

- Anthony Comegna: [00:19](#) We do an awful lot here at IHS, we run a bunch of different types of programs. We do dozens and dozens of them a year, and no one could attend them all. We cover disciplines across the humanities, and deal with thinkers and ideas from one end of world history to the other.
- Anthony Comegna: [00:36](#) And I feel very lucky this week, because I get to learn from our very own senior faculty liaison, Jeanne Hoffman, about Elinor Ostrom. We've done two programs focused on Ostrom recently and I couldn't attend either, nor do I know anything about this Nobel Prize winning classical liberal economist. For your information and mine then, here's Jeanne Hoffman.
- Anthony Comegna: [00:58](#) So, Jeanne, thank you so much for being on the show, and I think this should at least for me be a really interesting conversation because I'm not really familiar at all with the work or ideas of Elinor Ostrom. But from the little bit that I have heard and read, I understand that her and I share a lot of the same interests and perhaps some of the same theoretical framework. So, I'm interested to find out a little more.
- Jeanne Hoffman: [01:25](#) Sure. And I want to give the caveat that I am a Ostrom enthusiast, but not an Ostrom scholar.
- Anthony Comegna: [01:31](#) Okay, sure, sure. But now from what I understand, her work really centers around the idea of polycentricity. So, can you explain that concept a little bit for us off the bat?
- Jeanne Hoffman: [01:46](#) Sure. I mean, when people are thinking about how to manage common pool resources, there's a few different ways that they can do it, but often people go to one sort of central solution for managing things. But the idea of polycentricity is that there could be multiple different governing bodies that govern different pieces of things, and that there is no necessarily one right answer to how to solve a problem.
- Anthony Comegna: [02:13](#) And then the idea of a common resource problem, in historical literature at least, you'll hear historians refer to the commons and commoning as a practice. How does Ostrom use those terms? What do they mean in relation to this idea of polycentricity?
- Jeanne Hoffman: [02:32](#) Sure. I think she uses them in similar ways because she talks about how different actors end up managing these common pool resources. So, there's the concept of the tragedy of the commons, that if you have a resource that multiple people have access to and can profit off of, that it will result in this tragedy.

Let's say if you have a space where multiple people can fish, everyone has an incentive to fish as much as possible. Therefore, they'll take all of the fish they can since no one has ownership of it, leaving the entire pool empty and nothing left for the future.

Jeanne Hoffman: [03:07](#) But what Ostrom saw was that this isn't exactly how it ends up working out, because when you have local communities, they're not thinking in the short term as the tragedy of the commons would have you think. They're thinking in long terms because it's their livelihood. So, they end up working out different norms and practices among themselves in order to figure out how to share these resources.

Jeanne Hoffman: [03:30](#) And these practices and norms can differ based on location. They tend to come to different solutions that still work. So, there's not necessarily one model you can apply to every single situation of the tragedy of the commons.

Anthony Comegna: [03:45](#) And as I understand it this idea of the tragedy of the commons goes back at least as far as Aristotle. And Aristotle kind of brings this aristocratic bent to it, where you basically can't trust people to manage their own common pool resources because they're too stupid, the dumb rabble. And they're not very well educated. They're not very insightful, not very smart, and so they're not going to be able to handle that on their own.

Anthony Comegna: [04:16](#) And if you do open up common pool resources to a true practice of commoning among the average people, they'll make a big mess of it all. But Ostrom seems very different?

Jeanne Hoffman: [04:29](#) Yeah. She is different from that. Whether it's from just needing to cooperate or actually believing in the good of people, she does find that the keys to the management of this common pool resource problem is collective action. So, everyone working together to come up with a solution. Trust in each other, that the other person is going to follow the rules that they set forward. And then also cooperation, so people buying into it.

Jeanne Hoffman: [04:55](#) It doesn't mean that everyone goes into it blindly thinking the other person is always going to be a good actor, and Ostrom doesn't think that either. But because they're so bought into the system, they're also bought into different norms behind punishment for breaking the system.

Jeanne Hoffman: [05:12](#) So, for example, if we've all agreed to assist in fishing, where we rotate where we fish each day, so no one has access to the area

that has the most fish. And we see someone going over to that good area to fish in, everyone else can see the person is breaking the norms. So, everyone has an incentive, a personal incentive to make sure that that person is punished for breaking the norm.

Anthony Comegna: [05:36](#) Now, this kind of takes me back though because this approach sounds very similar to a way of doing history, called history from below, which is focusing on average people, common people, and their practices, and the sort of evolution of society from the bottom up as it were. As opposed to traditional top-down history, which looks mainly at people with political power and other access to traditional types of power, and treats them as the prime movers of history.

Anthony Comegna: [06:05](#) This point of view, this economic concept of polycentricity, or I guess it's law and economics concept of polycentricity, it strikes me as very similar to the kinds of debates that people had around fencing off the commons in early modern English history. And there were lots of... I mean this was people literally getting pushed off of their land by aristocrats who were breaking these long established rules of managing the common property of the country.

Anthony Comegna: [06:42](#) And yet most economic historians can look at this time period as the beginning of Deirdre McCloskey's hockey stick, that fencing in these common lands created an explosion of wealth and productivity and fed the world eventually.

Anthony Comegna: [07:01](#) So, I'm wondering how do we make these trade offs between a society that allows people to function... It allows them to manage their common pool resources in a bottom-up fashion, and yet still gives us the immense productivity of private ownership?

Jeanne Hoffman: [07:21](#) Sure. I guess it depends on a few things. I mean, can the area be owned? Is that how it had always been done in that area? Because what Ostrom's analysis takes into consideration isn't just the rights of the fishermen. So, maybe it's better for the fishermen if they take turns and they circle around the pond. But maybe this also creates... And this is just me making this up at this point, it creates some sort of monopoly that those specific fishermen only have access to. And it makes it harder for people to break into the market.

Jeanne Hoffman: [07:52](#) So, even though their needs are being met, the needs of the market and the people who need access to that fish aren't being met. So, it's not just that according to Ostrom that the

fishermen who are the ones who first decided to start fishing get all the rights to determine what happens with it. But it's also that all of the people affected by the rules can participate in modifying the rules. That's one of her principles. She has eight principals in total for managing the commons. And she says it's not going to be the same in every situation. You can't come up with a set of rules.

Jeanne Hoffman: [08:27](#)

So, maybe in that situation it made more sense to fence in the area and privatize it. But in another area, just based on the norms of the area, the needs of the people, the distribution of resources, it might not make sense to do that.

Jeanne Hoffman: [08:41](#)

So, she looks at all of those pieces and she's not 100% bottom-up because she does recognize that there are some things that need to be top-down. So, just two general examples. One is rule of law. Like the basic system in which rule of law happens, you can't really have a ton of different norms in how the government or how people need to adhere to the rule of law. So, that's a governing kind of item over which these rules are established.

Jeanne Hoffman: [09:10](#)

The second one is that people in a community's actions can affect people outside of the community. So, that needs to be taken into consideration as well. So, for example, if people who have cattle have a problem with gray wolves attacking the cattle, but the gray wolves are endangered, they have an incentive to kill the gray wolves, but there's an ultimate desire for that species to not die out. So, you can't just allow the cattle owners to determine what the norms are with dealing with the wolves. Because even though someone might live 200 miles away, they still might have an interest in that species surviving.

Anthony Comegna: [09:52](#)

So, then that kind of makes me wonder, is there no possibility for a polycentric legal order?

Jeanne Hoffman: [10:01](#)

There's a possibility for it, but it just... It doesn't mean that there is one specific type of legal order that you could prescribe to every certain thing. So, it might be certain different bodies govern different pieces of things.

Jeanne Hoffman: [10:16](#)

So, for example, with her work with the police force, there's a lot of rulemaking on work that's good to be done at the local level, but she found that also things like general crime labs, et cetera, are best done at the more macro level. Having that govern over multiple areas because of the specialization you need to be able to do that, et cetera.

- Jeanne Hoffman: [10:38](#) So, it's more looking at where the rules should be established and who should establish them and what... Again, what the situation is in that specific community. So, her research isn't prescriptive in how people should do things in terms of this is exactly what you should do. It's more prescriptive in what should you look at when you manage these things.
- Anthony Comegna: [11:04](#) Yeah. Hamilton kind of talked about the genius of the British system of government is that it really is composed of a whole bunch of different factions, each kind of fighting with each other for for their own interests. And that kind of creates a polycentricity of its own. Within this supposedly single structure, the government, there are actually lots of different levels and factions and bureaus with expertise of one kind and not another. And there is some level of competition and difference.
- Jeanne Hoffman: [11:38](#) And I think that when you let the different groups kind of battle it out it, it turns into something more fair, than if you give all of the decision rights to the group that's affected or the group that's concerned.
- Jeanne Hoffman: [11:50](#) So, for example, the cattle example I gave, I'm not incredibly familiar with the literature myself, but from what I've heard, what they ended up deciding to do is that every time someone's cattle was killed by a wolf, an environmental fund bought them a new cattle. So, the cattle ranchers weren't experiencing the loss of their cattle financially, but the environmentalists weren't experiencing the loss of this species. So, it created something where everyone kind of got what they needed.
- Anthony Comegna: [12:23](#) Now, so then what do we do with a sort of again, this argument that well really privatization is what creates an explosion of wealth. And the more we can kind of tear apart the commons, the better. And perhaps we don't want to do it violently, perhaps we want to do it as peacefully and quote, "naturally as possible."
- Anthony Comegna: [12:50](#) But a lot of people have this instinctive reaction when you say something like it requires collective action to govern the commons. They instinctively think, well that's going to be less efficient. You said that there's a certain level of recognition here that people are very much going to disagree with each other, that they're going to come into conflict and they need ways to resolve that. Governing the commons is going to have certain inefficiencies.

- Anthony Comegna: [13:17](#) So, then why wouldn't we just say, well then we need to try as much as possible to scrap this way of governing things? Is there an argument or a way that we can say the commons and commoning are actually more efficient than all methods of privatization?
- Jeanne Hoffman: [13:36](#) Well, I think again, Ostrom in this situation wouldn't say that there's a maxim you can say about this. So, in some situations, dividing up the commons might be the right answer. In other situations, coming up with these rules is a better answer. And it's determined by a few things, but also how can the rules be enforced?
- Jeanne Hoffman: [14:00](#) So, you mentioned there being a collective action problem. So, if there were rules on dumping let's say, dumping into a common area. I think that's something that's harder to enforce from a collective action perspective. And this is my opinion, not Ostrom talking about waste dumping. Because you don't really have someone with an incentive to prevent the dumping. But when it comes to something like overfishing, the other fishermen have an incentive for there not to be an overfishing of the waters because that depletes the population for the future.
- Jeanne Hoffman: [14:33](#) So, in that type of situation, collective action is an easier thing to rely on because the incentives are aligned in the right way for them to take action against people who break the rules. So, that's another reason why she really stresses that you have to look at the specific situation when coming up with the rules, because it might be in some situations dividing the commons. Like I said, is the best answer for that area, those norms and the results that will come out of it? But in other situations, there might be ways of getting around the collective action problem based on incentives.
- Anthony Comegna: [15:11](#) Now I guess I could see some sort of curmudgeonly, let's say maybe right wing or conservative types of libertarians or classical liberals today thinking, well, okay, fencing in the English commons, that included killing a lot of common people and dispossessing a lot more, and shoving people into the cities in colonial prison labor camps basically. And that's all bad.
- Anthony Comegna: [15:38](#) But this wolf example is really kind of silly. I mean, they're wolves, shouldn't we just steamroll through it and not worry about displacing wolves? The human cost of leaving these resources untapped is too great, and we can just write off the wolves here?

- Jeanne Hoffman: [15:59](#) Well, I think that those curmudgeons would be happy with the result that happened, because it put the cost and it put the negative externality, I guess you would call it on the person who cared about the wolves, not on the ranchers themselves. So, rather than them just going in and telling ranchers, "You have to deal with some of your cattle dying occasionally," which one isn't great for the ranchers, but two, as someone who's concerned about environmental things, it creates the shoot and shovel policy, and shut up. Shoot, shovel and shut up, where they would be killing them anyway, but just more quietly.
- Jeanne Hoffman: [16:39](#) So, the result ended up being better, not just for the cattle owners because they were getting reimbursed for the cattle, but it was better for the people who were concerned about the wolves too, because it didn't create an incentive to secretly kill the wolves. It created an incentive that it's okay to let them roam around because you know that you will be compensated if something happens to your cattle.
- Anthony Comegna: [17:03](#) Well the ghost of Ayn Rand is here telling me, "Here we go. The hippies of the right are back." But I'm all here for it. I think it's a good solution. And this is why it seemed to me that Ostrom and I shared a lot of the same perspective on this sort of question.
- Anthony Comegna: [17:18](#) And now you're a legal scholar yourself and you work a lot with people in law who filter through IHS at one point or another. What do you think is the most value for legal scholars studying Ostrom?
- Jeanne Hoffman: [17:33](#) Sure. I think Ostrom should be regular reading for legal scholars and lawyers. It's not at the moment. But part of it is there's a few different things you have to take into consideration with law. So, there's positive law, that's the law that we proactively make. But then different societies have norms and we have a common law, which is the law that has developed over time through the courts. And judges take all of those different pieces into consideration.
- Jeanne Hoffman: [18:02](#) So, for maritime law for example, there's a different body of law than regular law because so many norms have existed in maritime law. And I think there's sometimes an incentive to look at positive law. Again, that's the law that we create and see how it applies to... Or see how, excuse me, we can apply it to every single case that comes up. Or even common law. Common law says, okay, this happened in this case and there might be an incentive to try to use that for every case that happens.

- Jeanne Hoffman: [18:34](#) So, for example, for people who aren't legal scholars, there's a whole body of case law around when you're allowed to hunt an animal. So, if the animal is leaving someone's property and entering yours, does that mean it's coming towards you, so that you can hunt it? Or does it mean it belongs to the land that it's leaving so you can't hunt it?
- Jeanne Hoffman: [18:56](#) So, there's all these weird rules around that that became actual common law for the country. But if you think about things from an Ostrom perspective, you might want to look at what are the established norms in that society at the smaller level within the country for hunting laws, just as an example. So, I think it creates almost like a humility about the law. We can't necessarily prescribe the same rules to everything, and reminds us to look at the norms in the area.
- Anthony Comegna: [19:26](#) My field is Jacksonian America and there were lots of radical Jacksonians who as part of completing the revolutionary project, they thought that we should abolish the common law in American courts, and have only American made law as part of our democratic revolution, where we're making our law for ourselves and we're not inheriting it from the old world and doing whatever it is that their communities thought we should do from a thousand years ago or something like that. Why should all these old English people bind present day Americans?
- Jeanne Hoffman: [20:01](#) Yep. And just speaking anecdotally, I'm from the Bronx, New York, and I could assure you that we resolve conflict in the Bronx very differently than North Carolina would resolve conflicts, but it still works out the same. So, you can't necessarily have the same rules for engagement.
- Jeanne Hoffman: [20:18](#) If I applied my Bronx norms in North Carolina, it would be very shocking and offputting to the people who live there.
- Anthony Comegna: [20:25](#) You'd start campaigning for Bernie Sanders. Right?
- Jeanne Hoffman: [20:31](#) So, we need to again be humble about what we know and what our own norms are, and what the norms of the area we live in are, and whether or not that can apply to other areas within the country. Or when you're thinking about international development, can those norms to the world?
- Anthony Comegna: [20:49](#) Now what kind of reading would you recommend for somebody who's completely new to Elinor Ostrom like me?

- Jeanne Hoffman: [20:55](#) Well I think her famous work, *Governing the Commons*, the one that she became famous from is a great thing to read. Also, her Nobel Prize speech is available online, and it's very well laid out. It has the charts from her PowerPoint interspersed in it in the right places. And she kind of talks about the evolution of her ideas. So, that's great to read.
- Jeanne Hoffman: [21:18](#) And I also like a lot this article called *Riding in Cars with Boys: Elinor Ostrom's Adventures with the Police*. It's by Pete Boettke, Jayme Lemke, and Liya Palagashvili. And it just talks about her research on police forces and norms with that. And a little bit about what I talked about before. But it's great having an outside look at her research and their analysis of what she was going for. So, I really recommend that one as well.
- Anthony Comegna: [21:47](#) Is there any sort of overlooked material from her corpus that you would recommend for someone who maybe has a little bit more technical knowledge, but they've probably never heard of this piece?
- Jeanne Hoffman: [22:00](#) I don't know if I would say overlooked, but definitely intimidating when you look at it. So, some of her stuff has all of these charts on it. Because she has the eight principles, and what are all the different actors that are influencing each of these principles in this situation?
- Jeanne Hoffman: [22:16](#) But I do think it is good to look at her more close up looks at specific situations. So, we did a program recently, we used one of reading of hers, *Unlocking Public Entrepreneurship and Public Economies*. That when you look at it, it can be a bit intimidating, but once you start reading it, it's not as intimidating as it looks.
- Jeanne Hoffman: [22:39](#) So, I recommend that because she is really talking about how things are applied on the public good level. So, that's one I would recommend.
- Anthony Comegna: [22:52](#) Jeanne Hoffman is a senior faculty liaison here at IHS. She holds her degree in law from the Ave Maria School of Law, and she has our greatest thanks for taking the time this week to educate me on contemporary economics.
- Anthony Comegna: [23:05](#) And if you also want my undying gratitude, and to stick it to the curmudgeons while you're at it, then help take care of the commons, drop us a rating and review wherever you listen.