Open Code and Open Societies: Values of Internet Governance

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Pierre de Fermat was a lawyer, and an amateur mathematician. He published one paper in his life — an anonymous article written as an appendix to a colleague's book. But while he published little, he thought lots about the open questions of mathematics of his time. And in 1630, in the margin of his father's copy of Diophantus' *Arithmetica,* he scribbled next to an obscure theorem ("$X^n+Y^n=Z^n$ has no non-zero integer solutions for N>2") "*I have discovered a truly remarkable proof which this margin is too small to contain.*"

It's not clear that Fermat had a proof at all. Indeed, in all his mathematical papers, there was but one formal proof. But whether a genius mathematician or not, Fermat was clearly a genius self-promoter, for it is this puzzle that has made Fermat famous. For close to 400 hundred years, the very best mathematicians in the world have tried to pen the proof that Fermat forgot.

In the early 1990s, after puzzling on and off on the problem since he was a child, Andrew Wiles believed that he had solved Fermat's last theorem. He published his results — on the Internet, as well as other places — but very soon afterwards, a glitch was discovered. The proof was flawed. So he withdrew his claim to have solved Fermat's theorem.

But he could not withdraw the proof. It was out there, in the ether of an Internet, and could not be erased. It was in the hands of many people, some of whom continued to work on the proof, even though flawed. And after extensive and engaged exchange on the net, the glitch was undone. The problem in Wiles' proof was fixed. Fermat's last theorem was solved.

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There's something of a movement going on out there — called by some the Free Software Movement (free in the sense of speech, not in the sense of beer), and by others, the open source software movement. The differences are important, but the commonalities strong. Both aim for a world where the fundamental software — the code — governing the Internet is software that is open. Code — whose source is open and available to all, to be taken, to be modified, to be improved.

The arguments for open code are many; the reasons favoring open code, different. Most argue the virtue of efficiency: that the

product of this open development, like the product of any open society — this code that has revealed its flaws by revealing its source, and that has been improved by revealing its source — will be more robust, more efficient, more reliable, than the product of any closed process. Better code is the promise, and in world where computers are as reliable as electricity in Italy, this indeed is a valuable promise.

But it is not my aim here to discuss its efficiency. It may be more efficient; it may not. My question in the few minutes that I can have your attention is something different: Can we learn something from the values of the open source or free software movement that would teach us something about Internet governance, and governance generally?

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Governance. To many, this idea of Internet governance will seem quite odd. This weird interactive television set that somehow got connected to wildly confused libraries — what could it mean to speak about governance here?

But I mean governance in a very general sense. If you want to set up a server on the World Wide Web, you must register and receive a name — a domain name — from an Internet registry, right now a company called Network Solutions. This procedure is the product of governance in the sense that I mean. When you connect to a site on the World Wide Web, your machine transmits to the site on the web an address — your Internet Protocol (IP) address — so that the machine on the web can find you in return. This protocol is the product of governance in the sense I mean. When you connect to a site with this IP address, the IP address need not necessarily identify who you are; it can be dynamic rather than static; it can be a proxy rather than real — nothing requires that the other side learn anything real about you. It need not know that you're a dog. This is the product of governance in the sense I mean.

In each of these examples, the governance at stake is in part a governance that has been brought about by a certain architecture in the Internet. It is the code's design that IP addresses are used to identify locations on the net; other designs could have been chosen. It is the code's design that only the IP address is needed to connect to a site; a different design, requiring greater security,

could have been selected. Thus in part, governance in the sense I mean is governance through code.

But obviously, governance is not just code. It was not software that chose Network Solutions as the domain name registry — it was the government, by a contract that shifted the responsibility from the late John Postel. It was not software that established the protocols for the World Wide Web. It was a group of Internet decision-makers who put a recommendation for this design into circulation, and then recognized it as adopted. These decision-makers were people; their name was not Hal 2000.

Thus governance is a mixture of the regulations of code and the regulations of bodies that regulate cyberspace. But both of these "regulators" regulate in ways that are very different from the regulations of real space governments.

We should understand this difference.

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First think a bit more about code — about the way code regulates. Lawyers don't like to think much about how code regulates. Lawyers like to think about laws regulating; code — the code of the Internet — is just a background condition against which laws regulate.

But this misses an important point. The code of cyberspace — whether the Internet, or net within the Internet — the code of cyberspace defines that space. It constitutes that space. And as with any constitution, it builds within itself a set of values, and possibilities, that govern life there. The Internet as it was in 1995 was a space that made it very hard to verify who someone was; that meant it was a space that protected privacy, and anonymity. The Internet as it is becoming is a space that will make it very easy to verify who someone is; commerce likes it that way; that means it will become a space that doesn't necessarily protect privacy and anonymity. Privacy and anonymity are values; and they are being respected, or not, because of the design of code. And the design of code is something that people are doing. Engineers make the choices about how the world will be. Engineers in this sense as governors.

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Now I've been selling this line about how the code is a kind of law, and how the authors of the code – code writers - are a kind of governor. I've been selling this line for what seems to be a very long time — months, which in Internet time is generations. And the obvious implication of this line of argument is that we need to think more about how these governors govern. For if the architecture of the Internet affects values as well as bits — if the architecture is a kind of law — then as in any law-making context, we should be asking, who are these law makers, and how do they make law.

More specifically, I've been selling the idea that we should assure that our values get architected into this code. That if this code reflects values, then we should identify the values that come from our tradition — privacy, free speech, anonymity, access — and insist that this code embrace them if it is to embrace values at all.

Or more specifically still: I've been arguing that we should look to the structure of our constitutional tradition, and extract from it the values that are constituted by it, and carry these values into the world of the Internet's governance — whether the governance is through code, or the governance is through people.

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Joe Reagle is a researcher at the World Wide Web consortium — a consortium of Internet companies that work on standards and protocols for the net. He's a young researcher; he was a fellow at the Berkman center from where I now hail; but he's been around the net for most of its life. He's a bit hard to recall sometimes — his hair tends to change colors fairly regularly — but he's the best techno-policy geek I know in this field, and he's one who has heard this argument of mine many times before.

And recently he said this to me: You lecture about the values implicit in our constitutional tradition; you argue we should carry these to cyberspace; what about the values implicit in the Internet's tradition; what about the values that are implicit in how it is governed. Why shouldn't we identify those, and carry those to real space?

And I realized he was right. Ever the imperialist, ever the lawyer, I had proceeded on the assumption that real space would have something to teach cyber. But why not the other way round.

Why wouldn't the governance of the net have something to teach real space?

I mean this lecture to be the first part of an answer to Reagle's challenge. What are the values in the Internet's governance just now; and how would they translate? And does this tradition tell us something about the relationship between this growing movement of open source software, and the future of net governance?

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First let's talk a bit more about open source. I started with the story of Wiles' proof of Fermat's Last Theorem. If you need a model to understand, if a description is obscure unless you can related it to something else, if you have been so completely bent by something called legal education that you can't conceive of an idea on its own, then let this model, or this picture of Wiles' proof stand as a template. For this is just how open source software works — with an inspiration, handed over to the public, in an imperfect but promising form, which a public then can take up on its own and continue to work out. But with a promise, that they produce with this product leave this open part open.

The history of an operating system called Linux is a perfect, and perfectly timely, example. In this story, Fermat is played by a young Finn named Linus Torvalds.

Linus Torvalds is not a lawyer; I don't know whether he is an amateur mathematician. But 1991, he was an undergraduate at the University of Helsinki, and he wrote the kernel of an operating system, and posted it on the Internet. It was a file that was 10k lines large. And it did — as "kernel" suggests — just a fraction of what we now associate with what marketers call operating systems.

People took up Linus' invitation. They took up his kernel, and began to work out its problems. They took the proof that Linus had sketched, and over time, they turned it into an operating system. And not just any operating system. Rather, they took this kernel and turned it into an OS that some have called the single greatest threat to the dominance of the dominant desktop OS developer, Microsoft. That's not my judgment; how would I know what the most significant threat to Microsoft is. That's the judgment of an internal Microsoft document, part of the

"Halloween documents," that picked Linux, and the open source software movement, as "a significant near-term revenue threat to Windows NT."

Now there is something incredible in this story — some parts not believable, some parts extraordinary. The idea that through this collective, essentially volunteer, effort, one of the most powerful operating systems on the planet could be developed is, to put it mildly, surprising. Through a process that Mike Godwin describes as Internet barn-raising, a product gets built. And not just with this OS — for as Godwin recounts, there are many contexts where something similar to this gets done — where a common problem is placed in a common space, and people from around the world turn themselves to working, in parallel, on this problem.

But as I've said, this idea — or ideal — of open source software is not limited to this OS, Linux. This might all sound wildly 60s-ish, wildly idealistic, this idea of putting in the commons one's work product, of giving away what one makes, with no guarantee of compensation. It sounds to us — we who live in the post-communist era, communistic. Marx applied to code. The first domino in theory towards tyranny.

Until, of course, one thinks again about science, about the way science works. For basic science is progress that is then given to the next. Until one learns something about how the net was built. For post-communist prejudice notwithstanding, we should remember that most of the Internet is open source in just this sense, and certainly most of the Internet that most of us have anything to do with is open source in just this sense. And most of the growth in the reach of the Internet has come from its being open source in just this sense.

Think about this for a second. There have been electronic networks since the late part of the last century. There have been computer networks for the past 30 years. But these networks were primarily proprietary. These networks were built on the ideal that code, and protocols, be kept private. And so private they were. Networks clunked along at a tiny growth rate. Costs were high. Participation, low.

But the Internet was built on a different model. It is no accident that it came from the research community of major universities. And no accident that it was pushed onto these

communities by the demands of government. Once forced, researchers began to build for the Internet a set of protocols that would govern it. These protocols were public — they were placed in a commons, and none claimed ownership over their source. Anyone was free to participate in the bodies that promoted these commons codes. And many people did. There was a barn-raising, in Godwin's terms, that built this net.

Most of the core software that runs the Internet as it is just now is barn-raising code in just this sense — from free Apache servers that are still the dominant server on the Internet, to the SENDMAIL protocol that channels most email on the Internet.

But it is the world wide web that is the best example of this. The protocols — the language — with which the web gets built is something called HTML, and HTTP. These are public standards, public programming languages, which are developed and dedicated to the public's use. So too is the language BASIC, or C++ public in this sense. But the web took this public-ness one step further. For not only is the code, or the language, public and free for anyone to learn; but so too is the specific use of the code public and free for anyone to use. If you take a program written in C++, and try to display it, it will look like gibberish. But if you are on a web page, and tell the browser to "reveal source" it will look English—the source is always visible. HTML source is public; it is in the commons; anyone can take it, and use it, as they wish. And so far at least, browsers have been written to insist that this source is open. To insist that people can take this stuff, and copy it, and modify it, and use it.

The consequence of making the code like this has been the fastest growing network in our history. Nonproprietary, public domain, dedicated to the commons, indeed some might think, attacking the very idea of property — yet generating the greatest growth our economy has seen.

For here's the most important first point — I know, late in the game to be making first points. But as an engineer at an Internet software company recently said to me — "the 'ah-ha' for Open Source Software came to me when I realized, 'wait, open source is the Internet.'"

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Which brings us back to Joe Reagle. Reagle has a description of how the net works. He has a model, or a story, or a set of descriptions from which one might mine the values that are implicit in this design. And so let's do this that I said he should do with our constitution — let's identify these values, and see what value they bring.

Reagle's first value is a kind of anarchy. That the net gets run not through some organized system of power, but through bottom up control. As net founder Dave Clark put it: "We reject: kings, presidents and voting. We believe in: rough consensus and running code."

Now to us — lawyers, quasi-well off sorts — this doesn't sound like a promising start. It sounds to us like chaos. But the techno anarchist is quick to lecture that our understanding of what quote anarchy unquote is is, well, wrong. Anarchy is not about rule-less-ness. Anarchy is about bottom up control.

Whatever. I'm not so much interested in the net's theorizing about its nature; I don't really care for what techo-geeks say. I want to look at what they do. What are the values implicit in what they do. Revealed-values, like revealed-preferences. This is the interesting feature of the net's world.

And here is where Reagle's description gets to be very interesting. For there are two values that are central to the practice of the Internet's governance —values that link to the open source movement, and values that link as well to governance in real space. Let me describe these two and then develop with them some links to stuff we know about real space.

Open Forking

The first of these values we could call the value of *Open-Forking,* and we could define open forking like this: Build a platform, or set of protocols, so that it can evolve in any number of ways; don't play god; don't hardwire any single path of development. Keep the core simple, and let the application (or end) develop the complexity.

Now open-forking flows out of the practice of Internet governance in part because the governors — in the terms of political philosophy — are liberals. They are neutral about the ends to which anyone might put the net; they may not personally be

neutral, but they have a modus vivendi that the net not tilt in one way or the other.

But to preserve this neutrality, there are principles the system must preserve. One is an ideal of network design developed at MIT, called "end-to-end." The basic intuition is that the conduit be general; complexity should be at the end of the project. But it is a second idea that I want to focus here. And that is the notion of modularity.

Code can be written in any number of ways; good code can be written in only one way. Good code is code that is modular, and that reveals its functions and parameters transparently.

Why? The virtue is not efficiency. It is not that only good code will run. Rather, transparent modularity permits code to be modified; it permits one part to be substituted for another. The code then is open; the code is modular; chunks could be removed and substituted for something else; many forks, or ways that the code could develop, are possible. No one dictates which way the code will develop — this is what the anarchy point does in Reagle's description. No rules say which way is right. Instead, evolution does that. The evolution of thousands of people trying their hand at improving a code, and thousands of people choosing which improvement makes sense.

The consequence of both these elements of what I am calling the open-forking design and that design itself is that no *one* can control how the system will evolve. No single individual gets to set the path the system will follow. It might evolve to follow a path, but it will evolve the collective choice of many. Design of the net then is the product of this bottom up practice.

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Here we can make our first link. For consider the connection between this ideal of open-forking, and an aspect of antitrust's law of tying.

Tying doctrine says that in some cases, a seller can't bundle the sale of one product with the sale of another. Instead, the seller must offer the two separately, even if it offers the two together as well. *When* the law so insists is a complicated question — only sellers with market power in the tying product get scrutinized, and only if there is a threat of market power in the tied products. But

for those few sellers who fall within this rule, the rule has a very important effect: Like open-forking, it says that the evolution of a particular product, or market, or set of products, can only be set by the decisions of a market. If the market chooses the bundled products over the separate products, all the better for the bundled products. But this is a decision for the market.

The law functions, then, as a type of jurisdictional rule — when the threat of control or forcing is great, the law will assure that the market decides. And in this, it is just like open-forking, for open-forking too is a principle designed to assure that a market — and here, the market of developers pushing the web in one way or the others — decide how the web will develop. Not a king; not a president; and not even voting, but a consensus, and running code.

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And there is a second link as well. A link between this value of open-forking and democracy. One value of democracy, outside of the constitution, is that the democratic system should leave open the right of the democracy at least to develop in any way it chooses. The government is not to entrench one path or political party over another; it is not to tie support for it to other basic governmental services. It can't require that you vote democratic in order to receive basic health care. It can't use its power in one area to tilt support to it elsewhere. Electors are to be free to pursue whatever path they want; the government is to leave open any path the electors want.

The point again is jurisdictional. Democracy is about preserving the jurisdiction of the people in choosing the direction a government should go, just as the law of antitrust places in the market the jurisdiction to choose the direction that a product will go, just as coders of the Internet place in the citizens of the net the jurisdiction to choose the direction of that code. In all three contexts, the fundamental choice is a choice about jurisdiction; all three reserve ultimate power to a decentralized, bottom up method of evolution.

That is the net's first value — that control be from the bottom up, and that all paths be left open to bottom up control.

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Universal Standing

The second value we could call universal standing:

Go back to the evolution of Linux. Linux is an operating system; Linux is a pile of code. Anyone can download a copy of Linux to run as an OS; anyone can download a copy of Linux to get access to the code. This is the core of the Open Source movement — that the code of Open Source software remains open. That it sits in the public domain, which means that no one needs the permission of anyone else to take it, and improve it.

Without anyone's permission, one can improve it without going to work for any company. One can improve it without getting the permission of some governmental bureaucrat. One can improve it without getting the authority of an election. Open code exists in the public domain for anyone to pick up just as Wiles' flawed proof existed in the public domain for anyone to fix. They are both common problems, and anyone has standing to try her hand at solving them.

Now your response here may well be, "Yea, wonderful. We are all equally free to prove Fermat's last theorem; we are equally free to build out Linus' OS; the poor and rich are equally free to sleep on the streets. In all three cases, there is a formal equality; in all three cases, one might ask, what value does this equality preserve?"

The answer has nothing to do with equality. Indeed, quite the opposite. The virtue of universal standing is the way it produces inequality. For the world of Internet governance — whether the governance of bodies like the IETF, or the governance of the evolution of code like Linux — is not the world of the French revolution. All citizens are not equally empowered. All citizens are not equally kings.

Recall: "We reject: kings, presidents and voting. We believe in: rough consensus and running code."

Now the unifying feature of "kings, presidents, and voting" is formal power. The net rejects formal power. It rejects the idea that someone can say, this is how the world will be, and that the world will be like that *simply because this is what was said.*

But this is not to say the net rejects authority. Indeed, Clark's statement identifies the source of authority — "rough consensus and running code" and between the two, I suggest, it is the second

that is most important. Universal standing keeps open the space for individuals to gain — not power, but authority. And they gain authority by their works. As Reagle (and someone else) says, "you will know them by their works." One gains authority not by a structure that says, you are the sovereign, but by a community that comes to recognize who can write code that works.

This is the world of Linux as well. Linux is out there for anyone to take. But it does not evolve wholly on its own. There are choices about how it will evolve, and these choices get made by a council of elders — not old people, but people who have demonstrated that they can produce something. Anyone can propose a direction for the code, but proposals are not in English; proposals are in code. If there is a bug you think should be fixed in a particular way, you fix it, and offer the code that fixes it. And it is the craft of your work, and the elegance and power of your solution, that commends it, and gives it power. Not your status, not your rank, not your corporate position, not your friendships, but your code. Running code, that by its power produces rough consensus.

Now this more complicated idea of universal standing, like the idea of open-forking, also has some links to real space ideals.

First to the market: it remains our ideal, though governments have done much to screw this up, that markets are to remain open. Here again is a value that sings in the law of antitrust — that everyone formally be permitted to enter; that no one be shut out. You and I equally are assured an equal right to open a competitor to U.S. Steel, or Starbucks. The market guarantees open entry, which means it simply guarantees everyone may enter the competition. But to guarantee equal entry is not to guarantee equal results. Winners are to be chosen by the market's choice; the market too rejects kings, presidents, and voting.

And so too to democracy. Or to ideals of democracy. Whether realized or not, the ideal of democracy is that anyone can enter — regardless of class, regardless of blood, anyone is permitted to put their ideas up for selection. This is our idea, even though we realize that in real space, only crazies and the rich really ever put themselves up for election. And even though in real space, we understand that those who prevail rarely prevail for the right reason. In c-space, this ideal seems real. Vince Cerf, David Clark, Jon Postel, John Gilmore, Linus Torvalds — these were nobodies who became somebodies for a reason, just as we imagine that

Lincoln, and Webster, and Wilson, but who else? — were nobodies who became somebodies for a reason. The value is that anyone can stand; that democracy, like the market, like open code, leaves the competition open.

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Two values, then, are central to the Internet's governance: that it be designed to evolve however we choose; that it remain open to anyone's work. Two values that are central to the way the market works: that it be designed to evolve however we choose; that it remains open to entry by anyone. Two values that are central to democracy: that government be designed to evolve however we choose; that it remain open to anyone's work. Two values that link three critical domains of our life in cyberspace. Do they say something then about the alternative — about code that is not open, about code that is not free. Do these two values entail something conclusive about company code?

Conclusive is a hard word for an academic, but let's start with this. Nothing in the values entails that open and closed can't coexist. Our world has commons; it has private property as well. The key is a balance. And with a balance, one side does not entail the death of the other; with a balance, what is entailed is the survival of the other.

Linus Torvalds put it better than I could: When the question was raised whether proprietary code could be tied to Linux, and many in the open source movement had opposed it, Torvalds said "my opinion on licenses is that 'he who writes the code gets to choose his license, and nobody else gets to complain.' Anybody complaining about a copyright license is a whiner."

Torvalds is no fanatic. He is no Free Software extremist. He imagines a balance between commons and private. That just as we live in real space with common and private properties, so too can cyberspace live with common and private properties. But the point of the links that I have tried to suggest is that the values that are at stake in this trade-off are more than the values of efficiency. The values of Internet governance are about the values of governance; and the balance the Internet must strike is between that part that leaves itself open to these values, and that part that doesn't.

There's a part that must lie in the commons. There's a part that, like basic science and democratic politics, must remain open

to all. That just as we don't privatize every public park, every street, and every idea, we can't privatize every feature of cyberspace. Can't privatize, which is not to say that government must control it. The opposite of private is not the government. The opposite of private is the commons. It is the place that public streets are; the place that Fermat's Last Theorem lay. The place where everyone remains free to push how things are to something different. There is a value in preserving that space, regardless of efficiency.

The values of a market, the values of democracy, the values of our tradition of Internet governance — all these show a place for the commons; and open systems and open code are the Internet's commons. Not an exclusive role, but a central role. And the challenge for our future is to understand this balance in a world where the network becomes the OS.

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I've said lots to praise this open source movement; lots to show it is at home with the best of our traditions. But now I want to end with its limits — with its flaws or incompleteness, that it, and we, must overcome.

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At a conference in Georgia — former Soviet Georgia, that is — sponsored by some western agency of Democracy, an Irish lawyer was trying to explain to the Georgians just what was so great about a system of judicial review. "Judicial review," this lawyer explained, "is wonderful. Whenever the court strikes down an act of parliament, the people naturally align themselves with the court, against the parliament. The parliament, people believe, is just political; the Supreme Court, they think, represents principle." A Georgian friend was puzzled by this response, puppy-democrat that he is. "So why," he asked, "is it that in a Democracy, the people are loyal to the court, a non-democratic institution, and repulsed by parliament, a democratic institution?" Said the lawyer: "You just don't understand democracy."

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At one time, we might have thought that these collective choices might be made by something like a government. At one time, we might have imagined that collective decisions should be made by a democratically elected government.

But we are beyond this thought. We are beyond its ideal. The notion of government here terrifies us. We have become the Irish. We live with a deep skepticism about the products of democracy; our sense — inheritors of 21st century democracy — is that democracy just doesn't work.

We have lost the ideal that there is a role for government here. We — especially we who spend too much of our life using electrons to interact; we — especially we, who still stand amazed at the potential of this wired world; we — especially we, who can't remember a time when there wasn't an underbelly to every story about a hero. We — children of David Lynch, who can't help but believe that, just underneath the surface of the sensible, there is always decay. We listen to the promises of our governors no differently than Soviet citizens listened to the promises of their governors. We, like Soviet citizens, have heard it before. "Hope" is not a place; "Hope" was a television commercial.

This is pathology and we need a way to get over it. We are racing in all sorts of ways to find ways to privatize government; to find ways to pass off what government does to private entities. Or if not to pass off, to simply take a pass —pushing government to simply do nothing.

But we should pause in this panic, for there are questions we should ask. When government steps aside, it is not as if nothing takes its place. When government disappears, it is not as if paradise prevails. It's not as if private interests have no interests; as if private interests don't have ends they will then pursue. To push the anti-government button is not to teleport us to Eden. When the interests of government are gone, other interests take their place. Do we know what those interests are? And are we so certain they are anything better?

There is a gap in our thinking about governance on the net. The open source movement is yet another push — a mature and valuable push — to minimize the concentrations of power in this space. And minimizing concentrations of power is no doubt a valuable end.

But bottom up doesn't yet answer this question of collective judgment. It doesn't yet answer just how affected interests might make an aggregate choice. It doesn't yet answer this; it doesn't yet code it; and if it were to prevail, it would still leave us at this place

where collective choice would be needed. Where we have no answer for that need.

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In his rightly famous book,[1] Senator John F. Kennedy tells the story of Daniel Webster, who in the midst of fighting a pact that he thought would divide the nation, said on the floor of the Senate, "Mr. President, I wish to speak today, not as a Massachusetts man, nor as a Northern man, but as an American."

When Webster said this — in 1851 — the words "not as a Massachusetts man" had a significance that we are likely to miss. To us, Webster's statement seems perfectly ordinary. Who else would Webster be, except an American? How else would he speak? But Webster's words came on the cusp of a new time in America. They came just at the moment when the attention of citizens in the United States is shifting from their citizenship to a state, to the question of citizenship for the nation. Webster is speaking just when it became possible to identify oneself apart from one's state; as a member of a nation. Where the concept of a nation began to make sense.

We stand today just a few years before where Webster stood in 1851. We stand just on this side of being able to say, "I speak as a citizen of the world," without the ordinary person thinking "He speaks like a nut." We stand just on the cusp of an existence where ordinary citizens come to know how the world regulates them. Where ordinary citizens begin to feel the effects of the regulations of other governments, as the citizens in Massachusetts came to feel the effects of slavery, and the citizens in Virginia came to feel the effects of a drive for freedom.

As we, citizens of the United States, spend more of our time, and spend more of our money, in this space that's not really part of any geographical jurisdiction, but subject to the regulations of all jurisdictions — as we spend more time there, we will increasingly come to ask questions about our status there. We will increasingly feel the entitlement that Webster felt, as an American, to speak about life in another part of America. But for us, it will be the entitlement to speak about life in another part of the world.

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[1] **Profiles of Courage** (Memorial Edition, 1989).

What will we do then? What will we do when we *feel* that we are part of a world, and that the world regulates us? What will we do when we need to make a choice about how the world regulates us, and how we regulate this space?

We will confront this future well only when we have abandoned this self-indulgent anti-governmentalism. We will deal with it well only if we develop again a collective capacity to choose. But this we don't have yet. Instead, we have a sinking feeling that something in this great experiment in democracy has gone wrong. That something doesn't work. But rather than dealing with that something, we choose not to deal. We duck, we hope things take care of themselves.

We need the capacity to choose collectively, but we don't have this capacity just now. We must relearn it. We must again learn to make choices about our collective life. This much about us must change.