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Kathy Bowrey. *Law and Internet Cultures.* Cambridge: Cambridge University Press, 2005. x + 298 pp. $21.99, paper, ISBN 978-0-521-60048-4.

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Kathy Bowrey's *Law and Internet Cultures* critically deconstructs the law in the context of legal culture, and especially looks at how U.S. law, practice, and culture has influenced technology law. Bowrey, a lecturer in the Faculty of Law at the University of New South Wales, writes as an "Australian author" but her analysis clearly contains a global perspective as she looks to global structures and laws in other countries such as the United States. The book's analysis draws upon an incredibly broad range of literature including but not limited to traditional "literature" (e.g., Orwell's *1984*), economic analysis, communications theory, and cultural studies. She stretches her analysis, connecting the heretofore disconnected (like Foucault, Coombe, Mandeville's travels, *Napster*, *Grokster*, etc.) and makes these horizontal connections in the context of discussions of verticality--like globalization, international standards, international patent norms, and global governance. The reading will be difficult for folks without a solid background in information technologies and law (and is just plain difficult for reasons mentioned below), but Bowrey does provide at least brief definitions and description of acronyms where need be. She tends to begin chapters with details and then brings things together at chapter's end--but this strategy seems to work for the complex subject matter. This is a great book for reading out of order or skipping to particularly relevant sections. Each section of each chapter can hold together on its own. Numerous diagrams and illustrations add to the flavor of this unique and much-needed book.

The book is segmented into seven chapters. The first chapter, "Defining Internet Law," argues that technical practices, standards, and laws intersect to create Internet culture that is premised on certain exercises of power. The chapter begins with a discussion of RFCs (request for comments), technical standards that hope to facilitate best practices with respect to protocols and procedures. Bowrey uses RFC "stories" to illustrate how technology shapes practices on the Internet. Her illustrative RFC case tells of when emails connected to Australian businesses started to bounce and the unfortunate quick remedy was for Australian businesses to acquire U.S. "dot.com" domain names. The emails bounced because some volun-

tary and commercial organizations patrol the web for RFC compliance and at one time an "RFC-ignorant .org" blacklisted all domain space that included ".com.au"(p. 4). The RFC example illustrates (in the spirit of Lessig's work) how technological forces can act like law.

Early in this chapter, Bowrey points out that not only do standards like RFCs shape practice, but it is not enough for online operations to only concern themselves with local laws. Her example here is the case where Dow Jones (a U.S.-based company) was sued under Australian defamation laws for remarks made about Australian businessman Joseph Gutnick in *Barron's* magazine. Bowrey then ends the first chapter by framing the rest of the book, emphasizing the importance of stories:

"Whether utopian or bleak, fanciful or serious, the messages that stories contain are productive. They are essential to the creation of a community member's sense of identity and purpose.... As I see it, the problem of writing about the Internet in the past was not the attraction to storytelling, even when these stories were self-promoting and very incomplete. Rather the problem was, and still remains, that we have many quite different kinds of Internet communities[:] ... corporate, public open, closed, educational, legal, scientific, artistic, social" (p. 15).

She then calls upon Foucault as an important theorist for scholarly lawyers because he offers theory on discourses of power. Dissecting then the constructs of "law" and "culture" but noting that the two concepts are in a relationship that cannot be completely defined nor separated as two binaries (relying on legal-cultural scholar Rosemary Coombe), Bowrey professes instead to "write against culture through a practice of critical deconstruction of the law" (pp. 19-20).

In chapter 2, "Defining Internet Cultures," Bowrey draws in part on the works of Lyotard, Deleuze, Guattari and Appadurai. The chapter is framed by the unique tale of "Mapping of Mandeville's *Travels*" (p. 27). The author describes how Pliny told of "Blemmyae," men with faces on their chests living in the deserts of Libya. Illustrations (featured in Bowrey's book) later accompanied a text, *The Travels of Sir John Mandeville*, which was claimed to be the product of an English knight who traveled between 1322 and 1356. In this section of the text, Bowrey introduces the reader to the term "transgression": "the moment of crossing the limit between that which is known or familiar to us, the Same, and that which is unknown or does not want to be known, the Other" (p. 29). Later in the chapter she connects the advent of the Internet, the dot.com boom, Pets.com, technological tales like *The Matrix* to Mandeville's travels and depiction of Blemmyae. "There is an uneasy connection between the boastfulness of Mandeville's exploits and the unreality of the dot.com bubble, which was accompanied by our own times' equivalent to Mandeville's exciting tales of discovery" (p. 31). In this, one of the most memorable chapters, Bowrey asks us to theorize Internet culture in a way that is not all about lost community, or all about machine metaphors. Perhaps, she says, like the transgression point illustrated in Mandeville's travels, the theorization of an Internet culture must at least in part be derived from the imaginary and based on the idealized.

In chapter 3, "Universal Standards and the End of the Universe: The IETF, Global Governance and Patents," Bowrey begins again with a story. She suggests that because responsibility for Internet-culture outcomes has not been designated, certain architectures and "laws" that might not serve socially responsible behavior are perpetuated. Using a Foucaultian-Habermasian theoretical framework, Bowrey states that the historicization of the Internet has overemphasized key individual "genius" inventors, thus shifting responsibility for social outcomes from the larger stakeholders. Another narrative adding to the inability to designate responsibility is the creation of the "pseudo-I" in light of the need for meta-collaborative

projects via the Internet: "the nature of metacollaboration leads to difficult questions about the ability to ask anyone to be responsible for the whole, or even for the order of the smaller bits and bytes that are ultimately assembled and continually reassembled" (p. 55). Using The Internet Engineering Task Force (IETF) as an example, Bowrey urges more responsibility-taking by organizations that might do so-- although the IETF is found lacking by Bowrey in that it refuses to take a distinct position on patents. While IETF understands its role as a global Internet law maker, it remains passive. "This is unfortunate because the IETF is capable of significantly and directly impacting upon the import of the patent activity of the state, which is threatened by the global context of Internet standard-setting" (p. 79). Bowrey urges the IETF to take responsibility by enforcing a royalty-free mandate.

In chapter 4, "Linux is a Registered Trademark of Linus Torvalds," Bowrey describes open source code as sitting within an structure that mandates access rather than restrictions on use. Such structure sits in opposition to existing legal paradigms that emphasize restriction. In the same tone, she notes that the trademark of Linux has generally changed the meaning of trademark to that of a political statement about software production rather than just a reminder of exclusive association. She outlines the various philosophical debates between open source software (OSI certified), freeware (GNU) General Public License (GPL) certified, and in-between political places, for example open source software is sometimes selected because it is strategic to do so, not because open source is wholeheartedly embraced from a philosophical position. She posits an interesting theory of open source or free software as possibly relying on equitable trust relationships rather than formal in-law legal relationships (drawing upon trust-relationships within legal paradigms).[1] Such dependence on equitable trust relationships avoids deep connections between open source/free software and existing legal structures that prohibit access. Overly complicated licensing schemes that require legal consultation in order to be understood or enforced will not do. Even so, Bowrey argues, the "commons" described by Lessig, along with open source and free software movements, depend on the creative use of existing legal frameworks and the "exercise of individual free choice associated with the private ownership" (p. 99). Her point is that even Lessig's commons, and the other social movements of joint/collaborative ownership, are founded on the creative exercise of individual private property rights.

In chapter 5, "In a World without Fences Who Needs Gates?" Bowrey discusses two theories of intellectual property. In the first, intellectual property laws are seen as created by the state in order to construct certain events, like incentives for the creation of technology and private property rights. The other intellectual property theory is discussed in reference to Bill Gates, who is said to operate under a differing view of intellectual property rights, where those rights are seen as acceptable as long as they confirm what already exists. "Law is fine--so long as it supports that cybernetic promise of the market" (p. 109). Someone like Gates uses the law strategically: "IP rights are treated as simply part of the information tools and assets good managers naturally use to strategic advantage" (p. 109). Innovation alone is not guaranteed to succeed; what counts is the management of innovation, as examined in a detailed analysis and explanation of Microsoft practices as well as the Microsoft antitrust litigation and judicial opinions. Analogizing Judge Jackson's term "technologically dynamic market" as the Microsoft litigation's code word for "globalization," Bowrey argues that like Gates, the U.S. court in the Microsoft monopoly cases took a limited perspective of the company’s role in the world when a global perspective (one that placed the company in a social context and within existing social networks) would have been more generative. In the end though, U.S law's inability to acknowledge or

contend with globalization will not matter as globalization itself allows the dissemination of information such that consumers will be more informed. Such circulation of information through media "can provide a competing source of influence or authority over our buying, thinking and acting" as opposed to the Microsoft "archetype" (pp. 133-134). Bowrey wryly argues that in light of globalization, the inability of law to manage the environment (including information flows) might not matter so much.

In chapter 6, "Telling Tales: Digital Piracy and the Law," Bowrey makes an extremely insightful point: she posits that the problem with the selling of the "digital piracy message" such as seen in popular media today (through agencies like the RIAA), is that our history of consumption has already primed us to certain expectations:

"We have been sold on a story of a clean, seamless aesthetic--one that facilitates integration and co-ordination of appliances and lifestyle. As consumers of that fantasy, we place limitations on the development of the technology market, on what is believable as consumer education, and on the ability of law to sell us a structure of 'control'" (p. 143).

Because we expect technologies to be sleeker, faster, and readily obtainable (she refers to the "bazaar" metaphor from the *Napster* literature), the existing narrative frustrates a new vision of technology as regulated and controlled (as the RIAA and music industry would like us to see it). Bowrey argues that the world may not rush to embrace the creative commons model because to do so is also embracing the notion that the law will solve all of our problems, and identities outside of the legal framework can and will continue to assert themselves. The RIAA has made a mistake by operating under the notion that imposition of a law upon practice will automatically cause people to obey:

"There is a presumption that the only form of power that counts is power conceived of in formal and bureaucratic terms.... But this is not what the information economy is all about, and the more diffuse expressions of identity and social power should not be so readily ignored.... It is even more problematic when compliance involves choices to be made about the meaning of an act of consumption. For the same reason we should not be surprised if there is not a rush, especially outside of the US, to embrace creative commons licensing. A defined legal identity may be a part of global citizenship. However the formal expression of legal identity is not essential to the network economy. And a law-free sign still has some currency in it, at least for now. It is one of the many identity choices we are still permitted to make and in the name of freedom, we should not abandon it too eagerly" (pp. 168-169).

Bowrey expresses remorse for the lost day when one could manifest creativity without explicit knowledge of law and licensing schemes. In her critique of creative commons, a version of which has been adopted in Australia, she points out that such a licensing scheme invented by lawyers depends on order and law for its survival. In contrast, the attraction of the Internet for many was that it allowed information to be free--this is what's underneath the peer-to-peer sharing system. Because certain individuals are already immersed in "institutional and bureaucratic culture," such as academics, for one, their approval of and attention to creative commons licensing is not surprising to Bowrey. She worries that folks who previously had no reason to concern themselves with copyright law will in the future perhaps have to meta-tag all their works with some type of legal marker. Her argument that the attraction to the building and maintaining of a public commons is especially appealing to certain types of folks, and her reminder of what is possibly lost in such a law-based regime, should be cause for reflection for those of us in academia used to resisting and challenging narratives. It is not enough to challenge our existing copyright regimes by using creative commons licensing or

the like. Instead, we must also deconstruct such licensing schemes before jumping on board with wholehearted acceptance--as Bowrey points out, there is benefit and legitimacy to "uncertainty" in our presentation of texts and our possible refusal to subscribe to one or another mainstream legal infrastructure.

In the final chapter, "Participate/Comply/Resist," Bowrey asks what should be done about the power of information communication technologies: should forms of resistance be developed through technology? Is it acceptable to technologically undermine state action that is deemed questionable? Can such types of resistance really allow for emancipation? What other forms of technology use are possible other than those that are purely reactionary? The chapter discusses the WSIS (World Summit on the Information Society) as an exemplary organization formed to address human rights issues as they intersect with Internet policy, the Free Trade Agreement (FTA) in the context of U.S.-Australian practice, and resistance generally: cyberactivism, culture jamming, politically motivated hacktivism, cyberprotest. Bowrey sums up by saying: "This book primarily focuses on legal community in relation to the internet, considering the old modern, new and emerging forms of regulation" (p. 199). She sees legal spaces as sites that have been largely ignored by many folks writing and theorizing on unacceptable practices and uses of power via the Internet. Admitting the law is not all powerful and omnipotent, Bowrey argues nonetheless that the law may be where "the power to change things is most accessibly and visibly located" (p. 199). Other "legal spaces" besides those such as traditional laws and regulations are posited by Bowrey as being potential sites of resistance and renewed strength by organizations and communities that wish to work against the continued construction of the Internet solely for the benefit of transnational business and U.S. capitalism.

Bowrey's book contains a great deal of thought-generating material and addresses important issues. For rhetoric and writing scholars, this book should serve as a bridge between legal studies and cultural studies. It leaves a space for a new vision of cultural studies that includes other kinds of communities in addition to the traditional ones based on race, class, sexual orientation, disability status, and gender. Her use of literary stories as rather tangential connectors to detailed discussions of complex legal happenings in Internet contexts sometimes makes for difficult reading, as does her overuse of long block quotes that sometimes seem loosely tied together. However, her attempt to give us a lens to examine the current political and social implications of networked communication --other than the traditional postmodern, postcolonial lens, is admirable. I will reference this book in the future, especially its critical analysis of the public commons, its discussion on the Microsoft archetype, and its comparison of Internet communities to the unknown lands and peoples in Mandeville's travels. I ask, isn't it possible that Internet communities and culture do not fit into our pre-existing, traditional classifications of "community" and "culture"? This book, although dense and difficult to read, will resonate with its audience.

Note

[1]. With respect to legal remedies, there are two: remedies in law, and remedies in equity. Remedies in equity are generally requested when remedies in law will not do. Money damages are a classic example of a remedy in law, whereas injunctive relief is a classic example of a remedy in equity. Injunctive relief involves the order to stop someone from engaging in a certain damaging behavior. Equity is justice administered based on what is fair in contrast to what is based on strict rules or regulations.

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