Krisis

Journal for contemporary philosophy

TABLE OF CONTENTS

Krisis

Journal for contemporary philosophy

DANIËL DE ZEEUW

PIRATES AND PRIVATEERS
AN INTRODUCTION IN THREE ACTS

1.

Never low on speculative long-term predictions, in §472 of his *Menschliches, Alzumenschliches* Nietzsche prophesies that democratic distrust of government will ultimately 'impel men to do away with the concept of the state, to the abolition of the distinction between private and public' so that 'private companies will step by step absorb the business of the state' (1996: 172). The certain decay of the state is due, he explains, to the erosion of 'The belief in a divine order in the realm of politics, in a sacred mystery in the existence of the state' so that 'the state will unavoidably lose its ancient Isis veil and cease to excite reverence.' Of this idea one finds echoes in Walter Benjamin and Carl Schmitt's reflections on the connection between theology and politics: the claim, which to a certain extent they share, that structural failure by the governed to perceive the link between law-making and law-preserving violence marks the beginning of the end of an institution's legitimacy and existence (Benjamin 1978: 288; de Wilde 2008: 36). It also occupies Jacques Derrida (1992) in a lecture on 'the mystical foundation of authority' as described by Montaigne and Pascal.

Anno 2015 the hypothesis that the modern nation state and/or parliamentary democracy has run its course is a truism for some, almost to the point that its contestation becomes a cliché (Harman 2007, Sassen, 1996), although debates do occasionally flare up before receding into the depths of the academic underground. Generally, that which challenges the welfare state is subsumed under the broad rubric of 'neoliberal governance'. In this narrative, corporate powers are gradually eroding what the emancipatory social movements of the 19th and 20th centuries had gained in terms of state-recognized civil rights, social security, and so on. Yet in the cracks opened up by neoliberal globalisation various radical alternatives that defy categorization within this Manichean narrative may also prosper: local and crypto currencies (Bristol Pound, Litecoin), counter-banking (Occupy-Bank, Timebank), micronations (Principality of Sealand), eco-communities and hacker colonies (Calafou) and alternative internets (TOR, GNUnet). These are today's pirates and privateers, operative in the widening gap that separates current societal norms from their institutionally embedded precursors and the laws designed to control the technologies through which these norms are implemented. Especially in the case of the internet the legal and political apparatuses are perceived as running behind and fighting a lost battle (although, as Snowden's revelations show, agencies such as the NSA that are furthest from democratic control still seem to function relatively well).

As in most Western countries the parliamentary Left continues to defend the welfare system as a place of last resort against neoliberalism, it loses new generations of the open-minded and tech-savvy by reifying politics as a professional, institutionalized sphere instead of a dirty battle played out on the grounds of 'civil' society. Already cynical, these generations might increasingly recognize themselves in St. Augustine's pirate when he answers Alexander the Great's question of what he means by keeping hostile possession of the sea: 'What thou meanest by seizing the whole earth; but because l do it with a petty ship, I am called a robber, whilst thou who dost it with a great fleet art styled Emperor' (in Heller-Roazen 2009: 56).

Will the conflict between neoliberal and alternative solutions to the present spiral of crises take place in ever more deterritorialised technocratic networks beyond state control? Perhaps we will witness the proliferation of

large self-regulative parallel systems, of password-protected enclaves, and of local communication ecologies and gated communities that resemble cyberpunk author Bruce Sterling's SF novel Islands in the Net, where 'the decay of political systems will lead to a decentralized proliferation of experiments in living: giant worker-owned corporations, independent enclaves devoted to "data piracy," Green-Social-Democrat enclaves, Zerowork enclaves, anarchist liberated zones, etc.?' (Bey 2001). It is around these and related questions that the articles in this *Krisis* dossier revolve, taking the pirate/privateer distinction as a starting point from which other dualisms are interrogated.

But why would one want to revive the pirate and privateer, remnants of the romanticized clichés of a bygone era? From the perspective of the nation-state, it might help compare the conditions that triggered its formation with the conditions that currently undermine it. Of course, there can be no return of the same strictly speaking. The globalized present is, besides still being firmly in the grip of the combined efforts of nation-states, qualitatively different from the era of piracy at its height. But this doesn't prevent the grasping of structural analogies between the two situations as a way of elucidating the present and anticipating the future. The category of piracy has seen a revival in the context of both online file-sharing and protecting economic infrastructure, from global trade routes along the coasts of Africa to transatlantic internet cables. As such it is once again an important trope in our contemporary imaginary, which increasingly pictures the world in terms of vast multi-layered but under-governed networks, not only in the mainstream media and popular culture, where those who participate in illicit file-sharing identify with the pirate legacy, but in academic research as well. The figure of the pirate has become a site of fierce contestation, used simultaneously to legitimize and delegitimize the kind of practices to which it is made to refer. The edited volume *Piracy: Leakages from Modernity* (2014), reviewed here by Liesbeth Schoonheim, provides an overview of current research on contemporary piracy.

In contrast, the figure of the privateer receives far less attention: undeservedly so, if only because in its inevitable relation to sovereignty it offers a unique opportunity to better understand the different status of piracy in *its* relation to sovereignty. The privateer – essentially a private warrior – forms

but a small part of the totality of private actors whose powers are constituted through state contracts and privileges, and in contrast with which piracy is defined: 'The phenomenon of piracy is indissociable from the role of the State in processes of territorialization and the normalization of trade' (Arnould 2011, my translation). The privateer also points to the increasing difficulty of distinguishing between war and peace: control over the economy by its own means partly replaces territorial political wars (albeit guided by a deterritorialized war against insurgencies that is permanent). A terrorist attack may cost ten lives, but a 0.1% increase in import tax might cost thousands, while passing unnoticed.

It is the triadic relationship between sovereign, pirate and privateer that Sonja Schillings addresses in her thought-provoking essay on Giorgio Agamben's reflections on piracy in relation to his theory on sovereignty and bare life in the *Homo Sacer* trilogy. It provides an answer to the question, 'what distinguishes a pirate from a privateer?' by a critical engagement with Agamben's elaboration of the ban-structure of sovereignty through what is argued to be a problematic – because selective – reading of Marie de France's lay *Bisclavret*.

Does the distinction between pirate and privateer presuppose a sovereign decision that introduces the privateers as a state of exception? Does sovereignty survive the end of the nation-state by entering into ever-new formations? If so, where are these to be discerned, if no longer exclusively in state apparatuses? How is the ban that sanctions the actions of some private actors while illegalizing others re-iterated in the present in ways that profoundly challenge our political vocabulary?

Oscar Coppieter's contribution also centers on the distinction between pirate and privateer, through an interrogation of the potentials and pitfalls of the Corporate Social Responsibility (CSR) movement in a transglocal institutional arena. Although critical of its claims, he argues that it can also provide a powerful tactic in fueling counter-hegemonic resistances by politicized pirate consumers and producers. What is now a tactic that moves within the boundaries set by the given institutions might evolve into a strategy with revolutionary effects.

2.

'In civilizations without boats, dreams dry up, espionage takes the place of adventure, and the police take the place of pirates.' This remark by Foucault (1984) in a 1967 lecture on the notion of heterotopia provides a good entry point because it captures the juncture at which we have arrived, the so-called network society (arguably a misnomer that provides the illusion of unity, of an elusive 'we'). For whatever reasons, the pirates that roam the information seas (surrendering for the moment to this rather tacky metaphor) continue to crack their ways into the continuous stream of commercially released albums, games and movies, and to hack into proprietary IC systems. On the other side are the intelligence services and the police, whose gaze extends to every nook and cranny of the social by means of infrastructural states of exception tuned to emergency by design: backdoors build into the ICT we use, even at the level of hardware. Yet the produce of the general intellect is increasingly encrypted using broadly available open-source frameworks and applications. The hacker scene is a game of seduction: black and white but mostly grey hat, the hack that might land you in jail for the next ten years may also get you a well-paid contract with a security firm, or with the government itself for that matter. A story of the rise and fall of Anonymous, from black to white and back again, Maxigas reviews Gabriella Coleman's recent contribution to the emerging field of netnography, *Hacker, Hoaxer, Whistleblower, Spy: The Story of Anonymous.*

Needless to say, boats play an important role in contemporary pirate imaginaries. An offspring of Anonymous, Lulzsec sailed the seven seas of the internet in their Lulzboat. In the logo of *The Pirate Bay* the boat also occupies a prominent place, with a cassette tape – the symbol of bootlegging culture – replacing the skull in the pirate flag we are all familiar with. The boat is also, lest we forget, a technology of expansion and conquest, and as such is responsible for producing the sea as a legal and political problem. In the Western imagination the sea on which boats fare and in which they disappear is simultaneously a space of freedom and necessity. For both freedom and fate are beyond the human as the measure of things and the rules of the land. The sea occupies a unique position in relation to what Carl

Schmitt claimed is the essence of law (*nomos*): an originary *Nahme* (appropriation) that proceeds to give the land a *Name* (name). So the idea of naming is also understood as part of an act of appropriation, a taking (*nehmen*).

Schmitt goes on to state that the older word *nemein* refers in its meaning to both *teilen* (to divide), *verteilen* (to distribute), and *weiden* (to pasture, or produce) in a way that supports his argument about the fundamentally appropriative nature of Law, i.e. that 'initially, there was no basic norm, but a basic appropriation' and, subsequently, that 'no man can give, divide, and distribute without [first] taking' (345). He attacks the idea that societies might someday pass (or already have passed) beyond the proprietary positing of the Law, considering it a very dangerous and decadent idea. Liberal, anarchist and Marxist world-views are all found guilty of entertaining precisely this idea, that the present world reaches a stage where all power over men will cease and, as he sarcastically remarks, 'things govern themselves' much like bees in a beehive, where 'man can give without taking' as he 'has at last found its formula' (341, 347). The same criticism may be applied to a romanticized or overly utopian idea of the commons. But the Schmittian critique itself is not without its questionable assumptions: a combination of Christian anti-eschatological thought and a Hobbesian view of human nature presses it to embrace the *katechon* as the highest hope, to restrain evil.

These two aspects of law that merge into an 'appropriative naming' point to a theme that comes back again and again in the present issue: the idea of the common(s) as the object of an appropriation, but also as the subject of various resistances against it, and using anonymity as a subversive tactic against existing intellectual property regimes. Besides the iconic Guy Fawkes mask, the hacktivist pseudo-collective Anonymous' very name indeed contains a reference to namelessness as part of an *an-archic* ideal of sorts, creating an *a-nomic* or at least *anti-nomic* state of affairs, which mustn't be mistaken for chaos, as Schmitt very well knew, but rather as the collapse of law into the unfolding of life itself, i.e. what Deleuze refers to as an immanent life.

The idea of a lawless space where things so govern themselves of course lies at the root of what may be called the American fantasy: the (lines of) flight

from the old and the corresponding drive forward towards the final frontier. The Internet was envisioned as such an extra-juridical space beyond the nation-state: 'you have no sovereignty where we gather' John Perry Barlow proudly proclaimed in *A Declaration of the Independence of Cyberspace* (2001). But what was to be a final victory cry was taken as a challenge by the representatives of the old: in the aftermath of 9/11, new money and young brains met to conquer these anomalous dwellings, although cyberspace was never quite as innocent and virginal to begin with, like the America that first needed to be purged from its native inhabitants, which only shows that there is no appropriation that is not at the same time also a disappropriation, just as there is no pure commons preceding a *Nahme*.

In this entangled web the figure of the pirate is similarly ambiguous and strung through with contradiction. Pirates of the early modern period both undermined and played a positive role in establishing a realm of capitalist free trade established through, but relatively autonomous from, the state. Today this ambiguity is repeated in online piracy's relation to the advance of informational capitalism through the creative destruction of its earlier incarnations, those 'weary giants of flesh and steel' Barlow mentions (ironically, the headquarters of Apple originally crowned a black and white pirate flag). Media piracy undermines existing proprietary regimes, but by deterritorializing the vestiges of the old media industries they prepare new grounds for ever faster and more mobile valorizations of capital, inaugurating new divisions and distributions of property and power, perhaps even a new *nomos*.
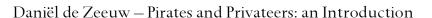
Jonathan Paul Marshall and Francesca da Rimini's contribution mobilizes both play theory, the history of capitalism and classical anarchist theory about the relations between theft and property to evaluate these structural transformations, based upon the extensive body of ethnographic research on pirate practices they have accumulated, including interviews with the main actors involved. They take two recent events – the legal attacks on the peer-to-peer torrent tracker Demonoid and the court cases around the Sony PlayStation 3 – as case studies to better grasp what they believe is an emerging 'pirarchy' whose basic model of operation and tactic is that of a spontaneous and disruptive swarm.

3.

The non-political character of piracy supposedly derives from its being geared towards a private, rather than a public, interest. But this line of reasoning obviously has a tautological character, for what makes something of public interest at least partly derives from the political nature of the act. But who decides what is of public significance and what merely constitutes a criminal act? Can the categorical distinction between the public-political and the private-criminal itself be subjected to political contestation? This presents a problem, for it becomes impossible to decide if this contestation itself is of a public or private nature, as it precedes the establishment of the criterion as such - that is to say, that the injunction that posits the distinction between legitimate and illegitimate in terms of the public and the private can itself not be legitimized on that basis. It also signals the dialectical – because mutually constitutive – relation between law and property, and between political and economic power.

In a short article, Felix Cohen points out the vicious circle inherent to legal reasoning about intellectual property rights, i.e. the idea that 'courts are not creating property, but are merely recognizing a preexistent Something'. He does so using the example of the trademark 'Palmolive', which if it 'is not restricted to a single firm […] will be of no more economic value to any particular firm than a convenient size, shape, mode of packing, or manner of advertising, common in the trade. Not being of economic value to any particular firm, the word would be regarded by courts as "not property," and no injunction would be issued […] Ridiculous as this vicious circle seems, it is logically as conclusive or inconclusive as the opposite vicious circle, which accepts the fact that courts do protect private exploitation of a given word as a reason why private exploitation of the word should be protected' (2006: 1). Conversely, the Marxist legal scholar Evgeny Pashukanis (2003: 93-94) shows how public law can never on its own create, but rather presupposes and is determined by, privately accumulated property.

Issues of ownership and its relation to law have a long history in political philosophy and critical theory. They are also at the heart of the theme of

digital piracy and the intellectual property wars pirates engage in. 'Information must be free' irrespective of ends (emancipation, but also just entertainment) and by any means necessary: from torrents, viruses and DDoS attacks to professional hacks into proprietary platforms and whistle-blowers leaking classified data. Are the categories of critical political theory equipped to deal with this novel constellation? How to think about individual and collective agency in the presence of algorithmic enclosures and autonomous botnets? What about the conventional distinctions between public and private, the political and the economic? What delimits political acts from mere illicit behavior? How do digitalization and globalization structurally transform the means and ends of political activism and social movements? In global networks of capture where 'visibility and transparency are no longer signs of democratic openness but rather of administrative availability' (Bueti 2011), are struggles for inclusion and recognition still liberatory? Is anonymity, instead of identity, in the process of becoming a new and global site of struggle, rather than a dire condition in need of an emancipatory uplifting? Or are we in for a return of the same after all? It is in the following interview with Ned Rossiter and Soenke Zehle that some of these questions will be interrogated.

Combined, the contributions to this *Krisis* dossier hopefully shed some light on the mind-boggling complexities that animate the networked present. Coming from different disciplinary directions, each article – in the specific delimitation of its own theme – provides an implicit comment on the others. It is not often that Demonoid is allowed to encounter the dark causality of ancient sovereignty, or Corporate Social Responsibility the political theology of a scholar denounced for his relation to Nazi Germany. Far from an inconsequential cacophony, however, the following articles carve out the structural ambiguities of globalization, which, far from providing an easy excuse for remaining in a state of political apathy, and without wanting to quote Hölderlin, finds potentialities opening up in the very dangers that threaten to overrun them.

Daniël de Zeeuw is an editor of *Krisis* and a PhD candidate at ASCA (University of Amsterdam) researching the political aesthetics of anonymity in popular culture, art and activism.

References

Arnould, G. (2011) 'Rodolphe Durand, Jean-Philippe Vergne, L'organisation pirate. Essai sur l'évolution du capitalisme.' In: *Lectures*, http://lectures.revues.org/1280

Barlow, J. P. (2001) 'A Declaration of the Independence of Cyberspace.' In: P. Ludlow (ed.) *Crypto Anarchy, Cyberstates, and Pirate Utopias*. Cambridge, Mass.: MIT Press.

Benjamin, W. (1978) *Reflections: Essays, Aphorisms, Autobiographical Writings*. New York: Harcourt Brace Jovanovich.

Bey, H. (2001) 'Pirate Utopias.' In: P. Ludlow (ed.) *Crypto Anarchy, Cyberstates, and Pirate Utopias*. Cambridge, Mass.: MIT Press.

Bodó, B. (2011) 'You Have No Sovereignty Where We Gather – Wikileaks and Freedom, Autonomy and Sovereignty in the Cloud.' Available at http://www.warsystems.hu/2011/03/07/wikileaks-and-freedom-autonomy-and-sovereignty-in-the-cloud/

Bueti, F. (2011) 'Give me the Time (For an Aesthetic of Desistance).' In: *art&education Papers*.

Cohen, F. (2006) 'Transcendental nonsense and the functional approach.' In: *Philosophy of Law: critical concepts in philosophy*, Vol. III.

Derrida, J. (1992) 'Force of Law: The "Mystical Foundation of Authority"' In: D. Cornell, M. Rosenfeld, D. Carlson, and N. Benjamin (eds.) *Deconstruction and the Possibility of Justice*, New York: Routledge.

Foucault, M. (1984) 'Of Other Spaces, Heterotopias.' In: *Architecture, Mouvement, Continuité* 5: 46-49.

Harman, C. (2007) 'Theorising Neoliberalism.' In: *International Socialism*

117. http://www.isj.org.uk/index.php4?id=399&issue=117

Heller-Roazen, D. (2009) *The Enemy of All: Piracy and the Law of Nations*. New York: Zone Books.

Nietzsche, F. (1996) *Human, All Too Human: A Book for Free Spirits*. Cambridge University Press.

Pashukanis, E. B. (2003) *The General Theory of Law & Marxism*. New Brunswick, London: Transaction.

Sassen, S. (1996) *Losing Control?: Sovereignty in an Age of Globalization*. New York, Columbia University Press.

Schmitt, C. (2003) *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum*. New York: Telos Press.

Wilde, M. de (2008) *Verwantschap in extremen: Politieke theologie bij Walter Benjamin en Carl Schmitt*. Amsterdam: Amsterdam University Press.

JONATHAN MARSHALL & FRANCESCA DA RIMINI

PLAYSTATION, DEMONOID, AND THE ORDERS AND
DISORDERS OF PIRARCHY

Introduction

This paper explores the disorganised political order ('pirarchy') generated by so-called digital pirates, arguing that pirarchy appears in swarms. Swarms are not necessarily revolutionary, but they can be disruptive. They are a social formation, growing out of reaction to, and enabled within, the systems of information capitalism, which do not form a harmonious, self-reinforcing whole.

We examine 'swarms' of pirarchy responding to the legal attack on the Demonoid BitTorrent tracker, and the court cases around the Sony PlayStation 3. In the Demonoid example, the imposition of legal order through internationally coordinated server raids, shutdowns, and arrests, temporarily disordered the affective ties and sense of social obligation around the site, sending exchange elsewhere. Swarms flux, appearing both fragile and robust. In the Sony case, even with the coordination of corporate and juridical systems, the incoherent and uncoordinated pirarchs significantly disrupted Sony's capability, even though ultimately the situation may have continued as normal. Disorder was restored as much as order. We analyse these events using anarchist theory about the relations between theft and property, the repressions arising from work

and the cultural necessity for play. Freedom of exchange is required for cultural creativity and is challenged by the total orders of capitalism and wage labour.

Resisting Neoliberalism, Resisting Enclosure

Neoliberalism represents the attempted hyper-capitalist/corporate takeover of the State. It enforces markets for all, with governmental support primarily remaining for those successful in such markets and able to buy or influence State representation (Subcomandante Marcos 2002: 107-115; Harvey 2005). As increasing numbers of people directly experience the psychological, social and economic impacts of privatisation, dispossession, and destruction of freedoms under neoliberalism, they sporadically take to the streets in a spontaneously collective and largely uncoordinated 'Ya basta!' (Enough is enough!). Such events perhaps mark a protest against turning affects, relational and linguistic skills, and social connections into wage-work; a collective refusal of 'work time and life time [...] effectively becoming indistinguishable' (Tiqqun 2011: 19). Simultaneously, millions of people worldwide enter online circuits of free exchange defying the appropriation and commodification of culture.

The success of neoliberalism with its 'free-market' austerity measures, applying to all but the wealthy, generates a social discipline in which nothing, not 'nature', nor childcare, nor emotions, nor linguistic capacity, nor personal photographs, are to be left unenclosed as commodities (Virno 2004: 56, 59; Arvanitakis 2007). This links to earlier forms of dispossession and enclosure. The proletariat's genesis in Europe and America demanded 'enclosure' of not only communal land but also of social relations' (Federici 2004: 9). In sixteenth-century England, a systematic process of enclosures paved the way for the 'proletarianization of the common people, subjecting them to multifaceted labour discipline' (Linebaugh 2008: 51). Enclosure destroyed livelihoods dependent on commoners' practices, and stripped people of traditionally shared socio-cultural freedoms and leisure. Alongside this destruction came 'the elimination of cakes and ale, the elimination of sports, the shunning of dance, the abolition of festivals, and the strict discipline over the male and female bodies' to the extent that the 'land and the body lost their magics' and aliveness (ibid: 51-5).

The growth of capitalism was, and remains, hostile to non-commercialised or non-commodified enjoyment and liberty. Contemporary enclosures (and extensions of enclosures) of cultural commons likewise act as an attack on leisure, freedom, joy and non-commercial self-expression in the name of profit and production.

In the sixteenth century, many engaged in 'armed rebellion for the preservation of their material commons' (Linebaugh 2008: 53). Tens of thousands of rebels set up 'planned and coordinated' campsites in the English lowlands demanding the end to Enclosures and, albeit implicitly, a return to a more empowered commons-based sufficiency, and existence in which culture (joy, magic, cakes, ale and dancing) had its times and places (ibid: 54). They were clearly unsuccessful. As industrialisation took root in the early nineteenth century, loosely organised groupings whose members were later identified as Luddites protested against discipline by machines, and the disruption of self-directed labour, craft-skills, leisure and culture. The State responded with troops, upholding new Combination and Conspiracy Acts which criminalised communication and association amongst workers (Sale 1995).

Swarms of Pirarchy

Today, peer-to-peer (P2P) file exchange, or 'digital piracy', mounts a similar resistance, targeting the kinds of cultural enclosure and commodification informational capitalism depends on to sustain and expand its ordering regimes. As Adrian John (2009) points out, piracy of intellectual property has a long history, usually focused on competition and success in markets, claiming others' work as one's own, or espionage/warfare between States. However, contemporary piracy of the kind we are discussing does not usually involve selling 'stolen' goods for profit, or State vs State conflict; it involves relatively free exchange between non-commercial actors. In particular, contemporary piracy subverts the technological, legal, and social locks and exclusions around the popular narrative forms of today, which form part of our cultural conversations: the song, the film, the television programme, the book, and the computer game. File-exchangers

are not necessarily definite or organised revolutionaries, or challenging the institutions of property themselves, but their practices emphasise the incoherencies of capitalist property and commodity (Marshall & da Rimini 2015). They challenge the orthodox regimes of distribution and the 'distribution industries', which Cubitt (2006) describes, that help turn culture into a restricted commodity. These 'unauthorised' practices, perhaps unintentionally, generate some new cultural challenges, political formations and actors, which we label 'pirarchy' and 'pirarchs' respectively. It may well be important to 'create new circuits, new economies alongside the new technologies and techniques that are such a hallmark of the contemporary mediascape' (ibid: 209).

Pirarchs consider their exchange practices as mundane, unremarkable or even boring, and the gulf between social norms and capitalist State-based legal norms becomes increasingly apparent (da Rimini & Marshall 2014). However, this proto-movement can only happen because people are prepared (however subliminally) to risk their personal liberty, financial resources and social reputation to reclaim what their actions imply rightfully belongs to them.

Pirarchs move in culturally diverse and ideologically uncoordinated 'swarms' with only accidental unity; their actions have implications rather than direction. There is no necessity to posit a unity or a conscious 'swarm intelligence', but simply a social effect. These swarms build particular habits and attitudes, but they are not the only active swarms around, and people move (often silently) from one to another, perhaps even without realising. Swarms don't have stability, they exploit fragmentation. Hacktivist researcher Tatiana Bazzichelli (2013: 138) claims participants in Anonymous actions (who generally support pirarchs), 'pop up in pursuit of the most diverse of causes, or not following any of them, just for fun, or for the *lulz* [laughs]'. The fundamental characteristic of Anonymous is that it is 'not one, but many [...] not a group or a network, but a swarm, or to be correct, multiple swarms that feed off each other', as Felix Stalder says (2012). Stalder claims that Anonymous is a self-consciously leaderless organization. But it appears that ad hoc leaders arise, especially those with specific technical or rhetorical skills, as with the press and video releases. Christopher Kelty (in Coleman 2014: 100) points to the 'superaltern'; the

cadre of 'highly educated geeks' prominent in the free software movement, as such ad hoc leaders, although as we shall see this leadership is not always welcome or able to exert formal control.

The term 'swarms' may have implications of over-ordering for the social formations we are discussing. Swarms arise in networks of communication and response, traditionally in off-line places, fading before repression as with the Luddites. On-line, the networks of communication are ever ready to be taken up. Unlike insect swarms or bird flocks, on-line swarms are not necessarily genetically, ideologically or purposefully related, they don't last for long periods of time, and membership may change continually and rapidly. Swarm participants do not necessarily have a sustained sense of belonging, although they may. The swarm has the potential to be both 'localised' and distributed at the same time. As Eugene Thacker remarks, this is not unusual: 'Organisms are never just individuals, and never just groups; the 'behaviour' of an organism is at the intersection of individual, group, and environment [...] the locale of agency is never clear-cut' (Thacker 2004b). However, there is a tendency for analysts to find too much order to justify their interests in swarms. For example, Vehlken writes 'the collective as a whole is able to adapt nearly flawlessly to the changing conditions of its surroundings' (2103: 111). 'Nearly flawlessly' is an over-claim. The swarm may function *well enough* for most practical purposes, or may undermine itself, or be dislocating for participants. The power of the swarm depends on contingent decisions; people drop out or accumulate. Swarming techniques 'can be applied wherever there are 'disturbed conditions', wherever imprecisely defined problems present themselves, wherever system parameters are constantly in flux, and wherever solution strategies become blindingly complex' (ibid: 111). Again this could be over-ordering by implication. Swarms may not give the 'right' solutions, and may disrupt some participants' aims. The analytic importance of swarms is that they focus our attention on unintentional effects; the effect of the swarm may not be intended (or anticipated) by any, or many, members. In this sense swarms could be revolutionary in their effects, without constituting a self-conscious party or vanguard of revolution; their action does not necessarily resolve into a new established order; it can be an indication of ongoing unresolvable disorder, or flux.

While swarms may be radical and transformative, they can also be 'reactionary', self-disruptive, or destructive. 'The fact that a movement is organized as a network or swarm does not guarantee that it is peaceful or democratic' (Hardt & Negri 2005: 93). Swarms can also result from capitalist attempts at control as with viral marketing, or through top-down generation of swarms of 'flexibilised' workers. Boltanski and Chiapello suggest that the temporary order around 'projects', is at the heart of mainstream work in contemporary capitalism (2005: 168), while mobile communication means that workers are constantly available for swarmed work; the networks of communication and organisation work both ways to produce order and disorder.

Similarly, swarms of pirates and hackers can be useful to capitalists as pointing to markets, maintaining conversations which promote sales, driving technical and organisational innovation, and some ISPs allegedly profit from providing services which enable pirarchy (Marshall et al forthcoming; da Rimini 2013: 320). Pirarchs are still likely to be dependent on wage labour (or State welfare regimes) and the products of wage labour, as they cannot survive on free exchange. As Thacker states: 'mutations in the contemporary body politic [are] structurally innovative, but politically ambivalent' (2004a). We suggest pirarchical swarms eventuate around ambiguous relations to, and problems about, 'cultural property'. They grow out of networked informational capitalism, and can both promote informational capitalism and attempt to reclaim aspects of life which are disrupted by that form of capitalism. Indeed, many of the justifications for their pirarchical practices that file-exchangers express on leading copyright and file-sharing news site TorrentFreak (2015) appear to be a desire for a 'better' capitalism (in the form of fairly-priced goods in open formats) rather than an end to capitalism per se. As we shall see pirarchs do not necessarily posit the end of property, but rather the desire to have their rights to exchange, use and modify their own property unobstructed by sellers or producers, demonstrating the incoherence of capitalist property-relations.

Anarchism: property, co-operation and play

Anarchism has, at least since the time of French anarchist Pierre-Joseph Proudhon (1809-65), argued that forms of property and labour are intimately tied to oppression and/or liberty, and that contemporary arrangements favour oppression. Anarchists highlight the inherently cooperative social processes underlying the production of knowledge and culture, arguing that these material expressions of human thought and invention are made in common and must be held in common, or social creativity and freedom will die. This theory not only gives us a framework to think about the spontaneous pirarchy emerging in on-line peer-to-peer swarms and exchange, but also merges with pirarchical actions.

Anarchists and some socialists argue there is no coherent justification for private property of the kind praised in capitalism: that is, property which is alienable, disposable at will, and belongs only to one person (or corporation) with the right to prevent others accessing it. Exclusion and appropriation is the hallmark of this kind of property. As the English artist and socialist William Morris (1834-1896) stated, under capitalism, property is conceived as 'something which you can prevent other people from using' (Morris 1886). Traditionally, defences of capitalist property depend on a refusal to acknowledge property's collective origins in nature (the world), in collective labour and in collective ideas, building a rupture to justify exclusion and profit. This rupture is built by force, law and threat.

In reality, all property depends on labour, which depends on collaboration with others, and upon technology developed and built by others. 'No one can say that he produces alone. The blacksmith, the tailor, the cobbler, etc., etc., cooperate with the cultivator in plowing the earth, just as the cultivator cooperates in the manufacture of their products' (Proudhon nd). Ideas and art likewise depend on access to previous ideas and discourse. 'There is not even a thought, or an invention, which is not common property, born of the past and the present' (Kropotkin 1906: 7). We borrow, exchange, and cooperate constantly, whether for spontaneous play or purposeful endeavour. This is vital to human lives.

In anarchist theory, the boundaries around property in its capitalist sense are enforced by business, the State, by laws and by violence; by 'legitimised' robbery, extortion and exploitation. Legitimacy comes from dominance, not from 'justice' or any principle other than power. Capitalists are rarely prosecuted for destroying land in mining or development, or for taking from the commons, but the State does prosecute those who try to reclaim what the capitalist removes or destroys. Property is theft, as Proudhon famously declared, because it is enclosed from, or taken from, the labour of all. Similarly, theft cannot exist without the existence of property and exclusion. French Anarchist Élisée Reclus (1830-1905) argued that 'we are all, without exception, forced by the conditions of existence into a life of outright theft' (Reclus 2013: 60). He suggested that as capitalism is built on theft, so property should be stolen back (Fleming 1988: 142). Reclus recognised there is ambiguity because it is possible for thieves to aspire to be bourgeois and keep the property for themselves or use it to lord it over others. So the political virtue of theft may depend on motives (ibid: 150). The legitimacy of 'taking back' is a source of dispute and contention amongst anarchists (ibid: 143-52). Anarchism emphasises the ambiguities of property as force, property as theft, and theft as activism, which are central to pirarchy.

Most anarchists recognise that the capitalist property system forces people into wage labour, and to find a master/employer. In general the products of people's labour, time and life are 'paid for' in a form of unequal exchange, with power relations determining the rewards of work. Would people really continue their work, if they were guaranteed a liveable prosperity free of it? As Bob Black (1991: np) suggests: 'In order to stop suffering, we have to stop working. That doesn't mean we have to stop doing things. It does mean creating a new way of life based on play; in other words, a ludic revolution. By 'play' I mean also festivity, creativity, conviviality, commensality, and maybe even art'.

As in the origins of capitalism, free play is suppressed to meet the demands of consumption and wage labour. In contemporary wage labour systems, workers have to postpone 'rest and leisure' to the distant future, be available and amenable at all times. Their time is commodified and neoliberalism reinforces ideas that unemployed freedom should be punished. Re-

volt grows from a desire for a more human reality of ludic expression (which exists however precariously in capitalism), of intrinsic reward and free exchange. To quote Black again: 'Playing and giving are closely related, they are the behavioral and transactional facets of the same impulse, the play-instinct. They share an aristocratic disdain for results. The player gets something out of playing; that's why he plays' (ibid.).

Echoes of Black's 'ludic revolution' resonate in the writings of those French anarchists who, as The Invisible Committee, published *L'insurrection qui vient* (*The Coming Insurrection*). They argue that under capitalism, 'becoming independent' means finding a boss (The Invisible Committee 2009: 41), that the 'horror of work is less a part of work itself than of the methodical devastation, over centuries, of everything that is not [work]' (ibid: 38), including: the familiarities of one's neighbourhood and trade, of kinship, our attachment to places, to beings, to the seasons, to ways of doing and speaking. To survive the horror we must reject the demands of (neoliberal) flexibility and mobility, and instead 'organize beyond and against work, to collectively desert the regime of mobility, to demonstrate the existence of a vitality and a discipline precisely *in demobilization*' (ibid: 51, emphasis in original). That is, refuse to be mobilised to work. In the village of Tarnac these anarchists 'planted carrots without bosses or leaders. Because they naively think that life, intelligence and decisions are more joyous when they are collective' (the parents of Bertrand et al 2008). The State suppressed them, as if there was something inherently subversive in collective happiness outside of the capitalist grid of consumer behaviours.

When capitalist hierarchy requires labour to be always available, the ludic Self retaliates, by being prepared and technologically able to satisfy multiple desires for play, entertainment, relaxation, stimulation, creation and distraction. These desires are not external to capitalism, and may be generated by capitalism as an engine of consumption (da Rimini & Marshall 2014: 326-7). We are not arguing that pirarchy is external to capitalism, but that it challenges it. Similarly, the tools enabling computer labour and exclusion also allow people to subvert, copy and distribute its results easily, in pirarchical subversion, production and exchange. We shall now proceed to show how these anarchist theories elucidate events in the con-

temporary world by looking at the attack on the Demonoid tracker site, and a fight against Sony.

Commercial Repression of the Demons

Demonoid is part of the 'digital piracy' ecosystem. Like its more infamous cousin The Pirate Bay it is a kind of specialist search engine that helps people find digitised goods they want to download, regardless of whether or not these goods originally were enclosed by copyright restrictions or technological barriers. Specifically, Demonoid is a semi-private peer-to-peer (P2P) 'tracker' site using the BitTorrent internet communications protocol to facilitate file exchange. Participants often proclaim it to be a community. Launched in 2003, it hosts an on-line searchable index of links to Internet Protocol (IP) addresses of digital devices holding copies, or partial copies, of media files (films, music tracks, e-books, etc) categorised by genre and sub-genre. Users click on a link to enter a file-sharing 'swarm' for a specific item.

A swarm is comprised of 'seeders' (peers who have a completed copy of the media file and continue to 'seed' it back), and 'downloaders' (peers who are downloading the file in segments) (da Rimini 2013: 315-6). The BitTorrent protocol enforces technological cooperation (sharing via uploading) during downloading, although people have no obligation to further seed a file after completing a download. The term 'swarm' in the file-sharing context probably originated with the Swarmcast P2P content distribution system, released in 2001, just prior to the development of the BitTorrent P2P protocol (Koman 2001).

Demonoid members frequently report the sense of 'camaraderie' arising from belonging to a community passionate about 'many niche subjects'. One described Demonoid as being inhabited by 'small groups of people sharing content they all loved' (comment on Andy 8 May 2013). For 'Carl', an interviewee in our research project investigating Australian artists' and cultural producers' social norms around file-sharing (da Rimini & Marshall 2014), the 'giant Alexandrian library' is propelling an ideologi-

cal shift: 'Generosity is really one of the most radical concepts that you could dream up and being generous with bandwidth and with content and ideas' ('Carl' interview). Another artist and Demonoid member was 'fascinated' by how file-sharing had 'changed the ownership of information and the ownership of immaterial things…and how that's changed the whole landscape of exchange between people' ('Ti' interview).

The sharing on Demonoid not only involved commercially available items, but items of purely local interest, self-produced items, and generally unavailable material. In that sense, file-sharing sites can rescue cultural works from obscurity, making the hard to get 'gettable', and revitalising culture in the process as people engage with new (often 'old') works. One interviewee felt obliged to share obscure items from his extensive archive of (purchased) films and vinyl albums because the on-line community would not be able to get them elsewhere (da Rimini & Marshall 2014). Furthermore, creative artists can access new concepts, artistic trends and material elements to play with, remix and upload. 'Everything I watch actually goes into something I write really' ('Mel' interview). 'Theft' is, in these cases, opening. Pirarchy, explicitly and practically, emphasises the sharing aspect of culture, and cultural production, described by anarchists, and suggest new paradigms, even if it does not resolve problems of survival.

It seems that many pirarchs are 'incidental activists'. If an activist is 'someone who takes part in activities that are intended to achieve political or social change' (MacMillan Dictionary, nd), then an 'incidental activist' is someone who can be apolitical, but 'accidentally' contributes to social and cultural change by their presence and activities. Torrenting is 'becoming so mainstream it's not so much community but just society' ('EKA' interview). Nevertheless EKA's attitude implies culture should be non-commodified. Others are aware of swarms' social and political potential. 'It's a very visual kind of metaphor, that idea of the swarming and the seeding and it's egalitarian… It's not just people leeching off the products of capitalism – it's also people who are creating and distributing, producing and distributing stuff from scratch totally outside of all available systems' ('Toxic honey' interview).

As these alternative practices proliferate and become normalised, they further threaten existing ordering regimes. Just as the State sought to suppress those struggling to reclaim the commons, so too neoliberal power attempts to contain, constrain and punish those prising open informational flows to build a digital commons. In terms of repression of pirarchy as spectacle, we need look no further than the 2009 trial of The Pirate Bay founders (Özdemirci 2014), and the 2012 arrest and requested extradition of New Zealand-based Megaupload cyberlocker founder/owner Kim Dotcom involving simultaneous multi-country raids (Palmer & Warren 2013). The less dramatic Demonoid raid in 2012 also involved a determined effort by what, following Critical Art Ensemble (1994: 11-30), we call the 'nomadic power' of authority.

Anticipating attack, Demonoid also became nomadic, tactically changing its TLD (Top Level Domain) to thwart US authorities' ability to terminate its domain-name registration, and shifting its server from Canada to Ukraine. Neverthess, in August 2012 a swarm of power flowing through INTERPOL, the Ukrainian police, the Mexican Attorney General, the International Federation of the Phonographic Industry, and the US government, launched a joint criminal investigation, resulting in the site's shutdown, a reported arrest in Mexico, and assets seizures (Jacob 2012; Ernesto 2013). Property rights were asserted by acts of power and threat.

This act against a much-loved platform generated a swarmed retaliation response, with Anonymous launching an electronic disturbance called 'OpDemonoid'. Cultural anthropologist Gabriella Coleman describes Anonymous as: 'part digital direct action, part human rights technology activism, and part performance spectacle, [that] while quite organizationally flexible, is perhaps one of the most extensive movements to have arisen almost directly from certain quarters of the Internet' (2012: 210). This movement of 'hackers, pranksters, and activists' is anarchic, and both seriously ludic and deadly serious. Each operation announces 'Game on!' to the targeted opponents and those interested in participating. In this case, OpDemonoid participants launched Distributed Denial of Service (DDoS) attacks, crashing three Ukrainian websites (BBC 2012). A video clip entitled *OP Demonoid will not be televised* exhorted supporters to replicate the clip through their social networks (Anonymous 2012). Pirarchy is a

Hydra, as Anonymous warned: 'where one has fallen, many will rise to take their place….For most of us Demonoid and other public trackers have been about much more than music or movies. They are an incredibly powerful educational tool, facilitating much more than just open piracy[...] [they] provide a model for distribution… Corporations and governments fear them. Anonymous will not tolerate a world without them' (Ragan 2012).

After some false starts, a resurrected Demonoid made a 'glorious comeback' in March 2014 (Ernesto 2014a). However, the site felt different to some. 'It feels like walking into your old childhood home. The memories are there, but other folks live there now' (comment on Andy 2013). Some jumped to alternative sites, believing that Demonoid 'should just stay dead... Our community was at a loss that day, but it's time to look towards the future of other public and private trackers' (fratdaddyZC 2013).

Whilst on-line swarms escape easy documentation, a similar sentiment 'to move on' was expressed by some users of The Pirate Bay (TPB), following its shutdown by Swedish authorities in December 2014. Even TPB co-founder Peter Sunde predicted that a better platform, one with more soul and 'no ads for porn and Viagra', would emerge out of the 'immense void' TPB's demise left (Ernesto 2014b). Indeed, within a fortnight open-source activists had released TPB's source code to the global torrent community via GitHub to enable 'individuals with minimal IT skills, and basic server equipment to create a Pirate Bay clone on their own domain' ('isohuntto/openbay' 2014), perhaps even generating a shifting swarm of Pirate Bays.

With Demonoid, it appears that the swarms around its files and forums may be rebuilding. A Demonoid forum moderator reports that there 'are [still] somewhere upwards of 9 million registered accounts' (schatuk 2014). Domain statistics for 30 December 2014 identify 308,586 daily visitors and 2,468,688 page views (demonoid.ph Domain Analysis 2014). It is hard to be precise. As Vehlken states 'swarms are problematic objects of knowledge: they disrupt the scientific processes of objectification' (2013: 112). However, these anarchic and ludic swarms, while growing out of communicative capitalism, seem to be difficult for that capitalism to completely suppress, or ignore, especially when those capitalists try to enforce or extend their own property rights into what was seen as commons, or as cultural autonomy.

Swarms versus Sony

The law cases and actions around the Sony PlayStation3 (PS3) reinforce these points. Sony was perceived to be extending its copyright and property claims over people's gaming machines, disrupting owner's previous capacities or usage ('thieving') to an unprecedented extent, and was faced by mass protests, attempting to steal back the 'property space', in favour of play and personal usage. Since 2000 Sony promoted its PlayStation hardware as able to run computer software and non-inbuilt operating systems (the Other O/S option). The PlayStation up to the PlayStation 3 (PS3) was a computer as well as a games machine, and reputedly secure.

In December 2009, George Hotz, a hacker who gained fame by freeing the iPhone from compulsory attachment to the AT&T network, was given a PS3 along with a challenge. Just over a month later he announced that he had opened the processor and memory to programming (NZHawk nd).

Fearing that this would allow piracy, Sony issued an 'upgrade' in March 2010, which destroyed the machine's ability to run other operating systems, and if not installed meant loss of the PlayStation network, playback of games, access to new games, and ability to play Blu-ray movies etc (Reisinger 2010). Next month a class action court case was initiated asserting that Sony had deprived people of functions of the property they owned.

In December 2010 the hacker group fail0verflow, protesting the compulsory removal of the Other O/S option, demonstrated they had a way to get around the block. One member asserted their rights to personal and cultural property, stating: 'I haven't stolen anything… It's my own hardware, I can run whatever I like on it' (Fildes 2011). Shortly afterwards Hotz released an encryption key, which allowed people to sign whatever soft-

ware they liked and have the PS3 run it. Hotz's code supposedly disabled the ability to run pirated software (Kushner 2012). Sony then launched a court case in California against Hotz and one hundred unspecified John Does (thus potentially generating their own imagined and potentially compelled swarms), alleging the defendants were bypassing 'effective technological protective measures' and violating 'the Digital Millennium Copyright Act and the Computer Fraud Abuse Act' (Reisinger 2011). Sony argued that California should have jurisdiction, despite Hotz residing on the other side of the US in New Jersey, because Hotz had a PayPal account, and used Twitter and YouTube. The judge was disturbed by this, saying that 'would mean the entire universe is subject to my jurisdiction, and that's a really hard concept for me to accept'. Hotz would clearly be disadvantaged by such proceedings.

Rather incoherently, the judge eventually allowed Sony to sue in California, claiming that Hotz's website was aimed at California. However, his website was aimed at anyone who spoke English, there was no specific mention of California; so this ruling potentially made anyone with a website subject to the judge's jurisdiction. Sony was also allowed to obtain the IP addresses of people who visited Hotz's website. These rulings extended Sony's legal power. The case also extended definitions of intellectual property, increasing enclosure or legitimating corporate theft. George Washington University Professor of Law, Orin Kerr, wrote (2011) 'this is the first case I know of claiming that you can commit an unauthorized access of your own computer'. The Electronic Frontier Foundation also protested that Sony claimed rights which prevented people 'tinkering with' their own property (Kushner 2012). Even established property boundaries are vague and depend on power contests, and can potentially be appropriated at any time.

As with the legal attacks on Demonoid, these extensions of property and power attracted the attention of Anonymous swarms who began attacking Sony's internet sites. Some members of the hacker swarm stated their objections in press releases, pointing out as that Sony attacked people's property rights because they did not like people's actions, so now Anonymous was similarly violating Sony's property (Tangled Web 2011). Again the ambiguities of property are central.

A DDoS attack caused the PlayStation network to crash repeatedly, although Sony denied Anonymous were responsible (Tangled Web 2011). Lack of certainty can be tactically useful to both sides. Anonymous soon abandoned the attack after angering gamers who had paid to play and who are important legitimisers of its actions (Olson 2012: 227-8).

Soon after, Sony settled with Hotz, requiring him to promise that he would never hack any other Sony product without facing stiff penalties (Groklaw 2011). A week later Sony revealed that the PlayStation network's problems were greater than previously announced, with 75 million people's personal account details taken (Tangled Web 2011). Sony claimed before Congress it had evidence of a signature being left in its files showing Anonymous was behind the attack, but anyone can leave a text behind (Albanesius 2011). A possible Anonymous spokesperson pointed out that Sony's claim allowed Sony 'to shift attention away from its own failure to protect client data' (Brown 2011). Blame is easy in this environment, however, there are obvious problems with distributed swarm action as it is always possible that some affiliated people will act in ways other 'members' do not like: 'their leaderless, decentralized structure means that they are all essentially rogue elements' (Tangled Web 2011). While there are supposedly official announcements speaking on behalf of Anonymous, this is protest as dis-coordinated play; there is no one to make agreements with, or to hold back the fringes.

Hotz seemed keen to distance himself and his kind of hacking from breaking into servers, saying: 'You make the hacking community look bad, even if it is aimed at douches like Sony' (Kushner 2012). While some Anonymous members may identify with Hotz as 'superaltern' (Olson 2012: 227), the identification may not be reciprocated, or perhaps Hotz feared Sony would sue him again; this is not a politics of clarity. Swarms that form around Hotz and his case may not reference his desires or positions. However, various people did launch orthodox court cases against Sony for damages (BBC 2011). These (swarmed?) cases eventually resulted in a US$15 million settlement by Sony and fines in the UK for failure to keep its systems safe (Lien 2014). In this way play melds with the formal.

Anonymous swarms display a degree of playful and vindictive wit, and the hackers affiliated take actions because they can, because they enjoy it, because of the technical challenge, and to some extent for something to do. Alluding to the group's ludic motivations and its 'ongoing embrace of lulzy mischief', where lulz are laughs at other people's expense (perhaps expressing a sense of superiority as there is no necessity for swarm action to be egalitarian), Gabriella Coleman notes that 'Lulz are unmistakably imbued with danger and mystery, and thus speak foremost to the pleasures of transgression' (2014: 33). Moreover, one of the principles that participants adhere to is 'a spirit of humorous deviance' (ibid: 23). Anonymous' play can be seen not only as a reclamation of 'fun' as politics, but a response to uncertain political problems, and the difficulties of formal action.

Hotz, while clearly not afraid of boring repetitive work on his own behalf, also demonstrates this ludic sense of power and motivation. 'I don't hack because of some ideology [...] I hack because I'm bored', and 'I'm not a cause. I just like messing with shit'. He got bored with an internship at Google, and left Facebook wondering 'how people stay employed for so long' (Kushner 2012). Despite his negative reaction, this could show an ambiguous circulation between rebellion and co-operation. However, Hotz clearly reacts negatively to corporate power/exclusion being built into devices, wanting to allow people to own their equipment and use 'homebrew software' as developed by anyone (The Loop 2011). 'I don't like when companies tell me what to do with products that I have purchased' (Hotz 2012).

While Hotz and fail0verflow both deny any piratical intentions, their relationship to intellectual property laws and extension of those laws is very similar. Along with Anonymous members and Demonoid users they do not want their particular culture to be locked away or restricted by corporate enclosures, copyright and lawsuits that reduce their play or capacity. They want to be able to construct and view software as culture, as much as others want to view films, books or games, to participate in conversation or make their own cultures.

Conclusion

Pirarchy emerges out of the convergence of the technological structure of communication networks, tools and social forms deployed by contemporary capitalism. As such, pirarchy is not an outside alterity, but an internal disorder within capitalist orderings. The pirarchical swarm uses a generalisable social formation with variable content and effects. That it can be seen as ambiguous, or as incidental activism, does not mean it can have no effect. Pirarchs expose and exploit informational capitalism's inherent self-disorderings and vulnerabilities, counterposing free exchange, cultural freedom, play and ludicity against neoliberalism's demands for complete wage-labour dependency and total private ownership of culture and ideas. As such they illustrate anarchist concerns about the nature of property and the vital necessity of free exchange and co-operation for cultural vitality and individual freedom, without needing any particular ideological unity.

In keeping with this anarchistic tendency, rather than being unified or institutionalised, the swarm formations of pirarchy are disorderly, temporary, and contingent. They have no existence other than in the moment. Unlike swarms of insects, schools of fish, or flocks of birds, they have no kin or long-term relation. They appear and fade, as people log in and log out, plan 'ops' and campaigns via Internet Relay Chat channels, or form a swarm elsewhere. They build a force without a centre or formal organisation. Arrests or disappearances may not unsettle the swarm: the participants just go elsewhere and a new swarm appears. Swarms arise from, and are built into, the habits of exchange and receipt found throughout the internet and daily life. They can reclaim a non-commercial, non-work mode of living, based in cultural creativity, cultural demand, and entertainment.

The Demonoid story illustrates how control and liberation processes occur on a global level. As nomadic-neoliberal power flows across national borders, so does resistance. The growing participation in pirarchical power, from the mass of ludic subjects in P2P swarms to the masked bodies in street protests around the world against the US-driven and subsequently failed Anti-Counterfeiting Trade Agreement, strongly suggests that the

fight to defend and extend the cultural and knowledge commons is generating new political actors, whether playful, politicised, or both. With Demonoid the internationally coordinated attacks temporarily destroyed the 'community' around the site, and it is unclear both how many people moved on for good and how many subsequently returned, and also whether 'community' even matters for swarm-life to have effect. Similar forces seem displayed in the swarmed protests that arose around Sony's attempts to extend its legal and proprietorial rights. While there may have been figureheads, and while Sony clearly exploited the vagueness of network society, the protests significantly changed the field, caused damage to Sony and were conducted in a ludic and uncontrolled manner, with potentially harmful effects for 'innocent bystanders'. Swarm formations don't have clear boundaries for attack, and they distribute risk and provide potential anonymity, and perceived safety, in numbers. Eventually it is hard to tell whether the situation was changed or not. Disorder was restored as much as order, and the potential for continuing and commercially damaging wars over property 'rights' was demonstrated.

If there is to be a ludic revolution, or more realistically a ludic disruption, then it may tend to take a swarm form, by its nature. Ludicity resists organisation and discipline, which is both a weakness and a strength as it does not sacrifice its means to its ends, ends and means can harmonise. Such revolt is not normally sustained and thus ineffective when faced with organised opposition. However, in informational capitalism swarms become a normal, easily and instantaneously activated social formation and, while disorganised with unstable membership, can be continual in their effects. Disorder becomes the swarms' strength.

The classic argument Marxists make against anarchism is that anarchists can never organise to overthrow anything and fail at the last moment. Anarchists argue that Marxists institutionalise repression and never move beyond the State. Both have a point. Pirarchy forms and supports accidental rebellion, while providing support for institutionalised moves. In its habits, it recognises that property always comes from a collective commons; the origin of all property is the natural world, cultural ideas, social labour, individual effort and contingency. In pirarchy people attempt to rule themselves through informal exchange, conversation, col-

laboration and fragmentation. They resent attempts to stop the exchange. By taking back the cultural into their own lives, they challenge the appropriation at the heart of capitalism using the tools and formations of capitalism, while capitalism, in turn, attempts to reappropriate and extend property claims.

This is significant, as Reclus argued, because evolution and revolution are not alternate modes of social change, but rather are operating together. Evolution builds up pressures and preparation for change while the resolutions to the pressures come in the shocks of revolution (Fleming 1988: 123; Reclus 2013: 138). Pirarchy builds up habits which do not recognise some property types as exclusionary. If enough people act, and the habit becomes daily life, then the practices build up into a revolution of sorts. Historically, capitalism disrupts ludicity, and attempts to reclaim ludicity can be radical or disruptive of capital, even if accidentally. As Tiqqun argue, there 'is in no way a necessity to "rise up", but a necessity to raise, to refine, to spur *our pleasure*, to intensify *our enjoyment*' (2011 p 167, emphasis in original), and out of this… who knows?

Jonathan Paul Marshall has played online since 1996 when he began the project that became *Living on Cybermind: Categories, Communication and Control* (Peter Lang 2007) and the *Cybermind Gender Project* (Transforming cultures E-Journal Special Issue 2008). He works and has worked at the University of Technology Sydney in a variety of positions. He and Francesca da Rimini are also among the co-authors of *Disorder and the Disinformation Society* forthcoming from Routledge.

Francesca da Rimini is an artist, writer and pirarch. She co-authored *A Cyberfeminist Manifesto for the 21st Century* with cyberfeminist art group VNS Matrix. Her online avatar *GashGirl* explored gender identity and collaborative creativity at LambdaMOO. Early internet art projects *dollspace* (web labyrinth revenge on patriarchy) and *Los Días y Las Noches de Los Muertos* (multi-screen re-rendering of the Zapatista critique of neoliberalism), were followed by academic research on the digital commons and online activism. She and Jonathan Marshall have co-authored various papers on property and file-sharing.

References

Albanesius, C. (2011) 'Anonymous Hacked Sony's PlayStation Network! No They Didn't! ', *PCMag*, 6 May 2011, http://www.pcmag.com/article2/0,2817,2385041,00.asp.

Andy (2013) 'Demonoid Resurrected? An Interview With the Admins of D2.vu', *TorrentFreak*, 9 May 2013, http://torrentfreak.com/demonoid-resurrected-an-interview-with-the-admins-of-d2-vu-130509.

Anonymous (2012) *#OP Demonoid will not be televised*, https://www.youtube.com/watch?v=yuWpbyjLvHk.

Arvanitakis, J. 2007, 'The Commodification and Re-Claiming of Trust: "Does Anyone Care About Anything but the Price of Oil?"', *The International Journal of Interdisciplinary Social Sciences*, 2(3): 41-50. http://www.uws.edu.au/__data/assets/pdf_file/0008/365399/Arvanitakis_CommodificationReclaimingTrust_ICS_Pre-Print_Final

Bakunin, M. (nd) 'Anarchy is Order', *Michael Bakoenin Reader*, http://www.anarchyisorder.org/CD4/Lay-outed%20texts/PDF-versions/Bakoenin%20-%20Reader.pdf.

Bazzichelli, T. (2013) *Networked Disruption: rethinking oppositions in art, hacktivism and the business of social networking*, Digital Aesthetics Research Center Press. http://disruptiv.biz/networked-disruption-the-book.

BBC (2011) 'Sony faces legal action over attack on PlayStation network', *BBC News*, 28 April 2011, http://www.bbc.com/news/technology-13192359.

BBC (2012) 'Demonoid takedown prompts attacks by Anonymous', *BBC News*, 9 August 2012, http://www.bbc.co.uk/news/technology-19194467.

Black, B. (1991) 'The Abolition of Work'. http://www.inspiracy.com/black/abolition/abolitionofwork.html.

Boltanski, L. & Chiapello, E. (2005) 'The New Spirit of Capitalism', *International Journal of Politics, Culture and Society*, 18: 161–88.

Brown, B. (2011) 'Sony's Anonymous claim: a health warning', *The Guardian*, 7 May 2011 http://www.theguardian.com/commentisfree/cifamerica/2011/may/06/anonymous-sony.

Coleman, E.G. (2012) *Coding Freedom: The Ethics And Aesthetics Of Hacking*, Princeton: Princeton University Press.

Coleman, G. (2014) *Hacker, Hoaxer, Whistleblower, Spy: The Many Faces Of Anonymous*, New York: Verso.

Critical Art Ensemble (1994) *The Electronic Disturbance*, New York: Autonomedia.

Cubitt, S. (2006) 'Distribution and Media Flows', In: *Cultural Politics* 1(2): 193-214.

da Rimini, F. (2013) 'The tangled Hydra: Developments in transglobal peer-to-peer culture', In: *Global Networks*, 13(3): 310-29.

da Rimini, F. & Marshall, J. (2014) 'Piracy is Normal, Piracy is Boring: Systemic disruption as everyday life'. In: M. Fredriksson & J. Arvanitakis (eds), *Piracy: Leakages from Modernity*, Los Angeles: Litwin Press, pp. 323-44.

'demonoid.ph Domain Analysis' (2014) *demonoid.ph Domain Analysis*, Analyzer.cc, viewed 30 December 2014, http://domain.analyzer.cc/www/demonoid.ph.

Ernesto (2013) 'Demonoid 'Operator' Released From Jail, Case Stalled', *TorrentFreak*, 12 February 2013, http://torrentfreak.com/demonoid-operator-released-from-jail-case-stalled-130212.

Ernesto (2014a) 'Demonoid Returns, Website Now Back Online', *TorrentFreak*, 30 March 2014, http://torrentfreak.com/demonoid-back-140330.

Ernesto (2014b) 'Peter Sunde: The Pirate Bay Should Stay Down', *TorrentFreak*, 10 December 2014, http://torrentfreak.com/peter-sunde-the-pirate-bay-should-stay-down-141210.

Federici, S. (2004) *Caliban and the Witch: Women, the Body and Primitive Accumulation*, New York: Autonomedia.

Fildes, J. (2011) 'iPhone hacker publishes secret Sony PlayStation 3 key', *BBC News*, 6 January 2011, http://www.bbc.com/news/technology-12116051.

Fleming, M. (1988) *The Geography of Freedom: The Odyssey of Élisée Reclus*, Montreal: Black Rose.

fratdaddyZC 2013, 'An interview with the admins of D2.vu (comments section)', *Reddit*, weblog, 9 May 2013, http://www.reddit.com/r/trackers/comments/1dzoda/an_interview_with_the_admins_of_d2vu.

Groklaw (2011) 'SCEA and George Hotz Reach Settlement!', 11 April 2011, http://www.groklaw.net/article.php?story=20110411173644425.

Hardt, M. & Negri, A. (2005) *Multitude*, New York: Penguin Books.

Harvey, D. (2005) *A Brief History of Neoliberalism*, Oxford University Press.

Hotz, G. (2012) *SHARE Belgrade 2012 - George Hotz: Three Stories*, http://www.youtube.com/watch?v=sb6JiQie2fQ.

'isohuntto/openbay' (2014) GitHub, https://github.com/isohuntto/openbay.

Jacob, A. (2012) *IFPI welcomes closure of Demonoid*, International Federation of the Phonographic Industry, http://www.ifpi.org/content/section_news/20120809.html.

John, A. (2009) *Piracy: The Intellectual Property Wars from Gutenberg to Gates,* Chicago: University of Chicago Press.

Kerr, O. (2011) 'Today's Award for the Silliest Theory of the Computer Fraud and Abuse Act', *The Volokh Conspiracy*, weblog, 13 January 2011, http://www.volokh.com/2011/01/13/todays-award-for-the-lawyer-who-has-advocated-the-silliest-theory-of-the-computer-fraud-and-abuse-act.

Koman, R. (2001) 'The Swarmcast Solution', *OpenP2P*, 24 May 2001, http://www.openp2p.com/pub/a/p2p/2001/05/24/swarmcast_beta.html.

Kropotkin, P. (1906) *Conquest of Bread*, New York: G.P. Putnam's Sons.

Kushner, D. (2012) 'Machine Politics: The man who started the hacker wars', *The New Yorker*, 7 May 2012, http://www.newyorker.com/magazine/2012/05/07/machine-politics.

Lien, T. (2014) 'Sony agrees to $15M settlement in 2011 data breach class action [update]', *Polygon*, 23 July 2014, http://www.polygon.com/2014/7/23/5931793/sony-2011-data-breach-class-action-lawsuit.

Linebaugh, P. (2008) *The Magna Carta manifesto: liberties and commons for all*, Berkeley: University of California Press.

'MacMillan Dictionary' nd, MacMillan, http://www.macmillandictionary.com/dictionary/british/activist.

Marshall, J.P. & da Rimini, F. (2015 forthcoming) 'Paradoxes of Property: Piracy and Sharing in Information Capitalism', in T. Baumgärtel (ed.), *A Reader in International Media Piracy: Pirate Essays*, Amsterdam: Amsterdam University Press.

Marshall, J.P., Goodman, J., Zowghi, D. & da Rimini, F (forthcoming) *Disorder and the Disinformation Society*, London: Routledge.

Morris, W. (1886) 'Socialism: The Ends and the Means', *Marxists Internet Archive*, http://www.marxists.org/archive/morris/works/1886/means.htm.

NZHawk (nd) 'PS3 is Hacked by George Hotz - Hello Hypervisor, I'm GeoHot!', *PS4 News*, http://www.ps3news.com/PS3-Hacks/ps3-is-hacked-by-george-hotz-hello-hypervisor-im-geohot.

Özdemirci, E.G. (2014) 'BitTorrent: Stealing or Sharing Culture? A Discussion of the Pirate Bay Case and the Documentaries "Steal this Film I and II"', In: M. Fredriksson & J. Arvanitakis (eds), *Piracy: Leakages from Modernity*, Los Angeles: Litwin Press, pp. 157-75.

Olson, P. (2012) *We are Anonymous: Inside the hacker world of LulzSec, Anonymous, and the global cyber insurgency*, New York: Little, Brown and Company.

Palmer, D. & Warren, I.J. (2013) 'Global Policing and the Case of Kim Dotcom',In: *International Journal for Crime, Justice and Social Democracy*, 2(3): 105-19.

Proudhon, P.-J. (trans S. Wilbur) (nd), 'The Theory of Property', *Working Translations*, http://workingtranslations.blogspot.com.au/p/the-theory-of-property-noticethe- reader.html.

Ragan, S. (2012) 'Anonymous Attacks Ukrainian Government After Demonoid Takedown', In: *Security Week*, 8 August 2012, http://www.securityweek.com/anonymous-attacks-ukrainian-government-after-demonoid-takedown.

Reclus, E. (2013), *Anarchy, Geography, Modernity: Selected Writings*, ed & trans J. Clark & C. Martin, Oakland: PM Press.

Reisinger, D. (2010) 'Say good-bye to Linux on the PS3', In: *C/Net*, 29 March 2010, http://news.cnet.com/8301-13506_3-10471356-17.html.

Reisinger, D. (2011) 'PS3 Jailbreak Prompts Restraining Order from Sony', In: *C/Net*, 12 January 2011, http://news.cnet.com/8301-13506_3-20028248-17.html.

Sale, K. (1995) *Rebels Against The Future: The Luddites And Their War On The Industrial Revolution*, New York: Addison-Wesley.

schatuk (2014) 'Re: How about an email to all members to announce the return???', In: *Demonoid Fora*, 14 May 2014, https://forum.demonoid.ph/index.php?topic=2862.msg35158#msg35158

Stalder, F. (2012) 'Enter the Swarm: Anonymous and the global protest movements ', In: *Notes and Nodes [blog]*, 9 February 2012, http://felix.openflows.com/node/203.

Subcomandante Marcos (2002) 'Tomorrow Begins today (Closing Remarks at the First Intercontinental Encuentro for Humanity and against Neoliberalism)', In: J. Ponce de Leon (ed.), *Our Word is Our Weapon*, New York: Seven Stories Press, pp. 107-15.

Tangled Web (2011) 'Did Anonymous Hack Sony's PlayStation Network?', In: *Radio Free Europe/Radio Liberty*, 27 April 2011, http://www.rferl.org/content/did_anonymous_hack_sonys_playstation_/16795694.html.

Thacker, E. (2004a) 'Networks, Swarms, Multitudes, Part One', *CTHEORY*, 18 August 2004, http://www.ctheory.net/articles.aspx?id=422.

Thacker, E. (2004b) 'Networks, Swarms, Multitudes, Part Two', *CTHEORY*, 18 August 2004, http://www.ctheory.net/articles.aspx?id=423.

The Invisible Committee (2009) *The Coming Insurrection*, Los Angeles: Semiotext(e).

The Loop (2011) 'Hacking and Jailbreaking with George Hotz', 14 Jan 2011, http://www.youtube.com/watch?v=tG9r7cCpk_g.

'the parents of Bertrand, M., Elsa, Aria and Yldune' (2008) 'Letter from the parents of the Tarnac nine', 26 November 2008, http://tarnac9.wordpress.com/2008/11/26/letter-from-the-parents.

Tiqqun (2011) *This Is Not a Program*, Los Angeles: Semiotext(e).

'TorrentFreak' 2015, http://torrentfreak.com.

Vehlken, S. 2013, 'Zootechnologies: Swarming as a Cultural Technique.' In: *Theory, Culture & Society* 30(6): 110–131.

Virno, P. 2004 *A Grammar of the Multitude: For an analysis of contemporary forms of life*, Los Angeles: Semiotext(e).

OSCAR COPPIETERS

ON COUNTER–HEGEMONIC REALISM

'If people could see that change comes about as a result of millions of tiny acts that seem totally insignificant, well then they wouldn't hesitate to take those tiny acts.' Howard Zinn

Introduction

Many corporate actors do it: Coca Cola, H&M, Chiquita, Primark, G-Star, Starbucks, Apple, BMW, etc. They all publically proclaim that their marketed commodities are produced with a social responsibility, in accordance with ethical standards that respect humans and the natural world. Standard economic reasoning provides a clear-cut explanation for this phenomenon: market supply and demand tends to converge towards an equilibrium. The fact that 'socially responsible products' are increasingly marketed implies that everyday consumers purchase these products.

So once again, free-market reasoning seems to provide an effective solution for the organization of our societies! No need for government to regulate social concerns, the private sector can self-regulate, right? The ultimate win-win situation – private corporations profit whilst tackling eminent social concerns. In the academic management and development literature, as well as in de facto policies around the world, Corporate Social Responsibility (CSR) has emerged as a buzzing concept.

In this essay, I aim to critically assess the practice of CSR. In the process, I aim to contribute to the debate on strategizing counter-hegemonic re-

sistances (Laclau and Mouffe, 2001). The main claim I make is that CSR can be a tactical medium for individuals and/or social groups to effectively voice political concerns, and that it can contribute to a strategic process of radical socio-economic transformation. The essay advances in three stages. In the first instance, I briefly describe CSR in the light of the global institutional arena wherein this practice is embedded. Secondly, I introduce the distinction that runs through this volume: privateers versus pirates, which I reframe as hegemonic vs counter-hegemonic. I claim that both privateers and pirates operate within the global institutional arena, and that both can claim ownership over CSR practices. Conceptualizing counter-hegemonic strategies in a realist manner implies taking explicitly tactical action within the prevailing institutional arena in a conscious attempt to change this arena. As a consequence, I claim that consuming (or not consuming) CSR products becomes a political act. The third section claims that CSR presents itself as a potentially powerful tactic in forging a unified counter-hegemonic movement, and speculates what role pirates can play in transforming the transnational production process.

The transglocal institutional arena and CSR

The present point of departure is the perception that politics is changing. The realm of political actions has shifted dramatically. Both institutions and individuals find new ways to be political, while classical methods are being eroded. The present section aims to sketch a perspective on the global institutional arena wherein political actors operate. I argue that CSR is a political practice operative in the present global institutional arena.

Before advancing, I need briefly to clarify how I use the notion of 'institutions'.[1] In first approximation, the notion of institution ties in to a vast body of literature in the social sciences that conceptualizes institutions as the formal and informal 'rules of the game'; iterated structural incentives that inform individual behavior and consequential social interactions (North 1990). The analytic lens I apply is one that conceptualizes our social world as made up of institutions. In other words, I adopt a social on-

tology that analyzes human interactions in reaction to the institution wherein that behavior is embedded. Institutions are thus, generally taken, all explicit and implicit guides to human behavior. As such, they may be formal or informal, both organizationally structured or culturally implied, and everything in-between. In this sense, there is no escaping from institutions. All human actions occur, by definition, in relation to social institutions. This does not imply, however, that actors are wholly determined by their institutional embeddedness. Whilst institutional structures are both disciplining and enabling, individuals have degrees of agency to comply with, combine or defy institutional inductions. This usage of the concept of institutions has emerged in the analytic tradition and is, in my reading, similar to the continental usage of the concept of discourses.[2] Like discourses, institutions are multi-leveled and ever-interacting with other institutions. The matrix of institutions, wherein human interactions are embedded, is in constant flux. This conceptualization of institutions provides leeway for analyzing and strategizing institutional change and, consequently, socio-economic transformations.

The all-encompassing usage of the notion of ever-evolving and intertwined institutions implies that, for reasons of analyzing and strategizing CSR, hypothetical lines could be drawn between institutional levels and governance mechanisms. An analytic framework could consist of three scales, i.e. the global level, the national level and the local level (Cox 1981); and three governance mechanisms, i.e. public (state) governance, private (market) governance and local (community) governance (Uphoff 1993). But these would be suppositional delineations, while de facto institutional levels and governance mechanisms constantly combine and interact. In effect, it seems appropriate to speak of *hybrid governance mechanisms*, as de facto governance is likely to be comprised of a complex mixture of governance mechanisms. By a similar token, 'the glocal' has become a focal point of analysis, whereby de facto practices are generated by interlocking actors operative at various levels (Hart 2006). In the remainder of this essay, I will use the term 'transglocal' to indicate that hybrid governance mechanisms operate simultaneously at various levels, interlocking actors at the global, national and local levels. The practice of CSR, the central topic in this essay, operates in this transglocal institutional order.

As a reading of history, qua politics, the nation-state has for centuries been the main organized institution in the 'developed' world. Individuals and groups could turn towards a given bureaucratic department of the state for their political actions. As a public institution, the state operated as a collective actor. The rule of the state is here conceptualized as a cluster of public-governance mechanisms. Public-governance mechanisms didn't only dominate institutions at the national level; national governments also became the dominant entity at the global and local level. Although the state has never been devoid of influences of private sector actors, in recent decades these influences have augmented exponentially (Hessel 2010). Private-governance mechanisms, i.e. governance structures set up by private-sector actors, have hence gained significant importance in the de facto organization of the transglocal institutional order. Especially in the economic realm, the power of private-sector actors to organize the geographically dispersed production process is prevalent. It is important to note here that private-governance mechanisms are only possible within the structural grid of public-governance mechanisms. It is with this realization that the dichotomous distinction between market and government collapses: it is a specific conjuncture of public government that facilitates 'free' market interplay between private-sector actors. The term neoliberalism has become a widespread buzzword with contested meaning. That the term is widespread indicates a shift in global governance. In this essay, neoliberalism is conceptualized as a particular set of public-governance mechanisms that facilitates private governance to reign supreme, whereby the private-sector actors are presently primarily in the business of accumulating capital. The focus lies on minimal social responsibilities of public governance whilst enabling market forces to leave their mark on the everyday organization of our societies.

In the early twenty-first century, therefore, we experience the birth of a new political arena: a transglocal institutional order that is dominated by private-sector actors in a complex hybrid governance mechanism. As the traditional responsibilities of the nation-state erode, private actors now govern issues that used to fall under the jurisdiction of the state. National democratic governments, and by extension the democratic citizenry, used to be a powerful entity that carried primary responsibility for the social organization of our societies. Yet as there is a shift of power, so there is

also a shift of responsibility. Political power is not confined any longer to the classical medium of the nation-state. Rather, the transglocal cluster of public, private and local governance mechanisms makes the political, the economic and the social increasingly intertwine. The question at hand is how, as particular individuals and/or as social groups, can we effectively voice our political concerns within this transglocal institutional arena?

Corporate Social Responsibility (CSR) is a striking example of the type of practices that emerge within the transglocal political arena. CSR is a practice that operates within global value chains. Global value chains are a particular mode of production that is geographically dispersed, where generally low-cost production process are outsourced by 'developed' private sector actors to geographic entities where cheap labor, low-standard environmental legislation and accessible natural resources provide a comparative advantage. This is not the place to develop an in-depth genealogy on the emergence of CSR within global value chains, nor on its immanent particularities. In short, it suffices to say that CSR is a generic term for a set of social practices that private actors adopt in the present transglocal institutional order. The most inclusive definition characterizes CSR as the voluntary adoption of extra-legal social responsibilities by private-sector actors. At the same time, however, the emergence of CSR implies that national governments (of the states where the production process is located) refrain from upholding certain social standards. In other words: only as public-governance mechanisms become eroded, private-governance mechanisms fill that void and commit to production in a socially responsible manner.

At this point we arrive at the central controversy about CSR; how to interpret it? It is marketed as an extra-legal commitment of corporate-sector actors, but only at a time that the legal framework is being eroded. So is it a beneficial development that merits applause and support, or is it merely a hegemonic justification of a privateering practice? Is it, as it is depicted, truly a win-win practice – i.e. generating private profit while responsibly restructuring society to uphold its common goods? – or is it, as its critics proclaim, a mere marketing strategy to 'greenwash' structurally flawed global-production practices?

The interesting question is not whether all for-profit CSR corporations currently consciously produce with utmost respect for fellow humans and their common natural environment; this is probably not the case. One should be wary about high-profile marketing strategies of big corporate actors proclaiming to produce in 'a socially responsible manner', whilst codifying this with a dubiously vague corporate standard and marketing it as a corporate fairytale.

Rather, the interesting question is whether CSR could be instrumental to a type of corporate flourishing that is connected to a socially-responsible production process? Or, more fundamentally, whether CSR can be instrumental to radical political protests that aim to transform the present institutional context and its immanent corporate structures? The answer to these questions is, to a large extent, open. It depends on whether those consuming products are willing to pay a higher monetary price for a more valuable – or 'socially responsible' – economic production process.

Privateers vs Pirates

The present Krisis issue focusses on the distinction between privateers and pirates. In the approach outlined in this essay, both privateers and pirates operate within the transglocal institutional order. The privateer – pirate distinction is here interpreted as antagonistic, whereby privateers are conceptualized as hegemonic and pirates as counter-hegemonic actors. Hegemony is a state of affairs in which a particular discourse is dominant. This implies that the discourse presents itself as self-evident, generating and legitimizing de facto practices, but that oppositional forces remain active in the margins. From the discussion above, it is clear that in the present global institutional order the neoliberal dictum is hegemonic. Privateers are hegemonic actors in that they drive, legitimize and benefit from neoliberal governance practices. Privateers are here conceptualized as those private sector actors who are primarily in the business of accumulating capital. The eminence of private-governance mechanisms in the transglocal institutional order enables privateers to profit from the particular reorganization of the production process in our globalizing world.

The widespread presence of the neoliberal governmental logic doesn't imply, however, that this logic is accepted by all. Logics that defy the hegemonic discourse are conceptualized as counter-hegemonic. In this essay, pirates are portrayed as counter-hegemonic actors within the transglocal institutional order. This implies that their practices counter-act the dominant logic of that order. Whereas hegemonic privateers are concerned in the accumulation of capital, counter-hegemonic pirates are here conceptualized as engaged in a radical project of socio-economic transformation. Pirates are hence characterized by their willingness to contribute to the process of transforming the private economy into a socially responsible economy.

Counter-hegemonic actors are often fragmented. Consequently, dispersed groups of pirates fail to augment pressures to effectively challenge the hegemonic discourse. Following Laclau and Mouffe (2001), I believe it is important that the political antagonism between hegemonic and counter-hegemonic practices is both explicated and cultivated, emphasizing the need to foster a unified counter-hegemonic movement that can develop effective pressures to defy the dominant logic. It is in this light that the essay is titled *On Counter-Hegemonic Realism*. I share the belief that unifying counter-hegemonic resistances need to be forged in reaction to the prevailing institutional configuration. As a realist tactic, I call on pirates to consciously and consistently purchase commodities that are socially-responsibly produced.

Some will renounce my call for counter-hegemonic consumer activism as weak reformism. I want to clarify my realist position by introducing the distinction between tactics and strategy. A tactic refers to a short-term, goal-related practice that can be applied in the present institutional configuration. A tactic considers the next move in a competitive game-situation. A strategy, on the other hand, is goal-related practice that entails a long-term plan and objective. The objective of counter-hegemonic strategizing is to bring about a deep transformation in the prevailing institutional configuration. A realistic counter-hegemonic tactic can then be adopted today whilst fitting a more radical and idealist strategy that attempts such a future transformation. A realist take on counter-hegemonic strategizing entails tactically considering how to actively deal with the present configuration of institutions. In this essay, CSR is considered a potential present-day tactic in a more fundamental transformational strategy; it is a short-term political tactic in a long-term strategic effort to forge a 'socially responsible' economy.

That pirates defy the prevailing hegemonic norm does not imply that they operate outside the transglocal institutional order: conceive of the transglocal institutional order as the playing-field whereon actors can generate practices in reaction to existing rules. That certain rules are dominant need not imply that those rules are not prone to change. This institutional order is not an essential set of institutions that are fixed in time; rather it is an existentially discursive field that fluctuates – i.e. a discursive field that evolves in relation to practices of the players acting on the field at differential levels.

The distinction institutional essentialism vs. institutional existentialism is crucial to my claim that pirates should consciously engage with CSR as to generate socially responsible production practices. To exemplify the distinction, consider a board game with multiple players at the table. In situation A, the rules of the game are set at the beginning of the game. As the game goes on, one player might win while the others lose (this might happen because of pure luck, pure skill, and everything in between), but the entire game is played according to the fixed set of rules. The institution in situation A is an essentialist institution in that its rules do not change in the process of engaging with the institution. The game of chess is an example of an essentialist institution; its rules are fixed, the institution does not change. Situation B, however, is different. The board game starts with a set of rules, but this time the players can alter the rules of the game as they are playing. An initial winning position, a good bargaining hand, or strategic alliances, they all become important as the game evolves and the players change the rules of the game while playing. The institution in situation B is an existentialist institution in that its rules can change in the process of engaging with the institution. The global institutional order is, as a whole, an existentialist institution: its rules are not fixed in time, the cluster of institutions is prone to change.
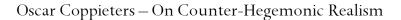
Let's turn to the central topic of controversy and assess it in the light of the aforementioned distinction. If CSR were an essentialist institution, it could be discarded as a hegemonic project that legitimizes privateering exploitation of human, natural and environmental 'resources' or 'capital'. The legitimation is derived from the win-win narrative, i.e. that privateers can generate profit while yielding optimal social organization by implementing minimally regulated 'free' markets. With this type of win-win CSR would be a mere Pyrrhic victory for those concerned with social justice, even if it yields the sporadic social benefits it claims to generate, as structural power asymmetries don't alter and the associated institutional rules do not change. CSR would then be a mere euphemism for a neoliberal type of market colonization. Yet if CSR is regarded as an existentialist institution, it presents itself as a tactical opportunity for a strategic counter-hegemonic movement. So here it becomes possible to hypothetically move from privately owned to shared means of production networks by means of augmenting market pressures. By demanding that privateers adopt increasing social regulation in the transnational production process, pirates may be able to change the rules of the globalization game. CSR would then function as a lever to get counter-hegemonic concerns into de facto governance mechanisms. The proposed tactical method would be to explicitly politicize CSR and tie it to everyday consumption patterns.

CSR is a practice that has emerged within the contours of the transglocal institutional arena. Despite a healthy sense of skepticism about its transformational capacity (Blowfield and Frynas 2005), I argue that CSR might become an initial vehicle to foster a more socially responsible production process. Yet it is necessary to wage a discursive battle over whether any given CSR initiative is driven by privateers (hegemonic CSR) or pirate (counter-hegemonic CSR). The question then becomes whether the normative discourse that underpins CSR is merely instrumental in legitimizing the neoliberal political project of privateers, or whether it articulates an actual commitment to change the anti-social premises that characterize privateering projects.

Before addressing the particular tactics that pirates can employ in waging a discursive battle over the meaning of CSR, we need to address the question of how CSR occurs in the first place. Although the literature generally characterizes CSR as shareholder-driven, it is counter-intuitive that privateers – who are in the business of accumulating capital – voluntarily adopt extra-legal regulations to produce in a more socially responsible manner. Why would hegemonic privateers commit to CSR?

It seems evident that CSR is, at its root, triggered by market trends (McWilliams and Siegel 2001). When conscious consumer choices threaten shareholder viability, corporate opportunity costs are raised, pushing private actors to increase their CSR commitment. Behind the marketing rhetoric of privateering CSR thus lie market fluctuations caused by purchasing acts. In other words, if a critical mass of consumers opts to purchase CSR commodities, privateers will match their supply to this market demand. For privateers, then, CSR is a corporate tactic to differentiate commodities on saturated markets. Yet the crucial realization for pirates is that consumers have leverage in steering corporate practices. As such, if a critical mass of consumers consciously and consistently opt to purchase goods with a genuine socially responsible character, then it is likely that they uplift (part of) the transglocal production process to more socially responsible levels. If CSR is triggered by market trends, consumers can push private CSR commitments to a higher platform. Given that consumers have the institutional leverage to steer private-governance mechanisms, consumption and non-consumption are political acts; it consists of, respectively, endorsing or refusing a particular mode of production. If indignados would put their money where their mouth is, they could augment market pressures on corporate actors at a transglocal level.

I stress again that my claim is that political consumer agency can be a tactic in the strategic endeavor to foster radical socio-economic transformation. Although the tactic focusses on the immanent practice of Corporate SR, this does not imply that its strategic outlook needs to be confined to corporate private-sector actors. In other words, a counter-hegemonic pirate movement and its aspirations for social transformation need not (and arguably should not) confine itself to changes within corporate production structures. Although I believe that pirates should operate realistically within the prevailing institutional framework, I do render it vital that they simultaneously self-organize in order to radically confront and

transform the transglocal institutional arena. The tactic of political consumer agency is then conceived as compatible with grassroots initiatives that are not mediated through corporate structures and multi-levelled institutions.

Towards a counter-hegemonic strategy

So far I have asserted that: 1) the political arena has changed significantly, and is now a transglocal cluster of public, private and local governance mechanisms; 2) that pirates should foster an explicitly antagonistic identity, opposing hegemonic privateers, within the contours of the present institutional arena; and 3) that, within those institutional contours, political consumer agency is a valuable tactic in strategizing socio-economic transformations.

Although I have claimed that I render it important that pirates foster an explicit counter-hegemonic identity, I have not explicated what that identity entails beyond the claim that they aspire for socio-economic transformations. The clue is that I am not planning to define that identity any further. It is not the task of a philosopher-king to designate what 'pirates' are; rather it requires active articulation of various social groups and individuals to foster and claim that counter-hegemonic identity. It is important that such an identity is symbolically powerful so as to be able to overcome fragmentation and unify heterogeneous struggles into a common narrative that is strong enough to challenge the hegemonic discourse. As such, in the language of Laclau and Mouffe (2001), 'pirates' is an empty signifier with quite strong symbolic power. What the actual identity of 'pirates' is to be is open for deliberation and dependent on the voices that claim this identity. The identity and long-term strategy of pirates is to be forged through a democratic 'chain of equivalence'. Although I hold that the identity of pirates should be open for the articulation of interests by various actors, and I thus explicitly refrain from discursively closing the counter-hegemonic identity, I do believe that market-activism is a potentially powerful short-term tactic.

The remainder of this section focusses on three issues. The first opposes the counter-hegemonic identity of pirates to the widespread symbol of the 99%. The second argues for consumer activism as a potentially powerful tactic in forging a unified counter-hegemonic movement. The third introduces the Internet as a valuable instrument in both the general counter-hegemonic struggle and the particular scheme of consumer activism.

Recently, the notion of '99%' has emerged as popular symbol of widespread socio-politico-economic protest. Given my previous argument in defense of the use of political antagonism, it might be suspected that I endorse the notion of 99%, as it is constructed in clear political opposition to the 1%. Yet I believe that this symbolism is flawed. It is flawed in that it misconceives the role of many people that are allegedly part of the 99%. It suggests that the 99% are 'victims' of the present socio-economic organization and demand a redistribution of wealth from the 1% to the 99%. Rather than being victims, though, many (Western) 99%-ers are, as consumers, actively upholding and benefitting from the present global institutional order and its hybrid governance mechanism. The characterization of the 1%, although effective political symbolism creating an oppositional antagonism, is not nuanced enough. It is too easy to solely blame the greed of bankers, the biased valuation schemes of economic experts and/or the technocratic attitude of policy-makers for the crisis, when everyday consuming citizens of developed countries continue to reap disproportional benefits from the current mode of glocalization. It is contradictory to oppose the present wars in the Middle East and condemn foreign fighters in Syria if one continues to consume oil for the car to take the kids to school around the corner, so to speak. It is for this reason that, as counter-hegemonic symbolism, I prefer the notion of 'pirates' over and above the notion of '99%'. An oppositional logic is required for the activation and unification of counter-hegemonic forces, but the logic shouldn't be confined to finger-pointing without incorporating counter-hegemonic demands into one's own behavior.

It is said that the duty of non-maleficence – i.e. to not impose preventable harm – is the most minimal of liberal duties (Pogge 2002). In the act of everyday consumption, this duty is faced regularly; if I buy a smart-phone

produced with blood-minerals and child-labor, am I, as consumer, not fueling socially irresponsible practices? Who is responsible for the production process – only those at the top of business and government? Or can we speak about a societal responsibility for perpetuating the harmful production process by indulging in and benefiting from it? Can we speak of institutional harm imposed by a type of market neocolonialism of which many societal actors are part?

If one is discontent with the present configuration and its associated practices, it would only be a partial and limited strategy to voice that discontent as civilians towards the state. It is not that citizens shouldn't voice their concerns towards their democratically elected governments; it is only that, as a result of the above trend, the political voice of democratic citizens would be a lot more powerful if it was harmoniously combined with the act of political consumption. If individuals or social groups intend to voice their concern, they should not restrict themselves to either the market or the state, but wage a struggle on various institutional layers.

I do not render consumer activism to be a final tactic; given that the larger institutional order doesn't change, CSR upgrading by means of consumer agency would be a mere Pyrrhic victory. For one, it is evident that this is not a democratic tactic: consumer power can be characterized as 'one dollar, one vote', leaving it to be a tactic that can mainly be employed by the upper segment of our societies. Yet it can be a powerful lever in a larger transformational strategy. A profound change in the prevailing corporate structures is unlikely to come from corporate shareholders; such change is likely to be triggered by the ultimate arbiters of corporate success – i.e. those who consume the products and determine the viability of the production process. The underlying reasoning is straightforward: if well-off consumers are powerful agents in prolonging the present state of affairs, then they can also be powerful agents in changing this state of affairs. As such, it could bring various actors together, make a critical mass of people realize their collective power in steering socio-politico-economic organization and motivate them to actively continue setting up alternative transglocal governance structures.

Given that consumption has a definite cultural aspect, pirates could cultivate their identity whilst tying that identity to a mode of economic production that stands in contradiction with the dominant privateering one. In Gramscian terminology (1996): the art of an effective counter-hegemonic movement is to tie a 'war of movement' to a 'war of position'. There is no point in waging political pressures if there is no popular basis for those pressures. Therefore, a counter-hegemony must foster an identity that serves as a basis for actions. In this particular instance: to consume politically has to be explicitly connected to a socio-cultural project of co-developing alternative modes of production and related socio-politico-economic organization. In political consumer agency, both a war of movement and a war of position are waged in that a strategic consumer identity is built while tactical political pressures are augmented in an attempt to change prevailing governance mechanisms.

The hypothesis that CSR is a tactical platform for social transformation is underpinned by the assumption that conscious consumers would actively purchase commodities that are produced in a socially responsible manner. The question then becomes: how to foster those socio-cultural institutions that generate political consumer agency? The trend of argument I uphold is that the possibility of effective consumer activism is dependent on socio-cultural institutions that articulate alternative modes of socio-economic organization whilst practical alternatives are developed. The consuming citizen then becomes a potentially powerful actor playing the present institutional field in an attempt to steer de facto hybrid governance mechanisms to a more socially responsible level.

It is at this junction of my argument that I want to stress the transformational potential of the Internet as a tool for communication, identity-formation, and social, political & economic self-organization. Both within the particular tactic of political consumer agency and the broader strategy of social transformation, the Internet is likely to be a crucial instrument. Given that economic production is geographically dispersed, CSR as a practice lacks genuine transparency. It is easy for a corporate actor to claim that they are producing in a socially responsible manner; it is a lot harder for the consumer to verify that commitment. The Internet is here a medium for transmitting economic information and consequential co-

ordination between actors at various levels. Only when local stakeholders are connected with groups of conscious consumers can CSR become a genuine vehicle towards a socially responsible economy, rather than a marketing tool for corporate brands who intend to differentiate themselves in saturated markets and opt for a strategy of corporate greenwashing.

As an instrument for strategizing a counter-hegemonic movement, the potential of the Internet is vast. For one, I genuinely believe it can foster not only a counter-hegemonic identity, but also modes of interconnected grassroots organization in synergy with that identity. Likeminded activists could develop and maintain a collective online network with the intent to function as a vehicle for socio-economic self-organization and related political pressures. Such a counter-hegemonic movement would stand in relation to the present transglocal institutional arena in an existential attempt to change it.

Oscar Coppieters is a young researcher who is interested in queries of power, rationalization and social transformation. He has a background in philosophy and development studies.

References

Blowfield, M., & Frynas, J. G. (2005) 'Editorial Setting new agendas: critical perspectives on Corporate Social Responsibility in the developing world.' In: *International Affairs*, 81(3), 499-513.

Cox, R. W. (1981) 'Social forces, states and world orders: beyond international relations theory.' In: *Millennium: journal of international studies*, 10(2), 126-155.

Gramsci, A. (1996) *Prison notebooks* (Vol. 2). Columbia University Press.

Hart, G. (2006) 'Denaturalizing dispossession: Critical ethnography in the age of resurgent imperialism.' In: *Antipode* 38: 977-1004.

Hessel, S. (2010) *Indignez-vous.* Montpellier: editions Indigènes.

Laclau, E., & Mouffe, C. (2001) *Hegemony and socialist strategy: Towards a radical democratic politics.* Brooklyn/London: Verso Books.

McWilliams, A., & Siegel, D. (2001) 'Corporate social responsibility: A theory of the firm perspective.' In: *Academy of management review*, 26(1), 117-127.

North, D. C. (1990) *Institutions, institutional change and economic performance.* Cambridge University Press.

Pogge, T. W. M. (2002) *World poverty and human rights.* Cambridge: Polity Press.

Uphoff, N. (1993) 'Grassroots Organizations and NGOs in Rural Development: Opportunities with Diminishing States and Expanding Markets.' In: *World Development* 21(4): 607-622.

[1] The inadequacy of this brief description is hopefully complemented by my usage of the concept in the remainder of this essay.

[2] Consequently, my institutional analysis is supplemented by conceptual tools of discourse analysis.

Krisis

SONJA SCHILLINGS

THE PRIVATEERING CRITIC:
RE-READING THE PROBLEM OF THE BAN IN MARIE DE FRANCE AND GIORGIO AGAMBEN

Agamben's theory of the homo sacer has become a central theoretical perspective on sovereign violence especially after the 9/11 attacks in 2001. In his study *Homo Sacer: Sovereign Power and Bare Life* (1998), Agamben proposes the sovereign and the homo sacer as enduring and mutually constitutive poles of rule that can be identified throughout Western history. He understands the homo sacer (sacred man) as a carrier of bare life – a person who may be killed by all and sacrificed by none as ze is arrested at the threshold between the inside and the outside of the law. Because the sovereign, too, exists at the threshold of the inside and outside of the law, the sovereign and the homo sacer stand in an 'ideal relationship' (Vasilache 2007) as the inherently active sovereign constitutes hirself as sovereign through producing the inherently passive and all-enduring homo sacer. Agamben proposes this constellation in order to formulate a philosophical critique of Western understandings of life in general. He fundamentally attacks any understanding of life that is tied to political representation in order to be considered life in the first place. In order to formulate this larger point, he uses the example of totalitarianism (in Hannah Arendt's sense) as the most suitable example to illustrate his argument. Arendt's construction of a totalitarian sovereign is intimately linked to the Holocaust and thus to a disturbingly literal distinction of human life worthy or unworthy of living – a distinction that, in this particular case, is widely accepted as problematic to say the least. Agamben uses this impressive example to render the concentration camp a symptomatic syndrome of modernity and to conclude, essentially, that *any*

political order based on the logic of political representation in a Hobbesian sense carries within itself a pronounced totalitarian element.

In the humanities of the United States and beyond, this argument has been especially fruitful in making sense of institutional torture scandals such as, for instance, those of Guantánamo Bay and Abu Ghraib. From the start, Agamben's philosophical point has been read as a position from which a radical systemic critique could be formulated *within* Western modernity. However, this quite intentional interpretation of his theory raises the question of the critic's own position in relation to the sovereign-homo sacer relationship. How is it that the critic can not only identify the 'true' nature of representative sovereignty as one that necessarily constitutes itself via homines sacri, but that ze can also formulate this critique from a position that successfully claims a detached outside perspective – despite the fact that the critic tends to operate from within this criticized structure? How can we bring together the critic who is inside of the law with an assumed perspective that stands without it, and how can we understand the particularities and problems of this position?

In this essay, I propose to complement the dual relation between the sovereign and the homo sacer with the relationship between pirate and privateer who also traditionally constitute each other at the threshold between the inside and the outside of the law, albeit in a different way. This 'second' threshold which is made visible by pirate and privateer is not one that constitutes sovereignty as sovereignty, but is one that renders certain forms of *reference* to sovereignty by violent actors within the state of exception potentially legitimate to the sovereign, and therefore worthy of re-inclusion in the law. This second threshold between the inside and the outside of the law indicated by pirate and privateer will be treated here as not one that contradicts, but rather complements the sovereign-homo sacer threshold suggested by Agamben. It helps pinpoint the critic's own suggested legitimacy, and hir relationship to the representative sovereignty ze critiques but also speaks to, in an attempt to make hir criticism of the sovereign understood as 'constructive.'

In order to pursue this argument, I will first elaborate on the properties of privateer and pirate that I will foreground (they, too, will be treated as if

they existed in an 'ideal relationship' to each other as well as to the law), and then exemplarily re-read Agamben's interpretation of a lay of Marie de France in his study *Homo Sacer*. In this reading, it will become evident that Agamben already implies this second distinction at the threshold of the law, but that he does so selectively. By this selection, he renders invisible a central aspect of the sovereign ban, the key concept by which the production of homines sacri is executed. I will conclude from my reading that Agamben's criticism of totalitarianism does not undo the problem of the ban, but that it itself relies on a very specific naturalization of the ban – namely, the ban associated with an anticipated revolutionary ban of representative sovereignty itselfan. It is his naturalized treatment of the utopian revolutionary ban, I argue, which allows Agamben to pose as a Western critic who stands above and beyond the totalitarian logic of representative sovereignty without actually leaving the fold of the representative order. He does not, however, solve or even sufficiently address the philosophical problem of the ban itself.

The Pirate-Privateer-Divide and the Nature of the Sovereign

To use the pirate as the missing link to Agamben's theory is not an altogether new idea. Daniel Heller-Roazen, Agamben's English translator, has been the first to link the pirate to Agamben's theory of the homo sacer in his study *The Enemy of All* of 2009. In Heller-Roazen's argument, the figure of the pirate – the title-giving 'enemy of all [humankind]' – appears as a legalist vehicle to enable and facilitate the sovereign identification of homines sacri. Heller-Roazen addresses the question which persons or populations may in fact be most vulnerable to an identification as homines sacri, and by which standards they are made vulnerable to the ban. Theoretically speaking, his pirate is essentially a *potential* homo sacer rather than a separate entity in hir own right (2009: 17-18, 95, 160-161, 180, 187-189).

In pirate law, the status of the pirate as a potential homo sacer can be largely derived from the legal concept of universal jurisdiction, a notion which Heller-Roanzen refers back to concepts of piracy in Antiquity

(2009: 17-22). The specifically modern notion of universal jurisdiction has been linked to piracy at least since 1705 and means that, because the pirate as an enemy of all humankind constitutes a universal threat, every sovereign may destroy hir anywhere and by any means necessary – that is to say, even if a foreign pirate has molested foreign subjects in a foreign territory (Rubin 1997: 103-104). In singular deviation from customary limitations of a sovereign's control (especially over foreign territories and populations), universal jurisdiction against pirates allows sovereigns to intervene violently *as well as legitimately* against them anywhere. This pirate-specific legal situation indeed renders the pirate a figure that may be killed by all and sacrificed by none – and that is arrested at the threshold of the law by design.

Nevertheless, the pirate is distinct from the homo sacer in an important sense: namely, that the pirate *chooses* to stand between the inside and the outside of the law. This aspect requires some specification. In contrast to Antique models of piracy which are overwhelmingly explicit about the sovereign elements of piracy (largely because pre-modern pirates tend to be entities such as coastal clans and predatory city states), the modern notion of piracy is legally derived from the construction of the privateer. The institution of privateering fundamentally structures maritime warfare between the thirteenth and the nineteenth centuries, and is itself located in a legal realm that could be described, with Agamben, as a state of exception. The main idea behind the creation of the privateer has been to prevent any random assault on maritime shipping triggering fully-fledged warfare between sovereigns. The privateer, by hir very legal essence, stands both inside and outside the law so as to prevent the necessity of sovereign protection of both the privateer and hir victims at sea. In other words, the privateer, even more so than the pirate, is purposefully *designed* to be an entity whose position is impossible to pinpoint conclusively within the representative sovereign structures ze violently interferes with.

In contrast to the pirate, the privateer is not recognized as such after hir first attack at sea, but from the first time ze leaves port: the privateer is a privately equipped man-of-war that is tied to the sovereign by *contract*. The contract traditionally states that enemies of the sovereign and their

allies may be molested by the privateer, whereas the subjects and specified allies of the sovereign hirself must be left unmolested. In return, the privateer finds safe haven in the ports of the sovereign, where ze can make repairs, recruit sailors, and sell hir plunder at a profit. When in port, the privateer must also pay a percentage of hir profits to the sovereign, and it is this gesture which actualizes the validity of the contract whenever the privateer comes to port. Correspondingly, the promise of protection by the sovereign is also limited to the port, where protection is conditioned by the previous existence of a contract as well as its renewed validation. When at sea, the privateer alone bears the risks of hir trade; if ze is captured, the early modern sovereign can (and more often than not, does) disavow the privateer and leave hir to hir captors, who then proceed to try hir as a pirate.

In this sense, the privateer may be killed by all as a pirate, but is sacrificed by none as the member of an official army – this is a notable difference to the professional navies that begin to emerge in the mid-eighteenth century as men-of-war permanently protected by the sovereign. The privateer can be understood, for the purposes of this essay, as a homo sacer who is endowed with the ability to use violence actively, and who strategically uses violence and its ends to re-enter the law repeatedly.

The privateering-derived pirate is very basically defined as one who ignores the privateering contract by *not* refraining from molesting the subjects and allies of any sovereign. Ze is an enemy of all humankind in the sense that all, rather than almost all, ships at sea are potential prey to hir. While the pirate at sea is arrested in the same state of exception as the privateer, hir decision to commit violence is not strategically geared towards perpetually re-entering the law. Instead, hir violence in the state of exception is sovereign in the sense that it *constitutes* hir as a third entity whose violence is exclusively a marker that identifies hir as pirate. Early modern thinkers have anticipated Agamben's argument on the sovereign-homo sacer relationship insofar as they have recognized this constitutive dimension of violence at sea as quasi-sovereign. The pirate is legitimately destroyed by the sovereign *because* of hir active choice to exercise violence against populations that is to some extent indistinguishable from the sovereign production of homines sacri. For this reason, scholarship on 'clas-

sic' modern piracy (white, Christian, colonial, homosocial male, and privateering-derived in its core definition) has highlighted time and again that the pirate is both a potential homo sacer *and* a potential sovereign – and thus a more complex figure in relation to Agamben's theory than Heller-Roazen, for example, allows. It is in this spirit that Montesquieu, for example, views the pirate band as the embryonic version of *any* representative sovereign order, and squarely identifies the pirate as a potential sovereign by hir very nature (1748 [2010, 362-364]).

In this sense, the threshold of the law opened up by pirate and privateer draws attention to the general theoretical problem that it is not only the Agambian sovereign who can reduce humans to bare life. In the case of pirates and privateers, sufficient philosophical and legal discursive tradition is in place to make these maritime cases theoretically relatable to Agamben. In the case of pirates and privateers who operate at sea, extra-sovereign violence in the state of exception is automatically committed; the state of exception is in place as soon as a committer is a privateer or a privateering-derived pirate because these entities are precariously bound to the sovereign by design. They are distinguished from each other, however, by their different position towards the sovereign while at sea and while in port. In Western privateering and pirate law, a distinction is made between *legitimate* violence that is geared towards re-entering the sovereign law, and *illegitimate* violence that occurs in the state of exception on the basis of choices not geared towards re-integration. The pirate, by not submitting to the law either in practice or in reference, rivals the very sovereign prerogative of constituting hirself by the reduction of others to bare life, and by hir threat to even reduce the sovereign hirself to bare life if possible. Accordingly, hir arrival in port may very well result in invasion rather than in a plea for sovereign protection.

Re-Reading the Sovereign Ban in Marie de France's *Bisclavret*

So far, my argument about pirates and privateers may read like a theoretical intervention that has little to do with the position of the critic in Agamben's *Homo Sacer*. However, I claim that Agamben constantly uses

the theoretical premises of the pirate-privateer distinction to structure the overall *perspective* of his argument. As a case in point let me draw attention to the chapter 'The Ban and the Wolf', and a passage within it that is particularly illustrative of the link between the two thresholds in his argument. In this example, Agamben interprets a piece of literature to help illustrate central relationships postulated by him; he concretely identifies specific figures within this text as epitomes of sovereign and homo sacer. It is on the basis of the original literary text that I will more directly link the privateer-pirate relationship to Agamben's theory of the sovereign-homo sacer relationship.

The lay *Bisclavret*, written by the poet Marie de France in the twelfth century, is the story of a baron (who is, in Agamben's reading, the homo sacer) who is close to and loved by the king (the sovereign) but periodically leaves the realm to roam the forest as a werewolf. When he tells his secret to his wife, she conspires with another knight, soon to be her lover, to steal her husband's clothes while he is in his transformed state. His clothes gone, the baron's ban is complete as he has to permanently remain in animal form. One day the king goes hunting and comes across the werewolf. Since the wolf exhibits extraordinary servility, the king takes him in as a soon-beloved pet. When the deceitful baroness appears at court sometime afterwards, the wolf attacks her and bites off her nose. Because the wolf's exhibition of violence is so uncharacteristic, the court proceeds to interpret it; the baroness's treachery is discovered, the wolf is transformed back into a man, and the baroness and her lover are permanently banned by the king. The baroness's ban is, in fact, so permanent that even her children inherit her lacking nose. Agamben himself, who omits this last piece of information about the lay, highlights two points about this story:

'[First, w]hat is essential here is the detail […] of the temporary character of the metamorphosis, which is tied to the possibility of setting aside and secretly putting on clothes again. The transformation into a werewolf corresponds perfectly to the state of exception, during which (necessarily limited) time the city is dissolved and men enter into a zone in which they are no longer distinct from beasts. The story also shows the necessity of particular formalities marking the entry into – or the exit from – the zone of indistinction between the animal and the human (which corresponds

to the clear proclamation of the state of exception as formally distinct from the rule). […]

[Second, t]he special proximity of werewolf and sovereign too is ultimately shown in the story. [When the werewolf sees the king in the forest,] he runs toward him and grabs hold of his stirrup, licking his legs and his feet as if he were imploring the king's mercy. Amazed at the beast's humanity […], the king brings him to live with him, and they become inseparable. The inevitable encounter with the ex-wife and the punishment of the woman follow. What is important, however, is that Bisclavret's final transformation back into a human takes place on the very bed of the sovereign.' (1998, 107-108)

When we read his interpretation in light of the pirate-privateer relationship that I have just sketched, we are immediately alterted to several particularities in the emphasis of Agamben's analysis. First, he is only interested in one of the two bans presented in the lay, namely that of the baron, and is dismissive of the 'inevitable' ban of 'the woman.' Second, he focuses on that ban which is caused by the extra-sovereign 'nature' of the baron as a werewolf, whereas he refrains from discussing the ban that actually results from a sovereign decision. Third, the ban he focuses on is a ban which – and this is 'essential' here – inherently allows for a reintegration into the law because it is linked not to the sovereign decision but to the inherently limited sovereign control over the forest. Fourth, the lay, as well as Agamben, emphasizes the love that continues to inform the relationship between king and baron across the baron's various incarnations as man-wolf, wolf, and as we may presume, fully restored man.

Especially the third and fourth points show that the properties of the homo sacer that Agamben carves out in this particular example share important characteristics of the privateer. The privateer is an extra-sovereign entity not by explicit sovereign verdict, but by design; this design is, moreover, linked to the nature of the sea as a space inherently beyond full sovereign control.

Also, the privateer's ability to move in and out of the law is made possible by his constantly renewed actualization of allegiance to the sovereign

both at sea, where he refrains from attacking the sovereign and hir allies (consider the first encounter of the werewolf with the king and his hunting party), and especially more particularly in port where the privateer actively and repeatedly proves hirself a loyal subject (consider the werewolf's behavior in court that is characterized by docile gestures as well as the active exposure of the baroness). In other words, the love that exists between king and baron throughout the lay is the central premise for the possibility of re-transformation into a human being or, as it were, into a life that satisfies the principles of political, rather than bare, life.
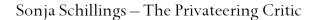
But what about the baroness? Why is her ban omitted from the analysis, and why is the sovereign decision to ban her – which is permanent enough to reach across the noseless generations – not important to Agamben? Perhaps the problem is that in contrast to the baron, her relationship to the sovereign is not at all clear. It is she, not the king, who actually makes the decision to ban the baron into permanent animal form: other than the baron, she is not merely banned passively, but she *both* bans and is banned. Her position within the entire complex of the ban in the lay renders her both a potential sovereign (who constitutes hirself by hir ability to ban, however incompletely in the baroness's case) and a potential homo sacer (who is in acute danger of being banned, a danger that also materializes itself in the lay). If the baron shares central features with the privateer as ze was defined here, the baroness shares central features with the pirate as an entity with a potential to sovereignty as well as an existence as a homo sacer.

Let me reformulate the story's plot once more. Faced with the discovery of her husband's transformative nature, the baroness trespasses on the king's prerogative to ban, and sets the story in motion by *arresting* her husband in the state of exception (with the assistance of her lover, who is, and remains, her informal vassal just as the baron is, and remains, a formal vassal to the king). In relation to the baron, the baroness assumes the role of a sovereign because she permanently arrests him in the state of nature. This is precisely why the banned werewolf must now make an explicit effort to appeal to the king that involves her actions against him. When in wolf-man form, he had always been able to return to both wife and king; after his wife has actively banned him, he must now appeal to

the king to actively lift her ban from him. The king readily accepts the wolf's submissive gestures. The wolf's submission to the king is described as total (as in the vivid example of feet-licking), but it does not in fact reduce the baron to helpless passivity: instead, siding with the king is the only option he has to avenge himself and to be returned to human form. Since the baroness has banned him in a gesture of sovereignty, to expose her means to alert the king to an encroachment on his own sovereignty. The king can only respond in one of two ways: either by banning her in her own right, or by officially endorsing the baroness's claim that the sovereignty of the king over her and the baron, as well as her loyalty vows to her husband, are meaningless. The werewolf's need for re-transformation and revenge, and the king's need to reconstitute himself as the only one who may actively arrest people in the state of exception, both require the baroness's permanent transformation into a homo sacer. Indeed, the simultaneity of these desires is constitutive for the lay's neat conclusion of a good order being fully restored.

Agamben postulates that the baron in his werewolf form is a homo sacer – and always only temporarily so, as he emphasizes – but it is worth noting that this figure is first and foremost identified as a *baron* in the lay, in other words, as a figure primarily defined by his service to the king. This is strongly indicated both by his constant servility towards the sovereign and by his violence on behalf of the sovereign. The aspect that allows the baron's constant transition back and forth is based on the implicit assumption that both sovereign and privateer always remain invested in upholding and stabilizing the realm of the law in general principle, even though they act outside of the regulating reach of the law whenever they actualize themselves as sovereign and privateer. The privateer, in this sense, is an unrecognized representative of the sovereign wherever ze goes. All ze needs to be transformed back into a *recognized* representative of the sovereign is the *renewed* sovereign verdict that ze is in fact such a representative. The privateering character in this lay proves hir allegiance by exposing a piratical character who only *pretends* to be representative of the sovereign king but in fact does not have his interests in mind.

It is, indeed, the baron's biting off the baroness's nose that is the defining moment of the story, for two reasons. First, it is only his violence against

her that exposes her as an illegitimate imposter to the king's sovereignty. The docile werewolf in the lay shows uncharacteristic and surprisingly violent aggression against the invasive carrier of (concealed) piratical imposition. Only because this violence begs interpretation that explicitly takes into account the baron's own unwavering loyalty to the king, is the baroness's piratical imposition on the prerogative to ban detected as such.

Second, it is this rather than any other act which begins his re-transformation. It does not in fact matter whether the transformation back to human form occurs on the king's bed, the king's floor, or in the king's vegetable garden. Instead, what brings the baron back to human form is his offering of the baroness as the one who should *take his place* in the permanent state of exception. What actually frees the privateering homo sacer in this lay is the exposure and subsequent offering of this pirate as someone who *should* be banned, and *is* in fact banned (without much comment from Agamben except that it was to be expected). The re-privateering character in this lay may change hir status not by servitude, but only by actively exposing a piratical imposter to sovereignty.

The transformation of the homo sacer lost at sea into a privateer returning to port and offering hir prey to the sovereign – the identified pirate, a genuine and manifest threat to the sovereign – is a grim and problematic passage because it makes clear that it is not in fact the proximity to the king which reverses the ban. This is not a story of a homo sacer who is rehabilitated out of mercy, gratitude, or the sovereign recognition of his allegiance. The baron spends considerable time as the king's submissive pet without being re-transformed. It is instead the story of a rehabilitation brought about by the offer of an exchange. The baron is released from the state of exception only because he can offer the baroness as someone who can be banned in his stead. Because he was banned into permanent were-wolf form by her personally, and is able to expose this act as an act of sovereign encroachment, the king rewards him by simply reversing their places in terms of the law.

As becomes obvious now, the ability to return comes at a price. The baron demonstrates – indeed, must demonstrate – throughout the lay that the violence of the ban he experiences does not change his attitude towards

the sovereign ban as principally just. It does not seem to be problematic to him that his king constitutes his sovereignty by the very method of the ban that the baron himself has suffered and from which he desperately tries to free himself. Having access to a 'port' at least once offers the opportunity to escape a permanent state of exception, but the price is to actively and continuously legitimate the existence of the state of exception as such. The privateering homo sacer has experienced firsthand what the ban means, and must still affirm it as unproblematic for the pirate ze delivers to the sovereign. The ban itself is not questioned or disabled as a notion at any moment. Instead, to accept the notion of the ban as legitimate in principle allows the homo sacer some leeway in renegotiating the violent consequences of the ban for hirself. The willingness to accept the ban as legitimate is proven by the baron's plea to ban the baroness. Before he pleads this, he will not be re-transformed. It is this quid-pro-quo exchange of banning a pirate instead of the pirate-exposing privateer, this compromise which actively upholds the ban as a necessary aspect of re-transformation, which Agamben renders invisible by excluding the baroness from his analysis.

The Privateering Critic: Exposure on Whose Behalf?

Why is it problematic, then, that Agamben has not talked about the baroness? And what does this omission say about his own position as a critic, if it says anything? At this point, we come full circle to the philosophical argument with which we started, namely, that Agamben's theory is a fundamental critique of representative sovereignty, and that the critique relies on the exposure of the totalitarian element inherent to it. This claim itself, I suggest, is a form of posing as a privateering homo sacer. As a gesture, it is quite comparable to the baron who bites off the nose of a secretly imposing baroness, and it, too, comes at a price.

Agamben, by attacking representative sovereignty through charging it with a totalitarian core, evokes the revolutionary removal of it – in other words, representative sovereignty's own permanent ban. This tendency of the argument is best illustrated in a somewhat heavy-handed first sketch
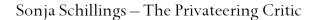
of Agamben's approach to Arendt's theory of totalitarianism, elaborated in the article 'On the Limits of Violence' of 1970. In this very early article, Agamben equates the notions of revolutionary and sacred violence; he claims that sacred violence is the only violence that can bring about an authentic revolution because it stands outside of history and can therefore truly end one time and bring about another one which follows different ontological premises. It may be somewhat unfair to compare the work of the Agamben of 1970 with the far more mature work of 1995, but what has certainly remained of his earlier work is the fascination with absolute relationships as a productive way to comment on the political present and the ways in which they have to be changed. In this sense, to identify these absolute relationships, such as the sovereign-homo sacer relationship, is in an important sense strategic – and if the theory of the homo sacer is the basis of a structural criticism, it too comes with a *quid pro quo* that precisely does *not* overcome the constitutive existence of the ban in any way. Instead, it obscures the continued existence of the ban as a constitutive factor even of the most fundamental critique.

Consider, for example, how Agamben's theory has been made fruitful for analysis especially in U.S. American scholarship after 9/11. The breakthrough for the theory of the homo sacer in U. S. American scholarship came with an article by Donald E. Pease entitled 'C. L. R. James, Moby-Dick, and the Emergence of Transnational American Studies' (2002). In the article, Pease interprets C. L. R. James as a homo sacer who is detained on Ellis Island and is thus suspended in a state of exception by the Cold War security apparatus. Rather than raving about the injustice of his detainment, Pease relates, James writes a scholarly interpretation of *Moby Dick* which demonstrated that he, a homo sacer thrown into a state of exception by the Cold War security apparatus, in fact understands the essential American character better and is already more of an American than 'they,' who pose to act in the American interest, ever will be. The security apparatus, James' critique and Pease's interpretation likewise suggest, illegitimately *pretends* to speak in the name of that America on which it has imposed itself, whereas James appeals to the true American character, and pleads for his own release and recognition in exchange for exposing a totalitarian bureaucracy. The security apparatus, now glaringly exposed to the American people as a totalitarian imposter to national in-

terest and character, is then suggested to be removed and overthrown (in other words: banned) instead of the literary scholar (Pease 2002), the immigrant (Kaplan 2005), the civilian caught in a Kafkaseque net of bureaucratic punishment (Butler 2004), or the foreigner randomly labelled terrorist (Heller-Roazen 2009). All of these interpretations constitute, in their more focused critique of U.S. American institutions, abbreviated versions of Agamben's general suggestion that the only solution to the all-encompassing problem of representative sovereignty is a revolution that bans the system in its entirety.

Now, one could ask, what of it? Even if the fiction of a radical revolution that hurls representative sovereignty into the dustbin of history is a necessary theoretical vehicle, has it not on the other hand been fruitful in exposing a real theoretical problem in the concept of representative sovereignty? Did the baroness, in the incarnation of representative sovereignty, not have it coming to her by putting itself in the wrong in the first place? Do these critical exposures not finally allow us to think of 'piratical' systems as problems to be addressed since we have, after all, the welfare of our true king in mind – the overarching notion of non-objectified and non-excluded life? Do not these critics simply hope to be recognized as faithful privateers in the service of life itself, and can this possibly be called an ignoble cause?

I neither dispute the theoretical advantages of Agamben's theory nor try to belittle the underlying concerns; to be invested in the cause of accepting life as unconditional is noble. However, to pose as a privateer in the service of life in the spirit of Agamben renders invisible, by the very premise of the theoretical construction, the fact that a massive ban of those piratical, illegitimate 'totalitarians' is naturalized as quite unproblematic within the critique. Such a ban seems 'inevitable' for a truly life-affirming utopian order, just like the lay's removal of the unruly baroness is inevitable for arriving at a happy ending. There is an inner contradiction to be suspected in a theory that criticizes the sovereign ban as a totalitarian tool on the one hand, but does not address the ban as a condition of revolutionary critique on the other.

Lastly, there is another problem to be addressed which is, perhaps, more of a postscripted open question. If representative sovereignty is a general philosophical, as well as a political, problem that runs through Western history, and if it is a problem that requires urgent attention and perhaps even a solution, what can we make of the greater analytical problem that the Agambian critic remains a privateer in a pirate port? After all, do not all of the critics quoted in this essay, most prominently Agamben himself, profit from the benefits of, say, national representation? And do they not personally *represent* important and highly respected strands of academic scholarship, do they not *represent* their universities and their disciplines, and are their voices not heard much louder than others for that very reason? While these questions may be read as somewhat routine accusations of systemic hypocrisy, there is, I think, an important problem at the bottom of the slightly comical situation of the eloquent Western A-list scholar who attacks the notion of representative sovereignty as totalitarian.question returns us, ultimately, to the question of what qualitatively distinguishes the pirate from the privateer. The privateer always relies, in some way or another, on being understood as a beneficial entity for whomever ze addresses. Ze must communicate hir principal allegiance at any given moment; this is how ze ensures hir freedom to move in and out of the state of exception. Whenever the state of exception threatens to be permanent for hir, the privateer must resort to exposing a pirate who violates known and valued principles (in the examples used here: of sovereignty), hoping that the pirate instead of hirself will suffer the permanent ban. The privateer enjoys freedom only on the condition of hir basic affirmation of at least some of the principles that constitute sovereignty. The pirate, on the other hand, deviates and perverts; ze renders accepted norms and traditions insignificant by hir actions; ze eludes conclusive judgement. Instead of referencing a utopian revolution that will ban entire orders in the name of humankind, we might perhaps do well to take a step back and to ponder the puzzling perspective of the pirate. More specifically, one may raise the question of whether a theoretical perspective can be carved out here that can be integrated into academic language without resorting to the more troubling notions of representative frameworks that Agamben himself draws attention to, and also ultimately falls victim to.

The perspective of a pirate as a *theoretical* perspective – however it may look like in practice – might even help address some of the basic concerns brought forward by the privateering critic; after all, the pirate is privateering-derived. Also, one may add, as a philosophical entity ze is already the potential epitome of both bare life and political life.

Sonja Schillings is a postdoctoral researcher at the Graduate Centre for the Study of Culture (Justus-Liebig-Universität Gießen) in Germany. She has recently defended her dissertation entitled *Hostis Humani Generis and the Narrative Construction of Legitimate Violence* (GSNAS/John-F.-Kennedy-Institute for North American Studies, Freie Universität Berlin). Recent publications include work on discursive containment in legal constructions of piracy, and the concept of the state of nature in contemporary Anglo-American fiction.

References

Agamben, G. (1970) 'On the Limits of Violence.' In: *Diacritics* 39:4: 103-111.

Agamben, G. (1998) *Homo Sacer. Sovereign Power and Bare Life.* Stanford, CA: Stanford UP.

Agamben, G. (2002) *Remnants of Auschwitz: The Witness and the Archive.* Brooklyn, NY: Zone.

Agamben, G. (2005) *State of Exception.* Chicago, IL: Chicago UP.

Butler, J. (2004) 'Indefinite Detention.' In: Butler, J. (ed.) *Precarious Life. The Powers of Mourning and Violence.* London, UK: Verso: 50-100.

de France, M. (1986) 'Bisclavret.' In: Burgess, G. S. and Busby, K. (eds.) *The Lais of Marie de France.* London, UK: Penguin: 68-72.

Heller-Roazen, D. (2009) *The Enemy of All. Piracy and the Law of Nations.* New York City, NY: Zone.

Kaplan, A. (2005) 'Where Is Guantànamo?' In: *American Quarterly* 57:3: 831-858.

Montesquieu (2010) *The Spirit of the Laws.* Cohler, A. M. etc. (eds.) Cambridge, UK: Cambridge UP.

Pease, D. E. (2002) 'C. L. R. James, Moby-Dick, and the Emergence of Transnational American Studies.' Pease, D. E. and Wiegman, R. (eds.) *The Futures of American Studies.* London, UK: Duke UP: 135-163.

Rubin, A. P. (1997) *The Law of Piracy.* New York City, NY: Transnational Publishers.

Taylor, C. (1989) *Sources of the Self. The Making of the Modern Identity.* Cambridge, MA: Cambridge UP.

Tiedemann, P. (2006) *Was ist Menschenwürde? Eine Einführung.* Darmstadt, DE: WBG.

Vasilache, A. (2007) 'Gibt es überhaupt 'Homines sacri'? Das nackte Leben zwischen Theorie und Empirie.' In: Böckelmann, J. and Meier, F. (eds.) *The gouvernmentale Maschine. Zur politischen Philosophie Giorgio Agambens.* Münster, DE: Unrast: 58-74.

OF PIRACY, ANONIMITY, AND PARAMETRIC POLITICS
AN INTERVIEW WITH NED ROSSITER AND SOENKE ZEHLE

In an (in)famous postscript, Gilles Deleuze traces the emergence of a society of control, whose passive danger is jamming, and whose active danger lies in piracy and viruses. Media jamming and piracy, hacktivism and viruses are all rampant today: the internet is their natural breeding ground, to the point of becoming trivial occurrences in everyday life. Technology moves fast, but the means of understanding its movements do not, given the new media theory's obligate and persistent homage to Deleuze's early nineties programme. The gratuitousness of this reference today, combined with the lack of specificity concerning contemporary implementations of cybernetic modes of machinic governance, might just as well introduce a kind of theoretical laziness concerning the concrete stages of their development.

In their collaborative research efforts, Ned Rossiter and Soenke Zehle explore the consequences of new economies of capture and the enclosure of experience. For this edition of *Krisis*, they were willing to respond extensively via email to questions about their research, the directions it is taking, and the methodological and conceptual innovations they feel are needed in order to address the complexity of the present, so as to better grasp the most recent incarnation of that eternal and ambiguous figure at the center of this special issue, the pirate. The latter offers an entry node into some of the more intangible and abstract issues that permeate so-called network societies. As the focal point of a cognitive mapping, the interview addresses debates on the common(s) and its multitudes in their flight from wage labor, as well as the antinomies of informational capitalism, which frees up and mobilizes with one hand what it blocks entry to with the other. Fire and pay walls prevent access from what could be

freely available to all, an idea that drove Aaron Swartz to disclosing JSTOR's database of academic articles. As big data and dragnet surveillance increase the costs of identity, opting out becomes a viable alternative. What lies beyond is still uncertain, as the boundaries of the political implode to fuel a civil society whose weight existing democratic institutions cannot carry, without at least a sense of its 'parametric' dimensions.

Daniël de Zeeuw

Pirate practices often involve theft and property violations without clear-cut ideological motives, as is the case with most torrent trackers. For this reason they are often dubbed apolitical, in a pejorative, delegitimizing sense, namely as 'merely' criminal, directed towards private gain and against the public interest. More often than not, repression of what is deemed private is much stronger than what is said to be of public significance, making this repression less contested as well. Similarly, hackers' targeting of information and communication infrastructure is depoliticized, or delegitimized under criminal conspiracy acts. Instead you claim that contemporary forms of piracy involve both contestations of ownership, new forms of use and an alternative politics of the common. Does this mean you reject the above framing of piracy as apolitical? Under what conditions may pirate practices involve genuine political acts? Or should they be evaluated according to other norms and categories altogether?

To talk about how such framings operate as devices of depoliticization, we should perhaps revisit the distinction between politics and the political that also informs reflections on piracy. As Derrida has noted in his reading of Schmitt's account of the friend/enemy distinction as an existential antagonism – implying the ever-present possibility of physical killing – that is constitutive of the political, Schmitt's attempt to deduce the political from a place where it did not yet exist requires a definition of the enemy as such, one that is linked to the possibility of a proper war – that is, an existentially political war. It is a distinction whose disappearance in the wake of modern warfare Schmitt both acknowledges and resists. It should be noted that in his post-war writings, Schmitt has discouraged readings of

this distinction that stress annihilation as the inevitable telos of such an antagonism, but affirmed the need to think the 'enemy' as that which binds any one sphere of the political as an ethico-political space. Schmitt's desire for distinction is alive in contemporary legal orthodoxy. The prosecution of piracy as a crime (rather than an act of war) has been lamented by current adherents of Schmitt such as John Yoo, for instance, Deputy Assistant US Attorney General in the George W. Bush Administration, who would like to see the public enemy status extended to terrorists (i.e. combatants that are 'illegal' in that they do not act on behalf of a sovereign state) more generally. But the definition of piracy that opens Daniel Heller-Roazen's (2009) genealogy of the 'enemy of humanity' also echoes Schmitt's attempt to deduce the political from non-subjective, non-anthropological categories.

This question is not limited to piracy, of course; it is one of the characteristics of the current conjuncture that statelessness, a key concern in the political philosophies of Hannah Arendt and Giorgio Agamben, is once again considered an instrument of governance (take the call to revoke the citizenship of jihadists, coming, needless to say, mainly from states who are signatories to the two UN conventions on the reduction of statelessness). So, the political character of piratical practices refers to the ways in which they modify the conditions of possibility for politics and political action. In this sense there is some correlation here with hacker practices, frequently subsumed under the governance meme of 'cyberterrorism'. While following this line of thought leads us beyond the terrain of this interview, it should be noted that the association of piracy with terror is itself in need of a conjunctural explanation.

What interests us here is the scope available for tinkering with social and technological systems, the linkages that are foregrounded by reapproaching the question of piracy in terms of the infrastructural implications of its practices. The centrality of infrastructural and logistical registers to piratical practices cuts across public/private distinctions and calls for a parametric sense of the political, rather than the fall-back on a public sphere model that always-already depoliticizes piratical practices as private acts of appropriation without authorization. There is no necessarily progressive vision in the political dimensions of piracy. This is of course also

true for any politics organized around the principles of identity and representation, but it nevertheless bears repetition. The point of departure for our reflections on piracy is not the romance of disruption, but a sense that piracy offers a particularly useful point of departure for analyses of the varying perspectives in the way we delineate the boundaries of the political.

For instance, we do not think of piracy primarily in terms of property violations. Such a framing is of extremely limited analytical reach. Instead, we want to know what is left of piracy when it is not exclusively understood in relation to property. There is a sense of piracy that simply involves illicit changes in ownership. But we are more interested in how piracy opens an exploration of the boundaries of sovereignty. Historically, the idea of a contiguous space of sovereignty (where one boundary touches the next, without non-sovereign territories in between) is rather recent, and in many parts of the world does not exist in practice – permanent policing of these boundaries is needed to produce them as boundaries, and pirates play a key role in how the predictive policing strategies of these semi-open spaces are determined and designed by public (states) and private actors (Private Military Corporations, NGOs). Within such a geopolitical imaginary, we move instead to practices of anonymity as exemplary acts of piracy situated within logistical worlds, whose techniques and technologies of governance seek to extract value through the capture of experience. With such a movement, we register the extent to which the infrastructural dimension of digital economies demands analytical attention, from the shift to low-latency networks and centralized storage systems (e.g. data centres) to the logistical technologies ensuring the synchronization of networked activities across the topologies of these new economies of capture.

Data pirates often narrate their own identities in terms of invisibility and anonymity: Anonymous is a recent example, but it goes back to the early cypherpunk scene. What is it about digital culture that invokes this persistent association with anonymity as a form of power, and political strategy?

In this world, anonymity is a central principle of operation. While anonymity is most often understood in terms of a refusal of the principle of identity, it acquires additional meaning in the shift from causation to correlation that lies at the core of a data analytics in which pattern recognition is more important than the logic of accountability and attribution. At the same time, the epistemological binding of data to empirical conditions is difficult to refute, even for practices of anonymity, not only because of the weight of legitimacy bestowed upon big data analytics to 'explain' the patterning of the world. But quite simply because once we acknowledge the extent to which identity is distributed across the topologies of our communicative enmeshments, stretching far beyond the sphere of signification to a much more encompassing semiotics of intensities, we realize that the dispersal of subjective traces far exceeds the economy of anonymity. It is too soon to tell, of course, how well anonymity scales, beyond encryption and the facile move of an exodus from commercial social media systems. But the space of a politics of anonymity is so much wider than the deliberative dimensions of the politics of representation. It is for this reason that we hold on to the concept of the political to at least lay claim to political possibility, even if we are not sure how and across which social and technological registers such a politics of anonymity can be articulated. Here, the question of anonymity becomes intimately intertwined with the question of how we approach the transformation of agency within machinic assemblages, of technical systems whose dispositions confront us with forms of agency we are not sure how best to comprehend. But rather than assuming at the outset that forms of agency that cannot be folded into a politics of representation lie beyond the scope of the political, part of the question of a politics of anonymity is to ask how we engage the disposition of these new technical systems in ways that acknowledge the actuality of machinic agency (without being reduced to a Latourian or STS world view, whose flat ontologies of thick description tend to occlude the instantiation of the political).

The question of traceability across computational systems, a significant concern in the analysis of such forms of agency, lies at the heart of the practice of piracy as well. There is nothing at the ontological level that ties data to the externalities from which it arises. Part of an economic logic of recursion, data speaks to itself before it addresses the world around it. To distinguish between the epistemological and ontological layers is itself a political thought, for as long as the data trails of anonymity are linked to empirics, then subjects become culpable of acts of piracy (among others). The ways in which the empirical dimensions of data are articulated epistemologically and ontologically also concerns parametric politics, as politics is increasingly drawn to explore and incorporate these registers of algorithmic cultures into new forms of governance.

Can you expand on what you mean by parametric politics and its relation to piracy?

By parametric politics we mean an engagement with the technical parameters of the infrastructural and logistical registers of politics. Understood as such, piracy is political in this broader sense regardless of its legitimacy, and there are faint echoes of this acknowledgement even in the generative visions of celebrity architects that have also popularized the term 'parametric' in the context of neoliberal urban development schemes. The political dimension of these practices is separate from their legitimacy: we have often seen the same practices de- and relegitimized rather quickly in relation to shifting geopolitical agendas, for instance. What was once considered legitimate reverse engineering has been recast as illegitimate in the name of intellectual property protection, mirroring shifts in the way we have come to speak about creativity and innovation.

Parametric politics is the politics of design. We need to develop a collective language – an idiom of expression, which entails the singularity of practice – that helps organize the production of subjectivity and social relations in ways that are not constrained by the (pre)formatting of action in algorithmic architectures. While we approach the Rancierian attentiveness to the autonomization of the aesthetic as an aspect of the real subsumption of aesthetic experience, we also draw on the notion of 'procedural literacy' popularized by the game theorist Ian Bogost: 'When we play games, we operate those models, our actions constrained by those rules' (Bogost 2011: 4). A parametric politics for us means identifying, testing and, where possible, transforming the rules that delimit how we oper-

ate within the machinic arrangements of logistical media apparatuses. Maker movements have embraced the collective ability to appropriate the infrastructures of informatized production, social philosophy has rediscovered craft. Our variety of design thinking also draws on the philosophies of machinism we think we need to engage in to escape the presentist politics of isolating algorithms as autonomous digital agents, as useful as algorithmic accountability analyses can be. Software studies has drawn attention to the semiotics of software, while Maurizio Lazzarato calls attention to the asignifying semiotics of machinic assemblages.

Finally, parametric politics is an attempt to bring the machine back into view, into the comprehension of a specific politics (where we understand the machine in the sense of Marx's *Grundrisse*, i.e. a distributed assemblage whose operational logic both enables and limits the autonomy of its constituent elements as well as the extent of its involvement in the production of subjectivity). Piratical practices operate at the boundaries of such a parametric politics. Their machinic scope is neither comprehended nor governed by the traditional juridical problematization of piracy and the conception of politics it presupposes.

In your research, as well as in your answer just now, you try to relate pirate practices to what you call a politics of anonymity (Rossiter and Zehle 2014b). Can you further elaborate as to what anonymity in this context refers to?

As argued above, piracy is neither adequately nor exhaustively comprehended in terms of the legality or illegality of its practices. What must come into view is what used to be referred to as so-called primitive accumulation (or, as David Harvey called it, accumulation by dispossession, which links these processes more directly to the dynamics of commoning) – how something becomes property, a 'resource' to begin with, and not start with its status as property as a given. The shift from a comparatively open destination web to the walled gardens of commercial media is a prime example of this process of exploiting and extracting value from the common (a social relation) in order to enclose the commons (the expressive form of social relations).

Anonymity is likewise a non-proprietary resource, and a key element in commoning strategies. The refusal to be identified and captured by processes of subjectivation links practices of anonymity to the social production of the common, but also to what we might call the *a priori* of any politics of rights – what Étienne Balibar has, following Hannah Arendt, referred to as the right to have rights. If there is a right to have rights, there has to be political subjectivity prior to citizenship. Hobbes knew this, of course, but what struck him as a dangerous thought experiment was limited as a potential attribute of the indigenous peoples of the new world. Today, the renaissance of animist thought serves as yet another reminder that humanity and subjectivity are coupled only within specific cosmopolitical horizons. So anonymity refers to a type of political subjectivity that is not articulated in terms of citizenship, identity, representation.

All that remains is expression and action without enclosure. At the same time, anonymity communicates with itself and to the world through, more often than not, commercial infrastructures. This is not insignificant, and it is one reason why anonymity operates differently online. At this point we note the intersection between the political economy and territorial mediations of digital infrastructures such as data centres or server farms and the internal operations of anonymity. To be anonymous, in other words, is not to be severed from relations of control. We are not romantics in that sense, but questions relating to anonymity and autonomy at the level of infrastructures that have been a core register of net-cultural engagement since the very beginning are also and necessarily a concern of parametric politics, of the creation of interfaces with relations of control that allow us to address whatever effects of subjective constitution these relations establish.

The territorial consists of juridical, geological, economic and social-political struggles over spatial imaginaries, formations and their temporal variations. As an object of computational measure and calculation, territory works to contain and govern through techniques of deduction and exclusion. It does this through the design of parametric politics. That which does not conform to the rule-set of parameters is beyond measure and therefore free. Yet, paradoxically, this freedom is accompanied by a

form of illegitimacy vis-à-vis the struggle for power, since it is existence beyond accountability. This is also the paradox of anonymity: it only exists as a collective ensemble of sociality (beyond itself) once it registers within the parameters of control, even if it does so as disruption. Which is why we not only want to think piracy beyond its determination by property, but anonymity beyond its determination by identity.

Expression has to pass through infrastructure, whether that is the body or the machine (the body as machine). So even when communication is secured with sophisticated encryption technologies, it is also being indexed as data within server stacks. And while data may enjoy a life without identity, someone or some entity is footing the power bill for energy consumed and costs related to the construction and maintenance of data infrastructures. This inevitably means they want a return on investment, since the idea of public infrastructures for communication no longer attracts much support from the neoliberal state. Such forces and material conditions constitute an ethico-political dimension that all too often goes overlooked within the cult of anonymity. Expression is not just a practice of multiplication (of discourse, practice, relations, subjectivities). It is also a practice of subtraction. And this is also an important attribute that we invoke through the practices of piracy. Subtraction not of value from property, but more the subtraction of resources from the common. Piracy, then, is also a practice of depletion. Our interest is in asking how we think of practices of design, of invention and orchestration as the work of politics within networked ecologies situated within zones of depletion and economies of exhaustion. Depletion is where the common begins, in sites to which no one lays claims anymore because they have been exhausted. Exhaustion leaves fragments, ruins, waste – it is what comes after production, after use, after work (Zehle 2015). Piracy not only operates in this space, its movements across machinic assemblages facilitate our comprehension of the role of informatization in the structural transformation of work more generally (Rossiter and Zehle 2015).

You mention the rise of a culture driven by a desire for invisibility and escape from neoliberal networks of capture. Alexander Galloway and Eu-

gene Thacker have employed a similar vocabulary, just as Michael Hardt and Antonio Negri speak of an exodus of the multitude. You also seem to conceive of invisibility as a form of withdrawal of free labour from the digital economy and as an immunitary device against overly 'imperial ambitions'. Yet you acknowledge its utopian-romantic bend, and stress the continuing need for institutional engagement (the figure of the whistleblower, for example). How do you situate yourself in relation to these other approaches? And, furthermore, as it appears that, instead, the emancipatory struggles of the previous decades were mostly aimed precisely at 'becoming visible' (in an institutional sense, through the acquisition of rights, the recognition of identities, etc.) has there been a genuine shift in the logic of emancipatory practices?

As to the last question: in online communication, the trace is trackable, regardless of whether you block cookies or hide your IP address. But it's not a shift, at least not simply from one to the other – politics organized around representation is alive and well, including a politics of rights (just consider the occupy / pro-democracy movement in Hong Kong, or the electoral victories of anti-austerity parties across Europe). The freedom to organize includes the freedom from surveillance, involving both invisibility/visibility. A default setting for a politics of anonymity would be to proceed by way of encryption. Yet it has become increasingly apparent since Snowden, NSA, et al., that everyone follows everyone else. This is the mutual surveillance game. Interestingly, anti-surveillance tools have much in common with the double agency of a different era – and with a poetics of disappearance and desubjectivation. So again, this is part of what engaging piracy on its own terrain can do: it opens up our analysis of the computational conjuncture beyond the historical horizon of the digital society and the presumption that we need to comprehend it above all in the technological terms of informatization.

As to the apparent opposition between withdrawal and engagement: the latter might also manifest as collective practices of inventing new institutional forms. When movements organize, they are building political and social infrastructures whose dynamics will often take on properties specific to the media of communication, the architectures of code and, let's not forget, the materiality of the built environment. But as we mentioned ear-

lier, there is also a larger scale of political economic forces associated with the commercial infrastructures through which the communication practices of movements must necessarily pass. This raises the paradox of anonymity, or a politics of the invisible, which also registers as a technical trace. So whatever gestures of withdrawal one may attribute to labour-power, there remains the lingering problem of the trace and the economy it fosters. The general problem of post-autonomia as presented in the writings of Virno, Hardt and Negri is an insufficient knowledge of the politics and economy of the technical apparatuses of communication. This is less of a problem in the work of Franco 'Bifo' Berardi, and not one at all for writers of a new generation like Matteo Pasquinelli or Tiziana Terranova.

David Graeber has referred to figures associated with post-autonomia as 'impresarios of the historical moment' (Graeber 2008). The political character of multitudinal agency is notoriously difficult to grasp and gauge; and how useful a single-concept political ontology ultimately is remains unclear. But we can, at least, study the effects of its mobilization, as well as contextualize this usage – just as the activities of the multitude in the heydays of Atlantic piracy help us understand how the open spaces of the sea became mapped to operate like factories, the piratical multitudes of today help us understand the role of logistical infrastructures. In this context it bears repetition that withdrawal is a form of engagement. The moment of retreat is constitutive of new relations. People want to see this put to the test and are disappointed with outcomes when bloggers enter politics. Similar analyses have been made of the wide range of pirate parties; while we follow their activities, we are more interested in registers of the piratical that lie beyond the politics of representation.

The metaphor of the multitude has sharpened our analytical vision in the sense that we pay much closer attention to non-identitarian forms of collectivity and agency. The Italian post-autonomia thought has also paved the way for analyses and appreciations of post-union, or post-party practices of building capacities to intervene. So there is, in a sense, more politics than ever. But at the same time it cannot by definition tell us something about the directedness of these forces.

A politics of the multitude that has nothing to say about the agency of machines seems of limited use to us. And we are not especially interested in teasing out the theoretical nuances of a concept better left to devotees of philosophy who in many ways are weary of the work of thinking the constitution of technical objects. Instead, we speak about piratical networks as machinic assemblages, which include clear and direct links to financial networks, the anonymous politics of offshore finance, of anonymous corporations, etc. We might also learn a thing or two about piratical practices from the errancy of algorithmic agency. Here, we think of the failure that comes with parameters in the design of algorithms for high frequency trading (HFT). Low-latency networks engineered to maximise the exploitation liquidity within markets are often promoted as reducing risk and exposure to market volatility for investors. Well, the 'flash crash' of 2010 brought that ruse to an end. Or at least it should have. No matter how carefully conceived, the algorithms of HFT are never able to completely account for unforeseen 'behaviour' in markets. Contingency, in other words, exceeds even the time of transaction within the speed of nano-seconds. This prompts us to think of the politics of the interval. How to identify, and exploit for political purposes, the uncertainty of time unaccounted for by even the most sophisticated algorithmic tools of inspection?

This brings us back to the question of visibility versus invisibility. In essence, this is a question of the power of discourse, of epistemology, to register presence and action in a world made operational. Anonymity offers one route toward a politics of the inactionable, a politics of relations without registration. This is what Foucault may have meant in privileging the status of the 'non-discursive' as a correlate of the 'limit-experience' of errant subjects, of desubjectification and a refusal to be governed, finding freedom in and as objects of experience. Such is the agency of machines, of a politics of the interval, of intervention in the logic of machinic self-organization, of modifications of parameters above or below the thresholds of perception of the laboring body. If cinematic practices indeed prefigure the computational, an ancestry worth keeping is the gesture of re-appropriating the machinic eye. No accident, perhaps, that the scanner (including surveillance cameras and in fact all implements of vision-based organization and logistical governance, along with non-human vision

such as infrared and a new generation of low-cost satellite-based imaging systems) has become an object of increasing political attention.

The title of one of your essays states that 'privacy is theft' (Rossiter and Zehle 2014a). This can be read (sarcastically?) as an affirmation of Dave Egger's criticism of web 2.0 ideology, as advocating the elimination of privacy qua basic right/good. The elimination of anonymity is co-incidental with this, it suffers the same fate. But it seems that, as privacy designates a stance advocating a proprietary 'keeping to oneself' of data, anonymity can be dissociated from this, as it functions positively in online pirate practices by securing the collective sharing of data irrespective of ownership or authorization. Whereas in The Circle *the elimination of privacy entails the total elimination of anonymity, here, privacy and anonymity seem to occupy different, perhaps even partly incompatible registers due to the notion of ownership implicit in privacy. Nevertheless, on an ideological level for most internet pirates anonymity is precisely a means to secure or regain privacy as a fundamental liberal value and condition, i.e. they make for a functional continuum. Is there a conflict, then, between what pirates* do *and the way they reflect politically on their own practice? And can you further elaborate how you conceive the relation between privacy and anonymity in general?*

If communication is commerce, privacy involves reappropriation. Privacy nowadays is coincident with property, with technologies of enclosure. And indeed, as you point out, this has implications for anonymity, which is always-already entwined within juridical regimes of proprietarization. How to reclaim privacy in ways that shift acts of piracy beyond violating the rule of law in the pursuit of anonymity becomes a key political task of the present. As we note in our text (Rossiter and Zehle 2014a), it requires a collective work of invention to reroute – or as we put in that writing, to delink – our communicative relations from the capture of value by the infrastructural systems of lifestream logistics. Privacy, then, becomes one condition of possibility for anonymity. This came to the attention of many following the Snowden revelations about the NSA PRISM program. With the core of privacy under attack for individuals, governments and corporations, it dawned on many for the first time that piracy-as-anonymity is no longer exclusive to the bedroom follies of computer

geeks, but rather an ontological layer of techno-sociality that now occupies a central space within the pantheon of online rights. Unsurprisingly, this led to a blossoming in the tech industry with any number of encryption software and VPN products hitting the market.

Lastly, you describe contemporary networks as sites where acts of communication are by definition acts of surveillance (Rossiter and Zehle 2014a). It is here that a desire for anonymity (as it intersects with an unaffected desire to communicate, but without being systematically monitored) becomes a stake in a political struggle. But by showing that surveillance has indeed become the main instrument for securing state and corporate governance and is intrinsic to the technico-legal standards and protocols enabling communication through which given power ratios are distributed and reproduced, does this preclude the emergence of a space in which such a desire for anonymity can be articulated?

Anonymity is worth pursuing if the price we pay for identity continues to rise. Part of the politics of anonymity is the on-going race between those who leave tracks and those who read them. Can we think of infrastructures that allow us to move anonymously? That's where ghosts enter the stage, as they have in the theory of excommunication.

Another strategy is to lower the cost of identity. If identity constitutes an economy, and if we believe that something like the common helps articulate alternatives, this includes a commoning of identity. Anonymity is an element of that, but attribution and recognition play a major role in commons-based peer production and other forms of sharing.

We would also point to the ways in which low-latency networks (including high frequency trading systems and the associated 'dark pools' of anonymized financial automation) give rise to a different kind of anonymity, namely one that is subject to the architectures and economies of financialization. At this point, we begin to arrive at some of our core interests: the relation between labour and extraction machines, the centrality of black box design strategies for infrastructures whose operative logics

are not easily folded back into the analytical and political horizons of representation, the general relation between anonymity and algorithmic architectures, the simultaneity of the structuring and capture of sociality and modes of relation. As 'enemy of all', piracy offers a powerful figure to a thinking that engages these practices and operations as logics of existentialization, as Félix Guattari put it, rather than from within the limited frame of public/private distinctions.

Perhaps most importantly, piracy continues to imply a non-sovereign imaginary that cuts across most of our conceptual concerns. We have long tried to somehow bring the local and the global into relation, and what we have gotten is a global civil society that mirrors the idea of an international community, both rooted firmly in the logic of sovereignty. Piracy is also a way to think about the political – parametric – registers of terrorist activity: Twitter welcomes free speech, but deletes links to the Foley killing by ISIS members, for instance. Social media editing is not necessarily censorship but the exercise of an editorial ethos, of course, so this is not really a debate about journalism ethics. It's a debate about how much influence the figure of the 'enemy of all' has in shaping the logistical infrastructures that sustain the way we create and relate: no figure of (our) humanity without a satanic figure that hails from beyond its sovereign boundaries. And as long as we speak about the human, the enemy of all will be with us.

Biographies

Ned Rossiter is Professor of Communication at the Institute for Culture and Society, University of Western Sydney and teaches at the School of Humanities and Communication Arts. His forthcoming book is titled *Software, Infrastructure, Labor: A Media Theory of Logistical Nightmares*. Currently he is coordinating the tricontinental research project *Logistical Worlds: Infrastructure, Software, Labour* (http://logisticalworlds.org) with Brett Neilson.

Soenke Zehle is lecturer in Media Theory at the Academy of Fine Arts Saar, Germany, and co-founder and managing director of the academy's xm:lab – Experimental Media Lab. His recent research has focused on the relationship between algorithmic cultures and the status of aesthetic experience, with a particular focus on documentarisms as well as depletion design strategies.

Daniël de Zeeuw is an editor of *Krisis* and a PhD candidate at ASCA (University of Amsterdam) researching the political aesthetics of anonymity in popular culture, art and activism.

References

Bogost, I. (2011) *How to Do Things with Videogames*. Minneapolis: University of Minnesota Press.

Heller-Roazen, D. (2009) *The Enemy of All: Piracy and the Law of Nations*. New York: Zone Books.

Graeber, D. (2008) 'The Sadness of Post-Workerism, or, "Art and Immaterial Labour" Conference – A Sort of Review.' Tate Britain, London, 19 January 2008, http://www.tenstakonsthall.se/uploads/38-graeber-sadness.pdf

Zehle, S. (2015) 'Documenting Depletion: Of Algorithmic Machines, Experience Streams, and Plastic People.' In R. Maxwell, J. Raundalen, and N. Lager Vesterberg (eds.) *Media and the Ecological Crisis*. London: Routledge, 52-68.

Rossiter, N. and S. Zehle (2014a) 'An Epilogue – Privacy is Theft: On Anonymous Experiences, Infrastructural Politics and Accidental Encounters.' In M. Fredriksson and J. Arvanitakis (eds.) Piracy: Leakages from Modernity. Sacramento: Litwin Books, 343-353.

Rossiter, N. and S. Zehle (2014b) 'Toward a Politics of Anonymity: Algorithmic Actors in the Constitution of Collective Agency and the Implications for Global Economic Justice Movements.' In M. Parker et al. (eds.) *The Routledge Companion to Alternative Organization*. New York: Routledge, 151-162.

Rossiter, N. and S. Zehle (2015) 'Mediations of Labor: Algorithmic Architectures, Logistical Media and the Rise of Black Box Politics.' In Rick Maxwell (ed.) *The Routledge Companion to Labor and Media*. New York: Routledge.

LIESBETH SCHOONHEIM

PIRATES, INDUSTRY, AND THE STATE:
PERSPECTIVES ON THE CONSTRUCTION OF A SPOIL-SPORT IN
AN AGE OF COPY RIGHT

Review of: Martin Frederiksson and James Arvanitakis (eds.) (2014) *Piracy: Leakages from Modernity*. Sacramento, Litwin Books, 370 pp.

From Jack Sparrow to Somali hijackers, from torrents to fake Gucci bags, pirates and their loot are prominently present in contemporary culture. The eighteen essays collected in *Piracy: Leakages from Modernity* attempt to analyze a variety of piracy practices, and relate them to broader social transformations. As the authors have diverse vocational backgrounds, ranging from economy and sociology to political theory and law, the collection shows a wide variety in methodological approaches. Altogether, they provide a rich overview of different piratic practices as well as a balanced description of their political potential.

Despite the diversity in these essays, many of them seem to share certain fundamental assumptions. This applies, first of all, to the modernity referred to in the title. Out of the various essays, a picture emerges of a late-capitalist, neo-liberal society, in which an important role is played by the circulation of information and the commodification of culture. As Lucas Logan concludes in his essay on intellectual property rights (IPR), 'communication technologies are the fuel for the 21st century global economy and are regulated by capitalist market forces and states that further entrench established power relations' (141). The main target of many essays consists of the 'capitalist market forces' that are mostly identified as US-based media and entertainment industries. Various essays sketch these industries as old, slow, centralized organizations that are out of touch with the reality of digital file-sharing. Rather than seizing upon the possibilities of this new reality, so it seems, they are 'protecting their pre-digital distribution infrastructure' as well as their '[long established] profit-making pattern' (201). As aptly pointed out by You Jie, the so-called defense by the entertainment industries against the threat of file-sharing is exactly what motivates their use of the term piracy, as well as their recourse to legal force. As Sean John Andrews argues, 'US lobbyists for the content industries have been (…) demanding legislative efforts to protect their dying business model' (98). Arguably the lobbyists have so far been quite successful, as state agencies appear to willingly assist in enforcing the property rights of the entertainment industries. Telling in this regard is the influence that the US has exercised upon Spain in order to have its IPR regulation reformed and upheld, as revealed by Wikileaks documents and discussed by Logan (137). Although much attention is paid to the US, the EU did not remain free from a similar intertwinement of market interests and legislative reform. As a result 'powerful states are able to assert authority over, and force legal, regulatory and economic regimes, on weaker states' (140). The corollary is that the discourse on piracy falls apart in, on the one hand, a strongly legalistic language, varnishing over the power-relations by using terminology of 'compliance' and 'harmonizing' regulative frameworks; on the other hand, the protection of IPR is phrased in moralistic terms, such that file-sharing is branded as theft and robbery.

Efforts to globalize IPR date back to the nineteenth century (79), but as Logan paraphrases Peter Andreas and Ethan Nadelmann, the process of global IPR protection speeded up in the post-World War II period (144). However, this process clashes particularly fiercely with the rise of the Internet, and its initial conception as a free and open web. This clash seems to be well-illustrated by the public outrage at the US Stop Online Piracy Act (SOPA) and the Protect Intellectual Property Act (PIPA) in 2011, as well as at the international Anti-Counterfeiting Trade Agreement (ACTA, 2012). Interestingly, James Meese observes that protests largely attacked the reforms because their enforcement entailed a threat to free speech, not because they implied a further privatization of intellectual

property (23-24). The essay by Andrews does allow for a critique of privatization, as he draws the familiar analogy between the closing of the commons in eighteenth-century England and the closure of the web as a space to freely share and distribute knowledge. In both cases, the 'social bandits' who violate the new privatized order belong to the margins of society: then, the peasants whose decrease in resources forced them to seek employment in the newly developing industries, now, locals in the Global South who cannot afford, or have no legitimate access to, text books, TV shows or music.

The essay by Sonja Schillings covers a wider historical period, and also succeeds in laying bare the century-old distinction between white pirates and 'black' Muslim ones. The non-white pirate, she argues, is 'associated with collective and inherently hostile Otherness that seeks to overcome the West' (77). The white pirate, however, was conceived as pursuing his material self-interest by joining the Muslim pirates and relinquishing his Christian, European identity. As a result, he was held individually responsible, whereas the non-white pirate constituted an anonymous threat that had to be eradicated. Out of the highly individualistic white pirate evolved eventually, Schilling contends, the image of the pirate as a social rebel. The dichotomy between non-white piracy and white piracy echoes in a number of essays, and especially so in those few that refrain from defining contemporary piracy primordially as a digital practice. The article by Hatzapoulis and Kambouri describes street vending of counterfeit goods by migrants on the squares of Athens, including the square that the Occupy movement took possession of. Although Occupy activists explicitly rejected the racist violence faced by the migrant vendors, they did ask the vendors to leave the square as the commercial activity of selling goods conflicts with the activists' intention to collectivize public space. Engaging in a commercial activity, the vendors were not considered as political actors (278ff). The essay by Robison, Drodzweski and Kiddell on 'biopiracy' in a way reverts the dichotomy between the white, rebellious pirate and the anonymous non-white pirate. They describe the – partly successful – fight against the patenting by companies of plants, animals, and processes that were historically cultivated by marginalized indigenous communities. Interestingly, these communities and their support groups deploy the discourse of 'biopiracy' and 'anti-piracy' as a rhetorical tool to affirm their collective right vis-à-vis the property right of (for instance pharmaceutical and agricultural) companies. Hence, the companies using IPR are framed as the pirates, rather than the communities who deem their knowledge a common asset.

The above essays are insightful as to the variety of piracy. However, the cover of the book indicates the central core of this collection: with a recurrent pattern of the copyright-logo, occasionally interrupted by a skull-and-crossbones sign, the focus is on the digital sharing of copyrighted content. Out of the very different essays and approaches, a many-sided picture emerges of who this 'pirate' is. Three types, already sketched by Meese in the first essay, and partly also by Virginia Crisp in the second chapter, recur throughout the book. The first type is the pirate who we know from the anti-piracy discourse of the entertainment industry: the one who makes money out of file-sharing, and is thus considered 'parasitic' on the creative work of individual artists. Meese cites Kim 'Dotcom' Schmitz of Megaupload as a prime example: Megaupload, at some point 'one of the world's largest file-sharing sites' (25), was extremely profitable, until the moment the servers were taken down and Schmitz faced trial. Pictures of Kim's tokens of excessive wealth — his fleet of cars, his villa - played a major role in the subsequent slur campaign. Interestingly, a number of essays show that file-sharers justify their practices by distancing themselves from those 'pirates' who are in it for the money. As a result, they resemble the rhetoric of the entertainment industries — of which they are the main target. As Crisp puts it: '[file-sharers] have adopted parts of the anti-piracy rhetoric to pour scorn on those that they perceive to be the real pirates: that is, both those who engage in the unauthorized circulation of physical goods for economic reward as well as some of the major owners of copyright' (50).

The second type is the pirate as constructed by advocacy groups and political organizations such as the 'Pirate Party': the pirate as a social rebel. This pirate is conceived as 'a "subversive radical" engaged in a power struggle with the cultural industries' (43). As shown by Jonas Andersson and Stefan Larsson in their extensive study of users of The Pirate Bay and their motivation, this conception is especially prevalent among active uploaders. 'Seeding' and uploading torrents are thus highly politicized by the

file-sharers themselves. As file-sharing is part of the fight for a free, not-for-profit culture, the pirate deliberately challenges the establishment, and especially the legitimacy of IPR.

The third type shows the pirate as the banal consumer of media products. As Meese argues, piracy is an everyday practice of the 'mainstream digital citizen, more interested in questions of infrastructure and access than opposition and exclusion' (30). As this ordinary pirate is mostly interested in obtaining media fast and cheap, (s)he can act quite like a nagging, impatient customer. This is well-illustrated by Vanessa Mendes Moreira De Sa's essay on 'fan subtitling' in Brazil: groups of dedicated fans spending their free time on providing subtitles to foreign TV shows. Despite the quality and the speed with which they deliver their free service to a huge audience, some fan-subtitlers admit that 'they often felt that impatient viewers did not value their efforts' (297-298). Piracy, rather than deliberately ideologically opposing the entertainment industries, might be the result of decades of immersion in commodified culture. This does not mean that there is no political potential in ordinary piracy, but Francesca Da Rimini and Jonathan Marshall convincingly argue that '[i]f this is a type of radicalism, it is one whose radicalism is unintentional, emerging out of the same forces that try to shut it down' (341).
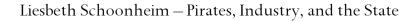
Despite the breadth of the essays, one perspective is only marginally present: that of the artists whose work is pirated. Only the essay of Balázs Bodó and of da Rimini and Marshall consider their interests, albeit in an indirect way. It should be granted that these artists make up a very heterogeneous group, ranging from well-established bands that are independent from the big recording companies, down to those who use social media to create, and reach out to, their fan base. Arguably, the claim that piracy is a form of stealing from artists is overblown by the entertainment industries. Nevertheless, if there is a copyright war going on between the big entertainment industries and those fighting for free culture, the artists are likely to end up in the buffer zone.

In general, this collection gives a plausible and rich account of the different forces at work in the construction of the contemporary pirate. Because the book does such a good job in showing the intricacies of this con-struction, the structure of the book might be a little puzzling. The editors separate the book into three sections that address the 'ontology', the 'politics', and the 'practices' of piracy. However, their motivation for the tripartite structure does not sufficiently distinguish between the '*ontological* basis', 'the *politics* of piracy from a macro perspective, analyzing how piracy relates to structures of power and processes of transformation', and 'piratical *practices* (...) [that] carry different meanings and have shifting implications in various contexts' (5-6). Exemplifying this is the category of ontology, which the editors, quite convincingly, define in terms of power relations and practices. Once we agree with the editors that 'piracy is neither homogeneous, not essential' but rather 'a label that certain actors slap on others for specific reasons' (5), the concept of piracy seems to be a social construct that emerges within power relations and social practices. Hence, it is hard to see how one can distinguish between 'ontology', 'politics' and 'practices': indeed, many of the essays show how these are intimately interwoven with one another.

Based on their arguments against copyright as a means of privatizing common goods, a great number of the authors seem to be committed to open access. It is therefore surprising that many of them do not offer (easy) access to their papers, as this would have prevented the privatization of their – mostly publicly-funded – research. Overall, the quality of the essays differ sharply, with an occasional essay that could have benefited from additional language editing. Other chapters, however, such as the ones by Lie, Bodó, da Rimini and Marshall, argue lucidly and convincingly against the simplistic dichotomy of pirates and industry, and do a great job in exposing the ambiguities inherent to contemporary practices of piracy without downplaying their political potential.

Liesbeth Schoonheim is a PhD-student at RIPPLE, the research group in political philosophy at the University of Leuven (Belgium). Her research focuses on political subjectivity in the work of Hannah Arendt and Claude Lefort, and is funded by (FWO) – Research Foundation Flanders.

Krisis

Journal for contemporary philosophy

MAXIGAS

'IN A SOCIETY THAT HAS ABOLISHED EVERY
KIND OF ADVENTURE, THE ONLY ADVENTURE
IS TO ABOLISH THE SOCIETY'[1]

Review of: Gabriella Coleman (2014) *Hacker, Hoaxer, Whistleblower, Spy: The Many Faces of Anonymous*. New York and London: Verso, 464 pp.

From the Canadian secret services to social scientists to the participants themselves, everybody knows that if you want to understand Anonymous, you have to turn to Gabriella Coleman. Widely hailed as an exceptionally thorough *ethnography*, her new book *Hacker, Hoaxer, Whistleblower, Spy: The Many Faces of Anonymous* appeals to something hackers hold dear, and academics not enough. The former call it correctness, the latter rigour. 'Accurately portrayed', as Anonymous activist Commander X puts it (2014).

The explicit goals of the book are found in the concluding chapter – to dispel myths about Anonymous, and to submit to its enchantment in the form of a popular yet analytical treatise – it is an important milestone in *hacker studies* and therefore I concentrate on its usefulness as a work of social science. Hacker studies as an emergingfield suffers from the beginning of what I call a 'social movement syndrome': the trying, often desperately, to understand, or if necessary misunderstand, hackers as a social movement – or failing that, at least as a socially relevant movement. On the one hand, this is understandable since *social movement studies* pro-

vides a stable framework for studying the rise and fall of disruptive groups; on the other hand, such a perspective results in a tension between academia and the hacker scene because most hackers are not interested in being a social movement. Finding their techno-activist allies in the scene, scholars correctly identify an ongoing tension between activists and engineers amongst hackers themselves.

While Levy's 1984 summary of 'hacker ethics' made profound impact on both the scene and the scholarship by thematising a tension, it has not solved these problems in the long run. The 'play struggle' concept put forward in Söderberg's *Hacking Capitalism* has probably been the most successful and lucid attempt to unify the political contradictions of hackerdom. The concept theorized hackers as disgruntled workers yearning for the joys of unalienated labour which capitalism is unable to provide (2008). In *Hacker, Hoaxer…* the transition from computer- and media savvy users looking for adventure to accidental revolutionaries is explained through the 'trickster thesis'.

Coleman builds on Lewis Hyde's work in cultural criticism, which goes back to Bakhtin's literary criticism of Rabelais, arguing that 'It is not difficult to imagine the troll and Anonymous as contemporary trickster figures. They are provocateurs and saboteurs who dismantle convention while occupying a liminal zone.' (34) Where others reference the hacker ethics as a centerpiece of hacker culture, she builds her analysis on the idea of 'lulz': laughing at someone else's expense. The argument is compelling for resolving the above outlined paradox because it can explain how fun loving hooligan hackers can turn into electrified revolutionary militants.

After playing out the trickster thesis about free software developers in her previous book (*Coding Freedom*), written 'back to back' (407) with this one, she found in Anonymous the empirical material with which to demonstrate the operation of tricksterism on a more concrete hence more persuasive level (2012). If conceptually the previous title spells out hacking as an elegant solution that is essentially a joke, here the subversive tendency of tricksterism is developed a step further as 'LOLs' (laughter) become 'lulz'. The subversive potential of the 'practical joke' at the

heart of hacking was convincing in the previous book, but it rested on a more subtle, more fragile analysis of hacker sociality: with Anonymous explicitly thematising the lulz in their own discourse, arguing for it to have a central piece in the theoretical understanding of the hacker phenomena makes a more solid argument.

Speaking of external rather than internal causes, the role of repression by the state and capital in the politicisation of the hacker scene is central in both stories as a device which moves the plot further. The key insight here is that institutionalisation and politicisation are processes mainly driven by external pressures, so that it is not possible to theorise the hacker scene without theorising its interactions with wider social structures. This is an important observation which builds on her earlier work with Alex Golub (Coleman and Golub: 2008), but has taken on more substance since then, accumulated into the telling term *nerd scare*.

In the final analysis, tricksterism offers a way to theorise subversion as an anthropological universal that is an indispensable part of human sociality even if it is in perpetual conflict with the established order, rather than something which emerges spontaneously from outside capitalism (which would be ridiculous).

Commander X notes that the book is 'both epic and encyclopedic' (2014). A triptych of four chapters each depict the rise, heyday and fall of Anonymous and its satellites, spanning a total of 464 pages. As Coleman was researching Anonymous before it was cool, the narrative is spread evenly and gravitates with the creeping force of destiny towards its tragic end. Her decision to present the trajectory of Anonymous through drawing parallels with the rise and fall of US radicalism is a claim, a hypothesis and evaluation in itself. Therefore, my recapitulation follows that lead.

Such radicalism – just like hacking – emerged in conjunction with the *cultural shock* of the early 1960s which brought youth cultures into circulation (Wallerstein: 2004); while in the book the 'shock culture' of trolling solidified in the first decade of the 21st century from the explorations of free speech on the Internet. The Walpurgis night of taboo breaking counter-culture turned into the daybreak of political resistance as the new

formation came into contact with mainstream society – hippies turned yippies then, trolls turned hacktivists now.

Activists of Students for a Democratic Society worked in tandem with militants of the Black Panther Party, joined by Vietnam veterans and young folk singers like Bob Dylan. Coleman vehemently denies the 'creepy basement dweller' stereotype of hackers, bringing together Irish kids with a Puerto Rican gangster, an Iraqi veteran with an alterglobalisationist black block protester, amongst a host of minor characters who could all work together behind the mask. These motley crews organised direct action against the state and capital in public assemblies as well as affinity groups. The boiling points are remembered as the *Days of Rage* in 1969 and Operation *Payback is a Bitch* in 2010. As Anons like to say: 'And Now You Have Got Our Attention'.

The Vietnam war of the sixties features as the Arab Revolutions of the 2010s where Anon's fight from afar with 'any memes necessary' (Taylor 2015). Here, the author does a good job of presenting the alternating dynamics between conspiracy in affinity groups and mass organisation on open channels, demonstrating her thesis that Anonymous is not simply a 'hive mind' of mass collaboration nor just a shadowy hacker group, but a labyrinthine territory of resistance. In the last period, plurality gives way to underground cabals caught in a spiral of armed struggle: the splinter groups of Anonymous – Lulzsec and Antisec – go on a 'hacking spree' against major state and capital actors like the FBI or Sony, as well as military contractors like Stratfor.

The exploits and desperation of Weather Underground[2] style, clandestine guerilla warfare resonates here well. State repression arrives through paranoia and infiltration modelled on COINTELPRO[3] tactics. One of the central characters in both Anonymous and its splinter groups –called Sabu – is flipped, continuing to participate as a spy and a provocateur, while the agencies slowly track down and encircle the other participants. All receive grotesquely disproportionate sentences especially on US soil, but the worst – a decade long sentence including periods of solitary confinements – is reserved for Jeremy Hammond, a long time anarchist hacker who was 'hands down the most insurgent of the bunch' – a telling tale for any mil-

itants, in electronic disturbance or not. What could have amended the value of the book as part of the historical record is a timeline of operations, hacks and arrests that served as a scaffold for the narrative and a reference for historians of hacking.

In summary, the moral of Anonymous' parallel with New Left resistance in the 1960s and 1970s is that the strategy and tactics of crashing opposition groups did not change. They did not have to change, since illegal infiltration and provocation is still the most effective method. Thus Coleman manages to situate Anonymous in the most illustrious line of political resistance in the United States, showing that electronic disturbance or not, their antics should be counted as activism.

Methodologically speaking, there is much to address in terms of hacker studies in particular and anthropology in general. The innovation of *Hacker, Hoaxer, Whistleblower, Spy* is to use IRC[4] logs as its primary source material. The anthropologist can meet hackers on their own ground: the telegraph of the Internet. This enables her to capture an essential site and aspect of hacker sociality that have been seriously under discussed in the literature so far. As a community-managed social media or federated social network operating continuously since 1988, or an Internet protocol for real time conversations, IRC has survived generations of chat technologies and social media platforms, emerging in the new millennium as the primary field of social interactions for new generations of geeks like hackerspace participants, and of course Anonymous themselves (maxigas 2014). Coleman manages to utilise this medium thoughtfully for her ethnographic work, with the advantage that chat logs provide automatic transcripts of interactions. Since the channel is a plain text medium, there are no other aspects of the communication (like tone of voice) that are lost in the ethnographic record. This research practice can be recognised as a contribution to the widening toolbox of *digital ethnography*. Digital methods are not fetishised either, since traditional methods and 'Away From the Keyboard' meetings also provide important insights and complement online interactions.

However, Coleman does not spell out the way in which making use of IRC as a communication channel is itself a political choice made by hack-

ers and hoaxers which structures social interactions and subjectivation processes. For instance, the use of topical channels and pseudonymous identities that are the staple of IRC technology and its usage probably encourages the emergence of a common voice. Their choice of media arguably helps Anons develop the impersonal, peer produced politics that made them famous, as well as opening the possibility for the conspirative group dynamics that the author describes as complementary.[5] Even though the paranoia instilled by text-only interactions comes across clearly in the book, in general a digital ethnography should be more explicitly reflexive about media use. This in turn leads to a wider discussion problematising the very definition of ethnography.

Theoretically, there is much debate about what ethnography – the method that defines the identity of anthropology as a discipline – should be and we seem to differ on the topic with the author. Ethnography is more than gaining rapport and spending time hanging out with the natives – although that is an essential part and Coleman spends much time recounting the process. It is also about generating data from observations and relating emic knowledge (the subjects' own understanding of themselves) to etic knowledge (social scientific conceptualisations). The idea of anthropology, as it applies ethnography, is that an inside view of a particular culture can expand our theoretical understanding of societies and these previous two can tell us more about what it means to be human. Notwithstanding its contributions recounted above, the book is noticeably lacking in this area. The analysis rests on a wide range of scholarship from a number of disciplines, yet few of these ideas are developed further based on the empirical material. Coleman does a good job at picking relevant concepts and observations which apply to the phenomena – like Nietzsche's Dionysian critique of modernity or the !Kung people's shaming of the meat to check on authority, or even Hyde's trickster figure – but does little to *contribute upstream* to these theories. For instance it would have been interesting to spell out in detail how the role – and the powers – of tricksters change in the midst of electronic networks, growing mediatisation and the cognitive capitalism going rampant in the new millennium. Altogether, the book suffers somewhat from a lack of a cumulative effect and a consistent theoretical argument, which is perhaps fair since it says 'story' on the tin.[6]

The story of Anonymous could be told in as many ways, as any other story; and in many ways my own review is probably as unfaithful to the book as the book is to the movement. Yet, Coleman's account has a beginning, a middle and an end with a moral, and that is what counts: it makes for a good story. Another angle will be told by my friend Pedro Jacobetty on the peer production of politics, on the foot soldiers of mayhem, how they used the media and how it used them: another tale of solidarity, deception and betrayal. As Coleman's work shows brilliantly, an anthropologist works with her whole personality; it was the only story she could tell. *Hacker, Hoaxer, Whistleblower, Spy* will be remembered as a contribution to the social history of the trickster, militant activism and hacker studies, a gritty chronicle of the search for adventure in a 21st century dystopia.

maxigas is a PhD candidate at the Open University of Catalonia, Internet Interdisciplinary Institute and researcher at the Metatron Research Unit. He co-edited issue 5 of *The Journal of Peer Production* on the topic of 'Shared Machine Shops'. He is the author of several articles on hacklabs and hackerspaces. He can be reached at maxigas@anargeek.net and uses the OpenPGP key FA00812913E92617C614 0901787963BC287ED166. More information at http://research.metatron.ai/

References

Coleman, G. (2012) *Coding Freedom: The Ethics and Aesthetics of Hacking*. Princeton, NJ: Princeton University Press.

Coleman, G., and Golub, A. (2008) 'Hacker Practice: Moral Genres and the Cultural Articulation of Liberalism.' In: *Anthropological Theory* 8 (3) (September): 255–277.

Commander X. (2014) 'What It's Like to Be Studied by an Anthropologist: A Review of 'Hacker, Hoaxer, Whistleblower, Spy' by Gabriella Coleman.' Blog post. http://anonymousglobal.net/commanderx/blog/?p=13.

maxigas (2014) 'History of Real Time Chat Protocols.' In: *Relay#70 Panel F* (February).http://relay70.metatron.ai/history-of-real-time-chat-protocols.html.

Söderberg, J. (2008) *Hacking Capitalism: The Free and Open Source Software Movement*. London: Routledge.

Taylor, A. (2015) 'By Any Memes Necessary.' Book review at Bookforum. http://www.bookforum.com/inprint/021_04/13908.

Wallerstein, I. (2004) *World-Systems Analysis: An Introduction*. Durham; London: Duke University Press.

---

[1]Anonymous, May 1968 (France).

[2]The Weather Underground Organisation, founded in 1969, aimed to build a clandestine revolutionary party for the overthrow the US government.

[3]COINTELPRO (Counter Intelligence Program) was a series of operations by the FBI disrupting opposition groups, oftentimes including illegal tactics like infiltration, provocations, smear campaigns and bad-jacketing.

[4]Internet Relay Chat.

[5]For example, IRC allows hidden and invite-only channels to be created, etc.

[6]The bootleg version released online by ScreamQueen features an earlier subtitle on the cover: The Story of Anonymous.

Krisis

JONATHAN GRAY

ON CRITICAL THEORIES AND DIGITAL MEDIA

Review of: David M. Berry (2014) *Critical Theory and the Digital*. London: Bloomsbury, 272 pp. and Christian Fuchs (2014) *Social Media: A Critical Introduction*. London: Sage, 304 pp.

What might critical theory contribute to the study of digital media? And how might the study of digital media help to advance, complicate or challenge concepts, theories and agendas associated with critical theory, broadly conceived? These questions are central to two recent books by David Berry and Christian Fuchs, who both draw on the theoretical legacy of Frankfurt's Institute for Social Research to analyse the social, economic, cultural, and political implications of new kinds of information technologies.

The two books are set against the background of the accelerating and deepening entanglement of digital technologies and their accompanying concepts and practises with nearly all areas of human life, exemplified by phenomena such as 'flash crashes' caused by self-learning algorithms that

trade with each other automatically; weaponised computer viruses capable of destroying military equipment; brain interfaces and 'secondary memory' devices; ubiquitous state and corporate surveillance; networked social and political movements; hyper-temporary digital jobs; gargantuan real-time data streams; drone assassinations; attention markets; 3D printed guns; darknets and megaleaks. Berry and Fuchs both argue for the continuing relevance of thinkers associated with the Frankfurt School (as well as their philosophical progenitors and progeny), whom have hitherto occupied a comparatively marginal position in new media studies, in understanding these developments.

Fuchs's *Social Media: A Critical Introduction* is a rich, readable and generously referenced primer to the controversies, promises and threats of many of the world's most prominent social media platforms, digital services and projects. His theoretical approach is informed by a mixture of readings of Marx, the Frankfurt School (including second generation thinkers such as Habermas as well as Horkheimer, Adorno and Marcuse) and the critical political economy tradition in media studies. Many of the chapters offer something like an immanent critique of the social media platforms under examination – unpicking and interrogating the promises and claims made about their transformative social and democratic potential with reference to critiques from popular and academic literature, as well as original empirical research conducted by Fuchs.

In this manner Fuchs critically examines the role of Twitter and Facebook in social movements such as Occupy Wall Street and the 2011 Egyptian revolution; the 'corporate colonisation' of social media which are often praised for their participatory and democratic character; the unpaid digital labour and inhumane labour conditions at hardware factories that underpin the profits of digital media companies; the ideology of 'playbour' (play labour) and working conditions at Google; Facebook founder Mark Zuckerberg's claim that 'the world will be better if you share more' in light of the company's business model as 'a huge advertising, capital accumulation, and user-exploitation machine' (171); the political mythologies of Twitter as a manufactured and pseudo-public sphere; the politics of WikiLeaks and their stated support for what Fuchs contends is a neoliberal conception of 'good governance'; and Wikipedia's reflection of capitalist

class relations and the 'infinite exploitation' enabled by its licensing model, in spite of its potential as an emancipatory digital commons project.

Throughout the book, Fuchs argues against technological determinist views that social media are inherently good or bad, progressive or regressive, illustrating the multivalent and contested nature of the platforms under examination with examples and readings in each chapter. The main problem with social media, he suggests, is that they are 'incompletely social', in that they 'anticipate a full socialization of human existence' but are also 'limited by capitalist reality' (256). In the conclusion of the book, he contends that 'an alternative Internet is possible', a 'commons-based' and 'classless' Internet, 'that is not based on capital accumulation, advertising, profit, ideology and a stratified attention economy, but rather enables knowledge, communication and collaboration for their own sake as social activities between humans' (257).
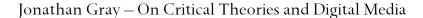
At the centre of this vision for an alternative Internet are a 'co-operative information society' (264), and 'participatory democracy', which he equates with communism (239). He proposes a programme of measures to create the conditions for such an alternative internet, including stronger data protection legislation, opt-in online advertising, corporate watchdog projects and the establishment of alternative internet platforms. Finally, Fuchs says that in addition to what Slavoj Žižek describes as the 'ever stronger socialization of cyberspace', an 'alternative societal context of internet use' is needed (259). This new 'collaborative society' requires both participatory democracy and 'collective ownership and control of the means of production' (265).

While Fuchs's book is intended as an introductory textbook, the brief account of critical theory that it gives at the outset is notably broad and presents a remarkably unified agenda. It foregrounds the commonalities rather than the tensions both between different thinkers and generations of the Frankfurt School, as well as between the Frankfurt School and other thinkers who are broadly characterised as critical theorists (from figures associated with the critical political economy of media to Michel Foucault, Stuart Hall, Jodi Dean and Evgeny Morozov). While some of these tensions are acknowledged in the text, as well as in the questions and exercis-

es at the end of several of the chapters, the heterogeneity of critical arguments could have been more explicitly used to enrich discussion of the implications of social media, as well to give readers a more nuanced view of the work of different thinkers whose work is used.

Fuchs's treatment sometimes makes it seem as though adherents of critical theory of all stripes were in possession of a shared and coherent overarching political programme. However, the politics of the Frankfurt School alone (let alone the other 'critical' figures alluded to in the book) were notoriously diverse – ranging, as one recent article argues, from the 'engaged withdrawal' of Adorno and Horkheimer, to the 'Great Refusal' of Marcuse, to the procedural democracy of Jürgen Habermas, to Axel Honneth's politics of recognition (Chambers 2004). A more granular exposition of these views could have benefited the book from both a scholarly and pedagogical perspective, as well as informing reflection about the different kinds of political responses to social media that have become more pervasive in the wake of concerns about privacy and the commodification of personal information – not to mention informing further critical engagement with the potential weaknesses and limitations of some of the critical thinkers alluded to in the book.

Little is said about the early Frankfurt School's rejection of the 'vulgar Marxist' conception of the reducibility of an epiphenomenal superstructure to an economic base – nor why purely economic analysis is not sufficient for the provision of a critical theory of society according to these thinkers (see e.g. Geuss 2004). Further discussion along these lines could have been complementary to the book's significant emphasis on the political economics of social media (including profit models and ownership structures), as well as opening up space to further explore how social media, digital technologies and the practises and discourses around them contribute to the reshaping of politics, culture and society in non-economic terms, and why this matters. On this score, there is a burgeoning wealth of literature on social media from a wide variety of different fields that could have been alluded to more extensively and more sympathetically, to discuss how the affordances and imaginaries of new media are guiding and reconfiguring ideals and behaviours in many different areas of life (such as – to give a few recent examples – Weller, Bruns, Bur-

gess, Mahrt, Puschmann 2013; Rogers 2013; Gillespie 2010).

To mention one more point: at the outset of the book Fuchs defines the 'critical' in critical theory largely in terms of the critique of power, inequality, ideology and political economy. Yet there are at least two other important senses of the term deriving from the post-Kantian philosophical tradition upon which the Frankfurt School draws, which are not explicitly highlighted in the introduction and which might nevertheless prove valuable for those interested in drawing on critical theory to study digital media. Firstly, in the wake of Kant's critical philosophy, early thinkers associated with the Frankfurt School – notably Adorno and Benjamin – had an interest in the conditions which enable and structure experience, as opposed to 'pre-critical' conceptions of experience as immediately given (see, e.g. Jay 2005: 312-360). Secondly, also following Kant, the critical theory of the Frankfurt School aspired to be both self-critical and self-reflexive (see, e.g. Rush 2004: 10). These two senses of the term could be potentially relevant, for example, when thinking about how experience might be structured and mediated by digital technologies, or when thinking about the concepts, theories and ideals which are deployed in examining them.

David Berry's *Critical Theory and the Digital* is more explicitly cognisant of both the heterogeneity of the Frankfurt School of critical theory, as well as the way in which it draws on and reacts against the Kantian conception of critical philosophy. While Fuchs's book guides the reader through a series of engagements with particular platforms, services and projects, Berry's book takes a much more expansive look at how the theoretical resources of critical theory might be used to think about and critically engage with digital technologies and digital media. He is concerned not only with social media, but with how 'computational capitalism' aspires to 'remake the world in its computational image' (127) – in particular focusing on the role of software. Central to his account is the notion of 'computationality', which is 'a specific historical constellation of intelligibility' (60) that is 'defined by a certain set of computational knowledges, practices, methods and categories' (94).

From the Frankfurt School tradition Berry mainly focuses on Horkheimer, Adorno and Marcuse – commenting in a footnote that he plans to examine the relevance of studying the digital in later figures like Jürgen Habermas, Albrecht Wellmer and Axel Honneth in another book (217). In addition to these thinkers from the Frankfurt School, Berry's book is well-versed in contemporary media and new media theory, and draws extensively on arguments, concepts and insights from a wide range of social theorists, philosophers and other thinkers in fashioning his own outline of a critical theory of the digital – from Latour to Kittler, Stiegler to Gadamer. But the two figures to whom Berry owes most in the book are Adorno and Heidegger. He refashions and synthesises elements of Adorno's negative dialectics and Heidegger's phenomenological account of technology in the service of a new programme for studying the digital.

While Heidegger's phenomenology serves as the backdrop to his account of computationality, Berry follows Adorno in challenging its 'metaphysical' character and in insisting on a re-reading which is more attentive to the social and historical mediation of beings rather than the 'epochal history of Being' (91-92). He argues that Heidegger's notion of technicity – characterised by the experience of beings as 'objects that can be submitted to control' – may be useful in understanding 'modern' technologies like electricity as 'standing reserve', but is a poor fit for understanding 'postmodern real-time data stream technologies' (60). To address this gap he proposes that the concept of 'computationality' is better suited to analysing the distinctive affordances of software and data streams, and their growing role in organising, schematising and providing a grammar for being, life, labour, politics, economics, society and culture in the twenty-first century.

Berry offers the phrase 'compactant' (or computational actant) as an analytical device to assist with studying the complex computational structures and processes with which we find ourselves surrounded. The 'paradigm case of computationality', he argues, is 'code/software' (95), which, as Rob Kitchin puts it, 'codifies the world into rules, routines, algorithms, and databases, and then uses these to do work in the world to render aspects of everyday life programmable' (123). Alluding to Adorno's critique of identity thinking, Berry asks whether computationality has not come

to represent 'the incorporation of identity thinking par excellence' (196), and illustrates this with an exploration of the history and mechanics of pattern-recognition in software (128-130). Throughout the book Berry discusses a plethora of examples of what he argues is computationality in action - including in the form of web bugs and user tracking systems, self-tracking and quantified self-movements, gamification, microlabour, the architecture of mass surveillance uncovered by Snowden, the algorithms underpinning financial systems and 'cognitive capture by corporations through notions of augmented humanity and the computational intervention in pre-consciousness' (193). These kinds of 'parameterization of our being-in-the-world' (167) and delegation of norms and values into 'an invisible site of power' in the form of algorithms (189) leads Berry to ask: 'how much computation can democracy stand, and what should be the response to it?' (193).

One response to computationality about which Berry remains deeply unconvinced is the loose-knit group of thinkers associated with Speculative Realism or Object Oriented Ontology (dubbed 'SR/OOO' for most of the book). This 'first internet or born-digital philosophy' (104) also draws on Heidegger, but Berry accuses its adherents of promoting 'onticology' (114) or 'philosography' (116), an essentially descriptive enterprise which fetishises the enumeration of beings, often in the form of the 'rhetoric of lists' (110) and 'cascades and tumbling threads of polythetic classification' (117). He accuses this group of thinkers – including Graham Harman, Ian Bogost and Levi Bryant – of seeking 'liberation' from 'repetitive accounts' of human inequality and suffering, eschewing any sense of historical or social context, and celebrating the ephemerality of the objects of computational capitalism (112, 118). Berry condemns this philosophical programme as an uncritical and apolitical theoretical derivative of computational capitalism, mirroring and venerating its manifold phantasmagorias, and abandoning conscience in favour of spectacle.

Instead, Berry advocates the 'public use of critical computational reason' (214), as well as pursuing various strategies and practises to make the digital infrastructures of computation 'visible and available to critique' (209). He suggests that the exercise of such critical computational reason requires more than a purely theoretical engagement, and proposes the de-velopment of a 'critical praxis' centred around what he calls 'iteracy', or the practice of 'being able to read and write texts and computational processes' (188). He argues that 'the constellations of concepts that underlie and sustain computational capitalism need to be rigorously contested and the software that makes it possible hacked, disassembled and unbuilt' (204) – and that 'future critical theory of code and software is committed to unbuilding, disassembling and deformation of existing code/software systems, together with leaking, glitching and overloading these systems' (147). Iteracy would be included in a programme of what Berry dubs 'digital *Bildung*', or the 'totality of education in the digital university' (188). As well as disassembling, disrupting, hacking and challenging the infrastructure of computational capitalism, Berry proposes the 'democratisation of cryptography', the creation of 'protective structures' and the 'composition of alternative systems' (147, 205). While these kinds of projects 'might offer some respite', he maintains that in the longer term 'more collective responses will be needed' (205). In the future, he says, 'an active citizenry will be a computationally enlightened one' (193).

Berry's book is a significant contribution towards rethinking the study of new media in light of critical theory, and for the study of critical theory in light of new media. His fluency and dexterity in assembling, animating and enlisting such a wealth of material in constructing his case will no doubt provoke further encounters between the fields upon which he draws. I shall restrict myself to commenting on two areas around which further elucidation would be welcomed.

Firstly, in pursuance of the self-reflexivity which he commends in the Frankfurt School, it would be interesting to hear further reflection on the visions and ideals which inform his outline of a critical computational praxis – from the 'glass boxing' and 'glass blocs' that are his response to black boxes and blocs, to the emphasis on computationally savvy forms of disruption recognisable to both 'cyberlibertarian' hackers and Silicon Valley pundits (as discussed in, e.g. Barbrook & Cameron 1996; Turner 2008; Streeter 2010). While he makes an intriguing but undeveloped allusion to 'open access and transparency as ideology' (193), he doesn't otherwise expound on the politics of megaleaks or computational, organisational or political transparency and openness, which would have been useful in

light of recent critiques of their malleability and use in advancing many very different kinds of political projects (e.g. Roberts 2012; Tkacz 2015).

Secondly, while Berry explicitly states that he is largely focusing on the early Frankfurt School, it would be interesting to see how, if at all, his encounter with the critical theory tradition might assume a different form and emphasis through engagement with later thinkers. To mention just one point of interest in this regard: it would be informative to see his response to Wellmer's reservations about the critique of identity thinking and the 'homelessness of the political' in Adorno's work (Wellmer 2007).

Where do these two books leave us with respect to using critical theory to think about digital media? Has critique run out of steam, as Bruno Latour suggests (Latour 2004)? Or do our authors succeed in showing that there may be life in it yet? Even if we do not share all of their conclusions, Fuchs's and Berry's respective readings and reworkings of elements of the Frankfurt School tradition of critical theory may offer alternative and complementary frames, lenses and conceptual instruments for studying digital media to those already available in the nascent new media canon. Through their dialectical forays into the social, cultural, historical, economic and political contexts in which digital media and the mythologies around them are performed, they challenge more rigidly descriptive approaches and encourage more ambitious theoretical experimentation. They both call for a stronger normative dimension to the study of digital media, for the development of critical praxis as well as critical theory, as well as for a fundamental re-imagining and recomposition of the digital structures and systems which shape and mediate ever more aspects of earthly life.

Jonathan Gray is Doctoral Researcher in Philosophy in the Department of Politics and International Relations at Royal Holloway, University of London and Research Associate at the Digital Methods Initiative, University of Amsterdam. More about him can be found at jonathangray.org.

References

Barbrook, R. & Cameron, A. (1996) 'The Californian Ideology'. In: *Science as Culture*. Vol. 6, Issue 1: 44-72.

Berry, D. M. (2014) *Critical Theory and the Digital*. London, Bloomsbury.

Chambers, S. (2004) 'The politics of Critical Theory'. In: F. Rush (ed.) *The Cambridge Companion to Critical Theory*. Cambridge, Cambridge University Press, 219-247.

Fuchs, C. (2014) *Social Media: A Critical Introduction*. London, Sage.

Geuss, R. (2004) 'Dialectics and the revolutionary impulse'. In: F. Rush (ed.) *The Cambridge Companion to Critical Theory*. Cambridge, Cambridge University Press, 103-138.

Gillespie, T. (2010) 'The politics of "platforms"'. In: *New Media & Society*. Vol. 12, no. 3: 347-364.

Jay, M. (2005) *Songs of Experience: Modern American and European Variations on a Universal Theme*. Berkeley, CA, University of California Press.
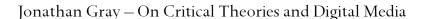
Latour, B. (2004) 'Why Has Critique Run out of Steam? From Matters of Fact to Matters of Concern'. *Critical Inquiry* 30.

Roberts, A. S. (2012) *WikiLeaks: The Illusion of Transparency*. International Review of Administrative Sciences. Vol. 78, no. 1: 116-133.

Rogers, R. (2013) *Digital Methods*. Cambridge, MA, MIT Press.

Rush, F. (2004) 'Conceptual foundations of early Critical Theory'. In: F. Rush (ed.) *The Cambridge Companion to Critical Theory*. Cambridge, Cambridge University Press, 103-138.

Streeter, T. (2010) *The Net Effect: Romanticism, Capitalism, and the Internet*. New York, NYU Press.

Tkacz, N. (2015) *Wikipedia and the Politics of Openness*. Chicago, IL: University of Chicago Press.

Turner, F. (2008) *From Counterculture to Cyberculture: Stewart Brand, the Whole Earth Network, and the Rise of Digital Utopianism*. Chicago, University of Chicago Press.

Weller, K., Bruns, A., Burgess, J., Mahrt, M. & Puschmann, C. (2013) *Twitter and Society*. New York, Peter Lang.

Wellmer, A. (2007) 'Adorno and the problems of a critical construction of the historical present'. In:*Critical Horizons* 8 (2):135-156.