

# BARLOW'S LEGACY

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“Who controls the past controls the future; who controls the present controls the past.”<sup>1</sup>

And now we are come to the great techlash, long overdue and desperately needed. With the techlash comes the political contest to assemble the narrative of What Just Happened and How We Got Here, because “Who controls the past controls the future. Who controls the present controls the past.”

Barlow is a key figure in that narrative, and so defining his legacy is key to the project of seizing the future. As we contest over that legacy, I will here set out my view on it. It's an insider's view: I met Barlow first through his writing, and then as a teenager on The WELL, and then at a dinner in London with Electronic Frontier Foundation (EFF) attorney Cindy Cohn (now the executive director of EFF), and then I worked with him, on and off, for more than a decade, through my work with EFF. He lectured to my students at USC, and wrote the introduction to one of my essay collections, and hung out with me at Burning Man, and we spoke on so many bills together, and I wrote him into one of my novels as a character, an act that he blessed. I emceed events where he spoke and sat with him in his hospital room as he lay dying. I make no claim to being Barlow's best or closest friend, but I count myself mightily privileged to have been a friend, a colleague, and a protege of his.

There is a story today about “cyber-utopians” told as a part of the techlash: Once, there were people who believed that the internet would automatically be a force for good. They told us all to connect to one another and fended off anyone who sought to rein in the power of the technology industry, naively ushering in an era of mass surveillance, monopolism, manipulation, even genocide. These people may have been well-intentioned, but they were smart enough that they should have known better, and if they hadn't been so unforgivably naive (and, possibly, secretly in the pay of the future monopolists) we might not be in such dire shape today.

In support of this contention, they cite aphorisms like “The Net interprets censorship as damage and routes around it,” coined by

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<sup>1</sup> GEORGE ORWELL, NINETEEN EIGHTY-FOUR 331 (Outside The Box Ebook Publishing 2018) (1949) (ebook).

Barlow's EFF-co-founder and erstwhile roommate John Gilmore who rivals Barlow for the title of internet zelig. Gilmore has a hand in the invention of the Free Software movement, the legalization of civilian access to cryptography, the ISP industry, commercial open source, software-defined radio, marijuana legalization, and a hundred other projects large and small.

But context is everything: "The Net interprets censorship as damage and routes around it" was a prescription as much as an observation. It was uttered in the context of a nascent internet whose technical caretakers disagreed on many ethical and technical points, but were united in a sense of civic duty to keep the technology open and universal and "free as in freedom." Gilmore didn't mean, "Stand down everyone, we've built a censorship-proof internet that will automatically maintain its integrity." He meant, "To you, my comrades-in-arms who toil endlessly to make our balky, wonderful invention run, I say: the same measures that we take to re-knit our network when a technical failure tears holes in its fabric can be repurposed to resist censorship, to route around the nodes that have fallen under a censor's thrall. Our shared civic mission, heretofore dedicated primarily to the technical task of preserving a forum for discourse, can and should be expanded to the political task of preserving that forum, and what's more, the tactics that we have mastered so thoroughly for the former will serve us in the latter."

Critics of political slogans take note: the fact that a complex idea is reduced to a pithy bumper-sticker is not (necessarily) reductive; it can be a necessary and extremely valuable convenience. A URL is not a web-page and even the best URL rarely substitutes for the page it refers to. But requiring us to forego pointers and deal only in things, to refer to web-pages solely by their complete texts rather than the brief summaries that unambiguously point to them, would be a hard discourse.

When Barlow advocated for a free internet—"free" in all the usefully overlapping and ambiguous senses of that word—he wasn't doing so because he lacked an appreciation of the risks of a monopolized internet, or an internet that was under the thumb of a repressive state. Rather, he did so precisely because he feared that a globe-spanning network of ubiquitous, sensor-studded, actuating devices that were designed and governed without some kind of ethical commitment, without the pioneering spirit of the early internet and its yeoman smallholders who defended it from those who sought to dominate or pervert it, that we would arrive at a dystopian future where the entertainment industry's Huxelyism was the means for realizing the nightmares of Orwell.

You don't found an organization like the Electronic Frontier Foundation because you are sanguine about the future of the internet: you do so because your hope for an amazing, open future is haunted by terror of a network suborned for the purposes of spying and control.

“If there is hope . . . it lies in the proles”<sup>2</sup>

The techlash began within tech. Naturally. Notwithstanding the genuine privilege-blindness of techies who often live in a bubble of wealth, technological competence, and agency, no one was better situated to spot the problems with tech—market-concentration, the reckless collection and warehousing of sensitive personal information, deceptive and manipulative business practices, the misuse of tech by repressive states, bullies, stalkers, and would-be ethnic cleansers—than people who understood precisely how the technology worked, knew the people responsible for the key decisions, and understood their frailty and capacity for self-deception.

These early coalmine canaries were atomized and isolated. At EFF, we heard from some of them: whistleblowers who came in with printouts and wild tales. Think of Mark Klein, who wandered through the front door of the old Shotwell Street office in San Francisco's Mission district with a sheaf of documents and a hard-to-believe tale about his years at AT&T building a secret room for the NSA to use while illegally wiretapping the whole internet. Klein wasn't a crank. He was a hero, and the litigation spawned by his act of bravery is still underway, more than a decade later.

Tech is a great force-multiplier. The canny user of technology can project their will over millions or even billions of devices, and, potentially, over the people who use those devices, too. That kind of power is terrifying, especially in the hands of unaccountable, frail, and fallible elites.

The project of teaching “STEM” to everyone did not begin as an attempt to maximize the national GDP by raising a generation of startup founders: it was a prescient attempt at self-defense, a mission to pluralize the power of tech.

“Tech” is not a force unto itself. Technology's imperatives are the imperatives of the people who design, control, and use technology. Information doesn't want to be free, but people do.

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<sup>2</sup> ORWELL, *supra* note 1, at 94.

Barlow loved people. When Skype was invented, he kept it turned on at all hours, and allowed anyone in the world to initiate a session with him. Some were colleagues, some were admirers, and a good fraction were randos who were just exploring this new videoconferencing system. Barlow doted on these randos, and rhapsodized about the joy of helping a stranger halfway across the world practice their conversational English.

The last time I spoke with Barlow, as he lay in a hospital bed in San Francisco, he told me that if he ever got out, he wanted to go drive a car for Lyft, and just meet new people all day long and talk to them about what they wanted and what he wanted and make human connections.

Barlow was not naive about the ways in which humans could be terrible to other people and themselves. His posthumously published memoir, finished just weeks before he died, is simultaneously full of celebrations of the people who crossed his path and score-settling that verges on the unseemly or petty.

It's just that Barlow thought that the answer to human frailty was more humans. The answer to an empathy gap was spending time with the people for whom you lacked empathy. That while these things did not guarantee the development of an ethical stance, their absence guaranteed a kind of rootless, free-floating sociopathy.

Doctrinal free-market thinkers have excused much sociopathy with the self-evident aphorism that "incentives matter." As with "the Net interprets censorship, etc," this saying references much subtext, notably the idea that kindness creates dependency and helplessness. It is a doctrine of cruelty, dressed up as pragmatism.

But incentives do matter. Designing a system that can only be navigated by being a selfish bastard creates selfish bastardry, and the cognitive dissonance of everyday cruelties generates a kind of protective scar-tissue in the form of a reflex of judgment, dismissal, and cruelty.

And contrariwise, designing a system where we celebrate civic duty, kindness, empathy and the giving of gifts without the expectation of a reward produces an environment where the angels of our better nature can shout down the cruel, lizard-brain impulses that mutter just below the threshold of perception.

“Freedom is the freedom to say that two plus two makes four.”<sup>3</sup>

Generations of elevation of selfishness to virtue has produced a public discourse where espousing a belief in human goodness marks you out as a patsy at best and a dangerous idiot at worst.

There's a statistical illiteracy in this proposition. After all, if 99.9 percent of the world is composed of bastards, how unlikely is it that you and everyone you know are just unremarkably flawed vessels whose nature fluctuates between reaction and reason?

But the idea that humans are mostly OK and made worse or better by the stories they tell about their own nature has been in disrepute since the Reagan years, and without the freedom to admit this otherwise obvious truth, we've had to compose all kinds of other excuses for our world.

Take the concentration of tech into Big Tech: the theorists who insisted that unfettered markets and doctrinal selfishness would produce competitive and vibrant markets find themselves scrambling to explain the conversion of the internet from a crazy bazaar into five big services filled with screenshots from the other four. They field all manner of unconvincing explanations for this phenomenon, like “first-mover advantage”<sup>4</sup> or “network effects,”<sup>5</sup> because they can't say, “Dismantling antitrust enforcement gave rise to a new wave of trusts on a scale not seen since the robber-barons.”

But if first-movers and network effects predicted success, we'd all be searching the internet by logging into Altavista from our Crays.

The utterly plausible explanation for Big Tech—that we stopped enforcing the rules that punished underhanded growth tactics like mergers to monopoly—is resisted with the fervor of an anti-vaxxer explaining away their kid's measles: “It's not because I didn't get her vaccinated, it's because of environmental toxins!”

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<sup>3</sup> ORWELL, *supra* note 1, at 109.

<sup>4</sup> “In marketing strategy, first-mover advantage (FMA) is the advantage gained by the initial (‘first-moving’) significant occupant of a market segment.” *First-mover advantage*, WIKIPEDIA, [https://en.wikipedia.org/wiki/First-mover\\_advantage](https://en.wikipedia.org/wiki/First-mover_advantage) (last accessed June 9, 2019).

<sup>5</sup> “A network effect (also called network externality or demand-side economies of scale) is the effect described in economics and business that an additional user of a good or service has on the value of that product to others. When a network effect is present, the value of a product or service increases according to the number of others using it.” *Network effect*, WIKIPEDIA, [https://en.wikipedia.org/wiki/Network\\_effect](https://en.wikipedia.org/wiki/Network_effect) (last accessed June 9, 2019).

Bigness multiplies all the risks of tech. Putting everyone's social lives on Facebook creates a one-stop shop for mass-scale manipulation. Putting everyone's mobile data in one of two silos creates an irresistible target for state surveillance. Putting everyone's attention at the mercy of four or five gatekeepers turns their normal human foibles and cherishes illusions into facts of life that everyone else in the world must navigate.

Think of this in analogy to climate change. Your racist Facebook uncle's climate denial around the Thanksgiving table may ruin your digestion, but it won't cook the planet. But change your uncle's name to Koch, give him a multi-billion-dollar war chest, give it a generation, and before you know it we'll be drinking our urine and digging through rubble looking for canned goods.

In the same way, your idiotic college roommate's social theory that "everyone should just be honest, all the time," might make you want to change the locks on your dorm-room. But make that kid's name Zuckerberg, put him in charge of the social lives of two billion people, and his bizarre belief that "Having two identities for yourself is an example of a lack of integrity"<sup>6</sup> becomes an existential threat to human thriving.

Implicit in the belief in bigness is a belief in a special kind of person, an Ayn Randian titan, whose innate superiority is so fabulous that any attempt to rein it in will rebound to the detriment of all of us. Markets act as a kind of sorting hat, finding these natural rulers and elevating them to positions of power, and the scurrying little people's misguided attempt to dethrone them must be resisted, for their own sakes.

But no one is smart enough and competent enough to be the dictator of two billion peoples' social lives. It's not merely that Mark Zuckerberg is wrong about how people get along, it's that no one is right enough to wield that power.

Generations of insistence that some among us are born to rule, and revelations that the people who rise to power in that environment are at best fallible and at worst deplorable have created a massive dissonance, a great collective yearning for a One True King to lead us out of our dark times.

There's a narrative about Cambridge Analytica and the 2016 election of a boorish white supremacist grifter to the US presidency:

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<sup>6</sup> See Miguel Helft, *Facebook, Foe of Anonymity, Is Forced to Explain a Secret*, N.Y. TIMES (May 13, 2011), <https://www.nytimes.com/2011/05/14/technology/14facebook.html>.

Cambridge Analytica lied about everything except their sales literature, where they truthfully revealed that they had discovered a way to turn Facebook into a mind-control ray that would make decent people into racists.

But there's another, more plausible version of that narrative: Facebook spied on everyone and found all the racists, whose imperfections have a variety of causes, but prominent among them is the belief that some people are better than others and markets tell you who is and isn't good. Having found the racists, Cambridge Analytica convinced them that voting for Donald Trump would advance their cause.

This version of events suggests several countermeasures: make Facebook stop spying on people; help people see that the winners and losers in the marketplace are better predicted by cruelty and indifference to their neighbors than by virtue; ease the anxiety that everyone who doesn't win big in the 21st Century lottery will lose terribly.

That is: fix the incentives; find the better natures of people; help people understand and master their technology; reverse the forces that permit a few people to rise to dominate the rest of us.

That is: treat the internet with the gravitas that it is due, as a system that could be a force for great human flourishing, but only if we ensure that it isn't used to snuff out human dignity and agency.

Barlow made his reputation by insisting, long before it was obvious to most people, that getting the internet's future right would be a necessary precondition to getting humanity's future right. By insisting that the toy network used for telling jokes and arguing about Star Trek would grow up to be the pluripotent network that allowed anyone, anywhere to talk to anyone else, anywhere, using any program or protocol they chose. By insisting that the internet be regulated with regard to all the ways that it would come to touch our lives in the future—and not merely as a better radio station, or a very convenient video-on-demand service, or a jihadi recruiting tool, or as the greatest pornography distribution system in human history.

When a problem is a long way off, activists' primary activity for many years is to simply convince people that there is a problem: that someday your cigarettes will give you cancer; that someday, climate change will threaten billions of lives; that someday, the text-messaging system called "the internet" will grow to be our species-wide, civilization-spanning nervous system.

But if the activist is right, then eventually convincing people that there is a problem will take care of itself. Your doctor finds a tumor. California burns. Burmese mobs visit genocide upon the Rohingya.

I call that moment “peak indifference.” It’s the moment when the problem’s unchecked progress creates its own momentum, and every day, of their own accord, people recognize that the problem is there.

After peak indifference, the activist’s job changes: now, they must convince people not to give in to nihilism. Because by the time a problem like cancer or climate or concentration is so manifest that we can’t deny it, it can seem like it’s too late to do anything about it.

After peak indifference, the activist’s job changes to convincing people to have hope.

Barlow never gave up hope. He was unabashedly, unashamedly, publicly and vocally hopeful.

That hope plays into the narrative of techno-utopian naivete. But Barlow wasn’t naive. He knew how much trouble we were in—and he also knew how wonderful things could be, if we could only dig ourselves out of that trouble. The techlash isn’t a repudiation of Barlow’s hopefulness: it is his vindication.

Barlow’s legacy, then, isn’t a foolish belief that history would steer clear of dystopia of its own accord; rather, his legacy is the noble belief that we, together, pluralistically and through collective reasoning and collective action, could navigate the dangerous waters we find ourselves in, patch the holes the rocks knocked in our ship, and find our way to a better land.