derived works under the GPL as well (copyleft principle²).

Herein is nothing communist. The logic of exclusion is partially reversed and therefore new spaces of commons-oriented practices can be created. Better than nothing. The license itself only protects these practices against proprietary destructions. From my point of view this cannot be more than that under the given conditions. The outer world is ruled by the logics of valuation and exclusion, and every free zone to self-determine other practices has to be wrested from these dominant logics. These are embryonic forms, precisely.

The second part of the thesis "...the more capitalist the practice" fails as well. There is no comparative of "capitalist". If you replace "capitalist" with "commodity-based", then it becomes even clearer: Something is a commodity or not. Free software, for instance, isn't a commodity. It can be appropriated and used by everyone, even by big corporations. However, they cannot transform the free software into a commodity, since this is prevented by the GPL. But they can use the software in order to realize their business models in other fields. This free use is a thorn in Bauwens' side. He wants the commons to only be commercially used by those who have contributed beforehand.

¹ See http://en.wikipedia.org/wiki/GNU_General_Public_License

² See <http://en.wikipedia.org/wiki/Copyleft>

From my perspective the presentation of the GPL as “communist” is wrong, but this attribution has the function for Bauwens, Kostakis, Kleiner and others to propagate a milder license variant which then is called “socialist”: the PPL (Peer-Production-License)³. This license only grants external access to the resources to those who are using them non-commercially, while internally unlimited exploitation is allowed. The divide internal/external usually refers to a firm. If external parties want to use the resources commercially, then they have to pay a license fee or make other contributions.

2. Is Only Exchange Reciprocal?

In order to justify the PPL, Bauwens and Kostakis speak of “reciprocity”. They argue that the “communist” GPL is non-reciprocal, while the “socialist” PPL demands reciprocity. The word reciprocity nicely blurs what is actually meant: *exchange*. In fact, the GPL breaks the logic of exchange, while the PPL requires and enforces it – namely not only the exchange logic itself, but the societally valid form of *equivalent exchange*. Someone who wants to keep “the surplus value [...] inside the Commons sphere” (p. 358) has to act that way, whereby “commons sphere” is a euphemism for an ordinary company.

The notion of reciprocity is misused in an ideologically blurring way. Licenses are never reciprocal, only people can behave in a reciprocal way. Thus, the question can only be whether licenses encourage reciprocity between people or not, and if so, in what way. Then the evaluation of GPL and PPL looks completely different.

The GPL creates and promotes *direct* reciprocity between people, because no exchange and also no compelled contribution stands between them. By contrast, the PPL limits direct reciprocity by putting exchange or compulsory contributions between people if they want to use resources commercially. But what is commercial? Comparable discussions have taken place around the NC (non-commercial) module of the Creative Commons⁴ Licenses. An insight from such discussions has been that the NC module undermines sharing. The same applies to the PPL (although it is trying to dissociate itself from the CC-NC).

To sharpen the point: Both licenses support reciprocal behaviour of people. With respect to the GPL it is *positive reciprocity*, because in this case it only counts how people behave socially and which rules they agree upon in a self-determined way, in order to *bring all participants together*. Concerning the PPL it is *negative reciprocity*, since a portion of people are subjugated to the alien form of exchange of equivalents (money) and are *excluded* from cooperation to this end. Thus, the GPL is rather in accordance with the commons idea of self-determining one’s own rules than the PPL.

3. How Does the PPL Work?

The core rule of the PPL is contained in the following paragraph:

You may exercise the rights granted in Section 3 for commercial purposes only if:

- i. You are a workerowned business or workerowned collective;
- and
- ii. all financial gain, surplus, profits and benefits produced by the business or collective are distributed among the workerowners

(http://p2pfoundation.net/Peer_Production_License)

This snippet expresses the abridged critique of capitalism that I elaboratedly criticised elsewhere⁵. In short: The critique is not directed against the *way of production* – commodity production – but against the type of *distribution within* the (basically accepted) commodity production. In this sense the label “socialist” is well adequate, if one understands socialism

³ See http://p2pfoundation.net/Peer_Production_License

⁴ See http://en.wikipedia.org/wiki/Creative_Commons

⁵ <http://keimform.de/2008/copyfarleft-a-critique/>

as a form of commodity production, where the distribution is organised differently than in free capitalism. This, however, leaves all basic capitalist forms like the exchange logic and money untouched (even a state is mandatory in this scenario). This problem – sometimes labelled as fetishism – is simply ignored.

But what does this rule mean practically? The vague term of workerowned business or workerowned collective obviously means cooperatives or firms, where the owners are workers at the same time. The financial gain, surplus, profits and benefits should be distributed among the workers. First, this is impossible and, second, it is not crucial. It is impossible, because part of the income has to be reinvested in order to keep the company competitive. You have to pay homage to commodity fetish, and doing so the whole income or more (=debt) has to be invested in case of unproductive firms. It is not crucial, because the coercion to exploit and therefore the logic of exclusion remain completely untouched.

More than that: The PPL generally allows cooperatives or worker firms to make use of the resource pool. However, cooperative A is competitor of cooperative B, but does allow B to exploit A and potentially to out-compete A. It is completely ignored, that cooperatives or worker firms are ordinary companies, which have to entirely match the competition criteria of the market logic. *Companies are not commons*, regardless of whether being a cooperative or a worker owned firm. The intended goal to keep the resources within the commons sphere cannot be reached this way.

In principle this is clear to Michel Bauwens and Vasilis Kostakis, nevertheless they dream to link the commons to “entrepreneurial coalitions that are linked around a PPL-based Commons” and that “keep the surplus value entirely within the sphere of commoners/co-operators, instead of leaking out to the multinationals” (p. 358). Commons and cooperatives are intermingled via the involved persons. Hereby a “sphere of the good” is defined. It is good what contributes to this sphere, and this is the goal of the PPL that allows an “entrepreneurial coalition of ethical market entities (co-ops and other models)” (p. 358). Shortly said: Not the big, but the small ones should get the profit. So it is just about a different distribution.

However, this sphere isn't a commons sphere, instead it is simply a coalition of companies of self-defined “good” and “ethical” people. To behave good and ethical is a nice thing. However, it misses the efficacy of the rigid operational mode of commodity production. If you don't succumb to this logic you are out – having an ethic or not. Ethic isn't a functional core of the market logic. An ethic has to stay externally and therefore finally always gets the short end of the stick. What I find severe is that the efficacy of the exclusive logic is not recognised or underestimated, so that in the end structural problems are veiled as personal deficits or conflicts between people. If a woman with a child has to leave a firm, then not because she reduces the overall performance, but because she allegedly does not fit into the team — this is the practice (personal report of an alternative artisanal firm).

4. Transformation through a Counter-Economy?

Michel Bauwens and Vasilis Kostakis' concept of transformation is doubtful. They want to create a “counter-economy” with a “for-benefit circulation of value” (p. 358). However, this counter-economy is an economy and value is nothing else than this: a societal measure of competitive productivity, which is also valid for a counter-economy, in order to realise “value” at all.

From my perspective a societal transformation cannot happen via building-up a counter-economy. It is not possible to out-compete capitalism (or the bad guys), to be better than capitalism on its own terrain in order to finally get rid of it. It is a contradiction in terms.

There is not a way towards an alternative by changing distribution provided, but there is a way via the enforcement of a new way of production, of a *new social logic of producing our livelihood*. This new social logic cannot be built up using forms of the old social logic, namely the logic of exclusion immanent in commodity production. It is unavoidable that the old logic exploits the outcome of the new logic because the results can be freely appropriated. But this is an *external relation* while the opposed logics persist on their own. Moreover: capitalism

must create new free spaces to foster the new logics, in order to make them exploitable. But as soon as the new approaches are transformed into old forms of valuation and commodification – meaning in an *internal relation* – they will decay.

Thus, from my viewpoint the PPL is not about accessing a *counter*-economy, it is about accessing the economy. This is legitimate but has not much to do with societal transformation. Or, more explicitly: It has as much to do with societal transformations as a stock corporation implementing peer-production within its own walls for competitive reasons (which actually takes places). Here practices get established that can become important in case of a total breakdown of the old system and then could also function outside the valuation logic. They *could*....

In order to still present an outlook on how the economy, which is reproduced beforehand, can be left, Bauwens and Kostakis argue: “Ultimately the potential of the new mode is the same as those of the previous proto-modes of production – to emancipate itself from its dependency on the old decaying mode, so as to become self-sustaining and thus replace the accumulation of capital with the circulation of the Commons” (p. 357).

In the end politics should do it. How else can the circulation of capital be replaced by the circulation of commons? But what can this commons circulation be? The state implements commonism by decision? This can hardly be considered.

So is the PPL bad? No. It is simply a possibility to create coalitions of small enterprises and freelancers. If they create products for free use for people who cannot get them other ways, then this is fine. However, others are doing this too, e.g. Microsoft. Insofar it is a general trend that *openness* becomes a *competitive factor*. It offers companies and freelancers an opportunity to use a shared pool of resources to better ensure their own existence within the old commodity logic. This is *indirectly* good for the commons as well, but nothing more.

A new mode of production cannot emerge from these practices. A societal transformation will not be brought forward by the PPL. Or only indirectly and only as much as normal companies do advance such transformations by using peer-production methods to improve their competitiveness. We will even experience completely different models in the future.

About the Author

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