

## Chapter Four

# The Desktop Revolution in Regulation

### I. The Regulatory State: Myth and Reality

Under the old industrial age paradigm, most forms of economic activity required enormous outlays of physical capital, so that only large organizations could afford the capital assets; massive, centralized bureaucracies were needed to govern those physical assets and direct the labor hired to work them. And monitoring these massive bureaucracies was another function that could only be performed by other large bureaucratic organizations.

That's the standard "interest group pluralism" model taught by most mainstream political scientists, and the model of "countervailing power" John Kenneth Galbraith described in *American Capitalism: Big Business, Big Government, and Big Labor* check each other's power.<sup>1</sup>

Unfortunately, the reality is generally better described by the "Power Elite" model of C. Wright Mills and G. William Domhoff: a fairly small interlocking directorate of government and corporate leadership, with the same few thousand people shuffling around between government agencies and Cabinet departments, corporate boards and c-suites, and the big foundations, universities and think tanks.

The state has become centralized under a concentrated executive regulatory apparatus, while the economy has become centralized under a few hundred giant corporations. "As each of these domains becomes enlarged and centralized, the consequences of its activities become greater, and its traffic with the others increases."<sup>2</sup>

So although the upper-middle class suits in the alphabet soup regulatory agencies act as ostensible "watchdogs" over the upper-middle class suits in the regulated industries, in reality they're largely interchangeable. The Vice President for This and That at Evil Global Megacorp LLC, five years from now, will most likely be a Deputy Assistant Secretary at Department of the Other Thing—and *vice versa*. And, Mills added, the corporate and state hierarchies are also united by a common culture through the services of an army of corporation lawyers and investment bankers in staff positions.<sup>3</sup>

As Paul Goodman described it, rather than checking each other, the regulatory bureaucracies and regulated bureaucracies more often than not cluster together in complexes of related institutions: "the industrial-military complex, the alliance of promoters, contractors, and government in Urban Renewal; the alliance of universities, corporations, and government in research and development."<sup>4</sup>

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1 John Kenneth Galbraith, *American Capitalism: The Concept of Countervailing Power* (Boston: Houghton Mifflin, 1962).

2 C. Wright Mills, *The Power Elite*. New Edition (Oxford University Press, 1956, 2000), p. 7.

3 Mills, *Power Elite*, p. 291. Consider, for example, the composition of FDR's "brain trust," and particularly the role of GE chief Gerald Swope in formulating the New Deal economic agenda.

4 Goodman, *People or Personnel*, p. 115.

...[T]he genius of our centralized bureaucracies has been, as they interlock, to form a mutually accrediting establishment of decision-makers, with common interests and a common style that nullify the diversity of pluralism.<sup>5</sup>

Such clusters—or complexes—also include the USDA-agribusiness complex, the automobile-trucking-highway complex, the alliance between the proprietary content industries (RIAA/MPAA/Microsoft) and the Justice Department, the public education-human resources complex, the Drug War-border control-prison complex, and the post-9/11 security-industrial complex, among many others.

To quote Mills again, the theory of interest group pluralism, that interests of competing groups are “balanced” in a neutral venue,

also assumes that the units in balance are independent of one another, for if business and labor or business and government, for example, are not independent of one another, they cannot be seen as elements of a free and open balance. But as we have seen, the major vested interests often compete less with one another in their effort to promote their several interests than they coincide on many points of interest and, indeed, come together under the umbrella of government. The units of economic and political power not only become larger and more centralized; they come to coincide in interest and to make explicit as well as tacit alliances.<sup>6</sup>

These coalitions between regulated and regulators sometimes enlist well-meaning liberal idealists: the so-called “Baptists and Bootleggers” phenomenon. It was originally named for the tendency of teetotaling Baptist politicians to serve as useful idiots for bootleggers who didn't want to have to compete with legal liquor sales, and who preferred the black market profits they could obtain in dry counties.

The general phenomenon includes all cases where “progressive” regulators, or activists for more regulation, have unwittingly served the interests of the regulated. Gabriel Kolko presents considerable evidence that the regulated industries were a primary influence on the Progressive Era regulatory state. His thesis, in *The Triumph of Conservatism*, was this:

Despite the large numbers of mergers, and the growth in the absolute size of many corporations, the dominant tendency in the American economy at the beginning of this century was toward growing competition. Competition was unacceptable to many key business and financial interests, and the merger movement was to a large extent a reflection of voluntary, unsuccessful business efforts to bring irresistible competitive trends under control. Although profit was always a consideration, rationalization of the market was frequently a necessary prerequisite for maintaining long-term profits. As new competitors sprang up, and as economic power was diffused throughout an expanding nation, it became apparent to many important businessmen that only the national government could rationalize the economy. Although specific conditions varied from industry to industry, internal problems that could be solved only by political means were the common denominator in those industries whose leaders advocated greater federal regulation. Ironically, contrary to the consensus of historians, it was not the existence of monopoly that caused the federal government to intervene in the economy, but the lack of it.<sup>7</sup>

Economic rationalization—i.e., cartelization of the economy—was to be achieved through what Kolko called “political capitalism”:

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5 Goodman, *Like a Conquered Province*, p. 357.

6 Mills, *Power Elite*, pp. 266-267.

7 Gabriel Kolko, *The Triumph of Conservatism: A Reinterpretation of American History, 1900-1916* (New York: The Free Press, 1963), pp. 4-5.

*Political capitalism* is the utilization of political outlets to attain conditions of stability, predictability, and security—to attain rationalization—in the economy. *Stability* is the elimination of internecine competition and erratic fluctuations in the economy. *Predictability* is the ability, on the basis of politically stabilized and secured means, to plan future economic action on the basis of fairly calculable expectations. By *security* I mean protection from the political attacks latent in any formally democratic political structure. I do not give to *rationalization* its frequent definition as the improvement of efficiency, output, or internal organization of a company; I mean by the term, rather, the organization of the economy and the larger political and social spheres in a manner that will allow corporations to function in a predictable and secure environment permitting reasonable profits over the long run.<sup>8</sup>

For example, Kolko argued, the main political impetus behind Progressive Era regulations like the Meat Inspection Act was lobbying by the regulated industries—the large meat-packers in the latter case. Contrary to the high school American history version, the large meat-packers had actually been under an inspection regime since the late 19<sup>th</sup> century. After a public relations disaster involving tainted canned meat imported into Europe from Armour, the U.S. government had established an inspection system for all meat-packers producing for the export trade. This was actually done in the interest of the regulated industry, since the regime was of essentially the same sort that would have been established by an industry cartel. It served as a sort of official seal of approval that was useful for marketing purposes; but because it was imposed across the board on all the meat export firms—which included all the large packers—it wasn't an issue of cost competition between them. And because it was a government-enforced cartel, it avoided the destabilizing threat of defection. Its main shortcoming, from the perspective of the regulated meat-packers, was that it exempted the small meat-packing firms that produced solely for the domestic market. The Meat Inspection Act was actually passed to close this loophole, to avoid giving a competitive advantage to the small players.<sup>9</sup>

The idealistic novelist Upton Sinclair served as a useful idiot, by clothing this cynical government-industry collusion in the goo-goo raiment of “general welfare.” And when we look at the man behind the curtain, we find that there's a similar story behind most “public interest” regulation. As Roy Childs put it, historically “liberal intellectuals” have been “the 'running dogs' of big businessmen.”<sup>10</sup>

The liberal panacea for remedying regulatory capture is structural reform: campaign finance regulations, public financing of campaigns, restrictions on contact with lobbyists, and restriction on corporate employment of former regulators or legislators. But it's important to remember that this isn't a problem just because of political collusion or deliberate attempts to manipulate regulations. Much or most of the problem would remain even if all election campaigns were publicly financed, and there were real restrictions on the rotation of personnel between state and corporate hierarchies.

The perspective of the so-called “structural Marxists” is relevant here: The state does not have to serve as an instrument of capitalist interests in the crude sense of being influenced by subjective motivations like personal interconnections and bribery—the so-called “instrumentalist” theory of the state. Even with public financing and other procedural reforms, the policy-making apparatus would act based on the logic of the overall system within which it was embedded, in response to what it perceived as its objective imperatives. Such imperatives include avoiding a stock market crash that cleans out 401k accounts, mass unemployment or large-scale capital flight. The leadership of the state, given its functional role in the larger system, inevitably finds itself confronted with the need to stabilize and reproduce the corporate capitalist system as it finds it. To quote Nicos Poulantzas:

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<sup>8</sup> *Ibid.*, p. 3.

<sup>9</sup> *Ibid.*, pp. 98-112.

<sup>10</sup> Roy Childs, “Big Business and the Rise of American Statism,” *Reason*, February 1971, pp. 12-18, and March 1971, pp. 9-12. Reproduced by Roderick Long at Praxeology.net <<http://praxeology.net/RC-BRS.htm>>.

The *direct* participation of members of the capitalist class in the state apparatus and in the government, even where it exists, is not the important side of the matter. The relation between the bourgeois class and the State is an *objective relation*. This means that if the *function* of the State in a determinate social formation and the *interests* of the dominant class in this formation *coincide*, it is by reason of the system itself: the direct participation of members of a ruling class in the State apparatus is not the *cause*, but the *effect*, and moreover a chance and contingent one, of this objective coincidence.<sup>11</sup>

The state doesn't just serve corporate interests because it's controlled by them in a crudely instrumental sense—although in many cases it is—but because the very structure of the corporate economy and the situations it creates confront the state leadership with what is perceived as an objective reality. “But now, given political expectations and military commitments, can they [the state] allow key units of the private corporate economy to break down in slump?”<sup>12</sup> In essence, the crudely instrumentalist stuff is an epiphenomenon of the structural stuff.

As Matthew Yglesias wrote of “getting money out of politics”:

To me, this doesn't solve the problem that when Washington regulates the financial system, it's dependent for expertise on people with ties to the financial industry.... It doesn't solve the problem that politicians need the “legislative subsidy” of lobbyists to do policy analysis. Nor does it solve the problem of monied interests exercising disproportionate influence over think tanks, advocacy groups, or even (through speaking fees and the like) journalists and pundits....

I'd say that in general, the problems we have with money and politics aren't really that there's too much money “in” the politics and we need to get it “out.”... [I]t's too difficult for elected officials to get expert technical opinion on issues without relying on interested parties.<sup>13</sup>

Consider also what Mills had to say about divestiture of investments by corporate leaders appointed to political posts.

The interesting point is how impossible it is for such men to divest themselves of their engagement with the corporate world in general and with their own corporations in particular. Not only their money, but their friends, their interests, their training—their lives in short—are deeply involved in this world. The disposal of stock is, of course, merely a purification ritual. The point is not so much financial or personal interest in a given corporation, but identification with the corporate world. To ask a man suddenly to divest himself of these interests and sensibilities is almost like asking a man to become a woman.<sup>14</sup>

Charlie Wilson really did believe what was good for GM was good for America.

As we've already seen in regard to the “Baptists and Bootleggers” phenomenon, a functionally instrumental view of the state does not require the assumption that all political actors are cynical operators out for the main chance. Many politicians—particularly the marginal ones on the fringes of their own party establishments—are sincere idealists. But by an invisible hand mechanism, such idealists get their ideas put into practice only when they coincide with the needs of the system.

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11 Nicos Poulantzas, “The Problem of the Capitalist State,” *New Left Review* 58, p. 73; quoted in G. William Domhoff, *The Power Elite and the State: How Policy is Made in America* (New York: Aldine de Gruyter, 1990), p. 19.

12 Mills, *Power Elite*, p. 8.

13 Matthew Yglesias, “What Problem is 'Getting Money Out of Politics' Supposed to Solve?” *Think Progress*, September 27, 2011 <<http://thinkprogress.org/yglesias/2011/09/27/330310/what-problem-is-getting-money-out-of-politics-supposed-to-solve/?>>.

14 Mills, *Power Elite*, p. 285.

Even those whose personal integrity and idealism are beyond reproach operate on an implicit set of views of what is possible and what is the obvious or natural response to a given problem. Regulators and regulated share not only similar educational and career backgrounds, but similar assumptions about what is possible.

The members of the higher circles may also be conceived as members of a top social stratum, as a set of groups whose members know one another, see one another socially and at business, and so, in making decisions, take one another into account....<sup>15</sup>

I.... In so far as the power elite is composed of men of similar origin and education, in so far as their careers and their styles of life are similar, there are psychological and social bases for their unity, resting upon the fact that they are of similar social type and leading to the fact of their easy intermingling....

II. Behind such psychological and social unity as we may find, are the structure and the mechanics of those institutional hierarchies over which the political directorate, the corporate rich, and the high military now preside.<sup>16</sup>

The ruling elites of the corporate-state nexus are what Thomas R. Dye called the “very serious people,” and their mindset is characterized by what C. Wright Mills, in *The Causes of World War Three*, called “crackpot realism.” The “very serious people” used to be called “the best and the brightest”—or in Ward Churchill’s terminology, “Little Eichmanns.”

Crackpot realism amounts to the approach described by Einstein: attempting to solve a problem by the same level of thinking that created it. Crackpot realists, according to Mills, “do not set forth alternative policies; they do not politically oppose and politically debate the thrust toward war.... These are men who are so rigidly focused on the next step that they become creatures of whatever the main drift the opportunist actions of innumerable men brings.”<sup>17</sup> The crackpot realist’s self-image is of the grownup who understands what needs to be done to keep things functioning smoothly in “the real world,” and quietly does it behind the scenes, while the idealists and sloganizers occupy the public stage.

Libertarian Robert Higgs brilliantly summarized the crackpot realist mindset in his appreciation of Mills:

Such people are to be distinguished from the glad-handing, back-slapping buffoons who seek and gain election to public office. The electoral office seekers are specialists: they know how to get votes, but as a rule they know nothing about how to “run a railroad,” whether that railroad be a business, a government agency, or any other sort of large operating organization. So, after the election, the elected office holders always turn to the serious people to run the show—the Dick Cheneys and the Donald Rumsfelds, to pick not so randomly from the current corps.

The serious people always pretend to be the grownups, as opposed to the starry-eyed rest of us, who couldn’t run Halliburton or G. D. Searle & Co. if our lives depended on it. These are the sorts of executives who are tempted to, and sometimes actually do, roll their eyes at the silly questions journalists ask them at press conferences. Visibly pained by the necessity of spelling out the facts of life, they explain that childish things, such as keeping the country at peace, simply won’t get the job done. Sometimes, the public must recognize that as a no-nonsense response to the harsh situation we face, the serious people have to drop some bombs here and there in order to reestablish a proper arrangement of the world’s currently disordered affairs. The serious people are frequently to be found “stabilizing” something or other.

Trouble is, Mills explained, these serious people are fools. They seem to know what’s going on, and how to right what’s wrong with the world, only if one accepts their own view of how the world works.

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15 Mills, *Power Elite*, p. 11.

16 *Ibid.*, p. 19.

17 Quoted in Robert Higgs, “On Crackpot Realism: An Homage to C. Wright Mills,” *The Independent Institute*, February 18, 2003 <<http://www.independent.org/newsroom/article.asp?id=798>>.

So “practical” are these serious people, however, that they understand nothing beyond their noses and outside the circle of their own constricted understanding and experience.... Especially when these movers and shakers deal with matters of war and peace, they continue to make the same sorts of disastrous decisions over and over, constantly squandering opportunities to maintain the peace, almost invariably painting themselves into corners of their own making, and all too often deciding that the only option that makes sense in their predicament is to bomb their way out.<sup>18</sup>

Reform within the system is governed by the Crackpot Realist approach, for obvious reasons. Such reforms are carried out by the people running the system, based on their institutional mindsets and basic assumptions about how the world works. Since the fundamental purpose of the system is good, and its basic operating assumptions are self-evident, any reform must obviously be limited to tinkering around the edges. Any reform coming out of the system will be designed to optimize the functioning of the existing system, and amenable to being carried out only by the managerial caste currently in charge of the system. What’s more, since the unstated purpose of the present system is to serve the interests of those running it (or rather, since the stated purpose is tacitly interpreted so as to be identical with those interests), any attempt at “optimizing” the present system will translate in practice into further consolidating the power of the little Albert Speers and Bob McNamaras running things.

Hence the related concept of “extremism.” That label is a way of evaluating ideas, not in terms of their truth or falsity, but in terms of how far they deviate from the median view of the world. And the median view of the world, otherwise known as the “moderate” position, is largely determined by a cultural apparatus that consists of centralized, hierarchical institutions, and whose main purpose is to secure a cultural environment which is favorable to the continued existence and power of those centralized, hierarchical institutions. By definition, whatever is classified as “mainstream” or “centrist” in any system of power falls within the range of positions that are compatible with preserving that system of power. In other words, the cultural reproduction apparatus—the media and schools—is designed to produce a public which accepts the organization of society around such institutions as the only possible way of doing things. Any proposal that involves changing the fundamental structure of power and disempowering the groups that run it will be called “extremist.”

“Objectively collusive” relationships are inevitable—even without deliberate collusion—not only because of the shared culture of regulators and regulated, but because regulated industries are of necessity the primary source of data for the regulatory state. Short of creating a state-appointed shadow management of regulators who’ve been sent to b-school and constitute a parallel chain of command within the corporate bureaucracy (like the parallel shadow bureaucracy of Party officials serving as deputies to the state manager at every rung in the Soviet industrial bureaucracy), the regulatory state cannot avoid relying on largely unverifiable self-reporting by industry as the source of most of its statistics. And even if the state did create its own massive, parallel hierarchy of numbers-crunchers inside the corporate bureaucracies, in order to function effectively and understand the businesses they were regulating they’d have to have degrees in business administration and absorb a great deal of the culture of the regulated industries—which, presumably, would just take us back to the original problem.

Take, for example, the relationship between British Petroleum and the Naval command in charge of BP cleanup efforts in the Gulf last Spring. Mac McClelland, a reporter with *Mother Jones*, recounted her experience trying to clarify statistics:

I wrote another piece last week when I got an email—you know, there’s this guy from the Navy who sends out these official emails from the response center that says, here’s what we’ve been doing, here’s how the cleanup effort is going, here are, you know, all the stats that you need. And I called this lieu-

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18 *Ibid.*

tenant commander to ask him to check up on one of the stats which said that there are 24,000 responders working on the spill right now.

And I was just—I mean, I was just curious, does that include, for example, Audubon volunteers who are, you know, cleaning up birds? Does that only mean people [who] are on the BP payroll? And so I called this guy from the Navy and asked him, do you have the breakdown for these numbers? And he said, I don't have them and they're not actually our numbers. Those are BP's numbers and so I'm going to have to get back to you on that.

So not only is the government releasing BP numbers as official stats, they're not even fact-checking them. I mean, this guy didn't have a spreadsheet that could explain what the breakdown was. And it took several days for BP to get it back to him.<sup>19</sup>

Again, though, where would this lieutenant commander have obtained his own spreadsheet for fact-checking BP's numbers, short of the Navy's oversight operation maintaining an entire management bureaucracy parallel to BP's own for large-scale gathering and processing of raw data?

Whatever the reasons and motivation, the functional relationship between big business and big government will always be more cooperative than adversarial.

Thanks to desktop computers and the Internet, though, we don't have to rely on Tweedledum to monitor Tweedledee. For all the reasons we considered in the previous chapter, the entry barrier to being a watchdog has fallen to virtually zero.

According to Alex Carey, the 20<sup>th</sup> century model of representative “democracy” emerged, not as a way of putting the will of the majority into effect, but as a way of protecting ruling elites from the public. Three broad trends, roughly simultaneous, emerged around the turn of the twentieth century: the rise of formal democracy with universal suffrage, the rise of big business, and the need to protect big business from democracy.<sup>20</sup> The central problem for “actually existing representative democracy,” in other words, has been to prevent the formal democracy from becoming actual—to preserve the rules of formal democracy while preventing the exercise of any real power by a popular majority. As Walter Lippmann put it, the public must remain “spectators of action” rather than “participants.”<sup>21</sup>

The model of democracy promoted by ruling elites is a system “with regular elections but no serious challenge to business rule”—as opposed to “a system in which citizens may play some meaningful part in the management of public affairs.”<sup>22</sup> Proudhon compared representative democracy to constitutional monarchy:

The illusion of democracy springs from that of constitutional Monarchy's example--claiming to organize Government by representative means.... What they always want is inequality of fortunes, delegation of sovereignty, and government by influential people. Instead of saying... the King reigns and does not govern, democracy says, the People reigns and does not govern....<sup>23</sup>

The network revolution may mean the final realization of the very thing that Bernaise et al tried to thwart: the achievement of genuine democratic self-rule, not through the representative state, but through voluntary association.

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19 “Op-Ed: Reporters Covering Oil Spill Stymied” (transcript) *NPR*, June 14, 2010 <<http://www.npr.org/templates/story/story.php?storyId=127836130>>.

20 Alex Carey, *Taking the Risk Out of Democracy: Corporate Propaganda versus Freedom and Liberty*

21 Quoted in Noam Chomsky, “Force and Opinion,” *Z Magazine*, July-August, 1991 <[http://chomsky.info/199107\\_/>](http://chomsky.info/199107_/>).

22 Chomsky, *Deterring Democracy*, Ch. 11.

23 Pierre-Joseph Proudhon, *The General Idea of the Revolution in the XIX Century*.

## II. Individual Superempowerment

According to Tom Coates, as quoted in the previous chapter, the desktop revolution has had an enormous effect in blurring the distinction in quality between work done within large organizations and that done by individuals at home. The individual has access to a wide array of infrastructures formerly available only through large organizations. As Felix Stalder writes:

There is a vast amount of infrastructure—transportation, communication, financing, production—openly available that, until recently, was only accessible to very large organisations. It now takes relatively little—a few dedicated, knowledgeable people—to connect these pieces into a powerful platform from which to act.<sup>24</sup>

These free platforms can support an entire modular ecosystem of resistance movements.

The result is what John Robb calls “individual superempowerment”: “the ability of one individual to do what it took a large company or government agency to do a couple of decades ago...”<sup>25</sup> Open-source warfare “enables individuals and groups to take on much larger foes,” as

the power of individuals and small groups is amplified via access to open networks (that grow in value according to Metcalfe's law = Internet growth + social networks running in parallel) and off the shelf technology (that grows rapidly in power due to the onslaught of Moore's law and the market's relentless productization).<sup>26</sup>

These primary technologies of individual superempowerment also have the secondary effect of lowering the transaction costs and overhead of swarming.

- Ubiquitous public transportation networks (roads to airlines) enable rapid, low-cost transportation for dispersed units.
- Logistics requirements can be met via open economic transactions and don't require population support. The requirements for operations are relatively limited (damage to infrastructure requires low-tech tools). Additionally, the small size of the cells (~5 people) requires little housing/food/etc and in most cases would fall well below the threshold of detection.
- Real-time, anonymous, wireless communications (both data and voice — VoIP, e-mail, Web, cellphones, etc.) enable global guerrillas to coordinate dispersed operations on the operational level. Tactical operations will be of a conventional type, typically by a single unit or individual.<sup>27</sup>

Compare this to Marina Gorbis's description of what she calls the “socialstructured society”:

Socialstructuring is in fact enabling not only a new kind of global economy but a new kind of society, in which amplified individuals—individuals empowered with technologies and the collective intelligence of others in their social network—can take on many functions that previously only large organi-

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24 Felix Stalder, “Leaks, Whistle-Blowers and the Networked News Ecology,” *n.n.*, November 6, 2010 <<http://remix.openflows.com/node/149>>.

25 John Robb, “Julian Assange,” *Global Guerrillas*, August 15, 2010 <<http://globalguerrillas.typepad.com/globalguerrillas/2010/08/global-guerrilla-julian-assange.html>>.

26 Robb, “Open Warfare and Replication,” *Global Guerrillas*, September 20, 2010 <<http://globalguerrillas.typepad.com/globalguerrillas/2010/09/open-warfare-and-augmentation.html>>.

27 Robb, “Global Guerrilla Swarming,” *Global Guerrillas*, May 18, 2004. Reproduced as “Developing WikiStrike as a Counter Swarm-Attack Strategy for the 99% | via Global Guerrillas,” *Social Network Unionism*, December 28, 2011 <<http://snuproject.wordpress.com/2011/12/28/developing-wikistrike-as-a-counter-swarm-attack-strategy-for-the-99-via-global-guerrillas/>>.

zations could perform, often more efficiently, at lower cost or no cost at all, and with much greater ease.... [A] world in which a large software firm can be displaced by weekend software hackers, and rapidly orchestrated social movements can bring down governments in a matter of weeks.<sup>28</sup>

Richard Telofski, a corporate consultant who writes on these issues from the standpoint (and that's an understatement) of the corporation, describes something that sounds quite similar to these ideas. After quoting Mark Twain on the folly of picking a fight with "a man who buys his ink by the barrel," Telofski updates the principle for the 21<sup>st</sup> century: "never get in a dispute with someone with access to a computer," or "who is mad enough and persistent enough to make your life 'hell.'" He illustrates the basic principle with a saying of Sonny Crockett on *Miami Vice*, who threatened to "clear my desk of all my other cases and make your life a living hell."<sup>29</sup>

Malcolm Gladwell dismisses networked activism, of the kind organized through social media, on the grounds that it's "built on weak ties." It doesn't elicit the same levels of personal commitment, or require the same levels of sacrifice from those buying into it, as did (say) the sit-ins of the Civil Rights era. It is, he says, a cheap substitute for commitment. "if you're taking on a powerful and organized establishment you have to be a hierarchy."<sup>30</sup> I think this misses the point.

Gladwell argues that the levels of effort and commitment involved in most networked participation are quite casual compared to the dedicated effort required for real change. But he's assuming that the amount of effort needed to combat hierarchies is itself fairly constant. The real change, which he ignores, is the shift in the relative balance of power between individuals and small groups, versus hierarchies: the rapidly declining amount of effort it takes for a motivated individual to put a serious hurt on a large institution. His reference to the level of commitment needed to "persevere in the face of danger" is begging the question. The amount of damage that one pissed-off individual can do to a hierarchy with little or no danger to herself is increasing exponentially.

The beauty of individual super-empowerment is that it lowers the levels of cost or sacrifice *required* to inflict major defeats on hierarchical targets. The reduced levels of risk made possible by new technologies of encryption, enabling networked movements to operate under the cover of darknets, are a plus. The whole point of networked organization is that it shifts the balance of power. Gladwell sounds a bit like an aging geek boasting that "in my day, we had to use a slide rule!"

Gladwell himself admits that an advantage of network structures is that they are "enormously resilient and adaptable in low-risk situations." But he neglects the possibility that the level of risk itself is not a constant—that warfare against state and corporate hierarchies is becoming a progressively lower-risk situation *because* of advances in network technology. The whole *point* of super-empowerment is that it lowers the risk and cost entailed in organizing against the state.

And whether or not they require the same levels of effort and risk as your grandfather's activism "back in my day," the examples of Wikileaks and Anonymous make it clear that in *our* day networks *are* achieving significant real-world results at minimal cost. A good example is the minimal effort required to spark the Occupy Wall Street action, whose proximate cause—as we shall see in the appendix—was just a tweet from the *Adbusters* editorial staff.

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28 Marina Gorbis, *The Nature of the Future: Dispatches From the Socialstructured World* (New York, London, Toronto, Sydney, New Delhi: Free Press, 2013), p. 4.

29 Richard Telofski, *Insidious Competition: The Battle for Meaning and the Corporate Image* (New York and Bloomington: iUniverse, Inc., 2010), pp. 44-45.

30 Malcolm Gladwell, "Small Change: Why the Revolution Will Not Be Tweeted," *New Yorker*, October 4, 2010 <<http://www.newyorker.com/magazine/2010/10/04/small-change-malcolm-gladwell>>.

Of course none of this means that networked movements will lack a core of activists with the same level of commitment as the civil rights activists of fifty years ago. As David de Ugarte has argued, even in networked activism a single node will generally be the source of new initiatives.

But networked organization drastically lowers the transaction costs entailed in a single node of committed activists leveraging support through the network, and drastically increases the size of the larger coalition which the committed activists can leverage from the less committed. The increased ease of drawing additional support from the less committed does not reduce the preexisting number of the more committed who would have participated anyway. It just increases the bang for the buck from that preexisting level of commitment. And on the other hand, even if Gladwell wants to dismiss the significance of “activism” that consists of clicking a PayPal widget to contribute a few bucks, it's not like that person would have attended meetings and participated in marches absent such alternatives. They just wouldn't have given the money, either. As Cory Doctorow argues:

“there isn't a smooth gradient of activity that you can use to engage and disengage from activism. And particularly, where activism goes on, it tends to be either people who have nothing to lose... your life becomes politics, or people who can afford to lose something.... [That's why] mothers in particular are underrepresented in activist circles.... When people sneer at clicktivism, they are essentially saying that they have a theory of change that involves only those with nothing to lose or those who can afford to lose something, and it is a horrifically privileged point of view to come from.... If you want people to take a step, the smaller that step is the greater the likelihood that they will take it.... [I would much prefer that] than start with “you must take up a whole Saturday and risk becoming kettled to take any affirmative step at all....”<sup>31</sup>

Movements are better off by the amount of each additional contribution, whether the contributor is strongly or weakly motivated. Would Gladwell prefer the strongly committed act alone *without* the additional help? As Adam Thierer wrote in response to a similar argument from Evgeny Morozov:

...Morozov belittles some of the online communities that have formed to support various charitable or civic causes by arguing that if you divide the number of members of such online groups by the aggregate amount of money they raise, it comes out to mere pennies on the dollar per community member. But so what? Do we know if those communities or causes would have come together at all or spent more money without digital communications and networking technologies? It is certainly true that merely setting up a new cyber-cause and giving a few bucks to it isn't the same as going on a mission to Africa to build homes and water systems, but does Morozov really want to us to believe that more of that sort of thing would happen in the absence of the Net and digital technology?<sup>32</sup>

Doctorow suggests that Morozov's snide approach—and the same critique applies to Gladwell—reflects a serious ignorance of real-world activism.

Morozov observes the hundreds of thousands—millions, even—of people who are motivated to take some small step in support of a cause, such as changing their Twitter avatar or signing an online petition and concludes that the ease of minimal participation has diffused their activist energy. I look at the same phenomenon and compare it to the activist world I knew before the internet, in which the people who could be coaxed into participating in political causes were more apt to num-

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31 Panel discussion at Yoko Ono's Meltdown festival at Southbank in London, on Technology and Activism, "Technology and Government: Where Does the Internet Fit?" *Cory Doctorow's Craphound*, June 23, 2013 <<http://craphound.com/?p=4845>>.

32 Adam Thierer, "Book Review: *The Net Delusion* by Evgeny Morozov," *The Technology Liberation Front*, January 4, 2011 <<http://techliberation.com/2011/01/04/book-review-the-net-delusion-by-evgeny-morozov/>>.

ber in the hundreds or thousands, and reflect on the fact that every committed, lifelong activist I know started out as someone who took some small casual step and went on to greater and deeper involvement, and I conclude that the net is helping millions of people wake up to the fact that they can do something about the causes they care about and that some fraction of those people will go on to do more, and more, and more.<sup>33</sup>

Not to mention, as he points out, the sheer increase in efficiency network organization via the Internet makes possible in performing the routine administrative tasks of traditional activist organizations, and enabling them to shift personnel from tail to tooth:

As to the question of privation as being key to hardening activists' commitment, I'm confident that for every task that is automated by the internet, new, difficult-to-simplify tasks will well up to take their place. As a lifelong political activist, I remember the thousands of person-hours we used to devote to putting up flyposters, stuffing envelopes, and running telephone trees simply to mobilise people for a protest, petition or public meeting (Morozov minimises the difficulty of this, asserting, for example, that Iranians would just find out, by word of mouth, about demonstrations, regardless of their tools – which leads me to suspect that he never tried to organise a demonstration in the pre-internet era). I'm sure that if we'd been able to get the word out to thousands of people with the click of a mouse, we wouldn't have hung up our placards and called it a day; that drudge work absorbed the lion's share of our time and our capacity to think up new and exciting ways to make change.<sup>34</sup>

When you give people who aren't in the establishment access to coordination technology, they go through a phase change.... When I was an activist in Toronto in the 1980s, 98% of my job consisted of stuffing envelopes and putting addresses on them, and 2% consisted of figuring out what to put in the envelopes. We get that free now, and that is a massive game-changing thing that has arisen as a consequence of communications technology.<sup>35</sup>

In *The Coming Swarm*, Molly Sauter demolishes Gladwell's and Morozov's critique of Internet-based, "weak ties" activism as being somehow "too easy" compared to traditional activist movements. The real problem is that such critics lionize a model of civil disobedience--beloved of liberal memory--that centers on the drama of "willful violation of the law; deliberate arrest; and having one's day in court."<sup>36</sup>

These critiques make a series of assumptions about the purpose and practice of activism and often ground themselves historically in the civil Rights Movement and the anti-Vietnam War protests. In this model, worthwhile activism is performed on the streets, where the activist puts himself in physical and legal peril to support his ideals. Activism is "hard," not *anyone* can do it. Activism has a strong, discernable effect on its target. If the activist is not placing herself in physical danger to express her views, then it is not valid criticism.

...But [the "slacktivist" critique] fails to consider that activism can have many divergent goals beyond direct influence on power structures. It explicitly denies that impact on individuals and personal performative identification with communities of interest can be valid activist outcomes.... It casts as a failure the fact that the simpler modes of digitally based activism allow more people to engage. As the cost of entry-level engagement goes down, more people will engage. Some of those people will con-

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33 Cory Doctorow, "We need a serious critique of net activism," *The Guardian*, January 25, 2011 <<http://www.guardian.co.uk/technology/2011/jan/25/net-activism-delusion>>.

34 *Ibid.*

35 "Technology and Government: Where Does the Internet Fit?" *op. cit.*

36 Molly Sauter, *The Coming Swarm: DDoS Actions, Hacktivism, and Civil Disobedience on the Internet* (New York, London, New Delhi, Sydney: Bloomsbury, 2014), p. 5.

tinue to stay involved with activist causes and scale the ladder of engagement to more advanced and involved forms of activism. Others won't. But there must be a bottom rung to step on....<sup>37</sup>

Sauter also challenges critics' nostalgia for civil disobedience "that seem[s] to originate from an ahistorical view of the development and implementation of civil disobedience in the United States...." Such popular understandings "stem from a narrativized view of iconic moments in political activism, such as the Civil Rights Movement, which do not take into account the realities faced by political movements as they develop or the particular challenges faced by activists attempting to operate in a novel environment such as the internet...." Criticisms based on this idealized version of history "ultimately chill innovation in political movements."<sup>38</sup>

One aspect of civil disobedience that this nostalgia glosses over is its potential for disruption. The marches, sit-ins, and boycotts of the civil rights era were intensively disruptive and were intended to be so.<sup>39</sup>

...this ahistorical myopia that encourages the exile of tactics such as occupations, blockades, monkey wrenching, defacements, culture jamming, strikes, sabotage, and many more from the popularly recognized repertoire of civil disobedience discourages activism and dissent... It should not be surprising that these disruptive, and in some cases destructive, tactics, often interpreted to fall outside the realm of "acceptable" political acts, are used primarily by groups that are historically underprivileged in the area of public politics. Students, blue-collar workers, inner-city youth, the homeless, those living below the poverty line, and other minorities are routinely pushed out of public political life because they are not engaging in what is popularly accepted as proper political conduct. These biases toward what "counts" as politically valid conduct and speech contributes to disfranchisement and narrows the public political discourse. By ignoring the potential legitimacy of these out-of-the-mainstream disruptive tactics, critics are contributing to this systemic disenfranchisement by artificially and harmfully restricting what political speech and conduct is acceptable and, by extension, whose.<sup>40</sup>

Seriously: do people like Gladwell and Morozov really believe the Seattle protests or Occupy Wall Street would ever have happened without the spontaneous swarming potential enabled by the Web? I'm surprised these good industrial age liberals haven't tried to prohibit unlicensed activism without the supervision of properly qualified professionals.

The beauty of the stigmergic form of organization we examined in the previous chapter is that the barriers to small contributions from independent actors are lowered. Individuals can make small contributions to a larger project, coordinating their own small efforts with the larger project through the common platform without any central coordinating authority. So stigmergic organization can leverage many, many small contributions that wouldn't have been worth the transaction costs of coordinating them in the old days. The larger project can incorporate efforts that would previously have been too small to bother with.

By the same token—as we saw earlier—new tactics developed at enormous cost by one node are now, thanks to stigmergic organization, immediately available at no cost to the entire network. So not only can small contributions be leveraged by large movements, large contributions can be leveraged by a large number of small movements. Either way, the contributions of each become a common-pool resource of all, and the transaction costs of aggregating all contributions—large and small—disappear.

Back in 2002, Javier Corrales noted that the hopes of “cyber-enthusiasts”—that “[t]he Internet would empower the political Davids... and restrain the Goliaths by making their actions easier to scrutinize”—never materialized.

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37 *Ibid.*, p. 6.

38 *Ibid.*, p. 20.

39 *Ibid.*, pp. 22-23.

40 *Ibid.*, pp. 26-27.

Few major transformations in politics seem to be occurring. The bursting of the dot-com bubble in 2002 further dampened the mood of cyber-enthusiasts. Those who once expected dot-coms to revolutionize democracy now feel embarrassed at their hyperbole.<sup>41</sup>

Looking back from my vantage point nine years later—I write the first draft of this passage in October 2011, nine months after the beginning of the Arab Spring and on the eve of Bloomberg's threat to clear out Occupy Wall Street—it's easy to laugh at Corrales' dismissal. Sure, he really was to blame for missing the significance of stuff like Seattle and the campaigns against Nike and Shell. But a lot of it was natural, given the time he was writing in. His identification of the dotcoms with the hope for democracy is very telling. It was, in fact, the collapse of the dotcom bubble and with it the dead hand of Web 1.0 that made possible the revolution, organized through Web 2.0 technologies like social media, that *has* materialized.

Meanwhile, individual superempowerment has rendered the power of large organizations far less usable. In politics, the ability to garner a majority of votes no longer carries the power it did. "...[P]oliticians in government," Moises Naim writes, "are finding that their tenure is getting shorter and their power to shape policy is decaying." Increasingly easy for smaller players to impose gridlock.<sup>42</sup>

GOP obstructionism, especially by Tea Party representatives, enabled the opposition to paralyze Obama and veto much of the agenda that would traditionally have followed such an electoral victory. But Tea Party, in turn, is turning GOP into a regional minority party and paralyzing the leadership's ability to reach compromises even when it wants to. The old pattern was for the GOP to block Democratic legislation until they got all the concessions they could, then agree to a deal. Now when they're ready to make the deal the Tea Party threat keeps them from doing so.

### III. The "Long Tail" in Regulation

The very same "long tail" phenomenon of incorporating small efforts at minimal transaction cost also applies to networked regulatory state functions. Before the network revolution, large-scale efforts were organized through hierarchies in order to reduce the transaction costs involved in coordinating actions between individuals. But hierarchies carried their own institutional costs, which meant that a regulatory bureaucracy could focus on only a few issues at a time—generally those most important to the people at the top of the hierarchy, or to the dominant groups in the ruling political coalition.

But if the old regulatory bureaucracy could do only a few big things—with apologies to Isaiah Berlin—the desktop regulatory state can do many things. That's a result of the lowered transaction costs of leveraging and aggregating small efforts, associated with stigmergic organization, which we saw in the previous chapter. To quote Clay Shirky:

What happens to tasks that aren't worth the cost of managerial oversight? Until recently, the answer was "Those things don't happen." Because of transaction costs a long list of possible goods and services never became actual goods and services; things like aggregating amateur documentation of the London transit bombings were simply outside the realm of possibility. That collection now exists because people have always desired to share, and the obstacles that prevented sharing on a global scale are now gone. Think of these activities as lying under a Coasean floor; they are valuable to someone but too expensive to be taken on in any institutional way, because the basic

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41 Javier Corrales, "Lessons from Latin America," in Leslie David Simon, ed., *Democracy and the Internet: Allies or Adversaries?* Woodrow Wilson Center Press, Washington, D.C. (Baltimore and London: Johns Hopkins University Press, 2002), p. 30.

42 Moises Naim, *The End of Power: From Boardrooms to Battlefields and Churches to States, Why Being in Charge Isn't What it Used to Be* (New York: Basic Books, 2013), p. 77.

and unsheddable costs of being an institution in the first place make those activities not worth pursuing.<sup>43</sup>

Back when the only choices were doing stuff through institutions and not doing it at all, a lot of stuff just didn't get done at all. That's changed. Stuff that once was important to someone but not important enough to justify the cost just to satisfy the limited demand can now be done at little or no cost by small groups or individuals. "Loosely coordinated groups" not only perform functions once performed by large institutions, but "can now achieve things that were out of reach for any other organizational structure...."<sup>44</sup> This long tail is a natural outgrowth of the stigmergic principle we examined in the previous chapter. In the words of Scott Bradner, formerly a trustee of the Internet Society, "The internet means you don't have to convince anyone else that something is a good idea before trying it."<sup>45</sup>

The regulatory state, in particular, used to focus on a few, basic, minimal standards. Now the desktop regulatory state can tailor "regulations" to those who consume them. Now it is the regulated industries that use the old-line regulatory state to suppress the fine-tuned, long-tail regulatory state.

Networked reputational and rating systems can provide information on any aspect of corporate and other institutional performance that someone finds of interest. Information warriors and open-mouth saboteurs (see below), or whistle-blowing sites, can expose any behavior they find objectionable.

#### **IV. Networked Resistance as an Example of Distributed Infrastructure**

Think back to our discussion in Chapter One of distributed infrastructure. Now let's consider networked resistance in light of the principles we discussed there. A conventional, old-style activist movement had to maintain an ongoing organizational apparatus with at least a minimal permanent infrastructure and staff, regardless of the actual level of activity. It was just another example of centralized infrastructure that had to be scaled to peak load, even though peak loads occurred only a tiny fraction of the time. It was an illustration of the 20/80 rule, with 80% of costs coming from the infrastructure required to handle the last 20% of the load. As we saw the authors of *Natural Capitalism* argue, by designing a central heating or cooling system to handle only the first 80% of the load, and addressing the other 20% through spot heating/cooling, one can reduce costs to an enormous degree.

A distributed infrastructure that's embedded mainly at end-points, likewise, is much more ephemeral and can operate on a much leaner basis.

Now read this passage from *Digitally Enabled Social Change*, by Jennifer Earl and Katrina Kimport:

As we have shown, flash activism... is not about a steady and long stream of contention. Instead, it is about the effectiveness of overwhelming, rapid, but short-lived contention....

On the participant's side, there has never before been an opportunity to be a five-minute activist who navigates between participating in an e-tactic, checking Facebook, and doing job-related work on a computer. There have only been opportunities to spend hours or more coming together with people and put oneself in harm's way...

We expect that the ease of participation,, then, could produce quick rushes of participation when a call for participation is made. Further, these rushes of participation don't require high relative participation rates.... Given that this is true, it is possible to have both flash-style activism and varying levels of

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43 Shirky, *Here Comes Everybody*, p. 45.

44 *Ibid.*, p. 47.

45 *Ibid.*, p. 77.

activity by any given potential participant. If potential participants have time one day and not the next, mobilizations can go forward as long as some people have some time each day....

...[S]ince the central tools needed to create e-tactics are usually software routines and databases, not the knowledge inside long-term activists' minds, e-tactic organizing is easy to shut off and restart later, unlike traditional organizing.... Instead of SMOs [Social Movement Organizations], flash drives might hold the organizing blueprints (through archived Web pages and software) that allow online protest actions to be remounted in the future.... [S]tarting a second petition is no harder years after a first one than it would be the next day.... [W]hy not just shut off a movement and turn it back on later? Why not organize around something that is short term? Why not organize whenever the time seems right and not organize when it doesn't seem so? Without social movement activists to support, there can be real on and off switches that perhaps have fewer repercussions to a campaign's ability to mobilize.<sup>46</sup>

So just as a lean, distributed manufacturing system on the Emilia-Romagna model makes it possible to scale production to spot demand without the imperative to fully utilize capacity to amortize the high ongoing overhead from expensive mass production machinery, distributed/networked activism can scale particular actions to the needs of the moment without the need to maintain permanent, high-overhead infrastructure between actions and tailor the action to the needs of the movement infrastructure (which is exactly what the establishment Left is demanding from Occupy: to remake it in their image).

The reference to “organizing blueprints” being held on hard drives to “allow online protest actions to be remounted in the future” is relevant to our discussion in Chapter Two of the module—platform basis of network organization. The basic toolkit of techniques, software and templates of a networked movement—many of them developed through the experience of many local nodes—is available as a platform to the entire movement, or even to a meta-movement (like the complex of Arab Spring/M15/Syntagma/Occupy movements, Wikileaks, Anonymous), for individual nodes to use when and how they see fit.

In *The Homebrew Industrial Revolution: A Low-Overhead Manifesto*, I argued (or rather quoted Eric Hunting's argument) that open source, module/platform designs are a way of minimizing R&D unit costs by spreading them out over an entire product ecology. A common, open-source library of techniques based on the past collective experiences of a wide body of local movements and nodes of movements enables the experience of any one node to become the common property of all—the same way an mp3 stripped of DRM by one geek and hosted on a torrent site becomes the freely-available property of every non-tech-savvy grandma who wants to hear the song. “In the modern repertoire, tactics are in fact thought to be modular so that multiple movements could benefit from the same tactical form.”<sup>47</sup>

The “short tail” in conventional activism, as we saw in the previous section of this chapter, results from the high cost of doing anything. When the basic infrastructure of activism is distributed and available for any movement or node to piggyback on free of charge, it becomes possible to create new movements suited to “niche markets” at virtually zero marginal cost. As Earl and Kimport argue, social movements were traditionally about “weighty issues” because

they have been expensive to create and grow, leading people to only attempt to create (and likely only succeed in creating) a movement when the stakes are high enough to justify the costs. But when the stakes are much lower, can the stakes be lower, too?<sup>48</sup>

This last—the lessening of stakes as overhead costs become lower—is the same principle I described for the economic and industrial realm in *Homebrew Industrial Revolution*: the lower the capital outlays and other sources of overhead or fixed costs, the lower the revenue stream required to service them; hence the

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46 Jennifer Earl and Katrina Kimport, *Digitally Enabled Social Change: Activism in the Internet Age* (Cambridge and London: MIT Press, 2011), pp. 184-186.

47 *Ibid.*, pp. 187-188.

48 *Ibid.*, p. 187.

greater the ability of an enterprise to weather slow periods without going in the hole, and the larger the portion of the revenue stream that's free and clear in good periods.

## V. Informational Warfare (or Open Mouth Sabotage)

Perhaps the single most important way consumer and worker networks act as countervailing powers against corporate institutions is by exposing them to scrutiny. And the scrutiny to which government and corporate hierarchies are now liable to be subjected is far beyond their previous imagining.

As we saw in the previous chapter, the Mexican government was caught completely off guard by the amount of scrutiny its campaign against the Zapatistas received, and by the extent of global support for them. The subsequent appearance of networked activism as a standard feature of political life means that government and corporate actors are caught similarly off guard on a recurring basis. Like the Mexican government, global corporations get caught off guard when what once would have been isolated and easily managed local conflicts become global political causes. Even back in the 1990s, Naomi Klein wrote:

Natural-resource companies had grown accustomed to dealing with activists who could not escape the confines of their nationhood: a pipeline or mine could spark a peasants' revolt in the Philippines or the Congo, but it would remain contained, reported only by the local media and known only to people in the area. But today, every time Shell sneezes, a report goes out on the hyperactive "shell-nigeria-action" listserv, bouncing into the in-boxes of all the far-flung organizers involved in the campaign, from Nigerian leaders living in exile to student activists around the world. And when a group of activists occupied part of Shell's U.K. Headquarters in January 1999, they made sure to bring a digital camera with a cellular linkup, allowing them to broadcast their sit-in on the Web, even after Shell officials turned off the electricity and phones....

The Internet played a similar role during the McLibel Trial, catapulting London's grassroots anti-McDonald's movement into an arena as global as the one in which its multinational opponent operates.<sup>49</sup>

Corporations are immensely vulnerable to informational warfare, both by consumers and by workers. The last section of Klein's *No Logo* discusses in depth the vulnerability of large corporations and brand name images to netwar campaigns.<sup>50</sup> She devoted special attention to "culture jamming," which involves riffing off of corporate logos and thereby "tapping into the vast resources spent to make [a] logo meaningful."<sup>51</sup> A good example is the anti-sweatshop campaign by the National Labor Committee, headed by Charles Kernaghan.

Kernaghan's formula is simple enough. First, select America's most cartoonish icons, from literal ones like Mickey Mouse to virtual ones like Kathie Lee Gifford. Next, create head-on collisions between image and reality. "They live by their image," Kernaghan says of his corporate adversaries. "That gives you a certain power over them... these companies are sitting ducks."<sup>52</sup>

At the time Klein wrote, technological developments were creating unprecedented potential for culture jamming. Digital design and photo editing technology made it possible to make incredibly sophisticated parodies of corporate logos and advertisements.<sup>53</sup> Interestingly, a lot of corporate targets shied away from taking culture jammers to court for fear the public might side with the jammers against the corporate plaintiffs—as they did against McDonald's in the McLibel case. The more savvy corporate bosses understand

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49 Naomi Klein, *No Logo* (New York: Picador, 2000, 2002), pp. 393-395.

50 *Ibid.*, pp. 279-437.

51 *Ibid.*, p. 281.

52 *Ibid.*, p. 351.

53 *Ibid.* p. 285.

that “legal battles... will clearly be fought less on legal than on political grounds.” In the words of one advertising executive, “No one wants to be in the limelight because they are the target of community protests or boycotts.”<sup>54</sup>

And bear in mind that, back in the Mesozoic Era of Web 1.0 that Klein was writing about, informational warfare was limited largely to static websites, Usenet and email. Since then, Web 2.0 innovations like blogs, wikis, Facebook and Twitter have exploded the capabilities of informational warfare by *at least* an order of magnitude.

Klein borrowed Saul Alinsky's term “political jujitsu” to describe “using one part of the power structure against another part.” Jujitsu, like most martial arts, uses an attacker's own force against her. Culture jamming is a form of political jujitsu that uses the power of corporate symbols—symbols deliberately developed to tap into subconscious drives and channel them in directions desired by the corporation—against their corporate owners.<sup>55</sup>

Anticorporate activism enjoys the priceless benefits of borrowed hipness and celebrity—borrowed, ironically enough, from the brands themselves. Logos that have been burned into our brains by the finest image campaigns money can buy, ...are bathed in a glow...

...Like a good ad bust, anticorporate campaigns draw energy from the power and mass appeal of marketing, at the same time as they hurl that energy right back at the brands that have so successfully colonized our everyday lives.

You can see this jujitsu strategy in action in what has become a staple of many anticorporate campaigns: inviting a worker from a Third World country to come visit a First World superstore—with plenty of cameras rolling. Few newscasts can resist the made-for-TV moment when an Indonesian Nike worker gasps as she learns that the sneakers she churned out for \$2 a day sell for \$120 at San Francisco Nike Town.<sup>56</sup>

The effect of “sully[ing] some of the most polished logos on the brandscape,” as Klein characterized Kernaghan's efforts,<sup>57</sup> is much like that of “Piss Christ.” It relies on the power of the very symbol being sullied. Kernaghan played on the appeal of the dogs in *101 Dalmatians* by comparing the living conditions of the animals on the set to those of the human sweatshop workers who produce the tie-in products. He showed up for public appearances with “his signature shopping bag brimming with Disney clothes, Kathie Lee Gifford pants and other logo gear,” along with pay slips and price tags used as props to illustrate the discrepancy between worker pay and retail price. After a similar demonstration of Disney products in Haiti, “workers screamed with shock, disbelief, anger, and a mixture of pain and sadness, as their eyes fixed on the Pocahontas shirt”—a reaction captured in the film *Mickey Mouse Goes to Haiti*.<sup>58</sup>

One of the most brilliant culture jamming campaigns ever was the joint Greenpeace/Yes Men “@ShellisPrepared” propaganda assault on Shell's arctic drilling plans.

Two months ago, an “Arctic Ready” website appeared online. Festooned with Shell Oil's logo, it purported to be a site dedicated to educating the public about Shell's drilling for oil up North. It even included an interactive “social media” component — an “ad generator” allowing visitors to caption photos supposedly provided by Shell. It looked a lot like Shell's own Arctic-focused section of its site. But it is and was a fake, created by anti-Shell groups — Greenpeace and the Yes Men. And despite the fact that it has been reported as fake repeatedly, visitors continue to be duped by it and so it continues to generate controversy for Shell.

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54 *Ibid.*, p. 288.

55 *Ibid.*, p. 281.

56 *Ibid.*, pp. 349-350.

57 *Ibid.*, p. 351.

58 *Ibid.*, p. 353.

Last month, Greenpeace, the Yes Men, and members of the Occupy movement used YouTube to make a supposed Shell event gone horribly wrong — that they had staged — go viral. This week, they created a fake Shell “social media response team” Twitter account to make ads generated by their Arctic Ready website go viral. The account pretended to be frantically trying to contain the spread of ads created on the fake site. Those drawn to the site, thinking it was real, thought it was a case of social media going horribly wrong, with “Shell’s” ad generator resulting in “embarrassing” ads like these...

... and Shell’s “social media team” being as inept in their attempts to control the spread as BP was in the Gulf of Mexico.

“Our team is working overtime to remove inappropriate ads. Please stop sharing them,” tweeted the fake @ShellIsPrepared account over and over again at multiple Twitter users. Multiple people started retweeting the account noting it as an example of corporate social media gone horribly wrong and “possibly the funniest PR disaster I’ve ever witnessed.” (It is but not in the way the person thought.)...

Greenpeace has apparently discovered that it’s far more effective to ram Shell online than it is to send Greenpeace boats out to protest or to handcuff themselves to drilling equipment in the snow. Combining a fake corporate site with a fake corporate reaction seems to legitimize the content, and convince or at least confuse most people on Twitter who have limited attention spans.<sup>59</sup>

One of the posters had the caption “We’d drill a crippled orphan’s spine if there was oil in it.”<sup>60</sup>

Culture jamming is an illustration of the effects of network culture. Although corporate imagery is still created by people thinking in terms of one-way broadcast communication, the culture jammers have grown up in an age where audiences can talk back to the advertisement or mock it to one another. The content of advertising becomes just another bit of raw material for mashups, as products once transmitted on a one-way conveyor belt from giant factory to giant retailer to consumer have now become raw material for hacking and reverse-engineering.<sup>61</sup>

Corporate America, the authors of the *Cluetrain Manifesto* argue, still views the Web as “just an extension of preceding mass media, primarily television.” Corporate websites are designed on the same model as the old broadcast media: a one-to-many, one-directional communications flow, in which the audience couldn’t talk back. But now, the beauty of the Web is that the audience *can* talk back, and to each other, as easily as the corporation can talk to them.

The audience is suddenly connected to itself.

What was once The Show, the hypnotic focus and tee-vee advertising carrier wave, becomes... an excuse to get together.... Think of Joel and the bots on Mystery Science Theater 3000. The point is not to watch the film, but to outdo each other making fun of it.

And for such radically realigned purposes, some bloated corporate Web site can serve as a target every bit as well as Godzilla, King of the Monsters....

The Internet is inherently seditious. It undermines unthinking respect for centralized authority, whether that “authority” is the neatly homogenized voice of broadcast advertising or the smarmy rhetoric of the corporate annual report.<sup>62</sup>

As we already noted, the informational warfare campaigns Naomi Klein recounted, which were so discomfiting to McDonald’s, Nike, Shell and Kathie Lee Gifford, all took place within the confines of Web 1.0.

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59 Kashmir Hill, “Shell Oil’s Social Media Nightmare Continues, Thanks To Skilled Pranksters Behind @ShellIsPrepared,” *Forbes*, July 18, 2012 <<http://www.forbes.com/sites/kashmirhill/2012/07/18/shell-oils-social-media-nightmare-continues-thanks-to-skilled-pranksters/>>.

60 <<http://arcticready.com/social/gallery>>.

61 Klein, *No Logo*, p. 294.

62 “Chapter One. Internet Apocalypse,” in Rick Levine, Christopher Locke, Doc Searls and David Weinberger, *The Cluetrain Manifesto: The End of Business as Usual* (Perseus Books Group, 2001) <<http://www.cluetrain.com/book/index.html>>..

Since then, we've seen a quantum leap in the possibilities of networked organization. Richard Telofski, a corporate consultant who advises companies on protecting their public image against open-mouth saboteurs, writes at a time when anticorporate activists have the full resources of social media for propagating so-called "cybersmear."

Telofski points out that employees have been beefing about the company as long as there have been employees and companies. But now rather than being at the water cooler it's "painfully public."

Comments about employers spread very quickly. They spread from sites like JobVent.com if only just by readers passing it along to their Facebook, Digg, or MySpace accounts. They spread even further outside the primary venue, the job bitching site, and the secondary venues, such as Facebook, Digg, and MySpace, because that trash talk gets indexed by search engines....

...[T]his means that any web surfer seeking information about a particular company may also pick up, for example, the JobVent.com comments about that company, in their search results....

Your Employees compete with your company's efforts to improve and maintain its image.<sup>63</sup>

Telofski is morally outraged that a company's image is not determined primarily by the company itself. Just imagine if all large institutions had the same control over their images that Telofski seems to think companies are entitled to.

Part of the reason for the effectiveness of informational warfare is cultural. The disjuncture between the legitimizing rhetoric used by hierarchical institutions, and the brutal and authoritarian reality of their actual behavior, is probably greater than ever before in history. And directly observing the latter—seeing how one's sausage is made—is also easier than ever before.

The cultural reproduction apparatus has always, by its nature, generated a fairly high number of factory rejects. Throughout history, there have probably been many such people who saw the fronds: whose perception of the conflict between practice and preaching brought on a failure of ideological conditioning. But the Internet era for the first time reduces to almost nothing the transaction costs of bringing such people together and forming a critical mass. The political and media culture we live in today seems almost deliberately designed for generating glitches in the Matrix and inculcating cognitive dissonance.

According to Felix Stalder, we're experiencing a "crisis of institutions, particularly in western democracies, where moralistic rhetoric and the ugliness of daily practice are diverging ever more at the very moment when institutional personnel are being encouraged to think more for themselves."

Is it a coincidence that so far the vast majority of WikiLeaks' material has originated from within institutions in democratic systems? I think not. In its rhetoric, Western politics is becoming ever more moralising....

However, if a superficial morality is all that is left, then the encounter with the brutal day-to-day operations of the battle field is unmediated and corrosive. The moral rationale for going to war quickly dissolves under the actual experience of war and what's left is a cynical machinery run amok. It can no longer generate any lasting and positive identification from its protagonists. In some way, a similar lack of identification can be seen within corporations, as evidenced in the leaks from Swiss banks. With neoliberal ideology dominant, employees are told over and over not to expect anything from the company, that their job is continually in danger and that if they do not perform according to targets they can be replaced at a moment's notice....

....People are asked to identify personally with organisations who can either no longer carry historical projects worthy of major sacrifices or expressly regard their employees as nothing but expendable, short-term resources. This, I think, creates the cognitive dissonance that justifies, perhaps even demands, the leaker to violate procedure and actively damage the organisation of which he, or she, has

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63 Telofski, *Insidious Competition*, pp. 225-227.

been at some point a well-acclimated member.... This dissonance creates the motivational energy to move from the potential to the actual.<sup>64</sup>

John Robb describes the technical potential for information warfare against a corporation, swarming customers, employees, and management with propaganda and disinformation (or the most potent weapon of all, I might add—the truth), and in the process demoralizing management.

...given many early examples... of hacking attacks and conflicts, we are likely to see global guerrillas come to routinely use information warfare against corporations. These information offensives will use network leverage to isolate corporations morally, mentally, and physically.... Network leverage comes in three forms:

- Highly accurate lists of targets from hacking "black" marketplaces. These lists include all corporate employee e-mail addresses and phone numbers—both at work and at home....
- Low cost e-mail spam. Messages can be range from informational to phishing attacks....
- Low cost phone spam. Use the same voice-text messaging systems and call centers that can blanket target lists with perpetual calls....

In short, the same mechanisms that make spamming/direct marketing so easy and inexpensive to accomplish, can be used to bring the conflict directly to the employees of a target corporation or its partner companies (in the supply chain). Executives and employees that are typically divorced/removed from the full range of their corporation's activities would find themselves immediately enmeshed in the conflict. The objective of this infowar would be to increase...:

- Uncertainty. An inability to be certain about future outcomes. If they can do this, what's next? For example: a false/troll e-mail or phone campaign from the CEO that informs employees at work and at home that it will divest from the target area or admits to heinous crimes.
- Menace. An increased personal/familial risk. The very act of connecting to directly to employees generates menace. The questions it should evoke: should I stay employed here given the potential threat?
- Mistrust. A mistrust of the corporations moral and legal status. For example: The dissemination of information on a corporation's actions, particularly if they are morally egregious or criminal in nature, through a NGO charity fund raising drive.

With an increase in uncertainty, menace, and mistrust within the target corporation's ranks and across the supply chain partner companies, the target's connectivity (moral, physical, and mental) is likely to suffer a precipitous fall. This reduction in connectivity has the potential to create non-cooperative centers of gravity within the targets as cohesion fails. Some of these centers of gravity would opt to leave the problem (quit or annul contractual relationships) and some would fight internally to divest themselves of this problem.<sup>65</sup>

Obviously, we can't conclude this discussion without a mention of Wikileaks. Although it figured in the press in 2010 primarily insofar as it exposed the secrets of the American national security state, Wikileaks started out as a whistleblowing site oriented at least as much toward corporate leaks. In a late 2010 interview with *Forbes* magazine, Wikileaks founder Julian Assange estimated around 50% of all documents uploaded to the site came from private sector institutions, and announced the site in early 2011 would publish a major cache of documents related to the malfeasance of a major bank. In his words, "it could bring down a bank or two."

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64 Felix Stalder, "Leaks, Whistle-Blowers and the Networked News Ecology," *n.n.*, November 6, 2010 <<http://remix.openflows.com/node/149>>.

65 John Robb, "INFOWAR vs. CORPORATIONS," *Global Guerrillas*, October 1, 2009 <<http://globalguerrillas.typepad.com/globalguerrillas/2009/10/infowar-vs-corporations.html>>.

It's like the Enron emails. Why were these so valuable? When Enron collapsed, through court processes, thousands and thousands of emails came out that were internal, and it provided a window into how the whole company was managed. It was all the little decisions that supported the flagrant violations.

This will be like that. Yes, there will be some flagrant violations, unethical practices that will be revealed, but it will also be all the supporting decision-making structures and the internal executive ethos that comes out, and that's tremendously valuable....

You could call it the ecosystem of corruption.

Assange clearly sees the function of online whistleblowing as analogous to that of a regulatory state:

It just means that it's easier for honest CEOs to run an honest business, if the dishonest businesses are more effected [sic] negatively by leaks than honest businesses. That's the whole idea. In the struggle between open and honest companies and dishonest and closed companies, we're creating a tremendous reputational tax on the unethical companies.

No one wants to have their own things leaked. It pains us when we have internal leaks. But across any given industry, it is both good for the whole industry to have those leaks and it's especially good for the good players.

But aside from the market as a whole, how should companies change their behavior understanding that leaks will increase?

Do things to encourage leaks from dishonest competitors. Be as open and honest as possible. Treat your employees well.

I think it's extremely positive. You end up with a situation where honest companies producing quality products are more competitive than dishonest companies producing bad products. And companies that treat their employees well do better than those that treat them badly....

By making it easier to see where the problems are inside of companies, we identify the lemons. That means there's a better market for good companies. For a market to be free, people have to know who they're dealing with.<sup>66</sup>

As interviewer Andy Greenberg put it, Wikileaks is just the beginning of a growing trend:

Modern whistleblowers, or employees with a grudge, can zip up their troves of incriminating documents on a laptop, USB stick or portable hard drive, spirit them out through personal e-mail accounts or online drop sites—or simply submit them directly to WikiLeaks.

What do large companies think of the threat? If they're terrified, they're not saying. None would talk to us. Nor would the U.S. Chamber of Commerce. WikiLeaks "is high profile, legally insulated and transnational," says former Commerce Department official James Lewis, who follows cybersecurity for the Center for Strategic & International Studies. "That adds up to a reputational risk that companies didn't have to think about a year ago."

...WikiLeaks adds another, new form of corporate data breach: It offers the conscience-stricken and vindictive alike a chance to publish documents largely unfiltered, without censors or personal repercussions, thanks to privacy and encryption technologies that make anonymity easier than ever before. WikiLeaks' technical and ideological example has inspired copycats from Africa to China and rallied transparency advocates to push for a new, legal promised land in the unlikely haven of Iceland.<sup>67</sup>

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66 Andy Greenberg, "An Interview with Wikileaks' Julian Assange," *Forbes*, November 29, 2010 <<http://blogs.forbes.com/andygreenberg/2010/11/29/an-interview-with-wikileaks-julian-assange/>>.

67 Greenberg, "Wikileaks' Assange Wants to Spill Your Corporate Secrets," *Forbes*, November 29, 2010 <<http://blogs.forbes.com/andygreenberg/2010/11/29/wikileaks-julian-assange-wants-to-spill-your-corporate-secrets/>>.

The new era of culture-jamming and digitally-enabled open-mouth sabotage has had a profound cumulative impact. Corporations are much more vulnerable to "'brand disasters' that hit their reputations, revenues, and valuations.'" Over the past twenty years the five-year risk of such a disaster has risen, for companies with the most prestigious brands, from 20% to 82%.<sup>68</sup>

## VI. A Narrowcast Model of Open Mouth Sabotage

Under a blog post of mine on open-mouth sabotage, one commenter raised this question: "perhaps as the more prevalent this practice (hopefully) becomes, the more it will become just another source of general 'white-noise' to be filtered and ignored not only by the media, but by consumers as well—i.e., at what point does 'open mouth sabotage' become a 'fully saturated market'?"<sup>69</sup>

This point would be a valid criticism in regard to the general broadcast media and traditional newspapers. The good thing about network society, though, is that we're not forced to work through broadcast media. So each message that's relevant to some people doesn't have to be directed to everyone, thereby submerging the particular messages that are relevant to each person in a sea of white noise. It's possible to "narrow-cast" each message of open mouth sabotage to the specific audience who will be most interested in it: the major stakeholders of a corporation, its vendors and outlets, the community where it's a major institution, and all the other recipients that would cause maximum embarrassment to the target.

We already saw Telofski's account of how complaints about an employer might get circulated via social networking or bookmarking sites, and then show up in Google searches for the employer's name. But this is merely what Telofski calls a "chaotic," rather than a "cosmic," attack—the more or less spontaneous side-effect of people bitching to each other rather than a deliberate campaign to hurt the employer.<sup>70</sup> What happens when one disgruntled employee sets up an anonymous blog dedicated to exposing the dirt on her employer's greed and mismanagement, publishing (and relentlessly mocking and fiscing) company Official Happy Talk memos, and systematically posts links to it at blog comment threads, message boards, email lists, and Facebook groups dedicated to customers or employees of the industry it serves?

The "white noise" objection fails to consider that campaigns of open mouth sabotage generally aren't broadcast to an undifferentiated public. They're narrowcast--i.e., aimed at the specific stakeholders of the target.

Other possible targets include "search engine pessimization" and the creative use of tags at bookmarking sites to direct web searches on a company toward critical commentary, and the use of social media hashtags to target criticism of firms toward their primary niche markets.<sup>71</sup> The use of social media as a marketing tool is now virtually obligatory—which leaves corporations quite vulnerable to the use of their own social media tools against them.

Social networks as a viral marketing tool are thus a double-edged sword: they allow for an unprecedented dissemination of marketing messages at minimal cost, but they remain largely out of control, and can quickly turn into negative publicity. They effectively "level the ground" between marketers and

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68 Naim, *The End of Power*, p. 7.

69 Kevin Carson, "Open-Mouth Sabotage, Networked Resistance, and Asymmetric Warfare on the Job," *P2P Foundation Blog*, March 15, 2008 <<http://blog.p2pfoundation.net/open-mouth-sabotage-networked-resistance-and-asymmetric-warfare-on-the-job/2008/03/15>>.

70 Telofski, *Insidious Competition*, p. 230.

71 *Ibid.*, pp. 160-162.

consumer activists, who can now run worldwide campaigns virtually free of charge with the help of SNSs [social networking sites].<sup>72</sup>

## VII. Attempts to Suppress or Counter Open Mouth Sabotage

Informational warfare against the corporate image is just starting to come to the attention of those who manage that image. In the past few years there's been an upsurge of interest in “cybersmear,” and a proliferation of services aimed at tracking down disgruntled employees allegedly “libeling” their former or current employers.

But attempts at suppression are generally ineffectual. Governments and corporations, hierarchies of all kinds, are learning to their dismay that, in a networked age, it's impossible to suppress negative publicity. As Cory Doctorow put it, “Paris Hilton, the Church of Scientology, and the King of Thailand have discovered... [that] taking a piece of information off the Internet is like getting food coloring out of a swimming pool. Good luck with that.”<sup>73</sup>

It's sometimes called the Streisand effect, in honor of Barbra Streisand (whose role in its discovery—about which more below—was analogous to Sir Isaac Newton's getting hit on the head by an apple).

One of the earliest examples of the phenomenon in the Internet age was the above-mentioned McLibel case in Britain, in which McDonald's attempt to suppress a couple of embarrassing pamphleteers with a SLAPP lawsuit wound up, as a direct result, bringing them worse publicity than they could have imagined. The pamphleteers were indigent and represented themselves in court much of the time, and repeatedly lost appeals in the British court system throughout the nineties (eventually they won an appeal in the European Court of Human Rights). But widespread coverage of the case on the Web, coupled with the defendants' deliberate use of the courtroom as a bully pulpit to examine the factual issues, caused McDonald's one of the worst embarrassments in its history.<sup>74</sup> (Naomi Klein called it “the corporate equivalent of a colonoscopy.”)<sup>75</sup>

Two important examples in 2004, the Sinclair Media boycott and the Internet publication of the Diebold corporate emails, both decisively demonstrated the impossibility of suppressing online information when information could be replicated and websites mirrored with a few mouse-clicks. An attempt to suppress information on the Wikileaks hosting site, in 2007—an encounter which, though Wikileaks was still virtually unknown to the general public, brought it under the radar of the national security community—resulted in a similar disaster.

Associated Press (via the first amendment center) reports that “an effort at (online) damage control has snowballed into a public relations disaster for a Swiss bank seeking to crack down on Wikileaks for posting classified information about some of its wealthy clients. While Bank Julius Baer claimed it just wanted stolen and forged documents removed from the site (rather than close it down), **instead of the information disappearing, it rocketed through cyberspace**, landing on other Web sites and Wikileaks' own “mirror” sites outside the U.S....<sup>76</sup>

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72 Marc Langheinrich and Gunter Karjoth, “Social networking and the risk to companies and institutions,” *Information Security Technical Report* xxx (2010), p. 2.

73 Doctorow, “It's the Information Economy, Stupid,” p. 60.

74 “McDonald's Restaurants v Morris & Steele,” *Wikipedia* <[http://en.wikipedia.org/wiki/McLibel\\_case](http://en.wikipedia.org/wiki/McLibel_case)> (accessed December 26, 2009).

75 Klein, *No Logo*, p. 330.

76 “PR disaster, Wikileaks and the Streisand Effect” PRdisasters.com, March 3, 2007 <<http://prdisasters.com/pr-disaster-via-wikileaks-and-the-streisand-effect/>>.

The DeCSS uprising, in which corporate attempts to suppress publication of a code for cracking the DRM on DVDs failed in the face of widespread defiance, is one of the most inspiring episodes in the history of the free culture movement.

Journalist Eric Corley—better known as Emmanuel Goldstein, a nom de plume borrowed from Orwell's *1984*—posted the code for DeCSS (so called because it decrypts the Content Scrambling System that encrypts DVDs) as a part of a story he wrote in November for the well-known hacker journal 2600. The Motion Picture Association of America (MPAA) claims that Corley defied anti-circumvention provisions of the Digital Millennium Copyright Act (DMCA) by posting the offending code....

The whole affair began when teenager Jon Johansen wrote DeCSS in order to view DVDs on a Linux machine.... Johansen testified on Thursday that he announced the successful reverse engineering of a DVD on the mailing list of the Linux Video and DVD Project (LiViD)....

The judge in the case... issued a preliminary injunction against posting DeCSS. Corley duly took down the code....

True to their hacker beliefs, Corley supporters came to the trial wearing the DeCSS code on t-shirts. There are also over 300 Websites that still link to the decryption code, many beyond the reach of the MPAA.<sup>77</sup>

In the Usmanov case of the same year, attempts to suppress embarrassing information led to similar Internet-wide resistance.

The Register, UK: Political websites have lined up in defence of a former diplomat whose blog was deleted by hosting firm Fasthosts after threats from lawyers acting for billionaire Arsenal investor Alisher Usmanov.

Four days after Fasthosts pulled the plug on the website run by former UK ambassador to Uzbekistan Craig Murray it remains offline. Several other political and freedom of speech blogs in the UK and abroad have picked up the gauntlet however, and reposted the article that originally drew the take-down demand.

The complaints against Murray's site arose after a series of allegations he made against Usmanov....

After being released from prison, and pardoned, Usmanov became one of a small group of oligarchs to make hay in the former USSR's post-communist asset carve-up....

On his behalf, libel law firm Schillings has moved against a number of Arsenal fan sites and political bloggers repeating the allegations....<sup>78</sup>

That reference to "[s]everal other political and freedom of speech blogs," by the way, is like saying the ocean is "a bit wet." An article at *Chicken Yoghurt* blog provides a list of all the venues that have republished Murray's original allegations, recovered from Google's caches of the sites or from the Internet Archive. It is a very, very long list<sup>79</sup>—so long, in fact, that *Chicken Yoghurt* helpfully provides the html code with URLs already embedded in the text, so it can be easily cut and pasted into a blog post. In addition, *Chicken Yoghurt* provided the IP addresses of Usmanov's lawyers as a heads-up to all bloggers who might have been visited by those august personages.

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77 Deborah Durham-Vichr. "Focus on the DeCSS trial," CNN.Com, July 27, 2000 <<http://archives.cnn.com/2000/TECH/computing/07/27/decss.trial.p1.idg/index.html>>.

78 Chris Williams, "Blogsphere shouts 'I'm Spartacus' in Usmanov-Murray case: Uzbek billionaire prompts Blog solidarity," *The Register*, September 24, 2007 <[http://www.theregister.co.uk/2007/09/24/usmanov\\_vs\\_the\\_internet/](http://www.theregister.co.uk/2007/09/24/usmanov_vs_the_internet/)>.

79 "Public Service Announcement—Craig Murray, Tim Ireland, Boris Johnson, Bob Piper and Alisher Usmanov..." *Chicken Yoghurt*, September 20, 2007 <<http://www.chickyog.net/2007/09/20/public-service-announcement/>>.

The Trafigura case probably represents a new speed record, in terms of the duration between initial attempts to silence criticism and company lawyers' final decision to cave. The Trafigura corporation actually secured a court “super-injunction” against *The Guardian*, prohibiting it from reporting a question by an MP on the floor of Parliament about the company's alleged dumping of toxic waste in Africa. Without specifically naming either Trafigura or the MP, reporter Alan Rusbridger was able to comply with the terms of the injunction and still include enough hints in his cryptic story for readers to scour the Parliamentary reports and figure it out for themselves. By the time he finished work that day, “Trafigura” was already the most-searched-for term on Twitter; by the next morning Trafigura's criminal acts—plus their attempt at suppressing the story—had become front-page news, and by noon the lawyers had thrown in the towel.<sup>80</sup>

The re-emergence of Wikileaks as a focus of attention in 2010, after earlier U.S. government concerns in 2007, presents another case study in the Streisand Effect. According to K. Vaidya Nathan, U.S. government attempts to suppress the site illustrated the Streisand Effect in spades:

Though, the action of the US government was intended to suppress the leaks, the ‘Streisand effect’ made sure that the outcome was exactly the opposite. People all over the world, who hadn’t even heard of the Website, were typing WikiLeaks.org on their keyboards only to find a site-unavailable message, which increased their curiosity. People sympathetic to WikiLeaks, in the meantime, had voluntarily mirrored the website in order to keep it online. The entire content, with its million plus documents is now available on multiple servers, with different domain names and its fan-base has increased exponentially. The State Department tried to suppress one source. The upshot—not only has the source multiplied itself but its fan base has grown radically. Even though WikiLeaks doesn’t advertise, the State Department has become its biggest advertiser.<sup>81</sup>

Robin Bloor describes the combination of mirror sites, torrent downloads and darknets which have been used to circumvent censorship of Wikileaks and its documents as a form of “Super Streisand Effect.”<sup>82</sup>

I witnessed a textbook example of the Streisand Effect for myself last year, among my personal circle of acquaintances. *Escher Girls*<sup>83</sup> is a popular feminist blog run by Ami Angelwings that covers anatomically impossible female poses, apparently intended to be “sexy” by the illustrators in comics and games (some notable recurring ones have been dubbed boobs-n-butts, centaur, swivel-butts and flounder-boob). The blog relies heavily on fair use of images from popular media, including some fairly caustic mockery. Most of the artists whose work has been featured accept it, if not in good humor, at least in the knowledge that it's being used for perfectly legitimate purposes under copyright law. Not Randy Queen, though. Queen not only served DMCA notices on Tumblr to take down the posts that criticized his illustrations,<sup>84</sup> but went on to threaten Ami with a defamation action<sup>85</sup> for even posting a notice informing her readers of the takedown. Her original notice on Techdirt was quite non-confrontational, simply noting what happened for the information of readers who might wonder where the posts had gone, and even included this statement:

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80 Alan Rusbridger, “First Read: The Mutualized Future is Bright,” *Columbia Journalism Review*, October 19, 2009 <[http://www.cjr.org/reconstruction/the\\_mutualized\\_future\\_is\\_brigh.php](http://www.cjr.org/reconstruction/the_mutualized_future_is_brigh.php)>.

81 K. Vaidya Nathan, “Beware the Streisand effect,” *Financial Express*, December 17, 2010 <<http://financialexpress.com/news/beware-the-streisand-effect/725720/0>>.

82 Robin Bloor, “The Internet, Wikileaks and the Super Streisand Effect,” *The Virtual Circle*, December 6, 2010 <<http://www.thevirtualcircle.com/2010/12/the-internet-wikileaks-and-the-super-streisand-effect/>>.

83 The blog is <<http://eschergirls.tumblr.com>>; the owner tweets as @Ami\_Angelwings.

84 Mike Masnick, “Copyright As Censorship: Comic Artist Uses DMCA To Censor Critical Blogs,” *Techdirt*, August 4, 2014 <<https://www.techdirt.com/articles/20140801/16423028086/copyright-as-censorship-comic-artist-uses-dmca-to-censor-critical-blogs.shtml>>.

85 Mike Masnick, “Comic Artist Randy Queen Now Claims Post About His Abuse Of Copyright To Stifle Criticism Is Defamatory,” *Techdirt*, August 4, 2014 <<https://www.techdirt.com/articles/20140804/11594828098/comic-artist-randy-queen-now-claims-post-about-his-abuse-copyright-to-stifle-criticism-is-defamatory.shtml>>.

(Don't harass him on his Facebook or Tumblr by the way. I'm not interested in having a feud with him, just letting people know what's going on.)<sup>86</sup>

Free speech/Internet censorship activist sites like *Popehat* and *Chilling Effects* quickly took up her cause, along with Mike Masnick at *Techdirt* (cited in the footnotes for this section) and the Electronic Frontier Foundation. The deleted images were quickly recovered from Internet Archive and posted around the Web, where they remained even after Queen deleted them from Wayback with robots.txt. In the end, in the face of the unwanted wave of negative publicity, Queen predictably rescinded his takedown notices and threats and apologized.<sup>87</sup>

Despite all this, the leaders of hierarchical institutions by and large have not yet internalized the new rules of the game. Time again, they find themselves blindsided by the Streisand Effect when they unexpectedly fail, once again, to suppress embarrassing information. For example, a French intelligence organization was caught by surprise when its attempt to suppress a page on the French language Wikipedia for “national security” reasons quickly made it the most widely read article in the French Wikipedia.<sup>88</sup>

More generally, institutions are finding that traditional means of suppression that worked just a few years ago are useless. Take something as simple as suppressing a school newspaper whose content violates the administrators' sensibilities. An increasingly common response is to set up an informal student newspaper online, and if necessary tweak the hosting arrangements to thwart attempts at further suppression.<sup>89</sup>

The above-mentioned Richard Telofski, as we shall see in greater detail below, devotes most of his book *Insidious Competition* to advice on how to counter NGOs, activists, labor unions, etc., in the public battle for meaning, and how to fight for control of the corporate image. But in the case of what he calls “the Nasties,” which are mostly either foreign governments or foreign companies, he says, this is impossible. The reason is that the attacker is anonymous and their attack is covert. It's impossible to suppress them because they can't be identified.<sup>90</sup> But he ignores a central question: What stops an individual, in the face of attempts at suppression, from taking advantage of the tools of individual super-empowerment, going underground, and *becoming* a Nasty?

Besides attempts at suppression, there is a growing interest in waging information warfare from the other side. Telofski's book is perhaps the most notable example of Corporate America's new focus on networked informational warfare, with a view toward fighting back in the marketplace of ideas. “[S]ocial media,” he writes, “*has the power to compete with you for the meaning of your corporate image...*”<sup>91</sup>

As I write, marketers are experimenting with, and discovering, how social media can be used successfully within their marketing promotions mix. But what business people are not considering nearly as much is that if social media can be used to **promote** products and services..., then alternatively it can be used to **demote** or damage the image of products and services—and yes, even your corporate image....

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86 <<http://eschergirls.tumblr.com/post/93520850386/so-yesterday-i-found-out-that-randy-queen-artist>>

87 Ami Angelwings' account of the complete timeline of events can be found at her personal blog: "What's been happening in the Randy Queen situation, and what the timeline was," *Ami Angelwings' Super Cute Rants of DOOM XD*, August 6, 2014 <[http://ami-rants.blogspot.com/2014\\_08\\_01\\_archive.html](http://ami-rants.blogspot.com/2014_08_01_archive.html)>.

88 Glyn Moody, “French Intelligence Agency Forces Wikipedia Volunteer to Delete Article; Re-Instated, It Becomes Most-Read Page On French Wikipedia,” *Techdirt*, April 8, 2013 <<http://www.techdirt.com/articles/20130407/09244422618/french-intelligence-agency-forces-wikipedia-volunteer-to-delete-article-re-instated-it-becomes-most-read-page-french-wikipedia.shtml>>.

89 Mike Masnick, “Yet Another High School Newspaper Goes Online to Avoid District Censorship,” *Techdirt*, January 15, 200 <<http://www.techdirt.com/articles/20090112/1334043381.shtml>>.

90 Telofski, *Insidious Competition*, pp. 317-318.

91 *Ibid.*, p. 15.

And that power is going to be used both in unexpected ways and by unexpected persons or entities.... These *new competitors* don't want to sell your customers, clients, or consumers a comparable product or service. These new competitors want to sell your customers, clients, or consumers a competing *image* of your product, service, or your very company. An image of your company that is not as flattering as that which you work hard to maintain every business day....<sup>92</sup>

Telofski advises his clients to develop their own largely autonomous social media squads to engage the corporation's opponents in the “battle for meaning”—to contest attempts by workers and consumer activists to subvert the company's carefully constructed image, and regain control of that image.

The one strategy he recommends that actually seems plausible is one that “reputation management” firms already engage in: search engine optimization.<sup>93</sup> That means, essentially, gaming search engines to make sure positive results about your company come up on the first page of search results, and negative stuff is buried several pages in. The rest amounts to polishing a turd.

Tactic: Anticipate negative memes that attackers might create. Provide information nullifying the claims made by the attackers. Address the “issue” before it becomes an issue....

Tactic: Run public service announcements (PSAs) stating that the “facts” shared in social media are not always true and are usually unvetted, and that the false and misleading information in social media is a disservice to the public....

Tactic: Have company social media staff enter into problematic discussions with links back to the third-party sources [of information]....

Tactic: Identify the attacker as mistaken. Present information within social media discussions encountering image-damaging claims. Link back to the third-party sources created in the proactive strategies.

Tactic: Make alliances with other organizations to have them help present your case.

Tactic: Radicalize the attacker. Through social graphing software, look for connections to the attacker which will weaken their case or associate them with questionable sourcing....

Tactic: Hold the attacker to liability laws. Frame your argument in “the truth” stating that the attacker is disseminating misleading information.<sup>94</sup>

Regarding the first four tactics, which center on contesting the facts of corporate critics and providing alternative information to the public, Telofski later elaborates that the company should appeal to independent authority by linking to “third-party, objective sites providing information which counters the claims being made,” information which is “sound” and based on “good science, economics, etc.”<sup>95</sup>

Your job, as a reputable company, is to call attention to the truth while discrediting reporting that is not grounded in the facts. Don't let the falsehoods of NGOs and Activists stand “uncorrected,” particularly if their false assertions have already broadly mutated. Challenge their assertions in the social web. By framing their assertions as being misleading and by declaring the importance of responsible reporting, readers will, by extension, question the responsibility of the NGO/Activist reporting.

...[C]ounter-attacking or preempting NGOs and Activists in social media is about the truth. It's about operating on a higher level than the opponent. The truth sets everyone free.<sup>96</sup>

In this regard, I suspect Telofski's standards of “sound information” and “good science” are somewhat lower than mine. For example, he repeatedly counters activist critiques of corporate environmental policy with the withering rejoinder that they “obey all environmental laws and regulations.”

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92 *Ibid.*, p. 16.

93 *Ibid.*, p. 275.

94 *Ibid.*, pp. 274-277.

95 *Ibid.*, p. 289.

96 *Ibid.*, p. 305.

Telofski issues repeated caveats that his strategic advice isn't meant for corporate malefactors, or those who want to mislead the public. Those people should clean up their act before worrying about image management. But he makes it clear, throughout his book, that he regards such “bad apples” as a small minority in the corporate world. The great majority of large corporations are “honest and law-abiding,”<sup>97</sup> and all about “solving the problems of individuals.”<sup>98</sup> You know, as opposed to the corporations in the Bearded Spock universe where they have cowboy CEOs like Bob Nardelli, Rick Scott and “Chainsaw Al” Dunlap, who follow the “downsize everybody, give yourself a bonus, cash in your stock options and split before the chickens come home to roost” school of management.

Seriously, anyone who's ever made a first-hand comparison between the Official Happy Talk in the mission statement about “customer service,” and a company's actual practice of gutting customer service staff, will know that corporations act like classic monopolists—seeing how much rent they can extract by rationing out and spoonfeeding a minimum of “solving the problems of individuals” in return for maximum returns. Anyone who's ever talked to an automated customer service line or sought information from a blue-smocked Wal-mart “associate” will know just how much of a flying fuck they give about “solving the problems of individuals.” The main “individuals” whose “problems” they're interested in “solving” are CEOs trying to afford a third vacation home or a private jet.

In Telofski's Bizarro world, while large corporations are overwhelmingly a bunch of Dudley Dorights, NGOs and activist organizations are a different story altogether. In his references to anti-corporate activists' claims to serve the “public interest” and promote “benefits for society”—as opposed to his straight-faced reiteration of such claims in corporate happy-talk—Telofski's sarcasm fairly drips off the page. He criticizes NGOs for their lack of democratic accountability and for harming the interests of consumers allegedly served by corporations. But he takes the corporate image pretty much uncritically and at face value.

For Telofski, a world dominated by large corporations is entirely natural and normal, and the only rational way to organize the world. Attacks on corporations are attacks on the job security and prosperity of their employees, on wages and job benefits, and on the development of the new forms of technology the corporations might otherwise have produced. Management's agenda, by definition, is “best business practices,” and in the social interest. And outside interference with “best business practices,” by definition, “causes inefficiencies.”

So the interests of the corporation are the interests of society. The corporation must be safeguarded as a bulwark protecting everything we hold dear. The real is rational.

For Telofski, the safety and environmental regulatory standards most corporations meet represent the latest, best and soundest science. The very idea that a revolving door of personnel between the senior management of the regulated industries and political appointees at regulatory agencies might have rigged a set of dumbed-down, least-common-denominator standards designed preempt civil liability and provide a safe harbor against liability for all firms that meet this minimal standard, or that an awful lot of his “sound science” bears the imprint of the industry-funded research that produced it, is “conspiracy theory” on the level of Ickes' lizard people.

In practice, most of the sites which I see defending corporate virtue with their allegedly “sound science” turn out to be efforts like CornSugar.org and EnergyTomorrow.org (“Log on to learn more”). They're basically the kinds of industry shills mocked in *Toxic Sludge is Good For You*. That means it's probably at least as easy for us as for them to pursue a “radicalization” strategy of tarring them by association with the sites they link to.

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97 *Ibid.*, p. 10.

98 *Ibid.*, p. 295.

Telofski repeatedly recommends the use of “fact checking software.” But most of the “factual” issues between the two sides in any public relations dispute between corporations and consumer activists are not things that can be resolved by a simple visit to Snopes.com. Most of them involve the partial presentation of facts, the lack of context, or a disingenuous interpretation of them—mainly on the corporate side. In most contests of “scientific fact” between the corporate world and consumer and environmental activists, the disingenuous oversimplifications and half-truths turn out to be on the corporate side.

A good example is the television PSA from EnergyTomorrow.org, in which the actress (“fact is, a growing world will demand more”) states how many years of automobile use American fossil fuel reserves are sufficient to provide. That's just fine, except it totally ignores the centrally important question of EROEI (Energy Return on Energy Investment): how many years' demand the reserves amount to doesn't matter nearly so much as the maximum feasible rate of extracting it, or the cost—in both money and energy terms—of extraction per unit of usable energy.

Another good example is the ex cathedra pronouncements of the late Norman Borlaug on organic farming, which form the basis of so many appeals to authority by assorted agribusiness industry shills. Borlaug blithely asserted that organic farming would result in massive deforestation—despite the fact that intensive horticulture actually requires *less* land than conventional mechanized/chemical agriculture for a given unit of output. Conventional commercial farming techniques maximize, not output per acre, but output per labor-hour. To do so, agribusiness must actually use the land in a *less* intensive way. Borlaug also claimed organic farming would require deforestation for more pasturage to provide manure for fertilizer; apparently he never heard of composting or green manuring with leguminous cover crops. John Jeavons, who developed the Biointensive method of raised-bed cultivation, has disproved both of the Borlaug canards by growing enough food to feed a single human being on only 4,000 square feet—using no fertilizer besides green manuring and closed-loop waste recycling. The anti-organic party line also claims “an atom of nitrogen is an atom of nitrogen” (i.e., a plant can't tell the nitrogen in organic fertilizer from that in syntheti)--ignoring the ways factors like soil friability, symbiotic interaction between root hairs and soil bacteria, etc. affect the absorption of nitrogen. In any contest of facts and logic between Borlaug and thinkers on the other side like Frances Moore Lappé, I'll put my money on the latter.

Telofski advises prospective social media squads not only to provide “high quality, information-based” responses, with links to “supportive,” independent, backing information,” but to stay in the debate venues “for the long haul.”<sup>99</sup>

Oh, yes, please do. Because if there's one thing we've seen repeatedly demonstrated, it's that “high-quality information” of the sort provided by Norman Borlaug's regurgitators and EnergyTomorrow.org can't stand up to much in the way of follow-up questions. Giant corporations, of necessity, rely on Official Happy Talk and superficial half-truths that are designed to *deflect* scrutiny. Corporate “debunking” can be countered with still more unflattering facts and critical analysis of the “debunking” itself. The corporation finds itself fighting an ongoing public battle in which it is forced to engage its critics on the grounds of truth—and the critics can keep talking back. Their worst nightmare, in other words. There's a reason PR flacks and politicians don't like follow-up questions.

A great deal of corporate propaganda is superficially attractive appeals to “free enterprise” and “free markets” that can be cut off at the knees by showing just what a bunch of corporate welfare queens and hypocritical protectionists those piggies at the trough really are, and how dependent they are on IP laws and other forms of protectionism. (Take, for example Monsanto's use of food libel laws to suppress commercial free speech. Take attempts to suppress competition from those with more stringent quality standards, like

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99 *Ibid.*, p. 311.

meat-packers that test for mad cow disease more frequently than required by law, on the grounds that it constitutes “disparagement” of those who meet only the minimal regulatory standard.)

A battle based on facts and truth? Don’t even go there. The only hope for corporate power is that people stay ignorant—in a “hegemonically constructed reality” created by big business—as long as possible.

Telofski also elaborates on his suggestion to “radicalize the attacker.” That means to expose the NGO’s agenda as “leaning heavily left,” with connections that “can be considered 'radical,' extremist, outside the mainstream of society, or highly politically-motivated.” The corporate counter-attack should use social graphing software to uncover the groups and individuals that link to the NGO, and the associations of its members. For American NGOs, the company should check the organization’s Form 990 which identifies where they get their funding.

Ever hear the saying about glass houses? Telofski’s sword cuts both ways. You may show that anti-corporate activists are friends with some Dirty Fucking Hippies, but we can show that most of your “factual” propaganda and most of the messages coming from your “allied organizations” are Industry-Funded Junk Science. We can show that the boys in the C-Suite are so many Little Eichmanns, who would bulldoze Guatemalan peasants into mass graves just to lower the price of sugar a penny a pound.

What’s more, even if some of us may look like Tommy Chong, we can get our facts—facts which overwhelmingly disprove the corporate pretend reality—from genuinely independent scholarly and respected public interest sources so straight they make Wally Cox look like Jerry Garcia. What it comes down to in the end is facts—can your glossy bullet points and “Did you know...” stand up to relentless cross-examination in a world where we can finally talk back? Bring it on!

The very fact Telofski finds it necessary to pursue such an agenda of contesting with activists for the factual sphere means the war is lost. Corporate power depends on one-way control of discourse. If they have to wage a contest of facts and reason against those who can talk back, they’re already beaten.

As for his recommendation that companies “hold the attacker to liability laws,” it’s a good way to wind up being systematically taken apart in front of a much, much, *much* larger audience.

If corporations slow down and try to avoid decisive engagements, appeal to image and market their products mainly to stupid people with brand loyalties, they might just spin out the process of being nibbled to death by networked piranha for a few more decades. If they try to fight a pitched battle against us on his model, we’ll just kill them faster.

## VIII. Who Regulates the Regulators?

It’s sometimes asked how a stateless society would prevent private malfeasors from doing this or that bad thing, like the criminal negligence that resulted in the Deepwater Horizons oil spill in the Spring of 2010. Anarchists can respond to such questions by saying “I don’t know. How did the state prevent it?”

But less facetiously, as we’ve already noted, the state’s supposed oversight agencies are quite prone to developing common interests with the industries they are ostensibly regulating. Given the average level of performance of regulatory and oversight agencies in the real world, networked advocacy organizations can frequently take more active and effective measures against private wrong-doers than the regulators are willing to. And what’s more, they can expose the regulatory state’s collusive behavior in ways that were once impossible without first sending a query letter to Ralph Nader or Barry Commoner.

The regulatory state is there, supposedly, to sanction abuses by private business. So what are you supposed to do when the CEO calls the regulator “Uncle Billy Bob”? Again, who regulates the regulators? Answer: We do.

A case in point is an incident in Louisiana, where local law enforcement acted as private security for British Petroleum. During much of the oil spill aftermath, BP was notorious for—illegally—blocking press access to the cleanup efforts. And according to the same Mac McClelland mentioned at the outset of this chapter, the line between the Jefferson Parish sheriff's department and BP in enforcing such blockage was—to put it mildly—rather blurry:

The blockade to Elmer's [Island] is now four cop cars strong. As we pull up, deputies start bawling us out; all media need to go to the Grand Isle community center, where a "BP Information Center" sign now hangs out front.... Inside, a couple of *Times-Picayune* reporters circle BP representative Barbara Martin... We tell her that deputies were just yelling at us, and she seems truly upset. For one, she's married to a Jefferson Parish sheriff's deputy. For another, "We don't need more of a black eye than we already have."

"But it wasn't BP that was yelling at us, it was the sheriff's office," we say.

"Yeah, I know, but we have...a *very* strong relationship."

"What do you mean? You have a lot of sway over the sheriff's office?"

"Oh yeah."

"How much?"

"A *lot*."

When I tell Barbara I am a reporter, she stalks off and says she's not talking to me, then comes back and hugs me and says she was just playing. I tell her I don't understand why I can't see Elmer's Island unless I'm escorted by BP. She tells me BP's in charge because "it's BP's oil."

"But it's not BP's land."

"But BP's liable if anything happens."

"So you're saying it's a safety precaution."

"Yeah! You don't want that oil gettin' into your pores."

"But there are tourists and residents walking around in it across the street."

"The mayor decides which beaches are closed." So I call the Grand Isle police requesting a press liaison, only to get routed to voicemail for Melanie with BP. I call the police back and ask why they gave me a number for BP; they blame the fire chief.

I reach the fire chief. "Why did the police give me a number for BP?" I ask.

"That's the number they gave us."

"Who?"

"BP."<sup>100</sup>

The "liability" and "safety" concerns struck McClelland as rather flimsy, considering not only that tourists were let through to areas from which the press was barred, but that she observed BP cleanup workers in jeans and T-shirts.<sup>101</sup> Not to mention BP specifically forbade cleanup crews to wear protective gear in order to avoid any—ahem—unfortunate images on the evening news.

In a follow-up, McClelland described an encounter in which local law enforcement officials—in uniform and using official vehicles while on BP's payroll—were hassling reporters for filming BP operations:

Here's the key exchange:

Wheelan: "Am I violating any laws or anything like that?"

Officer: "Um...not particularly. BP doesn't want people filming."

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100 Mac McClelland, "It's BP's Oil," *Mother Jones*, May 23, 2010 <<http://motherjones.com/environment/2010/05/oil-spill-bp-grand-isle-beach>>.

101 "Op-Ed: Reporters Covering Oil Spill Stymied."

Wheelan: "Well, I'm not on their property so BP doesn't have anything to say about what I do right now."

Officer: "Let me explain: BP doesn't want any filming. So all I can really do is strongly suggest that you not film anything right now. If that makes any sense." [Mr. Corleone don't like it when people don't pay their protection money. So all Knuckles and I can do is strongly suggest you pay up right now. If that makes any sense.]

Not really! Shortly thereafter, Wheelan got in his car and drove away but was soon pulled over.

It was the same cop, but this time he had company: Kenneth Thomas, whose badge... read "Chief BP Security." The cop stood by as Thomas interrogated Wheelan for 20 minutes, asking him who he worked with, who he answered to, what he was doing, why he was down here in Louisiana. He phoned Wheelan's information in to someone. Wheelan says Thomas confiscated his Audubon volunteer badge... and then wouldn't give it back.... Eventually, Thomas let Wheelan go....

....The deputy was off official duty at the time, and working in the private employ of BP. Though the deputy failed to include the traffic stop in his incident report, Major Malcolm Wolfe of the sheriff's office says the deputy's pulling someone over in his official vehicle while working for a private company is standard and acceptable practice, because Wheelan was acting suspicious and could have been a terrorist.<sup>102</sup>

So apparently BP's security personnel were exercising law enforcement functions on land not occupied by BP, and law enforcement officials were acting as hired help. Sounds like something straight out of a Billy Jack movie, doesn't it? When the state itself is lawless, or in bed with those it ostensibly regulates, legal protections are meaningless. As Assange said in a late 2010 interview cited above, "our primary defense isn't law, but technology."<sup>103</sup>

## **IX. Networked, Distributed Successors to the State: Saint-Simon, Proudhon and “the Administration of Things”**

In recent years it's been “steam engine time” for theories of the evolution of the state into a stigmergic governance mechanism or support platform. But the basic idea has venerable roots. It goes back to Saint-Simon's idea of "militant" giving way to "industrial" society, and the "government of persons" to the "administration of things."

In his earlier period, as quoted by Shawn Wilbur from the 1849 debates with Louis Blanc and Pierre Leroux, Proudhon treated “the State” as something to be superseded entirely by the abolition of the antagonistic social relations that made power necessary:

The State is the external constitution of the social power....

The constitution of the State supposes... as to its object, that antagonism or a state of war is the essential and irrevocable condition of humanity, a condition which necessitates, between the weak and the strong, the intervention of a coercive power to put an end to their struggles by universal oppression. We maintain that, in this respect, the mission of the State is ended; that, by the division of labor, industrial solidarity, the desire for well-being, and the equal distribution of capital and taxation, liberty and justice obtain surer guarantees than any that ever were afforded them by religion and the State....

As a result, either no social revolution, or no more government; such is our solution of the political problem.<sup>104</sup>

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102 McClelland, “La Police Doing BP's Dirty Work,” *Mother Jones*, June 22, 2010 <<http://motherjones.com/rights-stuff/2010/06/BP-louisiana-police-stop-activist>>.

103 Greenberg, “An Interview with Wikileaks' Julian Assange.”

104 Pierre-Joseph Proudhon, “Resistance to the Revolution,” quoted in Shawn Wilbur, “Notes on Proudhon's changing

As stated in his 1851 work *General Idea of the Revolution in the XIX Century*, he stated this in fairly straightforward terms as “dissolving the state in the social body” (or “in the economy”).

But as Proudhon's thought matured, Wilbur argues, this took a more nuanced form of “uncoupling of an institution and the despotic elements which seem to dominate it”—in particular decoupling the concept of the state from that of government.<sup>105</sup>

...[T]his new clarity about the nature of social evolution was accompanied by a more sophisticated notion of how “collective force,” which was so important in his analysis of “property,” manifests itself in the form of collective *beings*—or rather how all beings worthy of the title are always already collectivities, organized according to a law of unity and development. That notion led him to reconsider the status of “the state,” apart from its connection to the principle of government, and to rank some sort of non-governmental state alongside families, workshops, and other collective beings which must somehow be accounted for in his sociology.

[It involved positing] this “organized collectivity”... as a being, with its own organization, interests and reason, operating alongside human beings and other collective beings (when not itself subordinated to other interests by governmentalism)...<sup>106</sup>

These assorted organized collectivities would coexist through the principle of federation.

“this federation, where the city is equal to the province, the province equal to the empire, the empire equal to the continent, where all groups are politically equal...” The leveling of the playing field is the consequence of denying the governmental principle, which, unlike the manifestation of collective force in the state, seems to be primarily an artefact of our inability to recognize our own strength when it confronts us in collective form.

The result was a conception of “the non-governmental state as an individual actor,” coexisting with other collective bodies “in relations of mutuality.”<sup>107</sup>

1) We have a level “field of play” where the beings we are accustomed to consider “individual” and a range of organized collectivities can actually only claim “individual” status by the same title, their status as groups organized according to an internal law which gives them unity. People, families, workshops, cities, nations and “humanity”... occupy non-hierarchical relationship with one another, despite differences in scale and complexity, and despite the participation of individuals at one scale in collective-individualities at another... Without a governmental principle to elevate any of these individuals “above the fray” in any way, mutuality becomes absolutely vital...

2) We have “rights” manifested by nothing more than the manifestation of capacities—which means we have rights that are going to conflict and clash, and which are to be balanced by some sort of (broadly defined) commutative justice.

3) We also have a theory of freedom... which is not primarily concerned with permissions and prohibitions, but with the strength and activity (the *play*) of the elements that make up the individual, and the complexity of their relations.<sup>108</sup>

The state of Proudhon's day had preempted its horizontal relationship to other, rightfully equal, individuals:

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notion of the state (1 of 3),” *Two-Gun Mutualism & the Golden Rule*, January 18, 2013 <<http://libertarian-labyrinth.blogspot.com/2013/01/notes-on-proudhons-changing-notion-of.html>>.

105 Wilbur, “Notes on Proudhon's changing notion of the state (3 of 3),” January 20, 2013 <[http://libertarian-labyrinth.blogspot.com/2013/01/notes-on-proudhons-changing-notion-of\\_6242.html](http://libertarian-labyrinth.blogspot.com/2013/01/notes-on-proudhons-changing-notion-of_6242.html)>.

106 Wilbur, “Notes on Proudhon's changing notion of the state (1 of 3).”

107 Wilbur, “Notes on Proudhon's changing notion of the state (2 of 3),” *Two-Gun Mutualism & the Golden Rule*, January 19, 2013 <[http://libertarian-labyrinth.blogspot.com/2013/01/notes-on-proudhons-changing-notion-of\\_19.html](http://libertarian-labyrinth.blogspot.com/2013/01/notes-on-proudhons-changing-notion-of_19.html)>.

108 Wilbur, “Notes on Proudhon's changing notion of the state (3 of 3).”

Proudhon presented the existing State as a usurpation of the power of a real collectivity, under the pretext that the social collectivity could not *realize* itself. The assumption of governmental authority by a part of society over the rest amounts to an imposture..., with the usurpers pretending to be an organ society, but somehow outside and above society as well. Now, Proudhon went on to assert that there is indeed a State, which is in some sense an organ of that society, so it does not follow from that assertion that this State could perform the role of government. This State is simply one of the various non-human “individuals,” collective absolutes, which exists on the social terrain, and which, according to the bare-bones “social system” we’re exploring, encounters other individuals as equals.<sup>109</sup>

Proudhon argues for moving the state from a position of superiority to one of equality to the individual:

The State is the power of collectivity which results, in every agglomeration of human beings, from their mutual relations, from the solidarity of their interests, from their community of action, from the practice of their opinions and passions. The State does not exist without the citizens, doubtless; it is not prior nor superior to them; but it exists for the very reason that they exist, distinguishing itself from each and all by special faculties and attributes...

The State has preserved its power, its strength, which alone renders it respectable, constitutes its credit, creates awards and prerogatives for it, but it has lost its *authority*. It no longer has anything but Rights, guaranteed by the rights and interests of the citizens themselves. It is itself, if we can put it this way, a species of citizen; it is a civil person, like families, commercial societies, corporations, and communes. Just as there is no sovereign, there is no longer a servant, as it has been said, that would be to remake the tyrant: he is the first among his peers.<sup>110</sup>

Kropotkin later distinguished between “government”—or governance—and the State as such, although he reversed the significance Proudhon attached to them:

On the other hand the *State* has also been confused with *Government*. Since there can be no State without government, it has sometimes been said that what one must aim at is the absence of government and not the abolition of the State.

However, it seems to me that State and government are two concepts of a different order. The State idea means something quite different from the idea of government. It not only includes the existence of a power situated above society, but also of a *territorial concentration* as well as the concentration *in the hands of a few of many functions in the life of societies*. It implies some new relationships between members of society which did not exist before the formation of the State. A whole mechanism of legislation and of policing has to be developed in order to subject some classes to the domination of others.<sup>111</sup>

## X. Monitory Democracy

John Keane's idea of “monitory democracy” overlaps to a large extent, albeit imperfectly, with the things we've been discussing here:

Monitory democracy is a new historical form of democracy, a variety of 'post-parliamentary' politics defined by the rapid growth of many different kinds of extra-parliamentary, power-scrutinising mecha-

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109 Wilbur, “Encounters and Transactions,” *Contr'un*, September 9, 2013 <<http://libertarian-labyrinth.blogspot.com/2013/09/encounters-and-transactions.html>>.

110 Proudhon, *Theory of Taxation* (1861), in Wilbur, “Proudhon on the State in 1861,” *Two-Gun Mutualism and the Golden Rule*, February 17, 2013 <<http://libertarian-labyrinth.blogspot.com/2013/02/proudhon-on-state-in-1861.html>>.

111 Pyotr Kropotkin, *The State: Its Historic Role* (1897), Chapter One <<http://www.panarchy.org/kropotkin/1897.state.html>>.

nisms. These monitory bodies take root within the 'domestic' fields of government and civil society, as well as in 'cross-border' settings once controlled by empires, states and business organisations. In consequence... the whole architecture of self-government is changing. The central grip of elections, political parties and parliaments on citizens' lives is weakening. Democracy is coming to mean more than elections, although nothing less. Within and outside states, independent monitors of power begin to have tangible effects. By putting politicians, parties and elected governments permanently on their toes, they complicate their lives, question their authority and force them to change their agendas—and sometimes smother them in disgrace.

....In the name of 'people', 'the public', 'public accountability', 'the people' or 'citizens'... power-scrutinizing institutions spring up all over the place. Elections, political parties and legislatures neither disappear, nor necessarily decline in importance; but they most definitely lose their pivotal position in politics.... The bullheaded belief that democracy is nothing more than the periodic election of governments by majority rule is crumbling.... [P]eople and organisations that exercise power are now routinely subject to public monitoring and public contestation by an assortment of extra-parliamentary bodies.<sup>112</sup>

Monitory democracy is a restraint not only on the power of government, but on that of institutions once considered to be outside the political realm like the workplace and family.<sup>113</sup>

Keane associates the rise of monitory democracy with the new media. If assembly-based democracy used the spoken word as a medium, and the ascendancy of representative democracy coincided with print and the early mass electronic media, “monitory democracy is tied closely to the growth of multi-media-saturated societies—societies whose structures of power are continuously 'bitten' by monitory institutions operating within a new galaxy of media defined by the ethos of communicative abundance.” The new media include new, more adversarial styles of journalism in place of the old model of so-called “objective” journalism.<sup>114</sup> The new, pervasive media atmosphere means that “the realms of 'private life' and 'privacy' and wheeling and dealing of power 'in private' have been put on the defensive.... Every nook and cranny of power becomes the potential target of 'publicity' and 'public exposure'; monitory democracy threatens to expose the quiet discriminations and injustices that happen behind closed doors and in the world of everyday life.”<sup>115</sup> Assorted monitory democracy bodies

specialise in directing questions at governments on a wide range of matters, extending from their human rights records, their energy production plans to the quality of the drinking water of their cities. Private companies are grilled about their services or products, their investment plans, how they treat their employees, and the size of their impact upon the biosphere....

In the age of monitory democracy, bossy power can no longer hide comfortably behind private masks; power relations everywhere are subjected to organised efforts by some, with the help of media, to tell others—publics of various sizes—about matters that had been previously hidden away, 'in private'.<sup>116</sup>

The ways in which Keane's monitory democracy differs from our desktop regulatory state are suggested by his quip that democracy is coming to mean more than elections, but nothing less. Bodies associated with monitory democracy in Keane's schema include not only non-governmental public interest organizations and movements, but also internal bodies like citizen review boards, ombudsmen and the like attached to the state apparatus. Keane sees monitory democracy, and the rise of NGOs and civil society, as perfecting state democracy rather than supplanting it.

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112 John Keane, *The Life and Death of Democracy* (New York and London: W.W. Norton & Co., 2009), pp. 688-690.

113 *Ibid.*, pp. 708-710.

114 *Ibid.*, pp. 737-739,

115 *Ibid.*, p. 740.

116 *Ibid.*, pp. 744-745.

In one sense the institutions of monitory democracy can be interpreted, as by Keane, as a way of making the political apparatus more democratic and accountable to the citizenry. Keane treats monitory democracy as something that presupposes representative democracy and makes it work better.<sup>117</sup> But they can also be interpreted as ways to shift the balance of power from the state to civil society, and to constrain abuses of both state power and private power in ways that once required the state. Not only do institutions of monitory democracy in the non-state public realm constrain the state and make it less statelike, but insofar as they undermine the power of private entities like large corporations or constrain the acts of racial and other majorities against minorities, they supersede functions once performed—or nominally performed, in an actual atmosphere of collusion—by government regulatory and civil rights agencies. If monitory democracy reins in abuses of state power, it also performs—better than the state—many surveillance and protective functions traditionally associated with the regulatory state.

Regardless of Keane's view of the state as a viable component of monitory democracy, the latter is a useful tool for those of us whose goal is not only to rein in the state's discretionary power and level the playing ground between state and citizens, but also piecemeal supplanting of the state by voluntary self-organization wherever possible, and pressuring the state to become to take on more of a transparent, networked and p2p nature where it continues to exist and retain its formally statelike character.

## XI. “Open Everything”

The “Open Everything” agenda “starts with connectivity, moves toward virtual networks and regional decision-support centres, and culminates in all humans connected to all information—especially “true cost” information—so as to achieve Panarchy—informed self-governance at all levels on all issues.”<sup>118</sup>

As stated in Robert Steele's phasing schema, it entails the creation of an open, autonomous Internet which, through assorted meshwork and other alternative architectures, “cannot be shut down by governments, corporations, or predatory non-government organizations.” This autonomous Internet will be the basis of “universal connectivity,” in order to “harness the distributed intelligence of all humans,” and to “create the aggregate people power to overcome secular corruption that is the source of all scarcity and conflict...” This people power will also require other autonomous platforms and infrastructure: “the establishment of 'true cost' information for every product and service, and the coincident establishment of local water, power, and currency options that begin to dismantle the dysfunctional grid that wastes half of what it moves in the movement.”<sup>119</sup>

By way of explanation, “true cost” is an attempt to achieve, through the distributed collection and indexing of information, an easily accessible, product-by-product and service-by-service database of information on the real component costs (including costs externalized on the taxpayer) of all the things we consume.

Someday we may be able to access the following through a mobile handset about any product while pointing to superior alternatives:

- Water-use
- Energy-use
- Known toxins
- Chemicals corporations use without disclosing research about the chemicals (secrecy)

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117 *Ibid.*, pp. 698-699.

118 “Autonomous Internet Road Map,” *Foundation for P2P Alternatives Wiki*. Accessed October 2, 2011 <[http://p2pfoundation.net/Autonomous\\_Internet\\_Road\\_Map](http://p2pfoundation.net/Autonomous_Internet_Road_Map)>.

119 “Strategic Phasing,” *Foundation for P2P Alternatives Wiki*. Accessed October 2, 2011 <[http://p2pfoundation.net/Strategic\\_Phasing](http://p2pfoundation.net/Strategic_Phasing)>.

- Use of child and 'slave' labor throughout production
- Tax avoidance & amount of tax subsidies
- Travel/migration of product's life cycle<sup>120</sup>

In other words, “point the phone and read the bar code, and see if this product will kill you or if someone else was killed or abused as part of the product’s development.”<sup>121</sup>

As for Panarchy, we will discuss it in detail below.

According to Venessa Miemis, the growing number of people in the Third World—hundreds of millions and growing exponentially—who have affordable Internet access via mobile device, added to near-universal connectivity in the developed world, means that the goal of universal connectivity is near. The explosion of social media as a network tool also furthers the “Open Everything” goal of ubiquitous aggregation of “people power” to challenge state and corporation.<sup>122</sup>

And the emerging possibility of “bankless” Third World people participating in long-change via complementary currencies like LETS, mutual credit and Bitcoin means the “Open Everything” project of distributed currency options is also within reach.

When the tools are in place to allow individuals or groups within a local area to easily exchange value without using traditional/centralized currency, it’s reasonable to expect a serious challenge to the ingrained public perception of money.<sup>123</sup>

The list of Open Everything on P2P Foundation's “Autonomous Internet Road Map” page includes Open "Borders, Business, Carry, Communications, Culture, Government, Hardware, Intelligence, Library, Money, Networks, Schools, Search, Skies, Society, Software, Space, Spectrum."<sup>124</sup>

Consider how the Open Everything movement's legal strategy, despite a significant difference in emphasis, dovetails with the positive side of Keane's Monetary Democracy:

The emergence of the Autonomous Internet will transform the global to local legal system. Legal "rights" rooted in corruption and privilege, and especially legal "rights" affording secrecy and monopoly privileges as well as "personality" protections to corporations, will be over-turned by public consensus, first at local and state levels, then nationally, and finally globally.

In the interim, and rooted firmly in the concepts of public sovereignty, localities and states or provinces will combine both local implementation of the Autonomous Internet, with nullification of federal or international attempts to impose restrictions on spectrum use, to take one example, that are from a more corrupt and less technically evolved Industrial Era.

In extreme cases, secession will be the solution chosen by a sovereign public group, with Vermont and Hawaii being the two most obvious candidates for full independence from the United STATES of America....<sup>125</sup>

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120 Main Page, *True Cost Wiki*. Accessed October 2, 2011 <[http://wiki.re-configure.org/index.php?title=Main\\_Page](http://wiki.re-configure.org/index.php?title=Main_Page)>.

121 “Review: Revolutionary Wealth (Hardcover),” *Public Intelligence Blog*, April 28, 2006 <<http://www.phibetaiota.net/2006/04/revolutionary-wealth-hardcover/>>.

122 Venessa Miemis, “4 trends shaping the emerging 'superfluid' economy,” *Global Public Square*, April 29, 2011 <<http://globalpublicsquare.blogs.cnn.com/2011/04/29/4-trends-shaping-the-emerging-superfluid-economy/>>.

123 Miemis, “4 trends.”

124 “Autonomous Internet Road Map.”

125 “Autonomous Internet Road Map.”

## XI. Panarchy

The concept of panarchy was originally put forward by Paul Emile de Puydt. Different forms of government, as an extension of the general principle of "laissez-faire," were to compete with one another. Monarchists, republicans, etc., were to choose a government to their liking just as they would shop among competing providers of goods. These governments would not cover an entire contiguous geographical area, but would be distributed, with citizens voluntarily declaring allegiance to them wherever they lived.<sup>126</sup> Each citizen would register with a "Bureau of Political Membership," and fill in a form:

In each community a new office is opened, a "Bureau of Political Membership". This office would send every responsible citizen a declaration form to fill in, just as for income tax or dog registration.

Question: What form of government would you desire?

Quite freely you would answer, monarchy, or democracy, or any other.

Question: If monarchy, would you have it absolute or moderate ..., if moderated, how?"

You would answer constitutional, I suppose.

Anyway, whatever your reply, your answer would be entered in a register arranged for this purpose; and once registered, unless you withdrew your declaration, observing due legal form and process, you would thereby become either a royal subject or citizen of the republic. Thereafter you would in no way be involved with anyone else's government - no more than a Prussian subject is with Belgian authorities. You would obey your own leaders, your own laws, and your own regulations. You would pay neither more nor less, but morally it would be a completely different situation.

Ultimately, everyone would live in his own individual political community, quite as if there were not another, nay, ten other, political communities nearby, each having its own contributors too.

If a disagreement came about between subjects of different governments, or between one government and a subject of another, it would simply be a matter of observing the principles hitherto observed between neighbouring peaceful States; and if a gap were found, it could be filled without difficulties by human rights and all other possible rights. Anything else would be the business of ordinary courts of justice....

There might and should be also common interests affecting all inhabitants of a certain district, no matter what their political allegiance is. Each government, in this case, would stand in relation to the whole nation roughly as each of the Swiss cantons, or better, the States of the American Union, stand in relation to their federal government. Thus, all these fundamental and seemingly frightening questions are met with ready-made solutions; jurisdiction is established over most issues and would present no difficulties whatsoever....

My panacea, if you will allow this term, is simply free competition in the business of government. Everyone has the right to look after his own welfare as he sees it and to obtain security under his own conditions. On the other hand, this means progress through contest between governments forced to compete for followers....

What is most admirable about this innovation is that it does away, for ever, with revolutions, mutinies, and street fighting, down to the last tensions in the political tissue. Are you dissatisfied with your government? Change over to another! These four words, always associated with horror and bloodshed, words which all courts, high and low, military and special, without exception, unanimously find guilty of inciting to rebellion, these four words become innocent, as if in the mouths of seminarists...

"Change over to another" means: Go to the Bureau for Political Membership, cap in hand, and ask politely for your name to be transferred to any list you please.<sup>127</sup>

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126 Paul Emile de Puydt, *Panarchy* (1860) <<http://www.panarchy.org/depuydt/1860.eng.html>>.

127 *Ibid.*

Paul Herzog, a contemporary advocate of Panarchy, defines it as “a system of overlapping networks of cooperation and legitimacy, or authority, and therefore resembles recent literature on a 'new medievalism.’”<sup>128</sup>

Lipschutz,<sup>129</sup> too, claims “governance replaces government; informal networks of coordination replace formal structures of command.... There is reason to think that a governance system composed of collective actors at multiple levels, with overlapping authority, linked through various kind of networks, might be as functionally-efficient as a highly-centralized one.” Governance occurs through both “function and social meanings, anchored to particular places but linked globally through networks of knowledge-based relations. Coordination will occur not only because each unit fulfills a functional role where it is located but also because the stakeholders in functional units share goals with their counterparts in other functional units.” As a result, actors “will have to become participants or stakeholders in a complex network of resource regimes and institutions, helping to coordinate among them, and foster the creation of large numbers of ‘mediating organizations’ whose purpose is to act as a buffer and filter between local contests and these bureaucracies.”<sup>130</sup>

## XII. Collective Contract

The Direct Action Network's “Collective Contract” proposes taking advantage of the low transaction costs of aggregating collective action outside of traditional hierarchies, as a source of leverage against powerful institutions. The idea, specifically, is to aggregate individual purchasing power into associations for the coordinated imposition of “terms of service” on corporations as a condition of doing business with the members. Individuals are thereby enabled to deal with corporations as equals.

Today we can evolve another new mechanism of democratic accountability. The development of the internet means that we can form a different kind of union - one which stops the misuse of political power derived from the money given to corporations. This is a union of the end-users of corporations. It can break out of the corporation's unilateral contract by withholding custom.

The Direct Action Network is a platform designed to allow such a union to form. As such, it is democracy's missing link. It provides a means by which we can all fulfill that duty we owe.<sup>131</sup>

The first thing that you do is to register on the Network as an end-user of a corporation (or many corporations). It could be your electricity company, it could be Paypal, or a credit card corporation, it could be Walmart, your cell phone company or your mortgage company. It could even be a corporation that you do not receive goods or services from.

You are now part of the User-Base of that corporation on the Network....

If you are not an activist or a corporation, you have two interfaces on the Network. Broadly speaking the first is for catching corporations. The second is for taming them.

The first goes by the name "uTOU Interface". U stands for union, TOU stands for terms of use. uTou enables you to do something more amazing than lassoing a stampeding rhino with a thread of spider's silk. But having caught this wild rhino, you are going to need some help in taming it. This is what the second interface is for, and this is called rather enticingly the "Campaign Interface."

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128 Paul Herzog, *Panarchy: Governance in the Networked Age* (2009), p. 3.

129 Lipschutz and Mayer, *Global Civil Society and Global Environmental Governance: The Politics of Nature from Place to Planet*.

130 Herzog, *Panarchy*, pp. 30-31.

131 “Part I: Democracy's Missing Link,” *The Direct Action Network* <<http://wikiterms7.pen.io/>>.

The first interface enables you to serve terms of use on a corporation. These TOU are part of the contract between you and the corporation. They are legally binding on the corporation....

A collective contract is an agreement given by a union of individuals. It can be a union of any kind. The 1689 and the 1791 Bill of Rights are examples of collective contracts, so is Magna Carta. So are wage settlement agreements of a trade union.

For our purposes, a collective contract is one given by the 99% to the corporations....

What you are doing by sending terms of use to a corporation is asserting a right to control how the corporation uses the money that it receives from you for its goods or services....

The terms of use do this by imposing on the corporation five duties

1. Transparency to the User-base
2. Consultation with the User-base in decisions affecting the User-base.
3. Privacy of the data of the User-base.
4. Coherence (Not trading with a corporation which does not abide by the terms of use )
5. Due Process....<sup>132</sup>

A primary function of the Network is to enable the user-base of a corporation to organise themselves effectively and quickly so that the target corporation cannot generate profits from its products. The Network makes it possible for end-user's to employ a variety of tactics to achieve a 'corporate arrest'....

...The Network allows a total boycott by all the end-users of the corporation.

By allowing a union of the whole user-base, the Network makes the traditional boycott a much more effective tool than it has been previously.

This effectiveness comes from four other new factors.

Firstly, the Network enables the user-base to attack the corporation's economic activity both directly through its products and indirectly, through the supply chain of the corporation. This prevents the corporation from getting the raw materials and finance needed to function within its profit margins. These are "smart boycotts". The network allows pin-point strikes against particular assets or functions of the corporation. It allows the user-base, for example to attack the private shareholdings of the chief executives of the target corporation, that he or she holds in another corporation, as means of leveraging compliance from the target corporation.

The second new factor is enforcing the boycott through other corporations in the target corporation's supply chain. A corporation signed to the collective contract cannot engage in any kind of commercial relationship with a corporation which is not signed or is in breach of its obligations under the TOU.

The third factor is that non-cooperation of the user-base becomes a constant factor for the corporations. Boycotts were traditionally ineffective because they were temporary or one off actions. There was nothing to stop a corporation returning to its harmful activities once the boycott was over. There was no effective way of consolidating the gains made by the boycott. The collective contract makes the gains a permanent feature.

Lastly, the motivation of end-user's to act against harmful corporations has always been lessened by image make-overs and the all-pervasive corporate propaganda. The Network, to borrow a phrase from Anonymous "does not forgive and does not forget". It provides end-users with a way of remembering - a corporate criminal record which remains forever attached to its products. End-users can always see this whenever they go to buy a product from a corporation with such a history.

The combination of these factors makes it possible to totally arrest the economic activity of a rogue corporation.

Tactics would not be limited to a boycott, for example the end-user's of a non-compliant corporation could threaten to switch to a rival corporation or in fact switch. The possibility of this move creates a competitive advantage for corporations that sign to the Collective Contract.

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132 "Part II: The Architecture of the Network," *The Direct Action Network*.

The Network is designed as a platform for the mobilisation of end-users. It provides a connection between all the end-users who are affected by the actions of a corporation and all the end users of that corporation's supply chain network. This enables the entire user-base to coordinate itself. Overall the Network provides a lightning rod which connects the entire user-base of the whole global corporate network....

The user-base of a corporation has two ways to make sure that a corporation abides by the terms of the Collective Contract. The main one simply arises from the fact that a corporation cannot afford to be in conflict with its main source of finance. But breach of the Collective Contract is also legally enforceable against the corporation. This would result in the corporation having to pay damages to the end-users. The level of those damages might reach is an untested area of law. In any event, a corporation would be very reluctant to defend a breach of the TOU in court because it would create an embarrassing publicity nightmare for it to be seen fighting the very people it needs to woo to sell its product....

Campaigns are conducted by end-users through the Campaign Interface of the Network. So let us have a look at how this operates.

Because the Campaign interface provides users with a comprehensive list of firms in a corporate supply chain, even a minority of consumers participating in a boycott campaign pursuant to a Collective Contract, by systematically attacking key nodes in the chain, could impose significant costs from attrition on the target firm.<sup>133</sup>

### **XIII. Heather Marsh's "Proposal for Governance"**

There are numerous proposals that fall loosely within Comte's conception of replacing domination over men with the administration of things. For example, Heather Marsh's "Proposal for Governance":

Governments up till now have been run by hierarchical groups, which act as the final authority on all topics for an entire region for an arbitrarily specified length of time or until they are overthrown by another group. What these authorities govern is a series of systems, controlled by the state or corporations, and run as dictatorships where workers' individual rights are exchanged for the basic necessities of life. These systems have profit for the top of the hierarchy as their objective; they are not set up to provide an efficient or superior service or product to the users.

If these systems were organized as autonomous, transparent, porous, peer to peer user groups, they would be far better governed by themselves. The current political structure does not recognize that every system is not of concern or interest to everyone in the region, or that some users have far greater knowledge and expertise in specific areas than others. We need a system where responsibility and control rests with the entire user group and expertise is acknowledged and put to best use.

Autonomous: each user group should consist of all people affected by the system and no people not affected by the system.

Transparent: all information related to the system must be fully transparent in order for users to participate in tasks or auditing.

Porous: contribution at all levels of each user group must be open to all users with acceptance by peer review.

Peer to peer: each user group should consist of users: audit and provide feedback, contributors: interested users who periodically present work for acceptance by the members, members: have acquired expertise and been accepted as full contributing members by the user group, and a core group: recognized by the group as having the necessary level of expertise to provide direction for the system.

Meritocracy: A side effect of these user groups is that they provide workers with the three motivators which provide the greatest job satisfaction, autonomy, mastery and purpose. People can work on any-

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133 "Part III: Campaigns," *The Direct Action Network*.

thing they like, they are not required to submit resumes, acquire accreditation, seniority, or approval from an individual authority. If their work is good enough it will be accepted by the user group. Everyone can work on the system that interests them, doing the jobs at the level they are capable of, with as much or as little involvement as they choose.

Systems should be organized by user groups, not by nations or treaties. International systems would include things such as the internet, telecommunications and knowledge, local systems would include things such as transit, food production and social services, and in any situation where only one family or an individual is affected, the responsibility would lie with only them. Each local user group or individual would have access to outside user groups for trade, shared knowledge, disaster relief, etc., autonomous but networked.<sup>134</sup>

#### **XIV. Michel Bauwens's Partner State**

The idea of the Partner State originated with Cosma Orsi. Michel Bauwens, building on Orsi's work, sees the Partner State as a sort of "peer-to-peer state," organized on stigmergic rather than democratic principles.

First of all, these communities are not democracies. Why is that so? Because democracy, the market and hierarchies are all modes of allocation of scarce resources. In hierarchy, our superiors decide; in the market, prices decide; in a democracy, "we" decide.

But where resources are abundant, as they are with knowledge, code and design—which can be copied and shared at a marginal cost—they are truly unnecessary. These types of communities are truly poly-archies and the type of power that is held in them is meritocratic, distributed and ad hoc. Everyone can contribute without permission, but those with recognised expertise who are accepted by the community—the so-called "maintainers" and the "editors"—decide which software or design patches are acceptable.

These decisions require expertise, not communal consensus. The tension between inclusive participation and selection for excellence is one that every social system faces, and that peer production has solved in a rather elegant way. The genius of the solution is not that it avoids conflict, but that it designs away unnecessary conflict by allowing for the maximum human freedom compatible with the goal of co-operation. Indeed, peer production is always an "object-oriented" co-operation, and it is the particular object that will drive the particular form chosen for its peer governance mechanisms.

The main allocation mechanism in such projects is a "distribution of tasks". Unlike in the industrial model, there is no longer a division of labour between jobs and mutual coordination. Because the work environment is designed to be totally open and transparent, every participating individual can see what is needed, and decide accordingly whether to contribute. Remarkably, this new model allows for both global coordination and for small-group dynamics. And it does this without "command and control!"<sup>135</sup>

Bauwens distinguishes the Partner State from the idea of the state under the 20th century model of state socialism:

Socialism has traditionally been focused on the state, and while the state has historically proven to be necessary to balance unbalanced market forces, it has not proven to be very successful as an autonomous mode of production. So any socialism that harks back to the failed statism of 20th century socialism, will also be a disaster in the waiting. P2P Theory offers a new expanded role for the state, not just as the arbiter of the market, or as paternalistic 'welfare' state, but as a Partner State, that directly em-

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134 Heather Marsh, "A proposal for governance in the post 2011 world," *WL Central*, December 24, 2011 <<http://wlcentral.org/node/2389>>.

135 Michel Bauwens, "The 'welfare state' is dead - long live the 'partner state'?" *Al Jazeera English*, March 15, 2012 <<http://www.aljazeera.com/indepth/opinion/2012/03/20123111423139193.html>>.

powers and enables civil society to be autonomously productive. This is indeed the strong claim of P2P Theory, i.e. that we now have a superior mode of commons-oriented peer production which surpasses both the statist and market modes. But peer production needs an infrastructure and support which needs to come from enlightened and democratic public authorities.<sup>136</sup>

So the Partner State, arguably, is not so much a “government” as a system of *governance*. It need not be a state at all, as libertarians normally use that term (i.e. an institution which claims the sole right to initiate force in a given territory). It is, essentially, is a nonstate social association--or support platform--for managing the commons, extended to an entire geographical region.

Peer production also rests on a sometimes costly infrastructure of cooperation. There would be no Wikipedia without the funding for its servers, no free software or open hardware without similar support mechanisms. This is why open source communities have created a new social institution: the for-benefit association.... [T]he new for-benefit associations have only an active role in enabling and empowering the community to cooperate, by provisioning its infrastructure, not by commanding its production processes. These associations exist for the sole purpose of ‘benefitting’ the community of which they are the expression....

Now, here is the kicker, how would you call an institution that is responsible for the common good of all the participants, in this case, not the people involved in a similar project, but the inhabitants of a territory? I would argue that this type of for-benefit institution has a very similar function to what we commonly assign to the state....

Can we then, imagine, a new type of state? Enter the concept of a Partner State! The Partner State... is a state form that enables and empowers the social creation of value by its citizens. It protects the infrastructure of cooperation that is the whole of society. The Partner State can exist at any territorial level, as a set of institutions that protect the common good, and enable the citizens to create value. It does, on a territorial scale, what the for-benefit institutions do on a project-scale. While the for-benefit associations work for the commoners as to particular projects, the Partner State works for the citizens.<sup>137</sup>

Elsewhere Bauwens describes it as a sort of arbiter or venue for dialogue between stakeholders in a geographical area:

Rather than seeing itself as sovereign master, the state must be seen as embedded in relationships, and as in need of respecting these multiple relationships. This is probably best translated by the concept of multistakeholdership. We can probably expect that the nation-state, along with the newly emerging sub- and supraregional structures will continue to exist, but that their policies will be set through a dialogue with stakeholders. The key will be to disembed the state from its primary reliance of the private sector, and to make it beholden to civil society, i.e. the commons, so that it can act as a center of arbitrage....<sup>138</sup>

Bauwens cites Ezio Manzini and Eduardo Staszowski as a vision of how public services would be organized under the Partner State:

citizens become active and collaborative and can be considered partners in the design and delivery of public services (service co-design and co-production).

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136 Bauwens, “The Argentinian Interview,” *P2P Foundation Blog*, September 18, 2009 <<http://blog.p2pfoundation.net/the-argentinian-interview/2009/09/18>>.

137 Michel Bauwens, “Evolving Towards a Partner State in an Ethical Economy,” in Andrea Botero, Andrew Gryf Paterson and Joanna Saad-Sulonen , eds., *Towards Peer Production in Public Services: Cases from Finland* (Helsinki: Aalto University School of Arts, Design and Architecture , Department of Media , 2012), pp. 57-58..

138 Michel Bauwens, “Peer Governance as a third mode of governance,” *P2P Foundation Blog*, June 9, 2010 <<http://blog.p2pfoundation.net/peer-governance-as-a-third-mode-of-governance/2010/06/09>>.

This vision, in turn, raises two main questions: how do public services change if they are conceived as platforms to trigger, enable and support active and collaborative citizens? How can we promote the necessary mutual support between public and social innovations?<sup>139</sup>

Tommaso Fattori, an activist in the Italian Water Commons movement, discussed the Partner State in the context of commonification of public services:

The field of Commons can be for the most part identified with a public but not-state arena, in which the actions of the individuals who collectively take care of, produce and share the Commons are decisive and fundamental.

In this sense, Commons and commoning can become a means for transforming public sector and public services (often bureaucracy-bound and used to pursue the private interests of lobby groups): a means for their commonification (or commonalization). Indeed, there are many possible virtuous crossovers between the traditional public realm and the realm of Commons.

Commonification goes beyond the simple de-privatization of the public realm: Commonification basically consists of its democratization, bringing back elements of direct self-government and self-managing, by the residents themselves, of goods and services of general interest (or participatory management within revitalized public bodies). Commonification is a process in which the inhabitants of a territory regain capability and power to make decisions, to orientate choices, rules and priorities, reappropriating themselves of the very possibility of governing and managing goods and services in a participatory manner : it is this first-person activity which changes citizens into commoners....

But there are also other overlaps possible between the idea of public and that of Commons, apart from the necessary creation of legislative tools which can protect and encourage Commons and commoning.

Several forms of Public-Commons partnership can be developed, where the role of state is realigned, from its current support and subsidising of private for-profit companies, towards supporting commoning and the creation of common value. This can be achieved through tax exemptions, subsidies and empowerment of sharing and commoning activities, but also, for example, by allocating public and state-owned goods to common and shared usage thanks to projects which see public institutions and commoners working together. This is a road which could be the beginning of a general transformation of the role of the state and of local authorities into partner state, “namely public authorities which create the right environment and support infrastructure so that citizens can peer produce value from which the whole of society benefits”....

These primary commons must not allow discrimination in access to them according to individual wealth, reintroducing the element of equality and fairness, as well as a relationship of care —rather than one of domination or subjection— between humanity and the rest of nature of which it is a part. These are resources which do not belong to and which are not at the disposal of governments or the State-as-person, because they belong to the collectivity and above all, to future generations, who cannot be expropriated of their rights. Distributed participatory management and self-government, inclusion and collective enjoyment, no individual exclusive rights, prevalence of use value over exchange value, meeting of primary and diffuse needs: commons, in this understanding, means all these things.<sup>140</sup>

[Last modified December 4, 2015]

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139 Michel Bauwens, “Public Innovation is needed to jumpstart Partner State approaches,” *P2P Foundation Blog*, July 12, 2012 <<http://blog.p2pfoundation.net/public-innovation-is-needed-to-jumpstart-partner-state-approaches/2012/07/12>>.

140 Excerpts from a text prepared by Tommaso Fattori as part of the book-project "Protecting Future Generations Through Commons", organized by Directorate General of Social Cohesion of the Council of Europe in collaboration with the International University College of Turin. Quoted in "Research Plan," FLOK Society Wiki <[http://en.wiki.floksociety.org/w/Research\\_Plan](http://en.wiki.floksociety.org/w/Research_Plan)> Accessed August 9, 2014.