

A Critique of Barlow's "A Declaration of the Independence of Cyberspace"

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Published in *Extropy* #17 - vol. 8, no. 2, 2nd Half 1996

Last February, responding to U.S. passage of the Telecommunications Reform Act, John Perry Barlow, writer, lyricist for the Grateful Dead, and co-founder of the Electronic Frontier Foundation, disseminated on-line "A Declaration of the Independence of Cyberspace."¹ In this polemic, he declared cyberspace independent of external sovereignty. His assertion generated much discussion, pro and con, leading Barlow to respond publicly in *Wired* magazine.² Although a federal court ruled that the Communications Decency Act's content-based regulation of the Internet medium violates the U.S. Constitution's First Amendment, Barlow's broad rejection of State jurisdiction over cyberspace remains in force and, as I will show, subject to criticism.

Malignant Political Universalism

Barlow's "Declaration" contains a *dormant intellectual malignancy* that could grease the path to universal tyranny. That malignancy lies in expressions of political universalism, a recurring utopian urge that has only produced misery. His use of phrases such as "global social space," and "Social Contract," highlight an all too familiar affinity with the sorts of 'universal rights' that have left a bloody trail from the French Revolution down through the Cold War. Barlow proposes to form a global cyberspace polity, "where anyone, anywhere may express his or her beliefs," with impunity. He advocates the imposition of the American polity's unique right to free speech on all the world's polities. The creation of any global polity for the purpose of securing such a universal right, could act as a catalyst to the formation of a World State. "We will spread ourselves across the Planet," Barlow envisions, "so that no one can arrest our thoughts." In addition, Barlow's "Declaration" undermines an already-weakened U.S. Constitution. As I will demonstrate, the Constitution's polycentric principles, i.e., limited sovereignties of enumerated powers, offers our last line of defense to universal tyranny.

To begin with, set Barlow's "Declaration" side-by-side with the American Declaration of Independence, a comparison that he expressly encourages. This comparison demonstrates the cultural and intellectual free-fall we have entered. A theme recurs throughout his "Declaration," a temperamental adolescent complaint of, 'You don't understand me! I want a lock on my bedroom door!' Barlow says: "I ask you of the past to leave us alone; You are not welcome among us; You do not know us, nor do you know our world; You do not know our culture; Our world is different; You are terrified of your own children." Barlow only forgot to add "Don't trust anyone over 30!" Will the hippie residue of the 60s never grow up? I guess the answer to that, is blowin' in the cyberwind.

Adolescent emotivism crops up again: “You have no moral right to rule us nor do you possess any methods of enforcement we have true reason to fear.” No reasoning whatsoever backs up this outburst of feeling. Wait until the IRS, FBI, ATF, or another of the grown-ups’ three-letter agencies come after you, then see if you have true reason to fear. Barlow’s response in *Wired* doesn’t improve matters by invoking the equivalent of a high school ‘in’ crowd: “[I]t does seem self-evident that there is a Net culture, manifestations of which can be found everywhere in this magazine.” I suppose, by analogy, that manifestations of a TV culture could be found in *TV Guide*. Barlow’s self-evidence thus reflects mere self-selection.

Such self-selection prompts me to wonder: For whom does Barlow speak? “On behalf of the future” he writes, and “I address you with no greater authority than that with which liberty itself always speaks.” Whose future? Whose liberty? Who granted him the authority to speak for the world’s future and the world’s liberty? When he speaks for universal cyberspace, and of it breaking free of all external sovereignty, does he really mean to exclude those in cyberspace who don’t mind some statist regulation? Would Barlow deny citizens of particular geographic communities the right to choose regulation of cyberspace-mediated behaviors that historically have proven harmful? Barlow promotes a rigid form of liberty: freedom for him and like-minded individuals alone.

His proposal to form a global cyberspace polity tills bloody old ground. “We are forming our own Social Contract.” Why would you and I want to follow this historically destructive Rousseauian model of polity formation and hew to their totalistic ‘general will’? “We believe that from ethics, enlightened self-interest, and the commonweal, our governance will emerge,” he says. Whose ethics? Whose self-interest? Barlow can forge the commonweal only by eliminating incompatible individuals, a task that calls on either persuasion, or coercion. The cyberbureaucracy of the hippie residue will no doubt feature their *own* censor’s chair, mandating a mildewed day-glo atmosphere of political correctness. Suppose that we resist ‘re-education’ and refuse to join their ‘Social Contract.’ Must we be coerced?

Sacred Cyberspace

Barlow does not make clear, in “declaring the independence of cyberspace,” the nature of the boundary between the internal sovereignty of cyberspace and the external sovereignty of the rest of the world. “We must declare our virtual selves immune to your sovereignty, even as we continue to consent to your rule over our bodies.” Where does his virtual self end, and his physical self begin? Barlow’s confusion arises from his definition of cyberspace. In the *Wired* response, he tries to clarify the distinction between cyberspace and the rest of the world by declaring that only “thoughts” exist inside cyberspace, no physical “action.” Would child pornography, libel, slander, consumer fraud, traffic in insider information, theft of state and trade secrets, copyright violations, obtaining access to or tampering with personal records be legal as long as they are “thoughts” in cyberspace rather than “actions” elsewhere? Must one global cyberspace polity decide these questions and override the diverse answers from all other polities? Barlow’s proposal claims it must.

He attempts to transcendentalize cyberspace, even to sacralize it, to place it entirely outside of any jurisdiction. He imagines cyberspace as a timeless, spaceless realm, as “the new home of

Mind,” and “thought itself, arrayed like a standing wave.” He reveals that “There is no matter here,” and “Ours is a world that is both everywhere and nowhere.” Barlow’s cyberspace lives as well as cogitates: “It is an act of nature and it grows itself through our collective actions.” No mere flight of fancy, this picture of cyberspace bolsters his central jurisdictional claim: “Cyberspace does not lie within your borders.”

In part, the fact that information has many uses explains Barlow’s confusion. Information about reality allows us to comprehend the actual world with clarity; information for reality allows us to increase the entropy in the actual world; information as reality allows us to escape the actual world and carries our vitality away with it.³ In this last form, as reality, information loses its materiality, offering the escapist a route to different realms. Jurisdiction could not possibly apply to this transcendent realm, to this heaven on earth! Perhaps if the States of the world don’t define cyberspace as Barlow does, he would at least settle for religious tax-exempt status.

Unfortunately, Barlow undercuts his notion of collective CyberMind in his *Wired* response. “Even if I wanted to, there wouldn’t be much I could do to call [the Declaration] back at this point.” This recognizes explicitly that matter ultimately controls cyberspace. Anything that goes onto the Net can land on someone’s hard drive, and might remain in storage long after the writer has changed opinion three times, gotten a new boss who dislikes boat-rockers, etc. Dare we post our deepest, most interesting thoughts? Who can be sure that our old content won’t be used against us in a New World Order ‘show trial’? Such concerns demonstrate that cyberspace constitutes a very solid, material object - not a transcendent realm.

Toward a People’s Republic of Cyberspace

Having diagnosed Barlow’s confusion about the nature of cyberspace, I have to wonder what - other than the fact that Barlow hangs out there - makes it more special than, say, a suburban shopping mall? Should we declare shopping malls to form a worldwide independent jurisdiction, transcendental agoras totally disconnected from the real world?

When Barlow rebelliously declares that “You have no sovereignty where we gather,” he stakes out just such an exclusive jurisdiction. Sovereignty, here, refers to the power of giving the law on any subject along with the power of punishment. Jurisdiction refers to which individuals exercise sovereignty in each particular case. Jurisdiction, a structural consideration, means more to liberty than the law itself, because stronger individuals make law for weaker ones. Strong individuals, with jurisdictional authority backing them, determine which entities qualify for inclusion in the human community, which are entitled to the benefits of citizenship, and which have the capacity to enter into consensual agreements. If cyberspace is institutionalized as its own *unlimited* sovereign, then its jurisdiction will grow at the expense first of other institutions, and if successful, at the expense of everyone outside of cyberspace. Hence Barlow initiates a new version of Marx’s class struggle.

If external sovereignty can only be exercised at the gate to cyberspace, and cyberspace is global in nature, then won’t declarations such as Barlow’s midwife the World Surveillance State? We already sense such a regime in embryonic form. Overlapping nets above us obscure our vision of the stars. First, the crisscrossing jet streams of its diplomatic, military and corporate overlords

whizzing around to important meetings; then above them, an orbiting grid of spy satellites watching everything below. We sense the AI supercomputer scanning microscope examining our lives in detail; and we are mindful, in our laogai-gulag-holocaust world, of the totalitarian apparatus of informing on each other.

Barlow repeats the traditional formula for legitimate sovereignty: “Governments derive their just powers from the consent of the governed.” Despite this theoretical ideal, in practice States require only the *acquiescence of the governed*. Contrary to Barlow’s claim that in cyberspace “[W]e cannot obtain order by physical coercion,” most order, or acquiescence of the governed, comes from coerced consent. This coercion consists of massive, coordinated, intentional fraud, coupled with a silencing of the truth. The Soviet state pioneered “disinformation” programs, forms of worldview warfare specifically designed to elicit the consent of deceived individuals. These have scientifically evolved into highly sophisticated techniques available to all advanced groups of influential and powerful elites. Citizens labor under a pervasive bombardment of false facts, false meanings and false values from the statist miseducation system, the shameless liars in the orthodox media and the virtueless reality of Hollywood’s image makers. This sophisticated fraud gives rise not simply to false judgment, but utopianism. Absent accurate, reliable facts, clarified meanings, and correct values, individuals find it hard to escape indoctrination. Instead, they remain caught in a closed ideological loop, a self-perpetuating strain of anti-realist thought. Barlow writes from within this loop, whether consciously or not.

The Utopian Conceit

Barlow writes classic utopian cant, an example of what Thomas Sowell calls the “vision of the anointed.”⁴ “We will create a civilization of the Mind in Cyberspace,” exhorts Barlow. “May it be more humane and fair than the world your governments have made before.” Governments make the world, and the world is inhumane and unfair? Then, by all means, through ‘permanent revolution’ in cyberspace, we will make them ‘wither away.’ Intentionally or not, Barlow evokes Marxism. “We are creating a world that all may enter without privilege or prejudice accorded by race, economic power, military force, or station of birth.” Can “From each according to his ability, to each according to his need!” be far behind? Apparently not; Barlow adopts as his underlying premise the view that we can create a heaven on earth by freeing our natural goodness from all external discipline through a transcendental cyberspace. “The only law that all our constituent cultures would generally recognize is the Golden Rule.”

Members of the utopian ‘anointed’ appoint themselves shepherds over the ‘benighted.’ They want to institute emotivism as the world’s only ethical system because individuals who judge right from wrong via ‘feelings’ readily respond to being told how they *should* feel about things. I can see the future crowds yelling exultantly, “We are free!” then looking around and quietly asking, “Can we say that?” Cyberspace, in its aspect of information *as* reality, the appearance of freedom from the actual world, could offer the shepherds a perfect stockyard for managing the world flock. True to this form, Barlow indulges in escapist fantasy, “I declare the global social space we are building to be naturally independent of the tyrannies you seek to impose on us.”

Next: A Cyberspace Constitution?

Constitutions represent theoretical expressions of a polity's practical political life. To change a constitution, the practical political customs of a polity must change first. Before a world polity calls for a constitution applicable to the entire planet, the practical political life of *every* person of the world must reflect thinking in global terms. Declaring cyberspace free to develop its own political customs sans 'interference' from existing local polities thus represents a step toward developing a Cyberspace Constitution, applicable world-wide.

Our Western Culture has dissolved and its remnant civilization begun to fade. Yet where are the spaces protected from hostile criticism, from the urban rat race and prying eyes where new cultures can arise? A collectivized World State will leave little room for us to carve out our own havens of liberty. Each individual has little power to oppose the formation of the World State. Hence the need for mediating institutions between individuals and statist authorities. Mediating structures, as the threads of the web of public life surrounding the cells of our separate private lives, provide critical protection for individual liberties. Institutions providing private law arbitration, reputation markets, and technical communication standards must act as competing powers to thwart utopians' constant attempts to consolidate world power.

This polycentric model allows the fluid formation of diverse polities of limited sovereignty in cyberspace, what I have termed "cybernexus." These polities constitute wholes, with no split between "mind" and "body." They include the social relationships and technological superstructure required to maintain the virtual communities in cyberspace. This creates a complex adaptive political system, one resistant to both egalitarian mobocracy and oligarchic tyranny. There can be no universal cyberspace. A total war between limited sovereignties and global tyranny lies before us. Will there be any new human cultures at all, let alone opportunities for posthuman speciation? I, for one, do not want utopian cosmic consciousness; I want to foster the seeking of a plurality of individual destinies.

Liberty and freedom represent different concepts. Barlow offers not just a declaration to be free of any existing governmental authority, but rather a statement of his desire for 'vacant freedom.' Such vacant freedom exists only after the overthrow of all authority - including truth and history. Without history, depletion of a large store of meaning and context in our lives occurs. Absent truth, lies and propaganda reign. Barlow thus encourages fraudulent revisionism and relativism, a violent form of worldview warfare.

Vacant freedom, in practice, unfolds as wars between gangs over turf. Liberty, on the other hand, arises when individuals in unresolvable conflict with each other, turn to law for resolution by judges to whom the parties have, by mutual existence in a consensual moral polity, accepted the method of choosing the judges and given them limited judging powers that they accept as valid. "For true liberty is not a matter of ridding oneself of external law," Miguel de Unamuno wrote, "liberty is consciousness of the law. The free man is not the one who has rid himself of the law, but the one who has made himself master of it."

If we have bad laws, such as the Communications Decency Act, let us, by all means, change them. But let us not throw out all of our existing polities. The historical lesson to be derived from

the fall of the Roman republic to tyranny can still be found on the dusty shelves of used book stores. A contemporary observer of this tragedy, Sallust, prescribed the course of action that foils this fall, "It is better for a good man to be overcome by his opponents than to conquer injustice by unconstitutional means."

Notes:

1. Web location, [A Declaration of Independence](#)
2. John Perry Barlow, "Declaring Independence," 4.06 *Wired* 121-22 (June 1996).
3. Albert Borgmann, "Information and Reality at the Turn of the Century," vol. 11, no. 2 *DesignIssues* 21-30 (Summer 1995).
4. Thomas Sowell, *The Vision of the Anointed: Self-Congratulation as a Basis for Social Policy*. (New York: BasicBooks, 1995).