Strange Jurisdictions: The development of control systems outside of meatspace

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3,264 words

Abstract

Cyberspaces are unique in ways that have led to a parallel development of systems of governance within them that differs wildly from those in the terrestrial world we are familiar with—'meatspace'. This essay considers in just what ways the two spaces differ before presenting a series of case studies of distinct cyberspaces and the systems thereof, which serve as examples of the three models of governance that that have thusfar emerged within cyberspace: the Privy Council Model; the Democracy Model; and the Secret Police Model.

I. INTRODUCTION

'Cybercrime' is a term universally misapplied. The phenomena that the term is employed to describe are real enough—it is not the aim of this essay to deny the existence of credit card fraud or child sexual imagery online—but those misusing the term betray an ontological blindness that inhibits potentially intriguing avenues of analysis. Applying the term to crimes within meatspace, these unwitting meat supremacists—Barlow's 'you of the past'—demonstrate as much incomprehension of a world beyond their own as the inhabitants of Abbott's Flatland. We might say (with apologies to de Beauvoir) that humanity is meat and meat defines cyber not itself but as relative to it.

This essay shall attempt to challenge this bias by ignoring the issues of cyberspace-related and technological-impacted 'meatcrime', as well as the application of meatspace law in cyberspace (see Guinchard (2010)), instead providing an analysis of 'cyberspace crime' and the methods and institutions that are emerging within different cyberspaces to confront it—within the 'strange jurisdictions' of the essay's title.

The essay is structured as follows: in the next section, unique terminologies are detailed; in the third section, the unique circumstances of cyberspaces in terms of Lessig's modalities are control are discussed; in the fourth section, case studies of multiple cyberspaces are presented; and a conclusion follows.

II. TERMINOLOGY

This section shall detail the precise meanings of some terms used throughout this essay, whose uses here are in some cases non-traditional.

A. 'Cybercrime' and 'cyberspace'

The 'cyber-' in 'cybercrime' traditionally acts as '...a general prefix to denote anything vaguely connected to computers.' (Chatterjee 2001, p. 82) These 'cybercrimes' are divided into 'cyber-dependent' and 'cyber-enabled' crimes, whereby the former '...can only be committed by using a computer...' and the latter '...are traditional crimes...increased in their scale or reach by the use of computers' (McGuire and Dowling 2013, p. 5). However, Wall (2001, p. 2) admits that '...the term "cybercrime"...has no specific referent in law, and it is a concept that has been largely invented by the

media'.

McGuire and Dowling's use of the term 'crime' *sans* prefix obscures the fact that the crimes they refer to *do* still occur within a space—here referred to as 'meatspace'.[1] This is not, however, the only space in which crime can occur. 'Cybercrime' is in here interpreted as a contraction of 'cyberspace crime', or crimes committed within cyberspace and impacting the denizens thereof, as opposed to the traditional notion of 'meatspace crime'.

This begs the question of what 'cyberspace' *is*. William Gibson famously described it as a '...consensual hallucination experienced daily by billions of legitimate operators, in every nation', but surely the same can be said of meatspace. Korzybski (1933) argued that our internal 'maps' of reality are distinct from the 'territories' they describe, whilst Dibbell (1999, p. 74) suggests that '...a human being never inhabits a physical landscape without also inhabiting its ghostly, abstract counterpart – the geography of language, law, and fantasy we overlay, collectively on everything we look at.' If meatspace is therefore just another set of 'consensual hallucinations', it can also lay claim to being the 'daily experience' of just as many 'legitimate operators', and Gibson's remaining distinction between meat- and cyberspace as one of global reach must, too, be abandoned, as we shall see in §II(B).

Chatterjee (2001, p. 82) provides a more workable description of cyberspace as '...a collective, descriptive term for everything from the Internet and the world wide web...' and, more crucially, '...the imaginary or metaphorical space that it exists in.' Cyberspace is not the 1s and 0s travelling down the network cables, just as meatspace is not the atoms that make up our bodies—cyberspace is the worlds that those 1s and 0s construct, and the variations within those worlds too: 'Cyberspace is not one place. It is many places. And the character of these many places differ in ways that are fundamental.' (Lessig 2006, p. 84) Further, Brenner (2008, p. 9) differentiates between '[t]hose who merely use it [cyberspace] as a tool...' and those who '...*inhabit* cyberspace...shift[ing] a segment of their lives into one of the discrete, distinctive virtual worlds that are being established in shards of cyberspace [emphasis hers].'

B. 'Crime', 'law' and 'jurisdiction'

A 'crime' is an act contrary to a law, or the rules, of a given jurisdiction. Legality, in meatspace as in all spaces, is the sum of the full range of jurisdictions, more often overlapping than not, within which an act takes place. This is usually thought of in terms of national (and, therefore, geographic) jurisdictions—a British subject lives under the laws of England & Wales—but these are in the minority. If our British citizen is a Catholic, they are also subject to canon law; if they also serve in the Armed Forces, so too the Queen's Regulations; if they work at SomeCompany Ltd, they submit to the law of their employment contract. These can all overlap with each other, and may diverge at times. If our subject attempted to marry and had previously done so, canon law would forbid a wedding (CIC, c. 1085) whilst the law of England & Wales would allow it; if our subject were to grow sideburns that 'descend below the mid point of the ear', they would be in breach of the Queen's Regulations (Ministry of Defence 2013, s. 5.336(a)(1)), but would prove of little concern to a judge or a priest.

We do not generally refer to these laws as 'meatlaw'. It would be odd if we distinguished laws (and their created crimes) by the medium over which they apply—imagine discussions of 'roadcrimes', contrasting 'road-enabled crimes' such as transporting stolen goods with 'road-dependent crimes' such as speeding. We do, nonetheless, distinguished different types of law. We say that canon law is an example of 'religious law', along with Sharia law. The laws of the British Army are an example of 'military law', whilst those of England & Wales are 'national law'. We tend to group laws (and their attendant crimes) semantically, by the activities they pertain to.

What laws, then, govern the denizens of cyberspace? The answer, as in meatspace, is that it depends on what they are doing and where. A user posting on `someforum.net` is under the jurisdiction of the `someforum.net` law, or Terms of Service. This jurisdiction, too, joins all others over the user—the

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[1]For the history of the term 'meatspace' see Merriam-Webster (undated)

cyberspace law does not, for example, supersede those of any nation that claims possession of the user, and if a French citizen posted Nazi propaganda on `someforum.net` they may expect a knock on the door from the French police. That the act took place in cyberspace is no more a defence than if it had have taken place inside a cathedral or on a road.[2]

Some fields of law can be ported over from meatspace easily, such as defamation law to protect against the besmirching of one's good name. Others predate cyberspace, but have not been worth naming until now and must now have names coined retroactively. One such example is the law of games. Taking the ball from another player in a game of football is not considered theft and will not incur punishment, unless done so outside of the rules of the game (IFAB 2017). Many cyberspaces are also game-based, and so the scope for such laws has increased—for example, *EVE Online* is notorious for its in-world thefts and acts of corporate espionage (Drain 2012; Drain 2017), but the official support desk states that '[i]t is not an exploit to remove assets belonging to a corporation as long as the access to the corporation assets was acquired through normal game mechanics' (CCP Games 2018). This essay proposes the term 'ludic law' for this field of law. Finally, some fields may be entirely new, due to having previously had no possible application within meatspace. 4chan's global rule #14, which prohibits '[t]he use of scrapers, bots, or other automated posting or downloading scripts...', may be such an example (4chan undated[c]), but the distinction is by no means clear—rule #14 could also be considered in terms of trespass law.

III. Why Cyberspaces Are Worth Studying

Lessig (2006) describes control as a function of the imposition of four 'modalities of control', or:

- social norms, which '...function through the stigma that a community imposes;'
- markets, which '...constrain through the price they exact;'
- architectures, which '...constrain through the physical burdens they impose'; and
- law, which '...constrains through the punishment it threatens.'

A control system is the weighting of the four modalities within a jurisdiction.

'Policing' is the act of ensuring compliance with the control system of a given jurisdiction. Depending on the balance of the four modalities, policing could be anywhere from fully centralised to fully decentralised. In the latter case, the libertarian ideal of free association, no participant would have power over any other and thus the collective enforcement of social norms through mass stigmatisation would be the most effective means of policing. In the former, the religious ideal of an omnipotent deity, one element has a limitless and infallible ability to enforce compliance.

Most nations create a 'policing force' of citizens empowered to break the laws that normally apply to them (such as those prohibiting assault or murder) in response to their unauthorised breaching by others (c.f. Weber, who argued the state has a '...monopoly on the legitimated use of physical force'). This fundamental aspect unites the police officers of the Lancashire Constabulary with the women of the Islamic State's Al-Khansaa Brigade (Gilsinan 2014), although the two bodies are obviously very different in practice.

An obvious difference between meatspace and cyberspace is that whilst the architecture of meatspace is broadly fixed and unchangeable (e.g. we have little sway over the laws of physics), the architecture of cyberspace is whatever it is programmed to be, and '[l]ife in cyberspace is regulated primarily through the code of cyberspace.' (Lessig 2006, p. 83) This affords the creator(s) of a cyberspace the omnipotence that the religions of meatspace can only dream of, which may be why '...one does not find much democracy at all in synthetic worlds.' (Castronova 2005, p. 207) From Saul to James VI, kings throughout history have derived their right to rule from the so-called 'divine right of kings'. This idea has largely lost favour in our time, replaced by the divinity of the individual and, in theory, democracy as the only form of government acceptable to it. However, in cyberspace, the divine right of admins is harder

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[2]Consider Napier's response to the tradition of wife-burning in India: 'This burning of widows is your custom; prepare the funeral pile. But my nation has also a custom. When men burn women alive we hang them, and confiscate all their property...Let us all act according to our national customs.' So, too, must we all act according to our multiplicity of jurisdictional customs.

to challenge, being as they are appointed by the developer(s) of a cyberspace, who are themselves as omnipotent and omniscient as any God ever was, and far harder to doubt the existence of.

This divergent evolution, enabled by the very nature of cyberspaces, makes them fascinating objects of study in both their own right and in terms of what we can learn from them to apply to our meatspace existences. This is not constrained to legal or sociological study either; consider the insights gained by epidemiologists from the *World of Warcraft* Corrupted Blood incident (Balicer 2007). Note, however, that it is not the aim of this essay to debate whether these cybercrimes are 'real' crimes, or whether they cause 'real' harm—this topic has been amply covered by Brenner (2008), Williams (2001), and Dibbell (1999).

IV. CASE STUDIES

In this section, three case studies are presented, demonstrating the emergence of different control systems within three cyberspaces.

A. The Privy Council Model: EVE Online

EVE Online is a space-based multiplayer online game developed by Icelandic developer CCP Games. Players chart their own course through the galaxy of New Eden finding employment as anything from an asteroid miner to muscle-for-hire in one of many huge player-run corporations, amidst a population that has, at times, eclipsed that of Iceland itself (Colp 2014). The ludic law that applies within New Eden has already been touched upon, such as the legality of corporate espionage. In this section, however, the focus is on the non-ludic cyberspace of *EVE Online* itself, which contains the ludic one of New Eden, but encompasses beyond it.

The law of the space is contained within two documents—the End User License Agreement (CCP Games 2016a) and the Terms of Service (CCP Games 2016b)—and, as in all such worlds, CCP have a technical *carte blanche* to change the architecture of their world as they see fit. However, a 2007 breach of an in-game corporation's private forum revealed that a CCP developer had granted the corp. in-game material which gave them a competitive edge over their rivals. As a result of the player backlash, including calls for the developer to resign, CCP instituted the Council of Stellar Management (CSM), with the inaugural elections taking place in early 2008 (Schiesel 2007). The CSM currently comprises around ten players, elected by their peers, who '...have regular online meetings and direct access to chat channels with development staff' and who are occasionally flown to CCP's offices in Iceland '...to take part in high-intensity work sessions with the *EVE* teams' (CCP Games 2008).

Initial reactions were positive (Schiesel 2008). Whilst the CSM has no real power over CCP's decision-making, they do appear to have been listened to: Matterall (2015) lists a number of decisions in which the CSM was influential, such as '...pull[ing] fleet warp from the chopping block...' and '...outright veto[ing] jump clones in w-space.' Whatever these words mean, it is clear that they are important within the world of 'EVE Online'. However, in the intervening years the Council has not been without criticism. Matterall also criticises both the high turnover of members and the low (around 2.5%) voter turnout, but concludes that '[i]t's a serious privilege that requires a serious commitment'; similarly, MacGirk (2015) complains that '[n]ews about the CSM is scarce, good news is almost non-existent, but bad news always has a way of coming public', but also concludes that '[t]he fact that we have a player council in direct contact with the game developer is truly amazing.'

B. The Democracy Model: LambdaMOO

Whilst the Privy Council Model is something of an outlier amongst cyberspaces, the democratic model is rarer still. One of the few historic attempts has been the text-based online community of *LambdaMOO*. In the early days of the community, the 'wizards'—users with administrative powers—ruled by 'wizardly fiat'. However, by 1992 the community had grown to such a size that such a burden on the small cadre of wizards was untenable. A document was published by the world's creator, Archwizard

Haakon, declaring that '...whether or not you independent adults wish it, the wizards are pulling out of the discipline/manners/arbitration business; we're handing the burden and freedom of that role to the society at large.' (Curtis 2000) The crucial test of this new system came during the Bungle Affair, wherein a user maliciously forced a number of other players to perform in-game sex acts against their will (as recounted briefly by Clough (2006, p. 19), and in more detail by Dibbell (1993)). The victims called for punishment against the offender, which necessitated '...a convincing case that the cry for his head came from the community at large...', and that '...some form of social organization, no matter how rudimentary, would have to be settled on.' Debates were held, but in the end capital punishment for Bungle was meted out by one of the supposedly-neutral wizards. As a result, Haakon 'buil[t] into the database a system of petitions and ballots whereby anyone could put to popular vote any social scheme requiring wizardly powers for its implementation, with the results of the vote to be binding on the wizards'.

As a consequence of this experiment of democracy, the structures of *LambdaMOO* began to echo those of meatspace. The community developed its own judicial system and volume of case law (Dibbell 1999, ch. 3).[3] Political debates raged, as in the healthiest of democratic regimes, over the ideal direction for future developments, featuring '...lingering parliamentarians, convinced more than ever that the MOO needed a duly structured and elected officialdom to manage its day-to-day conflicts...the odd unregenerate wizardist, for whom the mediation system was but a messy travesty of the swift justice of yore...[a]nd...of course the legions of the libertarian-leaning, raring to shake off an institution they now regarded as dead weight at best and a crude foretaste of the dread rule of bureaucracy at worst.' Ultimately, *LambdaMOO*'s democracy came to an end in 1996 when the wizards decreed that that they would '...no longer refrain from taking actions that may have social implications', citing the fact that three and a half years had produced '...no adequate mechanism...that prevents disruptive players from creating an intolerably hostile working environment for the wizards.' (Curtis 2000) The system of petitions remained in effect, however, but only as an advisory feature—*LambdaMOO* had, in the end, adopted the Privy Council Model.

C. The Secret Police Model: 4chan

4chan is an online imageboard site wherein users discuss topics of interest anonymously. The site sees up to 22 million monthly users (4chan undated[a]), and has (along with its userbase) been described as everything from '...a major online hub for geek masculinity...' featuring '...anarchic discussions of video games, cartoons and pornography amongst other subjects' (Salter 2017, p. 6) to an 'Internet hate machine' (Tomberry 2009). The unique culture of the site, primarily as a result of its enforced anonymity, is discussed in depth by Auerbach (2012), but the policing of the site contrasts with the popular imagining of it as some sort of anarchic free-for-all. 4chan, like perhaps the vast majority of cyberspaces, operates a system of moderation not unlike that of the most repressive meatspace regimes of recent (and not-recent-enough) history.

4chan is governed by 17 global rules (one of which has already been discussed), and a range of board-specific rules (4chan undated[c]). The rules are enforced by a group of paid moderators empowered to '...delete posts globally, ban users, sticky and close threads, etc.' and a larger force of unpaid 'janitors', who '...are given access to the report system and may delete posts on their assigned board(s), as well as submit ban requests' (4chan undated[b]). There is no form of accountability in 4chan's policing— the identities of moderators and janitors are not made public, '[t]here is no public record of deletion, and since threads are frequently pruned, there is no way of knowing which have been removed by the moderation team.' Ultimately, 'there is no way for an end user to accurately judge the amount of moderation taking place at any given point in time.'

However, the site remains remarkably unbowed by these pressures, perhaps in part due to the lax enforcement of the site rules. The (often malicious) creativity of the userbase is the thing of the Internet

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[3]View the chapter online at `http://www.juliandibbell.com/texts/mytinylife.html#VR3`

legend, and global rule #4 provides a rare example of military law in cyberspace, broadly equivalent to the US 'Neutrality Act' (1794), or the British 'Foreign Enlistment Act' (1870), which restrict citizens of each from engaging in hostilities with friendly nations. That such a restriction is considered necessary is testament to the rebellious activities of the userbase, in spite of such repressive policing measures.

V. CONCLUSION

Cyberspace governance offers an inverted picture to the ideals of such in meatspace. Democracies are exceedingly rare, whilst the most successful spaces operate as authoritarian states ruled by omnipotent dictators, complete with unaccountable secret police forces to enforce compliance to the space's statutes. It is too soon to determine whether this merely mimics the history of meatspace governance, in which democracy has only recently become a cause célèbre, or whether this is the inevitable result of the architectural differences inherent in cyberspaces. Despite this, diverse communities continue to flourish and to experiment with alternative methods of governance.

Major References

4chan (undated[a]). *Advertise*. URL: https://www.4chan.org/advertise.

– (undated[b]). *Frequently Asked Questions*. URL: https://www.4chan.org/faq#whomod.

– (undated[c]). *Rules*. URL: https://www.4chan.org/rules.

Auerbach, David (2012). 'Anonymity as Culture: Treatise'. In: *Triple Canopy* 15.

Barlow, John P (1996). *A Declaration of the Independence of Cyberspace*. URL: https://www.eff.org/cyberspace-independence.

Brenner, Susan W (2008). 'Fantasy crime: The role of criminal law in virtual worlds'. In: *Vanderbilt Journal of Entertainment and Technology Law* 1, pp. 75–77.

Castronova, Edward (2005). *Synthetic Worlds: The Business and Culture of Online Games*. London: University of Chicago Press.

CCP Games (2008). *The Council of Stellar Management*. URL: https://community.eveonline.com/community/csm/.

– (2016a). *EVE Online - End User License Agreement*. URL: https://community.eveonline.com/support/policies/terms-of-service-en/.

– (2016b). *EVE Online - Terms of Service*. URL: https://community.eveonline.com/support/policies/terms-of-service-en/.

– (2018). *Corp Theft*. URL: https://support.eveonline.com/hc/en-us/articles/203269541-Corp-Theft.

Chatterjee, Bela B (2001). 'Last of the rainmacs: Thinking about pornography in cyberspace'. In: *Crime and the Internet*. Ed. by David Wall. London: Routledge. Chap. 6, pp. 74–99.

Clough, Jonathan (2006). 'Introduction'. In: *Principles of Cybercrime*. Ed. by Jonathan Clough. Cambridge: Cambridge University Press. Chap. 1, pp. 3–27.

Colp, Tyler (2014). *The number of names on the EVE Online monument will eclipse Iceland's population*. URL: https://bitbrick.wordpress.com/2014/02/05/the-number-of-names-on-the-eve-online-monument-will-eclipse-icelands-population/.

Curtis, Pavel (2000). *LambdaMOO Takes a New Direction*. URL: https://web.archive.org/web/20180527161546/https://www.cc.gatech.edu/classes/AY2001/cs6470_fall/LTAND.html.

Dibbell, Julian (1993). 'A Rape in Cyberspace: How an Evil Clown, a Haitian Trickster Spirit, Two Wizards, and a Cast of Dozens Turned a Database Into a Society'. In: *The Village Voice*.

– (1999). *My Tiny Life: Crime and Passion in a Virtual World*. London: Fourth Estate.

Drain, Brendan (2012). *EVE Evolved: Top ten ganks, scams, heists and events*. URL: https://www.engadget.com/2012/10/28/eve-evolved-top-ten-ganks-scams-heists-and-events/.

– (2017). *'You will lose both hands' – How the biggest theft in EVE Online history ended in death threats*. URL: https://www.rockpapershotgun.com/2017/09/29/how-eve-online-theft-ended-in-death-threats/.

Gibson, William (1984). *Neuromancer*. New York City: Ace.

Guinchard, Audrey (2010). 'Crime in virtual worlds: The limits of criminal law'. In: *International Review of Law, Computers & Technology* 24.2, pp. 175–182.

Lessig, Lawrence (2006). *Code Version 2.0*. New York: Basic Books.

MacGirk, Dirk (2015). *Revisiting the Council of Stellar Management*. URL: https://web.archive.org/web/20180527145148/https://imperium.news/revisiting-council-stellar-management/.

Matterall (2015). *Manny Departs CSM*. URL: https://web.archive.org/web/20170108112634/https://www.themittani.com/news/manny-departs-csm.

McGuire, Mike and Samantha Dowling (2013). *Cyber crime: A review of the evidence*. London.

Merriam-Webster (undated). *What Is 'Meatspace'?* URL: https://www.merriam-webster.com/words-at-play/what-is-meatspace.

Schiesel, Seth (2007). 'In a Virtual Universe, the Politics Turn Real'. In: *New York Times*. URL: https://www.nytimes.com/2007/06/07/arts/07eve.html.

– (2008). *Face to Face: A Council of Online Gamers*. URL: https://web.archive.org/web/20180527145834/https://www.nytimes.com/2008/06/28/arts/television/28eve.html.

Tomberry (2009). *Internet Hate Machine*. URL: https://web.archive.org/web/20180527163626/http://knowyourmeme.com/memes/internet-hate-machine.

Wall, David (2001). 'Cybercrimes and the Internet'. In: *Crime and the Internet*. Ed. by David Wall. London: Routledge. Chap. 1, pp. 1–17.

Weber, Max (2015). *Weber's Rationalism and Modern Society: New Translations on Politics, Bureaucracy, and Social Stratification*. Trans. by Tony Waters and Dagmar Waters. New York: Palgrave Macmillan.

Williams, Matthew (2001). 'The Language of Cybercrime'. In: *Crime and the Internet*. Ed. by David Wall. London: Routledge. Chap. 10, pp. 152–166.

Minor References

Abbott, Edwin A (1884). *Flatland: A Romance of Many Dimensions*. London: Seeley & Co.

Balicer, Ran D (2007). 'Modeling infectious diseases dissemination through online role-playing games'. In: *Epidemiology* 18.2, pp. 260–261.

Beauvoir, Simone de (1972). *Le Deuxième Sexe [The Second Sex]*. Trans. by H.M. Parshley. London: Penguin.

Canon Law Society of America (1983). *Code of Canon Law*.

'Foreign Enlistment Act' (1870). In: *33 & 34 Vict. c.90*. URL: http://www.legislation.gov.uk/ukpga/Vict/33-34/90.

Gilsinan, Kathy (2014). *The ISIS Crackdown on Women, by Women*. URL: https://www.theatlantic.com/international/archive/2014/07/the-women-of-isis/375047/.

IFAB (2017). *The Laws of the Game*. URL: http://www.theifab.com/laws.

Korzybski, Alfred (1933). 'A non-Aristotelian system and its necessity for rigour in mathematics and physics. Science and sanity'. In: *Institute of General Semantics, New York*, p. 747.

Ministry of Defence (2013). *The Queen's Regulations for the Army 1975 (Amendment No 26)*.

Napier, William (1851). *History of General Sir Charles Napier's Administration of Scinde*. London: Chapman and Hall, p. 35.

'Neutrality Act' (1794). In: *18 U.S. Code § 960*. URL: https://www.law.cornell.edu/uscode/text/18/960.

Salter, Michael (2017). 'From geek masculinity to Gamergate: the technological rationality of online abuse'. In: *Crime, Media, Culture*, p. 1741659017690893.