Good Capital, Bad Capital: Dangers and Development in Digital Diasporas

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Good Capital, Bad Capital:

Dangers and Development in Digital Diasporas

(DRAFT)

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Introduction

Most governments from countries with major diasporas are far more worried about capital flight than the dangers of capital inflows. Yet unregulated capital inflows are illegal almost everywhere because they pose a number of potential dangers. Funds from foreign nationals have been instrumental in financing ethno-nationalist conflict and separatist movements in places such as Sri Lanka, Ireland, Kosovo, and Kasmir. Foreign remittances have sometimes been a major source of funding for international terrorist operations. Unregulated financial inflows represent a potent source of political instability and corruption.

This paper examines whether states can hope to control these financial transfers in the context of new information technologies. On the one hand, it might appear that the Internet, mobile phones

and advanced encryption technology make it infeasible for governments exert any control on incoming financial flows. But analogies between speech and finance can be ill conceived. Unlike speech, financial exchanges require formal recognition in a well-institutionalized financial architecture. Financial transfers depend on social institutions in which they are embedded. International finance is embedded in a formal banking infrastructure that is technically amenable to far greater transparency and control. Insofar as money travels through these institutions, it is the political will of international governments rather than new technologies that are the obstacles to regulating financial flows.

Understanding the technology of financial transfers in these socially-embedded context helps to show the opportunities and constraints that face governments addressing financial inflows from diasporic communities in particular. Diasporic communities can make use of local, ethnic, and familial ties to comprise an alternative means of anchoring financial transactions which governments can not regulate or even discern. Countries with extensive diasporas may be especially conducive to elaborate parallel financial transfer networks such as the informal *hawala* system. These informal networks can make extensive use of new information technology networks in ways that evade government controls. But greater regulation of the formal financial infrastructure can nonetheless be instrumental in disrupting illicit activities. Informal transfer mechanisms will become more fragile and vulnerable when they eschew supplementary utilization formal financial infrastructures or they become increasingly complex and large-scale.

Does an Increasingly Globalized Networked Economy Make it Impossible for Governments to Regulate Financial Flows?

Politicians and social scientists across the political spectrum often take for granted that an increasingly information-based and networked global economy makes government regulation ineffective and obsolete. As Manuel Castells claims, over the last twenty years states have been inherently unable "to internalize and use the information-technology revolution" while "capitalism was able to overcome its [challenges] …through informational productivity, deregulation, liberalization, privatization, globalization and networking, providing the economic foundations of the network society."[1] Cyber-libertarians formulate a kind of inversion of the Soviet dream, such as John Perry Barlow's highly influential proclamation: "Governments of the Industrial World, you weary giants of flesh and steel, on behalf of the future, I ask you of the past to leave us alone."[2]

To many, the Internet seems like a kind of heaven on earth for perfect markets that before could only exist in the theoretical imagination. The Internet appears at least superficially to exhibit all the ideal qualities of markets: decentralized, instantaneous, with abundant information, little possibility for regulation, and great ease for individuals or firms to enter or exit.[3] The wild growth of E-Commerce, on-line trading and on-line auctions like E-bay suggests to many a kind of elective affinity between open markets and the digital age. As a recent article in the *Wall Street Journal*urges us to "Think of the internet as an economic-freedom metaphor for our time. The Internet empowers ordinary people and disempowers government."[4] These kinds of argument focus not on the nature of information so much as the nature of the *networks* through which information flows. Markets, it is suggested, enjoy a natural competitive advantage over bureaucratic means of coordination for

networks like the Internet that are decentralized, rapidly changing and global in their scope.

This first section argues that contemporary shifts toward deregulation are not inherent to information networks or the Internet per se, but depend upon the particular institutional configurations that make these networks possible. Taking inspiration from the literature on institutionalism and more technical literatures about the Internet, it argues that ongoing political contests over the governance of information networks lead to different network architectures that may be either more or less conducive to state regulation. The section begins with a discussion of the importance of Internet "architecture" as likened to the causal efficacy of institutions in politics more generally. The crucial role of government in determining the Internet's architecture is briefly illustrated through historical examples. The argument about architecture is then applied to examine whether the multinational nature of the Internet undermines the feasible scope of effective government regulation.

The state and the birth of the Internet

Prior to the 1990s the Internet was not viewed as antithetical to government or as driven by private business. In fact The National Science Foundation effectively forbade E-commerce on the Internet until 1991 and credit card companies instructed customers not to use their numbers on the net.[5] The Net itself is the result of the centralized planning of the early Cold War's Defense Department and its quest for communications networks that might survive a nuclear war.[6]Before the 1980s computers were previously only in the military and large universities. Networking computers was a way for researchers across the country to use idle time on these rare and expensive machines. No miracle of the invisible hand, the backbone of the Internet is a standard protocol (called TCP/IP) that the Department of Defense funded and then adopted in 1980. It was released to the general public as a free and open standard of communication that allows different computers to talk to each other and relay information.[7] In a marked role reversal, the US government actively pushed for widespread adoption of their own open internal communications protocols when private European telecommunications companies were developing an alternative version that users would have to pay for.[8]

Over the next ten years the Defense Department spent $20 million encouraging computer manufacturers to develop TCP/IP implementations on their platforms, with the effect that by 1990 these interfaces were available for most computers in America.[9] The Defense Department had originally tried to pay AT&T to build an Internet-like packet-switching system that would digitalize information and distribute it across a network, but the response was that, "First, it can't possibly work, and if it did, damned if we are going to allow the creation of a competitor to ourselves."[10]Continual government intervention forced AT&T and the baby Bells against their will to allow modem users and data-communication companies to use the phone lines, to stay out of the computer business, and not to discriminate against rival internet service providers (ISPs) in their pricing policies.[11]

Network architecture as the institutions of the Internet

As with all markets, the consequences of E-commerce and trade in intellectual property depend on what rules govern businesses: what they can own, what privileges and responsibilities come with ownership, what kinds of contracts are legally binding, how they will be taxed, etc.[12] This institutional "architecture" of markets is especially important in information technologies. Online interactions are configured by those who control the links and choose the menu of executable actions within information networks. And unlike traditional market environments where "rules of the game" are treated as natural because they have evolved over hundreds of years, the on-line architecture is new enough that it is self-evidently the result of specific decisions by public and private actors.

Such thinking challenges the notion markets are fully spontaneous or natural. Architecture controls human behavior by designing environments to encourage certain kinds of actions while discouraging others. If we want to discourage motorists from driving fast down a street, one way is to legislate a speed limit and have the police chase down cars that drive too fast. But another way is through the architecture of a speed bump that changes our behavior more automatically without any laws or games of cat and mouse. As Lessig points out, Louis Napoleon III similarly put an end to the long history of successful street insurrections in Paris by rebuilding its winding streets into straight avenues that could be swept clean by rifle-wielding troops.[13]

Just the way the architecture of buildings manipulates the laws of physics to human ends, or that political institutions like constitutions or voting rules are constructed to further the agenda of those who craft them, so too can those who design the architecture of cyberspace constrain the kinds of interactions that take place on-line.[14] Authorities impose regulations through the restrictions they place in this architecture of computer code. If more and more of our social interactions take place through these code-constructed environments then, "Eventually technical standards will become as important as laws."[15] In the words of Electronic Freedom Foundation co-founder, Mitch Kapor, "Architecture is politics."[16]

Architecture may be even more important over electronic information networks than in ordinary political and economic institutions. Unlike the prohibitions on large meetings enforced in the former Soviet Union, attempts to defy America Online's limits on the number of people in its chat rooms are preempted by an error message. Architecture is the key way for regulating behavior on-line because it is difficult to punish undesirable behavior when people are remote and often anonymous, and because the environments of cyberspace can be constructed far more intentionally and thoroughly than physical space. As Lessig puts it, the on-line "constraints of architecture are self-executing" in a way that is not true of legal or cultural constraints on off-line behavior.[17]

The music industry learned that lawyers have limited success in preventing the copying of songs, and have instead shifted their focus to the development of digital watermarks in the code of digitalized music itself that prevents the playback of unauthorized copies. Similarly, the focus on criminally prosecuting websites that show pornography to minors has shifted towards software filters like NetNanny that make it impossible for youngsters to upload forbidden sites in the first

place. AOL@School_for_kids and the governments of Singapore, Saudi Arabia, and China provide environments where the code blocks access to any Internet site that is not on a pre-approved list.[18]

Globalization and regulatory arbitrage

New information technologies are often seen as having made governments impotent to influence anything on the Net since web sites can relocate outside the legal jurisdiction of governments who wish to regulate them. Missouri might make it illegal to host a gambling site from a computer in their state, but they can't stop people from logging onto a gambling or child pornography site launched anonymously from another country. Amazon.com in Germany may comply with that country's laws by refusing to distribute Nazi literature, but cyber-nazis in Germany can easily order Hitler's *Mein Kampf* from Amazon.com in the US or other countries. As one legal scholar explains, "the multinational nature of the Internet makes it possible for users to engage in *regulatory arbitrage*—to chose to evade disliked domestic regulations by communicating/transacting under regulatory regimes with different rules."[19]

Online investing and the ever-increasing amounts of capital that electronically zip from one country to the next suggests to many people that nations can no longer regulate financial flows and that their policies must be hostage to the whims of investors seeking the highest rate of profit.[20] For instance, Thomas Friedman best-selling book *The Lexus and the Olive Tree*, claims that an "electronic herd" of international traders enforce the "Golden Straightjacket" of neoliberal policies favored by investors. "Political choices get reduced to Pepsi or Coke – to slight nuances of taste, slight nuances of policy... but never any major deviation from the core golden rules" since investors would "stampede away."[21]Former Citibank CEO Walter Wriston concurs that in a connected world, "Capital will go where it is wanted and stay where it is well treated. It will flee from manipulation or onerous regulation of its value or use, and no government power can restrain it for long."[22]

But electronic finance is different from pornography or hate-speech. Anyone with a computer can email racial slurs overseas while remaining outside the hate and slander laws of a particular country. Regulation of speech on the Internet is tremendously hampered by the easy and diffuse reproduction and dissemination of information or images, which in turn makes it extraordinarily difficult to remove these from the Internet once they has been disseminated.[23] But unlike speech, the international capital exchange system is specifically constructed so that electronic funds can't be reproduced in a haphazard and decentralized manner, and international financial institutions have a great interest in keeping it this way. When a bank wires money it relies on a centralized infrastructure guaranteed by governments to make sure that money is subtracted from one account and added in another. A system of mutual recognition and settlement between powerful institutions anchored by government Central Banks confirms that a person who transfers money actually has those funds and is not simultaneously promising them to banks all over the world.[24] Although individuals can create instant offshore banks over the Internet,[25] globalized money will never fully conform to the libertarian fantasy because the infrastructure that makes it possible to electronically send money across borders also makes it technically possible to restrict and tax these transfers.

To point this out is not to dismiss arguments that the globalization of recent decades does not threaten the regulatory power of nation-states or that globalization may not have been a causal factor in deregulations, retrenchment of welfare states, or fiscal restraints on government spending. There is considerable debate over these effects, with counter-arguments about whether globalization might instead be politically mobilizing of opposing tendencies to further regulate economies and buttress social protection. The present discussion does not take a position in these debates. The point here is that, whether or not globalization ultimately leads to an erosion of policy-making sovereignty and deregulation, new information technologies are not themselves determinate of these effects.

Electronic capital transfers are the stuff of the late 19th Century, not some brave new world. It has been possible to wire funds more or less instantaneously since the invention of the telegraph. Even today, most capital transfers are still communicated through faxes or telex machines and authenticated with pen-and-ink signatures. Nations previously had less ability to regulate capital flows than they could today. Regulation was technically more difficult when capital flight took the form of investors smuggling out gold bullion in their suitcases or in small boats through the fog.[26] Today's system of capital transfers is relatively centralized through national central banks and it already assigns a unique identifying number to each capital transfer. Far from making regulation infeasible, the more these finance systems are digital and networked, the easier they are to regulate.[27] Insofar as architecture does not use information technology this way, then it *does* have a deregulatory effect. The ongoing absence of a regulatory architecture might even erode the capacities of states to create such a system in the future.[28] But in either case it is the political choice of institutional architecture, rather than the technology itself, which is the cause of deregulation.

Although there is disagreement about how new globalization is, there is basic consensus that the most dramatic area of economic globalization is not trade or multinational production but international financial flows.[29] Many aspects of capitalism may have been more global during the age of the telegraph, but finance has certainly become more global in the Internet age. As Geoffrey Garret explains, "The case for a technologically determined view of globalization is far stronger with regard to international finance than to multinational production or trade. In the era of 24-hour global trading in a seemingly limitless array of financial instruments, governments can only hope marginally to influence cross-border liquid capital movements.[30] Global flows of stocks, bonds, and direct foreign investment, which were about 0.5 percent of world GDP in 1970, grew to about 7.5 percent of world GDP by 1997.[31] There is agreement across the ideological perspective that government policy is hostage to the threat of capital flight.[32] Thus, the argument goes, the more fleet-footed and trigger-happy investors are about regulations they do not like, the more governments must dismantle these regulations to remain prosperous. Even when regulations do not seriously infringe on investors' interests, new regulations or resistance to dismantling old ones may act as market signals to traders squinting at tea leaves and eager to stay ahead of the herd.

A growing international movement has recognized the potential benefits promised by global capital controls. The Belgium presidency has declared an intention to push for such a system through the European Union, and the French Prime Minister Jospin and Indian Prime Minister Vaypayee have

also announced their support, as have the parliamentary German Green Party, The Finnish governing coalition, working groups within the UN, the World Council of Churches, the AFL-CIO, the German Confederation of Trade Unions (DGB), and international financier George Soros.[33] A system of capital controls would make it possible to stop international money laundering (which the IMF estimates drains away 2-5 percent of the *world's* income), and squelch corruption – especially in poorer countries where warlords or kleptocrats drain essential investment, A tiny fee of the kind charged by the Security and Exchange Commission (SEC) in the US could discourage the dangerous market volatility that comes from speculative investors seeking tiny increases in short-term returns.[34] A levy of one penny on every million dollars in international financial transfers would not discourage any productive investment, but would raise more money than the UN estimates is required to provide for basic health, nutrition, education, and water sanitation to the 1.3 billion people on the planet who live without.[35]

Instituting an international capital control system would require the political will by powerful countries to use international organizations to force their members to comply with stricter rules for more transparent monitoring and to exclude other nations who do not comply from financial payment systems.[36] Major Central Banks already have the authority under international agreements to exclude banks who breech international standards for transactions; and levies on certain risky kinds of transactions already take place on the London, Frankfurt, Singapore, and Hong Kong stock markets.[37] It is only the lack of political will and international coordination that prevents greater regulation of international finance. As the world's largest economy, the United States could institute a more regulated globalization by refusing to accept financial transfers from central banks that failed to require full information about the source and ownership of funds. Once such a capital control system was established, financial institutions would see it in their interest not to be excluded from payment systems.[38]

In sum, new information technologies are not the cause of the liberalization of capital flows in recent decades. Nor are information networks inherently adverse to the initiatives and oversight of government. On the contrary, networks like the Internet depend upon the public good of neutral standards that would often otherwise be eroded by powerful private interests. Whether these networks encourage or discourage government regulation depends on the configuration of the network's architecture, a matter that is ultimately the result of political decisions. The current deployment of technology may hinder regulation, but these same technologies might also be deployed in ways that greatly increased government regulation.

Do Diasporic Communities Present Special Obstacles and Opportunities for Regulating Financial Flows in a Digital Era?

Diasporic communities present a special obstacle for governmental attempts to regulate financial transfers. Financial transactions generally provide regulatory opportunities because transfers rely on official systems of recognition and verification that can be designed to identify and screen out certain kinds of transactions. The reliance of formal mechanisms is especially so for international transactions because a financial institution in one country may have no ongoing no relationship or ties to the foreign institution and would otherwise be vulnerable to fraud. But a diasporic community

is, by definition, an independent international network. Insofar as sufficient trust and informal ties exist between the diaspora and members of the home country, these relationships can provide the basis for an alternative system of accounts that remain fully outside government regulation. In the wake of the events of September 11, regulatory authorities who had hoped to uncover international terrorist networks have often been frustrated by the existence of alternative remittance systems.

The fact that such systems are embedded in cultural or kinship networks outside of the state apparatus deprives the government of its standpoint for monitoring these activities. Suppose, for instance, that an individual living in a foreign diasporic community walks into a travel agency or bar that perhaps caters to the this community and is a broker in the remittance network. The individual pays a few thousand dollars to the broker, who then picks up the phone or faxes their partner in the home country. The home-country partner then pays the equivalent sum of money to the person who the individual wished to send money. The individual who eventually receives the payment may be a family member of a foreign work or they may be a separatist or terrorist organization. No physical money actually crosses any borders. Record-keeping may entail nothing more than a piece of paper scribbled on each end, and disposed of once the transaction is complete. The sender does not have to provide his name or identify the recipient. Instead, he is given a code word, which is all the recipient needs to pick up the same amount of cash from an associate of the original trader.

These arrangements arise and continue to thrive because they meet widespread needs that have nothing to do with anti-government activity. The best known of these systems, the *hawala* or *hundi* system began in south Asia before the Western banking system and spread with immigration across the world as members of the diaspora sent money back home.[39] Some estimates report that half of banking in India use the hawala system. The Finance Minister in Pakistan estimates that the volume of hawala funds transferred internationally through his country exceeds that of official transfers. Hawalas have been most active among East Asian guest-workers sending money out of places like the Arab Emirates that depend on large quantities of guest workers and/or living in countries with strict currency controls.[40]

Insofar as many diasporas are motivated by a lack of economic opportunity, these same countries with dysfunctional may tend to encourage alternative remittance systems. In many poor or politically unstable nations people do not trust the banks, sometimes for good reason. Systems like the hawala are particularly useful where transfer of paper money or runs the risks of banditry or corrupt officials. Less wealthy countries with fiscally starved states may be more likely to charge usurious rates on official money transfer in the form of large taxes and bribes. Major international banks often charge a premium to do money transfers to less-developed countries because they need to use correspondent banks that they view as less reliable. Most hawala merchants charge a small commission, usually $5 for transfers up to $500 and $10 for up to $1,000.[41] Such fees are typically far less than banks would charge, there is less paperwork, and brokers may inspire more trust and be easier to speak with than foreign bankers. Members of the diaspora often establish import/export businesses or charities with partnerships in the home company. The establishments provide the infrastructure such as fax machines and ability to store and protect cash for a brokerage system. Although most of these activities may be innocent and even productive, Hawalas have reportedly been used in funding

Kasmiri activities on both sides of that contested border dispute.[42] Osama Bin Laden used shell corporations, skimming from semi-legitimate charities, and diverting money through other organized crime organizations to finance his activities. Similarly, Irish Roman Catholic charities were reportedly active in funneling foreign money to the IRA.

Governments are not as helpless against these kinds of informal arrangements as their description might suggest. Although systems like the hawala operate in parallel to the official banking system, they are not perfect substitutes. The more informal networks are, the less they are able to be reliable infrastructure for financing large-scale corruption, terrorism or paramilitary operations. Alternately, when unofficial remittance systems must completely avoid the official banking system to avoid scrutiny, then they must take on the character of large-scale, complex operations that formal bureaucracies – but not informal networks – are best adapted for. For instance, the *hawala* dealers do have to find a way to reconcile their own accounts. They can over-or under-price import/exports, give lopsided exchange rates in a currency trade between one another, or just make a direct legitimate transfer at the end of the day when the net difference is tallied, but all of these methods involve some use of the legitimate transfer system. The more closely monitored are official transfer systems, then the more complex and large-scale business dealings must be to hide the laundered funds. Illicit activities are more likely to be detected, dispute resolution becomes more difficult because the stakes are so high and lack of record-keeping becomes increasingly inefficient. The glue of trust that holds together these arrangements because harder to maintain when the formal financial system can no longer be utilized as an external verification of trustworthiness.[43]

* * *

A couple of final comments are worth mentioning. First, people may be fascinated by the ways in which recent terrorist networks have made use of common advanced communication technologies, but it should be apparent that the telephone remains the major technology for financing illicit financial flows within diasporic communities.[44] Online-banking has not, at least yet, become a significant source of financial transfers for illicit activity. At a recent meeting of the OECD Financial Action Task Force, the experts representing member countries could not present any concrete examples. The Internet nonetheless poses a potential danger for illicit money laundering and transfers because banks have less contact with their customers and do not know, for instance, if other individuals are using the account, where they are accessing it from, or if they have scores of small accounts to escape the attention of large accounts. The Internet also provides a convenient way for reconciling accounts through credit card payments for fictitious services supposedly provided over the Internet.[45]

Finally, despite this paper's focus on potential dangers, diasporic capital should by no means be equated with illicit or destabilizing funds. Foreign nationals repatriating money can be a crucial source of productive investment, especially where others might view the environment as too risky, difficult to understand, or small scale to be worthwhile. The broader diasporic community may be uniquely qualified to use needed skills and capital because they understand where opportunities exist and how to navigate particular cultural norms. Insofar as new information technologies facilitate communication and keep people up-to-date about local conditions, these networks can help

recruit and hold “good capital.”

[1] Manuel Castells, "Epilogue: Informationalism and the Network Society," in *The Hacker Ethic and the Spirit of the Information Age*, ed. author Pekka Himanen (New York: Random House, 2001), 171-72.. See also Alonso, Luis Enrique. "New Myths and Old Practices: Postmodern Management Discourse and the Decline of Fordist Industrial Relations." *Transfer* 7, no. 2 (2001): 268-88. Castells believes somewhat cryptically that the imperatives of the information age consign the role of politics to virtual irrelevance: “politics becomes an application of the hypertext, since the text simply reconfigures itself to the new codes” Ibid.,,, 170..

[2] John Perry Barlow, "A Declaration of Independence in Cyberspace,", (1996).. Another representative statement, also reproduced in *Wired* magazine, asserts, “Technology is rapidly accelerating and you have to keep up. Networks and markets, instead of staid old hierarchies, rule” Stuart Brand, "Two Questions," *Wired*, December 1995,38..

[3] Assertions about more perfect markets from easier market entry and search are belied by industry studies of pricingArup Daripa and Sandeep Kapur, "Pricing on the Internet," *Oxford Review of Economic Policy* 17, no. 2 (2001).

[4] Lawrence Kudlow, "The Road to Dow 10000," *The Wall Street Journal*, March 16 1999. quoted in Thomas Frank,*One Market under God* (NY: Doubleday, 2000).. Or as the not-so-ordinary CEO of Citibank proclaimed in his 1991 book that helped kick-off ideas about the New Economy governments are by their very nature dictatorial and cannot therefore understand or manage “information,” which is inherently democratic. “You cannot fine-tune what you cannot measure” Ibid.. As one techno-booster proclaimed in Inter@active WeekOnline, “Some things never change about governing the Web. Most prominent is its innate ability to resist governance in almost any form Larence Lessig, *Code and Other Laws of Cyberspace* (NY: Basic Books, 1999) 24.. John Perry Barlow suggests that the nature of the Internet is to treat regulation and censorship as a malfunction and reroute around it John Perry Barlow, "The Economy of Ideas,"*Wired*, March 1994.

[5] Lessig, *Code and Other Laws of Cyberspace* 39..

[6] A crucial feature of the Net is that it breaks down large chunks of information into discrete “packets” that can flow through multiple paths seeking their end address (unlike phone lines that fail when the circuit is broken as they did on September 11th while internet traffic was more easily rerouted through alternative channels).

[7] Katie Hafner and Matthew Lyon, *Where Wizards Stay up Late: The Origins of the Internet* (1996) 251, 58. cited in Roy Rozenzweig, "Wizards, Bureaucrats, and Hackers: Writing the History of the Internet," *American Historical Review*, no. 4 (1998): 1536.

[8] Ibid.

[9] [Abbate, 1999 #1023@ 138-143]

[10] [Naughton, 1999 #1004@ 107]

[11] Larence Lessig, *The Future of Ideas: The Fate of the Commons in a Connected World* (NY: Random House, 2001) 45, 146-48.. The fact that the United States government has been instrumental in promoting past standards that have enabled digital technologies does not mean that they continue to be world leaders in this regard. The Internet standards setting body IETF has

recommended and developed an updated version of TCP/IP that would better enable streaming video, sound, and mobile Internet access. But whereas American companies have been left on their own and Microsoft (who could propel these changes) has waited to see a profit opportunity, foreign mobile communication vendors have invested in the new protocol and the European Union and the Japanese government have invested effort to ensure that they are at the leading edge of new technologies AllNetDevices, "Smart Phone Vendors Join Ipv6 Forum,".

AsiaBizTech, "Japanese Gov't to Support Verification Test of Ipv6 Home Electric Appliances,".

Daithí Ó Hanluain, *Got Your Number* (September 2001) [web magazine] (On- Magazine, 2001 [cited 29 March 2002]); available from http://on.magazine.se/stories/story.asp?articleID=813.

Carolyn Duffy Marsan, "Microsoft Stalls Ipv6 Progress,", (1999)..

[12] Fred Block, "The Roles of the State in the Economy," in *The Handbook of Economic Sociology*, ed. Neil J. Smelser and Richard Swedberg (Princeton, NJ: Princeton University Press, 1994).

Arthur MacEwen, *Neo-Liberalism or Democracy?* (London: Zed Books, 1999) 99-142..

[13] Lessig, *Code and Other Laws of Cyberspace* 92..

[14] Stanford Law Professor Lawrence Lessig makes an analogy between the computer code that forms that infrastructure of the Internet and the laws that govern our off-line behavior Ibid.

Lessig, *The Future of Ideas: The Fate of the Commons in a Connected World*.. The appendix to Lessig, *Code and Other Laws of Cyberspace*. makes clear that Lessig, however, does not grasp that the character of off-line markets also depends on their architecture.

[15] Kevin Kelly, *New Rules for the New Economy* (New York: Viking Press, 1998) 71.

[16] cited in [Lessig, 2001 #987@ 35].

[17] [Lessig, 1999 #978@ 236]. This may create a power asymmetry between on-line architects and those who inhabit these spaces that is far greater than the physical world because symbols can be manipulated more plastically by code-makers and are more rigid for users of environments. Compared to the steel and mortar of the off-line world, online architectures is cheap to make (or renovate) and the manipulation of online environments through source-code is more comprehensive because it is not limited by the pre-existing rules of physics. Code is more rigid for end-users because it constrains certain behaviors impossible before they occur, defining the terms of engagement prior to opportunities for resistance and renegotiation Rita Lin, "Our on-Line Worlds: Code as a Technology of Power" (undergraduate honors thesis, Harvard, 2000) introduction..

[18] Government has no inherent monopoly on the ability to shape the architecture of the Net. Internet companies like Yahoo and Alternet that provide “portals” for reaching other websites already steer people towards business who pay to have easy hyperlinks to their sites or who are given top billing when people use a search engine. By the year 2001, four web-properties controlled fifty percent of the total viewing time of all sites over the Internet, down from eleven the in 1999. These portals make money by directing viewers to their own e-commerce sites or to affiliates who pay for the steering of viewers toward their sites Keith Regan, *Report: Four Web Sites Control Half of Surfing Time* (June 4, 2001) [website] (E-Commerce Times, 2001 [cited March 28 2002]); available from http://www.ecommercetimes.com/perl/printer/10222/.. On the politics of how search engines on the web recognize and prioritize some websites to the exclusion of others see Lucas D. Introa and Helen Nissenbaum, "Shaping the Web: Why the Politics of Search Engines Matters," *The Information*

Society 16, no. 169 (2000)..

[19] [Froomkin, 1997 #1041@ 142]. Current internet architecture of data packet-switching, and the availability of encryption technology makes anonymous communication over the internet possible A. Michael Froomkin, "The Internet as a Source of Regulatory Arbitrage," in *Borders in Cyberspace*, ed. Brian Kahin and Charles nesson (Cambridge, MA: MIT Press, 1997).. Froomkin admits that these effects do not hold for “any transaction that encounters the banking system” [Froomkin, 1997 #1041@ 153].

[20] See for instance, Kenichi Ohmae, *The End of the Nation State* (NY: Free Press, 1995).

Susan Strange, *The Retreat of the State: The Diffusion of Power in the World Economy* (Cambridge: Cambridge University Press, 1996)..

[21] Thomas Friedman, *The Lexus and the Olive Tree* (NY: Anchor Books, 2000) 88..

[22] Walter B. Wriston, *The Twilight of Sovereignty: How the Information Revolution Is Transforming Our World* (NY: Scribner’s, 1992) 61-62..

[23] Hence the saying that, “You can't take something off the Internet - it's like taking pee out of a pool." The source of this saying is discussed at http://cyber.law.harvard.edu/people/reagle/inet-quotations-19990709.html.

[24] International payments are achieved through a multilayered network of public and private systems that link banks and other financial institutions and establish a variety of rules for settlement and mechanisms for resolving disputes and reducing "settlement risk" (i.e. the possibility that the transaction won't be completed as promised). Banks rely on other banks to vouch for clients and ultimately rely on Central Banks to provide the central infrastructure.

[25] See, for instance http://www.offshoresecrets.com

[26] As late a 1983 the French government arrested an official who was allegedly sneaking out gold. See John Goodman and Louis Pauly, "The Obsolescence of Capital Controls? Economic Management in an Age of Global Markets: Japan, Germany, Italy, France," *World Politics* 46, no. 3 (1993)..

[27] According to economist Rodney Schmidt, "It is now possible to match gross payments automatically, electronically and seamlessly to the originating individual forming exchange transactions, and tax them both onshore and offshore, regardless of the financial instrument used to define the terms of the transaction or the location of the parties to the transaction" Rodney Schmidt, "A Feasible Foreign Exchange Tax," in *Global Finance: New Thinking on Regulating Speculative Capital Markets*, ed. Walden Bello, Nicola Bullard, and Kamal Malhotra (NY: Zed Books, 2000)..Wahl and Waldow similarly conclude that, “Technically, levying a CTT [currency transaction tax] is no more complicated than automatically debiting John Doe’s current account for his banking fees” Peter Wahl and Peter Waldow, "Currency Transaction Tax – a Concept with a Future: Chances and Limits of Stabilizing Financial Markets through the Tobin Tax,", (World Economy, Ecology & Development Working Paper (Bonn): 2001), 10..

[28] Similarly, within the United States consumers from states with higher sales taxes tend more often to avoid sales tax by ordering online where there are no sales taxes, thereby undermining the ability of states to tax consumption as they wish Austan Goolsbee, "In a World without Borders: The Impact of Taxes on Internet Commerce,", (NBER Working Paper: 1998).; but this situation only

exists so long as governments continue to exempt E-commerce from sales taxes.

[29] Lange and Scruggs, Rodrick, Garrett.…

[30] [Garrett, 2000 #996@ 942].

[31] [Mallampally, 1999 #999@ 34-37].

[32] Fred Block, "The Ruling Class Does Not Rule," in *The Political Economy*, ed. Thomas Ferguson and Joel Rogers (Armonk. NY: M.E. Sharpe, 1984).

Friedman, *The Lexus and the Olive Tree*.

Charles E. Lindblom, *Politics and Markets* (NY: Basic Books, 1977).

Ohmae, *The End of the Nation State*..

[33] Wahl and Waldow, "Currency Transaction Tax – a Concept with a Future: Chances and Limits of Stabilizing Financial Markets through the Tobin Tax,". For social movements devoted to this cause, see the Halifax Initiative, a Canadian political movement to prompt world-wide capital controls (See http://www.halifaxinitiative.org/hi.php/Tobin/62). On the French group, Association for the Taxation of Financial Transactions for the Aid of Citizens, see http://www.attac.org. For British efforts, see www.tobintax.org.uk.

[34] The total volume of capital flows is 50 times greater than the total volume of trade and direct foreign investment combined. The Bank of International Settlements estimates that 80 of capital transfer are withdrawn within a week. Financial traders talk in terms of “basis points,” that is hundredths of a percentage point of gain. Global finance is so volatile largely because very large volumes are transferred to take profitable advantage of very minute rate differencesIbid.,..

[35] Based on the UN Human Development Report of 1997’s need estimate of $40 million and a $1.5 trillion per day estimate of daily international capital transfers based on 250 yearly trading days and a rapidly increasing 1998 estimate of $372.5 trillion yearly volume of world currency transactions (Bank of International Settlements, 1998 Annual Report). A similar kind of comparison appears in Thad Williamson, “The Real Y2K Crisis: Global Economic Inequality” *Dollars & Sense* 227 (Jan. 2000): 42. Any transfer tax would likely reduce the liquidity tax-base and would therefore likely raise less money but only a very high tax would discourage longer term investment based on real economic activity. One way liquidity reduction could be reduced would be to split the cost between buyer and seller. Experiments with capital transfer taxes would likely start far below 1 percent to determine the proper balance between maintaining liquidity on one hand, and raising revenue while reducing volatility on the other. The UNDP has estimated revenue based on various tax rates and the degree to which they would diminish the liquidity base of short-term flows. They conclude that a tax of 0.05 percent would raise over $90 billion, more than double the annual official development assistance contributed by all industrialized countries combined Ibid.,,, 10..

[36] International transfers would have to involve proof of the location from which transfers originate. Technology could actually aid in verifying this system. Software is currently available that uses the path that an email message has taken and its IP numbers (the four numbers separated by commas that internet architecture uses to sort data packets to their intended locations) to determine the location of the sender. Hackers are likely to discover ways to foil these methods. Most business websites currently install little identify packets of code called “cookies” on the computers of those who visit their web sites and do not make an effort block them. Many businesses like Microsoft construct the architecture of their websites so visitors must accept cookies to view the site.

Similarly, websites in the future current technology might refuse to communicate with computers that are not installed with satellite-assisted Global Positioning System (GPS) transponders that verify the location of the computer. See, for instance, Ivan Amato, "Big Brother Logs On," *Technology Review*, Sept 2001..

[37] See [Wahl, 2001 #1049@ 9n, 12]. The local stamp duties or sales taxes on derivative trading did not drive traders away from the exchange even though it raised billions of dollars.

[38] It is reasonable to presume that those who reap the most benefit from the current lack of controls would continue to oppose any international architecture of capital controls Goodman and Pauly, "The Obsolescence of Capital Controls? Economic Management in an Age of Global Markets: Japan, Germany, Italy, France,".. American banks are particularly resistant because the lax laws on disclosure and taxation of foreign funds in the United States has been one reason these banks have received such large quantities of international money in recent decades James Petras, "U.S. Banks and the Dirty Money Empire," *Dollars & Sense*, Sept 2001.. Foreign investors, unlike American citizens or residents, pay no tax on interest or capital gains and they are not required to disclose information about earnings to the Internal Revenue Service that could be shared with their government for prosecution of corruption. In many other countries Central Banks will also obstruct legislative controls that reduce their autonomy.

[39] Another major “alternative remittance systems” is the Black Market Peso Exchange (BMPE) that began as means of legitimate and contraband trade within the Americas to circumvent exchange regulations, and is now chiefly associated with a kind of international banking system for the narcotics trade, although it is still used by immigrants to send money home. (Organisation for Economic Co-Operation and Development (OECD), "Report on Money Laundering Typologies 1999-2000," Financial Action Task Force, FATF-XI, February 3, 2000, athttp://www.oecd.org/fatf/pdf/TY2000_en.pdf). See also Bruce Wiegand, 1994 Black Money in Belize: The Ethnicity and Social Structure of Black-Market Crime *Social Forces*, Vol. 73, No. 1. (Sep., 1994), pp. 135-154.

[40] National Drug Intelligence Center, 2000. *National Drug Threat Assessment 2001 - The Domestic Perspective*(Washington DC)].

[41] Patrick M. Jost and Harjit Singh Sandhu. Interpol Report (January 2000) The hawala alternative remittance system and its role in money laundering (Lyon, France)http://www.interpol.int/Public/FinancialCrime/MoneyLaundering/hawala/default.asp.

[42] Nagarajan Vittal. "Corruption and the State," *Harvard International Review*, 23 (3): 20-25 (Fall 2001).

[43] “Studying the rise and fall of the Abu Nidal organization, whose downfall can be attributed to the leader's loss of confidence in his people, may have merit. Strangely enough, the vilest terrorist depends on the "honor" of another terrorist to do his or her work. Once that honor or loyalty is viewed as breached, the system of trust--the glue of the organization--collapses.” Frank J. Cilluffo, Ronald A. Marks, and George C. Salmoiraghi, “The Use and Limits of U.S. Intelligence” *The Washington Quarterly* 25.1 (2001) 61-74: 66.

[44] For instance, “Al Qaeda members reportedly used encrypted email to communicate; steganography to hide encoded messages in web images (including pornography); Kinko's and public library computers to send messages; underground banking networks called *hawala* to transfer untraceable funds; 24/7 cable networks like al-Jazeera and CNN to get the word out; and, in their preparations for 9-11, a host of other information technologies like rented cell phones, online travel

agencies, and flight simulators. In general, networks -- from television primetime to internet realtime -- delivered events with an alacrity and celerity that left not only viewers but decision-makers racing to keep up." Der Derian, James, 2002. *"The War of Networks" Theory & Event*, 5, 4. See also Sidney Weintraub, "Disrupting the Financing of Terrorism" *The Washington Quarterly* 25.1 (2001) 53-60.

[45] Organisation for Economic Co-Operation and Development (OECD), "Report on Money Laundering Typologies 1999-2000," Financial Action Task Force, FATF-XI, February 1, 2001, at http://www.oecd.org/fatf/pdf/TY2001_en.pdf.

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