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Abstract:

In recent years, the commons has been revitalized as a utopian concept for resistance against global capital and commodification. Refusing the dichotomy of public and private ownership, the commons offers an alternate vision of collectively negotiated land use and practices as a shared space. In this article, we consider the utopian nature of the commons through the example of a project we started in the spring of 2010 in Montréal, Ouvert/Open. By examining how the idea of the commons manifests in the virtual and physical spaces of this project, we highlight the inherent contradictions that emerge in contemporary activist practice.

## **Introduction**

The geography of the city functions as a mechanism for distributed power. Power manifests in the physicality of everyday urban life, through planning, government jurisprudence and resident use. The train tracks in the Canadian city of Montréal are one site where this dialectic of power becomes visible, in the creative tactics of appropriation used by the city's residents and the multiple layers of power and authority that created and now govern it. In this essay, we examine the commons as a creative potentiality for urban advocacy and action, as a way to rethink the tensions between private ownership, public governance and everyday resident use of city space. How can the re-emergent notion of the commons help us to think of a shared urban space and inspire action? And how does the contradiction between informal, creative tactics and formal community mobilization unfold in the network that emerges between an online and offline community of people advocating for crossings on the train track?

The revitalization of the concept of the commons provides a way of thinking past the impasse of public and private land ownership and validates everyday uses of land as practiced by residents. In both its ideal and enacted forms, the commons helps to inform an alternative vision of a shared urban space. We examine this concept through a project that was initiated by the authors in the spring of 2010 to advocate for legal crossings on the train tracks in Montréal. Entitled, *Ouvert/Open*, the project works to reimagine local public space and to encourage resident involvement in urban planning. *Ouvert/Open* also serves to highlight the inherent contradictions that emerge in digital and material activism, between anarchic quotidian practices and government recognition, to re-shape the priorities and directions of the city.

## **Clandestine paths in a post-industrial urban landscape**

Railway tracks cut through the heart of Montréal – a relic from an industrial past. They are the material manifestation of the building and settlement of the nation-state of Canada, intimately tied to a project of expansion, privatization, and enclosure of land. The Montréal segment of the transcontinental opened in 1876, and was purchased six years later by the Canadian Pacific company. Canadian Pacific (CP) itself originated as a corporation with the project of creating a railway that stretched from British Columbia to Eastern Canada. In fact, this railway literally tied the country together, as its construction was one of the conditions upon which British Columbia agreed to join the Canadian confederacy. It therefore was central to the emergent nation-state and its project of colonial expansion. In the following decades, residential and industrial suburbs grew around the railway in Montréal, a center of intense industrial activity, again linked to processes of economic development and nation-building (Bur, 2010). With the development and expansion of highway infrastructure from the 1950s onwards, railway-based industry moved out of the city center (Bur, 2010). In the 1960s vast viaducts were constructed around the railways to accommodate car and truck traffic. Today, the rails still connect the city's port to the freight network, but are quite underused. A CP spokesperson recently evaluated traffic on this part

of the railroad to ‘less than ten trains a day.’ (Gladel, 2011) The train tracks were then literally enclosed in 1994 when a new bike lane was built alongside them, fencing off north-south pedestrian pathways across the train tracks. What was once the ultimate marker of an emergent nation-state, in both its generative qualities as well as through its participation in colonial settlement and land enclosures, is now a physical obstacle between the densely populated neighborhoods of Plateau Mont-Royal and Rosemont-La Petite-Patrie.

The lack of safe and easy access between these two neighbourhoods causes several problems for residents. As in many cities, the tracks mark a divide in wealth and uneven access to goods and services. In the eastern section of the city, this divide is especially visible, with very few stores, groceries, or services on the northern side of the tracks, whereas the southern neighbourhood’s streets are lined with boutiques, parks, bakeries, and fruit and vegetable markets. The gentrified neighbourhood of Mile-End, which lies westward along the tracks, remains a pole of economic and artistic activity, but the closest metro is north of the train track, blocked by the fence along the tracks, and implicitly blocking circulation to and from the area.

## **Surveillance**

The spring and summer of 2003 marked the beginning of increased surveillance and ticketing along the train tracks by Canadian Pacific. (Tremblay, 2004) As the land owner, CP is responsible for the security of the train tracks, and sends private police to patrol the lines issuing steep fines – CAD\$146 in 2012 – to anyone found on or crossing the tracks. From January to June 2010, CP police issued over 120 tickets. (CBC News, 2010) The threat of fines is itself enough to keep many people from crossing. The main reason cited for this ticketing campaign is safety and the accompanying, if unspoken, threat of litigation. However, only two injuries have been reported along this particular section of the railway tracks in the past nine years. These numbers could easily be contrasted to the high number of pedestrian injuries and deaths due to traffic accidents in the city. [1]

Despite the symbolic and literal enclosure of land through the train tracks and the increase of patrolling and ticketing along the tracks, people continue to pass through the various holes in the fence as they are opened, closed, and opened again at regular intervals. Recent tracking by Mile End district representatives estimates that 500 pedestrians and cyclists each morning sneak through holes cut into the chain-link fence along one 200 metre stretch to access the Rosemont subway station. (Décarie, 2011) These paths are so well-trodden that they are visible as lines of desire on Google maps. A local journalist describes in crude terms why many residents prefer to cross the train tracks than to walk through the underpasses, designed primarily for car and truck traffic: ‘Underground viaducts – criticized for being too far apart from each other, as well as dark, dangerous, narrow, noisy and smelling of piss and pigeon shit- are the only legal ways to cross.’ (Penhale, 2011) Formerly employed by the City of Montreal, urbanist Jean Décarie supervised several municipal studies on possible crossings. In a note written for a citizen group called Collective for level crossings, he recapitulates twenty years of observation on this section

of the railway and concludes:

Unless the whole rail corridor is enclosed with walls, or police officers are positioned at each and every hole in the fence, day and night, this ‘problem’ will never be solved, because it is a false problem, that of applying an absolute and abstract rule disconnected from the reality of the situation. (Décarie, 2011: 5, translated by author)

To adequately deal with the problem of the tracks in Montréal, Décarie estimates that a crossing should be built every 500 metres. But to build these crossings the city needs CP’s agreement. After beginning negotiations with the boroughs in March 2011, CP finally told the City’s executive committee in May 2011 that it was not willing to build crossings on this portion of the train track (Beauchemin, 2011). CP representatives continue to cite safety concerns as well as the need to maintain ‘fluid’ traffic (although the tracks are often used as a train parking lot, with cars left unmoved for months at a time). The only resort left to rectify this problem legally is for the city to bring the case in front of the Transportation Office of Canada.

What this case highlights is that the current organization of property and land use is often inadequate to people’s needs. Both public and private property is strictly regulated through inflexible laws that determine how and when people can use or access land. This problem was illustrated when Sara Serban contested her ticket in court in January 2012. The judge was sympathetic to the argument she presented – that crossing the tracks makes much more sense for urban circulation – but was nonetheless compelled to uphold the letter of the law. He said, ‘Madam, you are not a criminal, you just crossed a train track,’ but forced her to pay the fine anyway, adding ‘I’m just applying the law’ (Elourki, 2012, translated by author). The judge’s comments highlight the way in which even long established practices of pedestrian and cyclist circulation in the city remain under the ultimate authority of government jurisdiction, no matter how absurd. All entry on CP’s property ‘without a legitimate purpose’ (Railway Safety Act, 1985: 26.1) is forbidden. Regardless of the fallow nature and relative underuse of the tracks, or the quotidian and creative gestures of citizens to transform the land into a non-regulated and accessible area of the city, the law rigidly applies. This impasse highlights the problem of no common right to use land and resources. However, daily practices overwrite jurisprudence, offering an alternative version of land use, even if unofficial, illegal and unrecognized. ‘People will continue to make holes in the fence and trespass illegally,’ one pedestrian was quoted as saying in the *Montréal Gazette* in 2010, ‘because they want it to be a public space.’ What this comment highlights is the way that this ‘private property’ has already become, in the social imaginary of the residents, a part of the commons.

Is it utopian to imagine that such practices as crossing these train tracks could be tolerated because they are grounded in a collective interest, even if they are forbidden by law and contravene a notion of property rights? Is it utopian to argue for a collective appropriation of a powerful company’s private property? Within the daily movements of the city, an alternative understanding of access and rights is already asserted. By ‘alternative’, we understand a model that allows for non-conventional uses of the space, relying on a different kind of responsibility and collective practice.

## **The commons: a utopia of collective appropriation?**

In recent years, the commons has been revitalized as a model for shared ownership and distribution of resources. Reacting to the expansion of privatization into all sectors of society, some theorists are looking at the commons as a concept for resistance against global capital and commodification (Hardt and Negri, 2009; Klein, 2001; Buck 1998; Hess and Ostrom, 2007). Transcending the dichotomy of public and private, the commons invokes an alternate system of organizing social relations, one that envisions a mechanism of social distribution beyond an individualist paradigm and reinstates the possibility for collective rights without reliance on the state.

A concept that stems from feudal, pre-capitalist societies, the commons may refer to (1) practices of delineating, accumulating, giving access, using common resources; or (2) forms of organization, ways of being in common, collectives and social relationships that are based on common desires, conducts and ways of life. In their definition of the commons as a *practice* of sharing, as an activity, not a result, Hardt and Negri presume an understanding of the relationship between resources and people that ‘does not position humanity separate from nature, as either its exploiter or its custodian, but focuses rather on the practices of interaction, care, and cohabitation in a common world, promoting the beneficial and limiting the detrimental forms of the common’ (Hardt and Negri, 2009: viii). The commons, therefore, encompasses the modes of organization and social systems that govern people’s access and rights to a resource (Hyde, 2010). In fact, the question of managing a common resource cannot be separated from the presence and care of a responsible community, be it the population of a parish, or an online community.

The system of the commons stems from feudal times, where the commons was a social form of organizing access to land and resources, a system that presumed the right of the poorest in society to provide for themselves. Commoners of a particular village or area had access to local land as a source of basic provisions; that is, they could use designated land for raising livestock, subsistence agriculture, and to heat, furnish or repair their houses. (Hyde, 2010: 28) Cultural theorist Lewis Hyde defines systems of communal tenure as a collective ownership, ‘lands held collectively by the residents of a parish or village: the fields, pastures, streams, and woods that a number of people ... had the right to use in ways organized and regulated by custom.’ (2010: 27) The actual enactment of this system was fraught with problems and inequities, but it still holds out an alternate version of thinking of land use beyond our current understandings of private and public ownership.

This system of land management underwent significant upheavals starting in the early 18<sup>th</sup> century. With the rise of industrial capitalism, the commons became enclosed, described by Hyde as ‘a legally sanctioned act of appropriation’ (2010: 30). The enclosure of the commons resulted in one seventh of all land converted into private property in England from the early 18<sup>th</sup> century to late 19<sup>th</sup> century. These laws of enclosure were also exported to British colonies: the Native Land Act was passed in New Zealand in 1865 and the Forest Acts of 1865 and 1878 in India extinguished collective rights to land tenure. (Hyde, 2010: 16) This period of enclosure has led to a situation today where collective

ownership of land is quite rare across North America and Europe, continuing a colonial model that presumes only one of two ways to access and allocate land and resources that is, ‘managed and regulated by states and other government authorities.’ (Hardt and Negri, 2010: viii) In fact, our political imaginary seems to be completely impoverished by the dominance of either socialism or capitalism. Hardt and Negri remark that ‘even though [socialism and capitalism] have at times been mingled together and at others occasioned bitter conflicts, [they] are both regimes of property that exclude the common.’ (Hardt and Negri, 2010: ix). In fact the Canadian legal system, built upon colonial and capitalist paradigms precludes any other form of ownership or land access rights other than those of the state or private property [2].

Although in its actual historical enactment, common tenure and the forms of land use it enabled was strictly regulated, and often served to maintain social hierarchies, the commons nonetheless remains an alternate order of social organization that can be drawn upon and reorganized for rethinking collective use, resources, and access in a contemporary context. The commons remains a compelling symbol of the possibility of collective responsibility. In the digital sphere, the commons has emerged as a powerful mode of organization to fight for a system of collective access that is regulated through community activity and responsibility. The commons affords a potential for alternative perspectives on property, appropriation and regulation.

## **The Digital Commons**

Over the last few decades, the commons has been revived as a tool for reframing collective action, governance and the management of resources, especially in the digital sphere. In its early years, the Web was envisioned as separate space, a distinct world, a ‘no place’ home to a borderless global community that could develop independently from the regulations and arrangements of the state. In his ‘Declaration of the Independence of Cyberspace’ (1996), the cyberlibertarian and poet John Perry Barlow addressed the ‘governments of the Industrial World,’ rejecting their authority and sovereignty on ‘cyberspace’:

You have no moral right to rule us ... the unwritten codes that already provide our society more order than could be obtained by any of your impositions. ... We are forming our own Social Contract. This governance will arise according to the conditions of our world, not yours. ... Your legal concepts of property, expression, identity, movement, and context do not apply to us.

This declaration was written in response to the enactment of the ‘Telecommunications Act’ in the U.S. As a founding member of the Electronic Frontier Foundation, Barlow continued to defend the idea of a separate legal order for the Web, a set of norms, rules and laws that emerged from the deliberations of the internet community instead of being imposed and controlled from outside by the power of business and national governments. Barlow’s perspective reflects a technological utopianism that seems to have failed considering the growing body of national laws and international governance structures that undermine the project of maintaining the Web as an autonomous space.

Nevertheless, the hacker counterculture can still be characterized by its anti-authoritarian attitudes and its alternative systems of self-managed digital resources, created and operated by an international community of developers (GNU project, Linux, Mozilla, etc.). For example, around the free software and open-source movements emerged the model of copyleft, a licensing agreement that aims at maximizing free sharing and republishing of digital content. An alternative to copyright, the copyleft philosophy promotes a different kind of property regime that emphasizes the collective benefits of sharing rather than individual or corporate benefits involved in the enclosure of intellectual creation. The copyleft movement embraced the notion of commons, epitomized by the Creative Commons Foundation. Developed by lawyer Lawrence Lessig, the creative commons licences (in its most open versions) allow for digital contents to be appropriated by users, which means that authorship is still attributed to the creator, but other users are allowed to republish the content online and offline, to transform and distribute it, even for commercial purposes.

### **Is the commons a utopia?**

The commons can be understood as a utopia, not because its enactments either in feudal times or the present day were or are the manifestation of a perfect society, but rather because it continues to hold out the possibility for better modes of social organization. It becomes quite obvious, when looking at the digital commons, how utopian thought is infused into an enacted politics. Utopia, as it was originally depicted by Sir Thomas More, was an imaginary island enjoying a supposedly perfect social, legal and political system. It remained an impossible ideal of social harmony and was summarily dismissed by many critical thinkers as improbable and undesirable in its unitary perfection. However, the contemporary revitalisation of utopia as an operable political concept distinguishes between a diagnostic and imaginative relation: ‘Contemporary scholars tend to distinguish between the commonplace and somewhat restricted definition of utopia as a fictional place and the broader meaning of utopia as the wish for, description of, and attempt to create a better and good society.’ (Gordon, 2005: 362) This includes an orientation towards ‘a politics of everyday life, [which places] a premium on inventing and describing social arrangements designed to create an environment in which latent capacities for individual happiness can be fulfilled.’ (Gordon, 2005: 363) One important aspect of utopia that converges these two tendencies is the way in which it mobilizes a politics of futurity or hope as ‘the need for a presence that is never achieved.’ (Lefebvre, 2003: 131)

In this sense, utopia could be understood, following Henri Lefebvre, as ‘an illuminating virtuality’ (2003: 16), where it remains necessarily incomplete. In his book *The Urban Revolution*, Lefebvre developed a vision of utopia as a creative potentiality, a movement, not an achievement, that enables the transformation of everyday life through urbanity. He developed a theory of revolutionary everyday life that discussed the dialectic between the possible and the impossible, wedded together by a desire for complete societal transformation, resulting in a call for a revolutionary image of the future as a ‘strategy of the possible.’ (1967: 54) In other words, utopia in Lefebvre’s thought no longer occupies

the place of distanced perfection, but can be created through a movement between the possible and the impossible, between the constraints of the present moment and the desire for a revolutionary future.

Keeping utopia as a horizon provides a trajectory without resulting in totality or enclosure. Instead, utopia is an intellectual construction that works to denounce social inequalities in the world and trace new possibilities for transformation. Utopia is a way to challenge and think beyond contemporary (economic, administrative) rationality. For Ernst Bloch (1918), utopia is an active ‘principle of hope’; to renounce to utopia is therefore to renounce to all hope. Hope in this sense can be understood as a ‘margin of maneuverability’ as Brian Massumi says. Hope, if

not connected to an expected success...starts to be something different from optimism ... [W]hen you start trying to think ahead into the future from the present point, rationally there really isn’t much room for hope. [...I]f hope is separated from concepts of optimism and pessimism, from a wishful projection of success or even some kind of a rational calculation of outcomes, then I think it starts to be interesting — because it places it in the present. (Massumi, 2005)

The force of hope comes from its ability to activate potentials in the present moment. Utopia could be understood under the same terms, as a concept that is not removed spatially or temporally, but as a particular kind of political orientation to refuse the boundaries of the ‘realistic’.

## **Appropriation**

Similar to the way in which digital material can be transformed and appropriated for multiple uses, the train tracks operate as a material manifestation of a politics of everyday life in a post-industrial urban space. Over the years, the train tracks have been used as an unofficial dog run, a place to take a nice stroll on a sunny day in summer or to ski along in winter, one of the best spots for graffiti art, random art projects, film and photo shoots, and the location for bands, jazz duets and at least one cellist to practice. The reinforced surveillance of the tracks has put a halt to a lot of these practices, but this space still remains a symbol of Mile-End and Montréal culture, exemplified by the 2002 album cover of the well-known Québec pop singer Jean Leloup, photographed walking on the railway with his guitar on its back. Creative activities overwrite and implicitly challenge the purely utilitarian function of this space, designed for the transportation of material goods. They introduce a shift toward other social and cultural functions, while at the same time contesting CP’s exclusive rights to circulation.

The ability to appropriate the train tracks in part derives from its materiality: contrary to well-groomed urban parks, the vegetation there grows more freely, conveying the feeling of an almost ‘wild’ nature, building the imaginary of an open, undefined space because of its sense of abandonment. The biodiversity of this ecosystem is actually quite rich: groundhogs and fireflies are common, and in the summer, relates a journalist, ‘you can catch sight of hares as big as cats jumping into bushes where the crickets sing loudly’ (Tremblay, 2004, translated by author). The psychiatrist Jean-Dominique Leccia



describes such fallow urban spaces as ‘the last places in the city that are still marked by nature’s imprint. In this almost primitive territory prevails a sort of misrule, materialized by elements of vegetation. It unconsciously evokes an epic journey more than a reality, a feeling of escape and liberty.’ (Tremblay, 2004, translated by author)

## **Rules and regulation**

There are other parallels between online enacted versions of the commons and what can be seen as common usage of the train tracks. Rather than operating through strictly regulated rules or laws, some digital forms of the commons are regulated through practices that can be modified in response to specific situations. For example, the Wikimedia Commons image database relies on a set of rules that should be conceived as guidelines or principles derived from consensus, rather than strict laws. On the Wikimedia Commons’ page ‘Image guidelines,’ it states: ‘remember ... rules can be broken.’ Similarly, one of Wikipedia’s five ‘pillars’, described on a page entitled ‘Ignore all rules,’ is the following: ‘Wikipedia does not have firm rules.’ This principle is further explained on an adjacent page: ‘if a rule prevents you from improving or maintaining Wikipedia, *ignore it*... rules derive their power to compel not from being written down on a page labeled “guideline” or “policy,” but from being a reflection of the shared opinions and practices of many editors ... following the rules is less important than using good judgment and being thoughtful and considerate.’ ‘Ignore all rules’ does not mean that every action is justifiable, but that the spirit of the law matters more than its letter. The way Wikipedia’s self-managed community of contributors relies on principles of judgment, consensus and civility, rather than a rigid set of rules, reveals the potential benefits of infringing upon established regulations, when they serve the common interest.

By referring in the previous sections to both the feudal land tenure system and the digital commons, we do not mean that these forms of enactment are equivalent. They belong to very different socio-political contexts, and do not apply to the same objects. Rather, we intend to describe inspiring examples of alternative regimes of property and regulation rooted in the practice of sharing and responsible judgement, that allow forms of collective use and appropriation. Advocating for a common right of passage on the train track can similarly be understood as legitimizing the everyday act of crossing beyond legislative structures and property rights.

## **Ouvert/Open**

Our first connection with the train tracks didn’t stem from a newspaper article or a predetermined research project, but through our everyday lived experiences using and crossing the tracks. This practical immersion then developed into a reflexive research inquiry, using the city as a ‘laboratory’ to test possibilities of transforming the structure of power between CP, the city, neighbourhood representatives, and residents. Our approach would then best be classified as an action-research project. The spring of 2010 brought with it a resurgence of surveillance and ticketing along the tracks, perceived as increasingly

repressive by many people. In response, we initiated the project Ouvert/Open, with the goal of bringing together individual residents to collectively resist the train track enclosure. Ouvert/Open is dedicated to the creation of spaces, practices and tactics for people to intervene in public policy and urban planning. The goals of this project may be summarized in three points: (1) to create a community network in order to share information and give a collective frame for scattered individual protest tactics; (2) to make our claim visible to the media and municipal and federal officials; (3) to position ourselves as an oppositional force in the structure of power linking political representatives and CP. The people who joined the movement shared practices of crossing and appropriating the train tracks, as well as common interests in developing safe and efficient ways to circulate across the railway. Using both traditional community organizing and internet platforms, we intend to connect different forms of practices, folding onsite activism into online forums and web-based activities. But just as the intersection of the material and digital worlds creates a network of mobilization, it also bears a set of contradictions as it exposes informal and illegal practices to commodification and surveillance.

We began mobilizing people online with the use of social networks and collaborative web applications. The first initiative we undertook was to create an interactive collaborative map on Google Maps with the idea of sharing information about existing holes in the fence, to document the endless cycle of cutting, closing, and reopening. Although the map was consulted about 7,000 times, there was minimal user participation. This was mainly due to the interface. To update the map, one has to create an account on the website and learn basic application handling which, although simple, can be time consuming, and most people simply did not do it. Creating the map was a first step, but we then had to let people know about it. The most simple and effective way we could think of was to use the social media platform Facebook. In April 2010, we created a Facebook group called 'Passages sur la voie ferrée / Ways to cross the train tracks.' Within a week, about 200 people had joined, and today the group consists of more than 1000 members.

The Facebook group allowed us to foster a 'community of interest' (Williams, 1976: 75) around the practices and issues involved in crossing these tracks. Through this social platform, people started exchanging information on patrol routes and sharing their experiences of ways to cross the tracks (including dramatic stories of getting badly injured trying to jump the fence). This exchange of information addressed many topics. People posted questions and answers about how to contest fines; related stories of their previous attempts to petition the city to do something about the problem; debated best practices of urban planning; made comparisons with similar situations in other parts of the world; and proposed plans of action both to inform a broader audience outside of Facebook and to pressure local authorities to find a solution. This shared repertoire of individual tactics and knowledge eventually coalesced into a collective action strategy, which resulted in a public event along the train tracks in June 2010.

In our use and understanding of the network, we folded online and offline activities. It was extremely important for us to engage 'offline' social networking: getting involved in existing citizen committee assemblies; spending hours on the tracks talking to people and collecting signatures for the petition; organizing community meetings; attending municipal

council meetings; organizing artist competitions for feedback; making links to art and cultural industries in Montréal; and using the streets and lampposts as other spaces of visibility. Further, making connections with a long-established citizen organization, the *Comité citoyen du mile-end* (Mile-End Citizens' committee), was instrumental to the continued pressure of the municipal and federal governments on this issue.

The networked community we gathered is both formal and informal. Offline, the little group of active members gave itself a name, *Collectif pour des passages à niveau* (Collective for level crossings). It is composed of residents and experts (including a lawyer and a retired urbanist from the City of Montréal) who meet regularly and collaborate closely to communicate with elected representatives and intervene in formal venues like municipal councils. Online, the community bonds are looser. Out of the 1000 people who joined the group, only a minority post information and participate in offline events, but the mere act of gathering online helps constitute a visible and active critical mass that is hard for local elected representatives to ignore. Additionally, representatives from the Mile-End district regularly post information about negotiations with CP, which can be seen, on the one hand, as a sign of proximity and dialog between the political sphere and civil society, and on the other, as a sign of recuperation of a community forum as a political tribune.

Online social forums, exemplified by Facebook, were used in the project Ouvert/Open because of the number of users (approximately 49% of the Canadian population use Facebook [3]) and the ability of the platform to trigger viral dissemination of information. But we can identify two sets of problems in using this medium. First, the project relied on Facebook, a commercial platform that commodifies the common activity of sharing information; second, it rendered clandestine practices visible and thus exposed to surveillance.

## **Commodification**

Contrary to Wikipedia and other open source platforms, Facebook groups are not self-managed, even if they superficially appear as such. Administrators of a group can accept or reject new members, delete outrageous posts and send mass emails to the whole group, but they have no say in the design and commercial content of their page. Whereas the users of open source communities control their entire platform, from the technical aspects of the software to managing the content, members of Facebook are dependent on the company's decisions, oriented by its commercial strategy. On the group page 'Ways to cross the train track,' the section devoted to advertising is quite prominent, ranging from cosmetics to clothes, jewelry, travel agencies, credit cards and entertainment in Montréal. Facebook exploits this community of interest gathered around the issue of the train tracks by using it as a target audience for marketing products. Facebook can also decide to close down a group that is judged 'not active enough' and delete a user's account (the 2009 terms of service stated 'for any or no reason, at any time in our sole discretion, with or without notice').

Furthermore, Facebook's terms of service bind its users to agree that all the content they produce on the platform belong to the company, thanks to 'a non-exclusive, transferable,

sub-licensable, royalty-free, worldwide license to use any intellectual property content'. In the new terms of service implemented in 2009, the company even claimed a permanent license to its users' content after they terminated their account. In reaction to wide protests, Facebook changed its policy and accepted to end its IP license on users' contents if they delete them, 'unless [their] content has been shared with others, and they have not deleted it.' In recent years, the exploitation of 'user generated content' by social media companies have being criticised by many civil society activists, artists and scholars. Artist Gregory Chatonsky describes this tension in a blog post entitled 'Web 2.0 Capitalism: participation, privatization and substitution':

What we offer to these companies is something extremely precious, because in the very banality of some texts we post or pictures we disseminate, there is in the end the spirit of an age and the mere future of our history being constituted for the next decades. It is indeed a privatization of public memory. But by public we shouldn't understand something related to the State, but rather something related to individuals, to singularities, to multitudes (2012).

Public is defined here as part of everyday lived reality 'as something related to individuals, to singularities, to multitudes', which could be read as referring to a *common* memory, created by the ordinary practices of sharing. Henri Lefebvre's revolutionary call to de-alienate everyday life is in contradiction with online platforms for social networking such as Facebook. Facebook functions, rather, as an anti-utopia, commodifying and exploiting the practices of everyday life for the benefits of a private company, through the rationale of neoliberalism. While Ouvert/Open aims at questioning the excesses of private property in urban space, it falls into a rather nasty contradiction by inviting its supporters to interact online through Facebook, thus passively participating in the privatization of group members' personal data. For media theorist André Mondoux (2009), we have entered a dynamic where control and surveillance are integrated at the core of online social life.

## **Surveillance**

Another contradiction that entangled the project was through the tensions of in/visibility. One of our goals with Ouvert/Open was to make visible the contestation of public space, valorizing and legitimating the alternate forms of land use happening around the tracks. However, visibility is both necessary and problematic for activist politics. There are risks involved in making previously clandestine activities more public, and thus more visible, as Crang and Graham point out (2007). They state in relation to artistic hybrid spaces that: 'these moves risk making what was formerly protected by its opacity and transitoriness, visible and recordable. As such, there may well be an issue where rendering our tacit sociospatial practices visible [archived, and searchable] is an uncomfortably close echo of commodified and surveillant systems' (812). In many ways, this hegemonic construction has been heightened through online networks, as pointed out by David Lyon (2006) and others. But, there are also ways in which visibility becomes necessary in activist practices. In other words, visibility acts as both *pouvoir* and *puissance* – both as an enabling force and a force of oppression. These strategies of making visible - although extremely useful

tools of resistance – are not completely benign. Facebook posts allowed people to warn one another when and where they saw police hiding or giving out tickets, but it also rendered people more vulnerable to police or municipal harassment because they admitted to having illegally crossed the tracks. The collaborative map which documented when and where holes in the fence were made with the intention of increasing residents' ability to circulate across the tracks, but could also make it easier for CP officials to close up holes or to ticket more people.

The use of Facebook is also problematic due to its mechanisms of surveillance. Facebook forces users to provide 'their real names and information' and commit to keep their 'contact information accurate and up-to-date.' The never expiring cookies that Facebook places on its users' computers also raised concerns as to what kind of information the company should be allowed to collect about its customers, including when they have logged out of the platform. These contested policies illustrate the ways in which regimes of visibility and surveillance are closely intertwined in social networking platforms, and how they can undermine the transformative potential of users' content.

Is it possible to overcome these contradictions? One could argue that we simply shouldn't use Facebook, and with good reason. However, it has also allowed us to collect and archive materials about the project, to disseminate information as a group, and, more importantly, to link with people who might not otherwise find out about the collective. There seems to be a more fundamental contradiction, though, that is much more difficult to work through, in the negotiation between official power and everyday anarchic practices of the commons, in the contested space of urbanity, as it is already highly regulated, and its appropriation by neoliberal systems of economic expansion, both online and offline.

## **Conclusion**

What the challenge of this project has been is precisely this negotiation of official power with practices of impromptu events, clandestine activities, and the tactics of invisibility. In the event that our demand for level crossings for cyclists and pedestrians is met, we might inadvertently reinforce patrolling and control along the rest of the tracks. Legal crossings put in place a fixed, controlled and rigid use of the space, as opposed to the creative, transformative and spontaneous practices that occurred under the radar of CP or city officials. The efforts to formalize informal practices might in fact lead to more surveillance and threaten these practices. One of the strongest critiques of the project comes precisely from this rendering visible, and therefore legitimate, of overlooked urban space. As one list-serve responder put it:

I cross that track often and would be saddened to see it paved, lit up, and policed by real cops. It would be rather jarring and disappointing for anyone walking pensively along the tracks. I rather enjoy the idea of having to make a new hole in the fence every once in a while. A crossing would be built at the cost of tens of thousands of dollars by public works fat cats and co., rather than the obstinate weirdo who does it with a bolt cutter. It would dissuade taggers, campers, and lovers. It is safe and pleasant to cross the tracks as it is. If you get a ticket, burn it. [4]

The desire for pure opposition that this respondent expresses draws attention to the creative responses that can emerge out of invisibility. We are definitely losing something, a kind of creative element, by making the crossing official. And we risk aligning ourselves with the power that we are critiquing.

But considering the fact that, for the moment at least, official crossings seem a very remote possibility, what is held in the in-between unofficial space, what the project makes visible is how the commons is already enacted in the city. The commons provides a horizon of action for another kind of world, it works as a concept to provoke thinking away from the restrictions of current legal and social conditions, and maintains a place for different social relations and regulations. The train tracks show how these everyday actions of resistance to a rigid system of private and public ownership already exist. Everyday, creative tactics that disrupt and transform urban experiences, herald in the future as an alternate and already existing present.

Additionally, the formation of an online ‘community of interest’ opens up new hopes and potentialities for collective agency and the disruption of the status quo. But the outcome of this mobilization through digital networks is uncertain. From land ownership to the ownership of social media, what is at play here is the overlapping of an old and a new order of control, as suggested by philosopher Brian Massumi. (2005) Current practices of resistance are subject to traditional mechanisms that control the movement of bodies in the city, in addition to the insidious power of to commodify and surveil everyday social experiences online. So what ethics should guide our actions as multiple contradictions unfold both online and offline? For Massumi, ‘the ethical value of an action is what it brings out in the situation, for its transformation, how it breaks sociality open. Ethics is about how we inhabit uncertainty, together.’ (Massumi in Zournani, 2005)

We have learned from this project that there is no pure (or purely oppositional) position to work from, and instead it is in the grey zone, in the liminal space that flickers between tactics and strategies, visibility and invisibility, online and material networks that current activist practice must engage in to envision new futures. And the commons maintains just such a place, one that remains a utopian vision of a world to come, while also being enacted simply in the act of finding a shortcut to get to work. The commons then is a utopia that exists slightly outside of the regulation of existing laws and infrastructure. As Henri Lefebvre says ‘Of course! It’s a utopia! Your short-sighted realism bounds you and betrays you. There is no thinking and no action without an image of the future, without a vision of the possible.’ (1967, 45, translated by author) The commons remains, despite its contradictions, just such a vision.

## Biographies

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## Notes

1. 'Over a five year period there were 5,000 injured pedestrians [...and] about 20 pedestrian deaths each year' in the city of Montréal. (CTV Montréal, 2011)
2. The only exception to this under Canadian law is in regards to First Nations reserves and territory. There, systems of collective ownership prevail, but under a paternalistic system which severely delimits people's rights.
3. This number is derived from 2011 Statistics Canada information on population and data on users compiled by Facebook.
4. Excerpt from an email sent by a member of the list-serve 'Gathering for crossings on the train track', August 26, 2010.

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