

## Julia Aglionby

Executive Director, Foundation for Common Land and Chair of the Uplands Alliance

*Interview conducted by Camilla Toulmin*

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CT: Julia Aglionby, thank you for being willing to be interviewed for this AFD project on the commons. It's really good to try to get a slightly different perspective, to get an idea of how commons are managed in a European context and where they remain important. I was particularly pleased to have a bit of a UK commons input. You have the great advantage of a deep knowledge of UK commons, as well as an understanding and familiarity with how many commons have been dealt with in the international sphere. Please tell us who you are, and let's have the first question.

JA: Do you want me to talk mainly about commons in the UK, or my international work?

CT: I think it would be good to have two or three UK commons please.

### **Q1. Can you tell us about your first encounter with the commons? How did you get started in this field?**

JA: My name is Julia Aglionby. I'm a natural resource economist. I did the field work for my PhD in Indonesia, then a few years later trained as a chartered surveyor in Cumbria in the north west of England. I run a small charity called the Foundation for Common Land, which works to increase the public benefit from common lands, and I'm on the board of the English government's conservation agency Natural England. My first encounter with the commons was in Indonesia, in a National Park called Danau Sentarum. This is a large Ramsar site with an important peat swamp forest, about 800 km up river in West Kalimantan. I was particularly looking at how people make a living from harvesting the commons while maintaining the quality of the designated protected area.

CT: Thank you. So you started very much from an Indonesian perspective and then thought it would be good to transfer to the UK?

JA: Well, 16% of the land in my home region, Cumbria, is commons. That's a very high percentage in England, where the average is 3%. It's even higher in the Lake District, which is the large National Park in Cumbria, where 28% of the land is commons. I trained under a chartered surveyor called Alan Bowe who specialised in commons, working between commoners (those with rights to common land) and government bodies, because 53% of commons are designated as sites of special scientific interest (SSSIs). I got involved when the Ministry of Defence instructed my boss to act as a specialist witness – they wanted to purchase the common rights over 5,000 ha of common land, which was designated land with 70 commoners involved. There was a Public Inquiry around it and I spent three years working on that project for much of the time.

### **Q2. Can you give us an example of an experience or a project that shows the importance of taking a commons approach in terms of achieving particular outcomes?**

JA: Probably the most relevant case is the project that the Foundation for Common Land convened on behalf of a partnership called *Better Outcomes from Upland Commons*. We wanted to identify the attributes of successful management where this is defined as deriving multiple benefits from common land. So we looked at five cases from around England that involved the Royal Society for the Protection of Birds (RSPB), Natural England, grouse owners, hill farmers and 20 or 30 other organisations, to see why some commons deliver multiple benefits and others don't. It's really interesting that when you look at how commons are managed and governed, you see that multi-functional land management is a key issue across the world. It's relevant to commons because they involve multiple rights, so in a

sense people have to work together. One person will have rights to put sheep on the commons, another will have rights to cut peat, and there may be a statutory conservation organisation with rights to do archaeological work on sites in a national park. Looking at cases of successful management it became that clear participatory management is needed – people have to work in a participatory way if they want to be successful. Other observations relating to commons can also be extrapolated to more general land management issues.

*CT: And in these five cases, were there particular areas that needed to be under common management, where their status as common land made more sense than individual private tenure?*

JA: These areas had been common land for centuries ... since around 1189. In the 13<sup>th</sup> century the statute of Merton protected common land rights and followed the Magna Carta so that commoners' rights were protected. Of course a lot of common land has been de-registered and converted in England over the years. In 1965 we had the Commons Registration Act, when all common land was registered with the local authority. Once it was registered and confirmed as such, its status as Common Land was protected and it can't (easily) be de-registered, so these areas can't be managed as private land. The Commons Act of 2006 confirmed and strengthened the status of this land, making even harder to de-register it. So unlike commons in many other parts of the world, their status in Britain is highly protected.

**Q3. So thinking about this study you convened, what do you see as the main elements or lessons you can draw from this work?**

JA: We had five case study coordinators from each of the areas studied. And we used a method called Appreciative Inquiry, which aims to learn from things that work well so that they can be replicated. Four of the five cases studied were working well. We knew when we picked it that the fifth case wasn't working well, but one of the partners really wanted to include it in the study. What was fascinating was the amount of congruence between what worked well across the different cases, how the same themes emerged from each of the local workshops. So when we brought the overall report together there was huge commonality in what worked well. We had a list of attributes of success that included things like valuing local knowledge, local leadership, good communication, transparent administration so that people know what's going on, and recognition of rights so that people understand and recognise each other's rights – whether it's the land owner, those with shooting rights, or Natural England and its rights as a conservation agency.

Fair payment matters too, so when people are asked to produce something for the public interest that has a value and costs money to produce, they need fair payment for this.

Another important message that came across is the need for time. There are three aspects of this. First, the longevity of the people involved, and the need to avoid repeated changes in staff. Assuming that they are good at what they do, we saw that having one person in post for years made a big difference. And if people weren't so good, then bringing someone new in could be a very positive trigger for change. Second, you need to allow time for management to change when you're negotiating and managing an area with multiple people and interests. If only two people are involved they can agree to do things differently next week, but managing a common where there are 350 people with equal rights on it is a very different process. Change takes time in a lot of these vulnerable natural habitats, especially in key areas like the ones we were looking at. You can't expect environmental improvements to happen instantly. To make this happen you need a checklist to help people identify missing components.

As well as time and people, relationships where people have confidence in each other's good will and respect really matter. Where people are very casual that lack of respect really erodes trust, particularly when people in positions of power are casual with those with less power. There's a massive imbalance of power in the management of common land, certainly in England, and also in Indonesia. It makes a big difference if people feel they are respected – even in little things. For example, say you're having an evening meeting and the person in a position of power buys all the drinks and provides food, then that's a big help in developing a sense of companionship. I was interested to learn – although it's obvious when you think about it – that the word "companion" comes from someone you break bread with. Eating together is a very good way of building effective relationships. It's not sufficient, but it certainly helps. When that occurs, everyone relaxes, they can have a chat and that's important.

**Q4: What are the main challenges or issues at stake from a public policy perspective – issues of governance, territory, landscape ? The UK has very strong public policy on the protection of common land. Where does that come from?**

JA: The 1953-1955 Royal Commission on Common Lands was certainly helpful. But this just confirmed the 13<sup>th</sup> century Statute of Merton and Magna Carta, which sought a balance between the power and role of the king and the people. Since King John, there's always been this tension in England, with people trying to qualify the king's power and establish limits to his powers. The parliamentary system is an example of this, whereby it was recognised that those in power cannot infringe the rights of communities. We're fortunate that we've had this in our national psyche for a very long time. A lot of commons were enclosed and brought into private ownership as a result of the desire for agricultural improvement, but it's almost as if this anachronism made us really want to protect the remaining commons, which reflect something about our history. Because they haven't been privatised, they have maintained more public goods than many private lands. They haven't been ploughed up, they contain many historic scheduled monuments, and their landscape value and biological diversity are higher than private land. If you look at where people go on holiday in England, they tend to go areas with a high percentage of common land such as the Yorkshire Dales, the North York Moors, the Lake District and Dartmoor. There are 70 million visits to the National Parks each year, and 70% of those visits are on common land. That's the cultural underpinning for our very strong public policy commitment to commons – even if some people find them a complete pain.

Although many government agencies would prefer not to have to deal with commons because they are so complicated, they also recognise that they are of value to the nation. Thinking about why we have this strong public policy, the main challenges are around governance – which is built on transactional arrangements and developing relationships. Even if the legislation is in place, there may not be sufficient financial resources or people who can commit enough time to make it work.

For example, if I'm a land agent involved in negotiations on a common where I need to get 10 or 20 people to agree, and you need a new multi-governance arrangement, you'll also need a contract with the conservation agency (say a 5-10 year contract). The consenting law around changes in grazing will also require negotiations over governance, and if you want to put up a fence or plant some woodland you'll need to obtain a S38 consent from the Secretary of State (Minister). There are some very complex legal arrangements, which take time, and time costs money. So it might take 18 months and cost somewhere between £10,000 and £30,000 to negotiate a deal over about 2,000 hectares of land. Who's going to pay for that? That's a big challenge, especially when resources for nature conservation are shrinking. People want change to happen quickly, so they set targets. The target might be to get the land concerned in favourable condition by 2020, but it simply wouldn't be possible to improve it so quickly, especially if it's taken two years to negotiate the deal. Grazing is the main form of common

right in the UK, but for most people who graze common land it's just one activity that has to be integrated into the rest of their farming operations. So it's quite a long process. They will also look at the common in terms of their farming business, whereas others may be looking at the common as a whole. Everyone sees things from their own perspective. This creates a multi-lens telescope with multiple truths. That's a real challenge, but it also enriches commons and can provide the basis for a better way forward.

In terms of territory, landscape and its evolution, the area of common land is pretty much fixed, but the way it is managed can change over time. So when we talk about traditional management, what do we mean? And when we talk about cultural heritage, is it right that it evolves and involves things such as quad bikes, or must we preserve things in aspic and say that quad bikes shouldn't be allowed because they weren't used in Wordsworth's time? UNESCO was assessing the Lake District as a World Heritage Site, as a cultural landscape over this last week. There are different types of world heritage and cultural landscapes. The Lake District is a very specific landscape, renowned for its beauty resulting from the combined effects of man and nature, which has itself changed over time. But are we just allowing it to evolve in any way we want? Many changes in the farmed environment are driven by public policy. An example of the way that public policy can have a direct impact on the nature of the landscape is that if people are paid per head of sheep, they will graze more sheep and that will affect the landscape. In the UK we're talking about people who are both highly constrained and regulated, which is where we may be very different from commons in other parts of the world. We're not talking about isolated tribal communities here, as no commoners live in isolation from the rest of society. Farmers have to deal with the multiple legal systems that affect commons on a daily basis. Every sheep has to have electronic ear tags, and if farmers want to move sheep from one place to another, they have to fill in a form for each sheep and send it to trading standards. All calves have to have a passport within 28 days of their birth. Without one, they cannot be put out or enter the food chain, but have to be killed and burned. This legal pluralism has an impact on the evolution of the landscape, but no-one thinks about it in that way or thinks through the unintended consequences of public policy. They just want to make farms more profitable or the environment more beautiful.

**Q5: Over the last few years have you seen an evolution in how the commons are perceived... and if so, why do you think this change or shift in thinking has come about?**

JA: Are you talking about the last five years or the last 50 years? Or the last 15-20 years? You referred to the Royal Commission of 1953. Only one of the three main recommendations was enacted in the 1965 Act. The other two were in the 2005 Bill, which became the 2006 Act – although it took a long time to get onto the Statute book. There has been more publicity and a revival of interest in commons here, partly as a result of targets for nature conservation to deliver improvements, and partly because commons have suffered from this policy of paying farmers per sheep. This has increased interest in how to improve the public benefit from commons, but also fed into a negative narrative about how commoners trash the common resource. What we have been doing in the last five years is re-framing the narrative so that commons are celebrated for their complexity, and both commoners and owners of common land are encouraged and enabled to deliver these multiple benefits. The Foundation for Common Land, which was set up by Andrew Humphries who has been involved in various hill-farming plans for the last 30 years, saw this need. And we've gone from a situation where commons weren't discussed to one where commoner organisations are involved at a reasonably high level in the Department for Environment Food and Rural Affairs (Defra). There has been a renaissance of interest.

CT: *Is this an English process or part of a broader international debate?*

JA: The work of the International Association for the Study of Common Property and Elinor Ostrom has been fantastic in raising the visibility of commons. The fact that Elinor Ostrom was the first woman ever to get the Nobel prize for Economics is fantastic, brilliant. It helped create this parallel international interest, but I don't think Ostrom's work had any impact on the growth of interest in English commons because most people aren't connected. They engage on the periphery, in the practitioner community. That's why, when I was doing my PhD, I wanted to bring together these different strands. Take her criteria for effective governance – when people read them they think “Oh yes! That applies to me”, but the fact is that most people in the UK haven't looked at her work. It may have been more significant in Indonesia, along with my work there and that done by others, but the main drivers there have been around the Convention on Biodiversity, the Millennium Assessment and government commitments to improve outcomes for biodiversity. If you look at national parks in the South, it has been found that many of them follow some form of common property management.

People have tried the electric fence approach or the John Muir approach to nature conservation, but it quickly became clear that it's not appropriate in many countries. It's not appropriate in England, or Indonesia or the Philippines, where I have worked on national park planning. It is not appropriate to remove people from these spaces. Part of the joy is the interaction between people and national parks, but the legislation often specifies that people can only stay in designated areas rather than being spread across the park. The challenge for the conservation movement has been allowing commoners to exercise their rights across these national parks when their legal status is very weak and there is conflicting legislation – as in Indonesia, where human activities in national parks are permitted under regional government law, but forbidden by nature conservation law.

There is stronger support for conservation priorities, which are funded by the international community. For the 2020 targets, the government says that 50% of our designated areas will be in favourable condition. We sign up to these targets and then they drive funding priorities, but they can't actually deliver unless they respond to the complexity of commons. Otherwise you end up with a riot. Customary rights are not very strong, but most politicians realise you can't chuck people out.

#### **Q6: Why promote common tenure, and what kind of actions might this involve?**

JA: Would you use the same concepts in areas that don't have the same legal protections? When you take landscape-scale conservation, in England we had the Lawson report, which considered how to get conservation across large areas at a landscape level. The recommendations said we needed to get bigger, better and more joined up. If you're talking about a valley, you have to get all the farmers working together if you want to improve the quality of the river. If you have 10 farmers and nine of them behave well but one puts slurry on the land, it will increase the nutrient load, so what's the point of the others controlling their own land use? This is where we need to facilitate and encourage a collaborative approach. We're unlikely to deliver improved public goods unless we take a broader approach. It's almost as though we could say that our nation is a common. I know there are lots of people thinking about this. We are all commoners with a stake in the nation. Going back to that valley, what are the rights and responsibilities of the people who own land along the valley? Flooding is of particular interest in areas of Cumbria or Yorkshire, and if you look at the approach used on commons, you can see the value of operating above the level of private ownership. If you treat each piece of private land as separate and self-contained, it's difficult to deliver those diffuse broader benefits. When we were developing that flood charter together, we encouraged people to collaborate within and across multiple catchments, using skills we learned from managing commons to deliver diffuse public benefits in terms of soil, water and air quality, and showing how individual practices impact on others. If I have 50 sheep grazing on the common and you have 100, and I allow my sheep to get a disease, your interests suffer. We need a broader umbrella to enforce some kind of governance.

**Q7: From your point of view, would it help to classify commons?**

JA: I think it's helpful to identify the different interests at stake. In a local English context these might include a grouse moor or water extraction by a utility. When someone is interested in managing a grouse moor it would help to know and visit other similar sites. At the international level, it's helpful to learn from different sites. I found tremendous similarities between the commons in Indonesia and in the Lake District in England. One key aspect is the nature of what is being harvested. I found that the incentive to govern for environment varied according to whether what was being harvested is a primary product that depends on natural processes, or a secondary product generated by commoners. People in Indonesia who harvest fish want the forests to be in good condition so that there is plenty of spawning and lots of fish, meaning that there's a commonality of interest between nature conservation and fishing communities. Whereas in the UK context, where most commoners graze sheep, interest in biodiversity is not as strong because the pasture they seek is not linked to maintaining a biodiverse ecology (and sheep are domestic rather than native animals, even though they have been present for more than 1,000 years). Other criteria that affect the way that commons are governed include complexity of ownership (whether people have legal or de facto tenure rights), and whether the area has been designated for nature conservation or not. Ostrom wrote a paper on socio-ecological systems in *Science* that lists about 60 significant characteristics.

CT: *So would you say that typologies allow you to compare and learn lessons?*

Yes, definitely. The benefits of better typology are that it allows you to make comparisons and identify interesting crossovers. But you can't use them to the nth degree, as cases don't fit neatly into boxes and sometimes two cases that look different at first glance are remarkably similar. Various people, including the Belgian authors Frey & Ulrich, have done some interesting work on using neural networks to look at different classifications of commons, and using them to predict whether you're more likely to have more or less successful management outcomes. It's a bit nerdy, but have a look at Frey *et al.* on socio-neural networks. I'll send you the reading list from my PhD.

CT: Please send it on.

**Q8: AFD provides both finance and advice to governments, and is planning to support the commons as they relate to land and natural resources in the South. If it continues with this, how might it best support the commons?**

JA: In my view they should identify local facilitators who really understand the complexity of land management in the place where they work, and encourage them to work with people who can be effective on the ground. The findings we had from Better Outcomes from Uplands Commons show that it's all about how you do things. Those lessons don't just apply to England, they are just as relevant in other places. I don't know if the French have a poverty driver or an environmental driver, or multiple drivers. You need to be realistic and accept that supporting commons takes quite a long time, several years. If they do some case studies across a range of environments, they might be able to provide examples of successful commons management that can be replicated and mentored in other areas. One option is to see if other places can learn from successful areas. Most commoners know their systems fairly well, and it's important to think about *how* people work, rather than *what* they do. And you need to be realistic about the ability to enforce by-laws. There's no point putting legal systems and international treaties in place unless people have the will and the means to enforce them. A head fisherman in Indonesia made an important point when he said, "we have these rules, we have them printed up, they've been ratified by the local fisheries office and the national park. But the difficulty is that when so-and-so breaks the rules, it's very difficult to enforce the sanction because I know he's

having a very tough time. At the moment he's financially on his uppers. And his father is my father's second cousin."

**Q9. Can you think of any other obstacles and opportunities?**

JA: Where commons agreements and self-governance mechanisms are in place, communities need to have them ratified. They also need recourse to a higher authority to deal with cases where people don't want to enforce something. We found that people need to be able to take advantage of nested institutional structures when things go wrong. So AFD needs to see this as a strength, rather than thinking that multiple levels are a right pain, a difficult mix of formal and informal local and district governance. Where local communities have quite good customary governance systems, their scope may be much broader than that of a very local structure. For instance, local people may not be allowed to cut down trees in a national park. It's not really in their interest to report it if someone fells a tree for their own needs, but they won't want a logging concession coming in. If you want to enforce rules that are not in the local interest, you need a higher authority.

People only enforce rules that bring a benefit to their community. If the benefit accrues to actors at some other level, such as WWF, why would local people create disharmony by enforcing those rules? Sometimes national parks don't want to engage with customary practices and may be slightly reluctant to endorse customary management systems, but they should really consider them as part of a chain. One thing we found is that the chairs of local commoners' groups want to be able to refer to a higher authority. If you look at English communities in the 14<sup>th</sup>, 15<sup>th</sup> and 16<sup>th</sup> centuries, rules would be enforced by someone outside the community, such as the lord of the manor's steward. This meant that local people could say "*well it wasn't us*", the decision was made by the lord of the manor and they had a bogeyman to blame for enforcing the law. People get really irritated if they follow the rules and their neighbour doesn't, but it's hard to enforce them without damaging social relationships. They want someone else to step in, which is why we need nesting. There obviously needs to be a degree of common sense about how this is done, but overall it's a good thing to take advantage of this nesting of institutional and legal systems.

**Q10: You've already supplied me with some excellent references, so the last question is can you think of one or two people I could talk to?**

JA: Have you been in touch with people at CIFOR, the CGIAR forestry centre in Indonesia? Carol Colfer is based out of Cornell University. He's done a huge amount of good work in Indonesia and West Africa. And there's a woman who wrote a very good book on legal pluralism...? Let me find her name. Woolenberg and Anderson – *All things differ-Pluralism as a base for cooperation in forests*. I'll email this bibliography. Ignore the first 10 pages.

CT: *So Scotland is very different due to its different history and legal framework?*

Yes, they have a Crofters' commission in Scotland, which can be equally controversial. They also have common grazing. And in Ireland they have commonages, which are more similar to the English ones. In terms of the grassroots level, there's Andy Wightman, although he's more of a political person than a grassroots-level person. The Scottish Crofting Federation, their lawyer Derek Flynn. They have these regulated croft committees, which are much more official in terms of how they are arranged.

CT: *What we're finding in different parts of the world is that common land has been abandoned, and in other places it's under heavy pressure and people are trying to privatise. How would you characterise the English context?*

JA: Very variable. Some areas in the south of England have abandoned by graziers, then there are those of agricultural importance. The New Forest in Hampshire is an interesting case. It's a big area of over 20,000 hectares, which has a slightly different legal structure. They have a Verderers' Court and their governance systems are well worth looking at. In much of southeast of England the wildlife trusts have taken over from grazing commoners.

*CT: Thank you very much. I'm hoping that there will be a second phase with some kind of cross-learning between Southern contexts where AFD plans to work and what's going on in Europe, in France or the UK. It would be lovely to get your thoughts when and if that happens.*

That would be brilliant! Don't forget the IASC conference in Utrecht next year. I'll send you the details. Abstracts are due shortly. There will be a practitioners' panel, and lots of people from the South.