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Cyberspatial Properties: Taxing Questions about Proprietary Regimes

Bill Maurer

When I considered what people generally want in calculating, I found that it is always a number.

(Muhammad ibn al-Khuwarizmi, *Compendium on Calculating by Completion and Reduction*)

Internet-based banking products, electronic commerce transactions, and internet-based offshore financial services are new objects of proprietary and regulatory concern. Each seems to circumvent state apparatuses such as community investment and taxation regimes designed, at least in principle, to serve the public weal. In this chapter I ask whether these new objects of property necessitate a rethinking of property's moral form. They are not merely challenging regulatory frameworks; they are challenging moral obligations involved in territorial state jurisdictionality. If property always entails moral claims, then new kinds of proprietary objects that trouble legal and regulatory obligations unsettle the moral orders in which property is constituted. Cyberspatial properties, by unsettling these moral orders, make visible the contours and the limits of liberal and critical theories of property, themselves bound up with its moral orderings.

If cyberspatial properties call forth the limit of both liberalism and liberalism's critique, they also demand a re-working of the conceptual apparatus of criticism and an accounting of the tight relation between languages of critique and languages of property. For example, it will not do to simply reverse the upside-down images of ideology to which Marx and Engels referred ("in all ideology men and their circumstances appear

upside-down as in a *camera obscura*," 1977: 164). The answer to Marx's question, "what is the secret of the commodity?" will not necessarily further analysis here. Marx discovered labor underneath value, and sought to restore to workers the value they owned because of their inherent ownership of their labor, which had been alienated by the wage relation. The answer to Marx's question, then, was itself an element of liberal property-form, for the person as owner of its body and capabilities is at the center of the labor theory of value.

As in algebra, so in liberal and critical theory there are givens and there are unknowns. The algebraic process involves conducting identical operations with mathematical equivalencies on either side of the equation to "solve for" the unknowns. What is the value of x around which the equation rotates? For Marx, it was abstract labor, material conditions, and "actual life-processes." Solving for x , however, does not explain why the mystifications of capital take the form of commodity fetishism, or the property-form itself. This form consists of the separation of persons from things, owners from owned, and the abstraction and objectification of property despite the relations inhering in it. As Diane Nelson poses the dilemma, "[p]laying detective and getting down to how the fetish 'really' works completely misses the magic act" (1999: 77). The limits of Marxian critique thus compel another, more nuanced look at the object of its critique: liberalism. In this chapter, Margaret Radin's writings on property will help me to delineate certain liberal views of property in order to demonstrate their formal elements and pragmatic operations. The mathematical operation of algebra will function as an analogy to the work of critique, just as it has functioned as an analogy for efforts to find solutions to all manner of mysteries.

Consider mystery movies, for example. If the analysis of property takes the form of a "whodunit," it reproduces the conditions of its own possibility by holding steady all the old oppositions of liberal theory: object and subject, emotion and reason, property and person – to name but a few. The detective in the whodunit plays the role of the analyst. Agatha Christie's Miss Marple is a good empiricist; she gathers clues and reconstructs the crime, and thereby deduces the identity of the murderer. The "facts" on which her reconstruction rests are themselves beyond question. They are there for anyone to see – all it takes is a trained eye and a quick mind, and all the pieces of the puzzle fall into place: we solve for x . In a whodunit, we "coldly and without emotion await the end to learn who committed the murder. The whole interest is concentrated in the ending" (Zupancic 1992: 83).

Some of Hitchcock's mysteries function very differently. Here, the audience knows from the start who committed the murder. There is no x demanding solution. The dramatic tension does not build up through the gathering of clues but rather through the staging – or restaging – of the crime itself. This restaging, in Hitchcock, is quite literal: it occurs in a moment where a fictional scene is portrayed within the fictional narrative of the film itself. We wait for the time when the murderer is on a stage where we expect the murderer's guilt to be reenacted. As Zupancic writes, "The fascinating point is not the revelation of the murderer's identity, the reconstruction of the crime and the deduction of the truth, *but the manner in which the truth is displayed* – or is gazing at us, if we can put it that way, in the glint of the murderer's eye" (ibid., p.84, my emphasis). This narrative device, the play-within-the-play, also reveals the conditions of possibility of fictionality itself. That which is excluded from the film in order for it to function as narrative, all the background assumptions and prediscursive elements that are the conditions of possibility of narrativity and performance, are condensed into the moment of the fictionality *within* the film. The conditions of possibility (for example the camera-operator) cannot be shown in the main fiction or they would dissolve the narrative. But they *can* be shown – through a process of doubling or duplication – in the fiction-within-fiction. In Hitchcock, this doubling reveals the "sign of guilt" of the murderer, as well as the signs of guilt of the originary fictional act. The effect is that of a set-up (for the murderer). Zupancic terms this device a "mousetrap:" with a mouse, we already know the identity of the cupboard thief, so we set a trap for it by constructing a miniature cupboard and enticing it with cheese to duplicate its original crime, a cupboard from which it cannot escape.

In what follows, I treat internet banking and electronic commerce taxation together with Margaret Radin's "pragmatist" account of property. This allows me to foreground the limits of liberalism and the forms of algebraic critique that accompany liberal theory. Next, I turn to a new phenomenon in offshore financial services. In 1999 and 2000, the Caribbean country of St. Lucia brought into existence a new form of International Business Company (IBC) for international investors seeking to avoid taxation in their home jurisdictions. St. Lucia's IBC legislation co-occurred with and was explicitly linked to the opening of a free port for Chinese goods on the island's southern tip and a gated luxury-housing development on the island's northern tip. The legislation allows IBCs incorporated there to be listed on the Hong Kong Stock Exchange – simultaneously troubling the "here" and "there" of what analysts inappropriately gloss as financial "flows."

The concluding section sets a sort of mousetrap for critical analysis. It returns to the algebraic reasoning of critique via the medieval Islamic philosophies that inaugurated algebra, and the misinterpretations of these philosophies by European mathematicians. In the Islamic texts, reading between the lines of the translations, one finds a very different account of the relation between reason and the real. The foundational text for European algebraic reason, it turns out, was a treatise on the inheritance of property in land. It hinged on the moral forms animating property that escaped its English translator because they were at right angles to his own moral assumptions about property.

Internet Banking, Electronic Commerce, and Specters of Communities Past

In introducing the bill that became the Community Reinvestment Act of 1977 (CRA), U.S. Senator William Proxmire argued that granting a bank a public charter and federally insuring its deposits implied the bank's acceptance of certain obligations. "A public charter conveys numerous economic benefits," Proxmire stated, "and, in return, it is legitimate for public policy and regulatory practice to require some public purpose" (Proxmire, 123 Cong. Rec. 1958). Specifically, the CRA required that banks meet the credit needs of the communities in which they built their physical establishments (12 USC section 2901ff; 12 CFR section 25.41; see Overby 1995). The CRA sought to eliminate "redlining," by which banks would refuse to lend within regions coterminous with racial and ethnic minorities and/or a high proportion of residents living in or near poverty.

The anti-redlining mission of the CRA did not take the form of negative proscriptions so much as positive affirmation of the obligations incumbent upon a bank to serve the public. The CRA is framed by a discourse of duty. In a statement that becomes increasingly explicit about the duty a bank is supposed to uphold – a duty, ultimately, to provide *credit* – the US Congress issued a finding that:

- (1) regulated financial institutions are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities in which they are chartered to do business; (2) the convenience and needs of communities include the need for credit services as well as deposit services; and (3) regulated financial institutions have a continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered (12 USC 2901).

The CRA stresses community connection and community development through credit. Money, here, is not the universal solvent flattening social relationships into variations of the same but, in its guise as credit, becomes the materialization of belief and faith, the glue of society, the obligations that bind and underwrite the world (cf. Simmel 1990).

In the CRA vision, banks promote what William H. Simon (1991) calls "social-republican property." Social-republican property is distinguished from other forms of property in that those party to such property rights must "bear a relation of potential active participation in a group or community constituted by the property," and "inequality among the members of the group or community" must actively be limited (Simon 1991: 1336). Coming very close to asserting a "right to credit," but deferring right through the language of need, the 1977 Congress nearly equated access to credit with political entitlements like voting. Redlining, then, would not simply be unfair but both anti-communitarian and anti-democratic.

Internet banking has generated a flurry of opinion and debate about the translation of such communitarian and democratic obligations into cyberspace (see, for example, Beetham 1998; Keyser 2000). If an internet bank accepts deposits from people living around the country, and if the banking activity itself occurs in "cyberspace," and not at a teller window located in physical space, then how can a bank's "community" be defined for the purposes of the CRA? And how will the social glue that credit supposedly instantiates stick if the "social" is not immediately, geographically evident?

In a practical sense, the question is moot because the CRA has transformed since 1977, especially with the passage of the Financial Services Modernization Act (FSMA) of 1999, and large-scale consolidations in the banking industry that have transformed banking from a local affair into an increasingly national one. The FSMA diminished the sanctions against lenders who fail to comply with CRA guidelines, reduced the frequency of CRA examinations, and put new regulatory burdens on non-profits and other organizations that would seek to benefit from a lender's CRA-based provisions of credit (for example a non-profit mortgage provider serving low-income home-buyers). One of the purposes of the FSMA was to permit the creation of "financial holding companies" (FHCs) that offer investment banking, consumer banking, and insurance services all under one roof – one-stop financial shopping. In effect, the FSMA merely served to authorize mergers and acquisitions that had already been taking place in the financial services industry since the 1990s.¹ Brick-and-mortar banks already choose their

"assessment areas" for the purposes of CRA compliance. National banks can select an assessment area that is "less poor" or "less risky" than others, meet CRA guidelines, and possibly even earn an "Outstanding" rating for doing so, since CRA regulations also reward lending "innovations" (Cocheo 1999).

But it is the question of how an internet-based bank will meet its CRA obligations, not the question of poor people's (continuing lack of) access to credit, that generates and moves the debate. In a law-review article on the topic, Thomas W. Beetham writes, "The 'community' of a cyberbank is nowhere and everywhere at the same time . . . a bank's reach is as broad as the Internet itself. Without a 'brick-and-mortar' branch, the assessment area as defined by the existing regulations simply fails to make sense" (Beetham 1998: 924). The debate over internet banking focuses on determining what obligations an internet bank owes, and to whom, rather than assuring a "right to credit" or meeting everyone's credit "needs." In doing so, it tweaks definitions of "community" and reorients the conversation to the topic of "equality."

Those seeking to find a way to ensure internet banks' CRA compliance turn to a special definition of "community" set out in the CRA regulations themselves. A community's primary definition is geographic but can also be held to consist of "military personnel or their dependents who are not located within a defined geographic area" (Beetham 1998: 917; 12 CFR section 25.41(f)). This definition of community, based on military membership and a sort of military citizenship that devolves through bloodlines, has allowed the company USAA to offer financial products to this "community" while meeting its CRA obligations by granting access to credit to members of its own customer base. In effect, USAA has "delineate[d] its entire deposit customer base as its [CRA] assessment area" (ibid.).

Using the military model to create assessment areas for internet banks poses an "exclusivity" problem, however. As Beetham remarks, "The mere existence of a purely Internet bank is basically a form of redlining in and of itself – but income-based rather than geographic-based" (Beetham 1998: 930), and an "on-line customer based definition of 'community' [would be] antithetical to the principles of equality in access and opportunity – at least until on-line services are more freely available to low- and moderate-income groups" (1998: 930). For Beetham, overcoming the exclusivity of computer and internet access is prior to overcoming the exclusivity of wealth. To avoid the further exclusion of the poor from access to credit, then, he calls for equal access to computers and the internet: "'Equality' rather than 'community'"

should be the focus of regulatory scrutiny. Accordingly, the CRA should focus on encouraging banks to afford all customers equal access to their services and an equal opportunity to apply for loans that they would evaluate on a national basis" (1998: 928). In effect, Beetham redefines the obligations under the CRA as being owed to abstract individuals, not "communities" or other interest groups, and exemplifies the shift from community to individual in neoliberal discourse generally.

Debates over whether and how to tax electronic commerce – internet-based sales of goods and services – have taken similar turns. Electronic commerce poses the challenge of how to collect tax on sales conducted on-line. Regulators – and frantic and financially strapped local governments – fear that e-commerce will spell a loss of tax revenue. There are currently no accounting standards for electronic commerce, so determining how much tax an internet-based business might owe becomes a challenging task, especially if the business accepts payment in the form of the various electronic cash products that are specifically designed to eliminate paper-trails and ensure the same kind of anonymity as cash-only transactions. Local governments fear the potential loss of tax revenue from workers and businesses displaced by the new economy. The most immediately apparent example of the latter, for academics at least, is the internet bookseller Amazon.com's negative effect on independent and college bookstores. Organizations from the US National Retail Federation to the Organization for Economic Cooperation and Development have expressed the concern that not taxing electronic commerce lends a competitive advantage over "store-front" retailers (see Chan 2000, n.109).

The biggest problem, however, is that of jurisdiction: even if you can determine what taxes are owed, to whom are they owed? One lawyer puts forward the following hypothetical:

A customer in Norway uses his computer to access a server located in India to purchase goods produced by a U.S. company. The U.S. company has no other presence in, or contact with, Norway or India. Under these circumstances, which country or countries may tax the U.S. company's business profits on its sale to the Norwegian customer? (Chan 2000: 252)

As with the debate over the CRA, the internet is presumed to dissolve the bonds tying people to place. As the US Department of Treasury summarizes,

The concept of a U.S. trade or business was developed in the context of conventional types of commerce, which generally are conducted through identifiable physical locations. Electronic commerce, on the other hand, may be conducted without regard to national boundaries and may dissolve the link between an income-producing activity and a specific location. (US Department of Treasury 1996: 20)

This, in turn, immediately brings up the problem of sovereignty, for “no area of the law is closer to the subject of sovereignty than taxation” (Chan 2000: 254). Taxation is a pivot of governmental obligation, embodying the duty of citizens to pay taxes, and the duty of a government to serve the public weal. Taxation creates property akin to the social-republican model. It is derived from certain rights and duties, and it extends out into other rights and duties, animating the state itself in its expression as the collective will. Paying taxes is the corollary of voting. Since these rights find form within territorial nation-states, the apparent a-spatiality of cyberspace troubles their future application.²

Electronic commerce has in some debates taken on the character of a vampire, sucking the life-blood of the sovereign state. It is not surprising that electronic commerce is frequently brought up in the same discussions as offshore gambling and tax evasion, two other revenue-draining activities supposedly facilitated by the internet infrastructure that creates “cyberspace” (Maurer 1998). Unlike tax evasion and gambling, however, electronic commerce belongs to a set of putatively legitimate activities – business advanced in the pursuit of profit, which, by definition, is the paragon of the good and virtuous. Without quashing the entrepreneurial spirit or eroding state sovereignty as a territorial form, then, how can regulators deal with the challenges it poses?

One solution, proposed by the Clinton administration in the mid-1990s, assumed that the real risk posed by electronic commerce was offshore tax evasion, and then sought to provide a remedy that would mitigate it. The proposed remedy foregrounded *residence*, and the obligations incumbent on an individual vis-à-vis the state within which the individual resides. In the Clinton administration plan, electronic commerce would proceed using some form of electronic currency purchased from a local bank. The e-currency would identify the jurisdiction in which the purchaser resides. During an internet sale, tax would be calculated based on the buyer’s “place of consumption,” or legal residence. The seller would place the revenues collected “with a third-party escrow agent, who would funnel the money to the appropriate government” (Chan 2000: 262).

Home is where the heart is. A curious feature of the Clinton proposal is that it relied on brick-and-mortar banks and neighborhoods of homeowners. What would happen, under this plan, if people bought their e-cash using email aliases from internet banks? The proposal evokes the world of small towns populated by homeowners who bank at the local building and loan, and not a world of highly mobile transients with minimal attachments to their various places of residence who rely for their financial needs on either internet-only financial institutions or check-cashing outlets and pawn shops. What does the Clinton plan make explicit about the categories of liberal thought in its encounter with cyberspatial properties? As with the CRA, the debate over electronic commerce brushes against the social-republican community-cum-nation on the one hand, and the abstract individual proprietor of the free market on the other.

Cartesian Grids and the Metapragmatics of Property

We should not be surprised by how closely the framing of the “problems of” and the “solutions to” internet banking and electronic commerce map onto debates in liberal theory. Margaret Radin (for example 1993) has developed a liberal theory of property that begins from the assumption that certain forms of property are so deeply linked to personhood as to be constitutive of it. She uses this assumption to argue for things like the right of renters to redress under government “takings” jurisprudence, claiming that a tenant’s home is just as constitutive of their personhood as a homeowners’ home. Radin’s conceptual apparatus hinges on a distinction between what she calls “personal” and “fungible” property, the former more deeply intertwined with subjectification, the latter more deeply imbricated in the world of market values. Radin is clearly indebted to certain thinkers in the liberal and critical tradition like Locke, Kant, Hegel, and Marx. At the same time, she is at pains to defend herself against the charge that she offers a timeless and transcendent theory of property. She also defends herself against both orthodox market libertarians and communitarians or social republicans. What interests me, however, is how her personality theory of property at the same time incorporates both orthodox liberalism and communitarianism through a modal transformation of those theories and an infolding of some of their core elements.

First, take orthodox liberalism. By granting a domain of fungible property, Radin incorporates one core element of this doctrine: fungibility in terms of market values. By centering on the person as proprietor,

Radin incorporates another element. But she considerably expands the person's domain, to include ever-increasing concentric rings of personal possessions extending around the person. As she describes it:

To visualize the problem about the scope of personhood, we can think of a dot surrounded by two concentric circles. The dot is the abstract self, the moral agent, in its barest possible version. The next circle takes in the self's endowments and its attributes. The outer circle takes in its products and possessions. (Radin 1993: 25–26).

Second, take communitarianism or social republicanism. What is the self in Radin's analysis of takings or residential rent control if not the self who inhabits a world in which things like rent and credit, far from mere market relations, are more importantly the glue binding members to one another in community? Rent, for Radin, not only creates a relation of possession that partially constitutes home and person, but organizes persons in collectivities of interest and sentiment, with visions of the good and just linked to mutual obligations and faith.

Distinguishing herself from both libertarians and communitarians, Radin uses the abstract "dot" of the moral agent and the social glue of property relations to develop what she calls a "thick" theory of the self. For Radin, the inner circle of attributes and qualities and much of the outer circle of products and possessions are assimilated to the core self. Thus, the self is both the abstract individual of liberalism – "its barest possible version" – and its associated domain of putatively inalienable possessions figured through relationships with objects and others. This "thick" theory of the self can be used to weave together two strands in liberal thought and, at the same time, to blur two perpendicular axes of oppositions: person and property, subject and object on one axis, and "dot" and relation, bare abstraction and lived experience on the other. Radin uses the term "blur" to describe what her theory of property does to the subject/object, subjective/objective, normative/empirical, and other such oppositions, and holds that this blurring is in keeping with her pragmatist project. But perhaps blur is not the best term. Taken to its limit, the thick theory of the self here (which is also a theory of "thickness") effects a modal transformation of the Cartesian coordinate system within which those oppositions make sense, rendering it nonlinear, infolding into itself.

This is not, however, what Radin does with it. Instead, she turns to pragmatism. She argues that it is *not* her interest to describe a transcendent reality in transcendent terms or to linger over moral questions,

so as to arrive at an account of the kind of persons and property relations that *ought* to exist given certain initial conditions. Rather, she claims she is “starting from where we are” (Radin 1993: 6), by admitting “the existence of,” and regulating “ourselves normatively by, the distinction between personal and fungible property” (ibid.). Doing this simply points up that the subject/object dichotomy, for example, is already blurred in the practical activity of social mediation. In effect, she writes, her project is one of “cultural description/critique of American institutions of property and the legal discourse in which they are couched” (p. 9). Radin argues that in order to understand the “culture” of property, one needs to grasp “a shared language and culture *before* property understandings can be conceivable” (ibid., my emphasis). If we take Radin’s pragmatism seriously, such a before-time is a logical impossibility, since property only comes into being in its continual, practical becoming. Or, put another way, the “shared language and culture before property” makes property “both external and extra but also an essential condition of that which it supplements” (Rousseau, quoted in Strathern 1992: 205; see for example Derrida 1976: 271, 281).

How should we understand the contortions that transform the topography of the liberal, Cartesian grid on which oppositions like fact/value, object/subject, abstraction/relation are mapped out? I think of these contortions as a kind of de-rendering or desublimation that returns to liberalism all of the connective tissues that hold it together but that are deemed outside or prior to liberalism: agents and objects and their associated notions of abstraction and relation. I am interested not so much in Radin’s pragmatics as in the implicit metapragmatics or moments of supplementarity that are both external to and an essential condition of the “shared logic and culture” of property. The contortions of the Cartesian grid and the metapragmatics of property, together, trouble holism and the notions of connection or relation that liberal and critical criticism depends upon, and make Radin’s liberal world considerably messier than it first appears.

Radin, however, sublimates the messiness here into her pragmatics, her “starting from where we are” – an apparently neatly bounded and perceivable world, despite all the boundary-troubling entities like potentially commodifiable babies that Radin uses to advance her theory of personal property. This sublimation or straightening-up perpetuates the frameworks of fact/value, object/subject, and abstraction/relation. It does so, however, with considerable ambivalence; we are not quite sure, after reading Radin, whether that Cartesian world is as straightforward as it seems, whether the domains of persons and things,

abstractions and relations, are as clear as we might have once thought. The effect is not simply to reinscribe the liberal *topos* so much as to produce a nostalgia for it, a nostalgia both “for the idea of the individual” and “for a relational view of the world” (Strathern 1992: 188–9).

What happens when we view regulatory responses to internet banking and electronic commerce as parallel nostalgic exercises that conjure an imaginary before-time, a time that itself demands the supplement of the crises or conundrums that supposedly follow it? The nostalgic move allows the regulatory debates to take the narrative form of the “whodunit” mystery movie: who subverted CRA? Who evaded taxes? How can we solve the crime and mete out the punishment? Asking these sorts of questions the way Miss Marple might merely mystifies the productions that made both community and (dis)investment, revenue-collection and tax evasion, inhere in each other in their founding moment. But the form of these phenomena is perhaps more like a mousetrap – a setting-out of the conditions for the larger fantasy of capitalism within the mini-fiction of cyberspatial properties.

Has Anybody Seen St. Lucia?

St. Lucy is the patron saint of the blind and those with eye trouble. Around 300 AD, in Syracuse, Lucy prayed at the tomb of St. Agatha for her mother’s illness – a flux of the blood – to be cured. It was, and in return, her mother agreed to allow Lucy to give her life to God. Unfortunately, her betrothed, a pagan, betrayed Lucy’s faith to the governor, who ordered her sold into prostitution. God made her immovable, however, like a mountain, and his guards were unable to carry her off, so they killed her. In another legend, St. Lucy either gouges out her own eyes to prevent her being recognized by the governor’s men, or has them gouged out as part of her torture. God miraculously restores them, either in her head, or else on a plate from which they can see God’s grace (see Thurston and Attwater 1956: IV, 548–9). St. Lucy’s Day, 13 December, was, in the Julian calendar, the shortest day of the year in the Northern Hemisphere. In Scandinavian countries it became a festival of lights.

The island of St. Lucia in the eastern Caribbean was so named because it was sighted by Columbus during his fourth voyage on St. Lucy’s Day in 1502, and/or because its dominating topographical feature is the twin peaks of the Pitons mountains, which rise straight out of the sea to a height of around a half mile, massive and immobile like St. Lucy. St. Lucia has been an independent commonwealth since 1979. It has been

led by the St. Lucia Labor Party since 1997. In 1999, under Prime Minister Kenny Anthony, the government passed legislation that brought into being the St. Lucian version of the International Business Company (IBC), one of the most common offshore financial corporate frameworks in the Caribbean and elsewhere (Hampton 1996; Maurer 1997; Roberts 1994).

St. Lucia's offshore sector boasts three unique features. First, it is the product of a public-private collaboration between the Government of St. Lucia and Pinnacle, a private company named for the Pitons and whose trademark logo is the twin peaks. Second, the Pinnacle registry allows companies to be incorporated wholly on-line – you visit the website, record your company name, and pay (via credit card or on-line transfer) a registration and incorporation fee. Third, IBCs so incorporated may be listed on the Hong Kong Stock Exchange. The government's strategy for offshore finance development involves transforming the regionalisms that have defined the Eastern Caribbean since colonial times. A former British colony, St. Lucia had relied on banana exports since the 1950s. The consolidation of bananas had been encouraged by the Banana Protocols of the Lomé Convention, established in 1957, according to which European powers agreed to purchase a quota of bananas from their former colonial possessions until 1993. From the 1960s to the 1980s, the Lomé system, together with local civil-servant elites, helped "develop" banana farmers through patron-client relationships. It also inserted farmers into the state apparatus through agricultural schemes and the Windward Islands Banana Association (WINBAN), which set standards for production and organized the boxing, transport, and shipping of the product.

Neoliberal arguments and forces from the United States, the United Kingdom, and elsewhere have spelled the beginning of the end of this quasi-protectionist system and the politics of patronage associated with it. Rising debt-servicing ratios, structural-adjustment programs (SAPs), and the development of macro-regional free-trading blocs (the European Union, the North American Free Trade Agreement, and the looming Free Trade Area of the Americas) mean that the days of the banana economies of the Caribbean are numbered. St. Lucian systems of communal-land tenure, the informal sector, and labor-sharing may insulate farmers from the coming crisis (see for example Barrow 1992; Dujon 1997). In the meantime, however, St. Lucian political and business leaders have been pressing ahead with alternative measures, including tourism development, luxury gated-housing projects for expatriates, and the creation of the offshore financial-services sector.

As an index of the regional transformations effected by the Anthony administration, consider the presence of the two Chinas in the Caribbean. Prior to the Anthony government, Taiwan had maintained an embassy on the island, and the old United States military base on Vieux-Fort had languished as a little-used port. Now, the People's Republic of China maintains an embassy near a new, exclusive gated community, the Taiwanese have left, and Chinese capital is flowing into the new Vieux-Fort Goods Distribution Free Zone. The governments of China and St. Lucia envision the emergence of the zone as a transshipment and distribution node for Chinese goods to reach the Caribbean market, and for Caribbean goods to reach China. This, together with St. Lucia's form of on-line IBC, peculiarly re-centers St. Lucia and redefines the boundaries of its "region," making it a node for Chinese capital and simultaneously a part of China through the financial center of Hong Kong.³

Offshore finance is not merely one development strategy among others, nor is its foothold in the Caribbean merely an effect of island politics responding to global forces. Throughout the region, including St. Lucia, offshore finance has become a discursive tool for Caribbean elites to forge new visions of nationalism and criticize new quasi-colonial relationships with the United States and Europe. Caribbean jurisdictions marketing themselves as offshore financial-service centers muster images of trust, stability, respectability, and, paradoxically perhaps, colonial empire, in order to sell their product. Those images have also redounded into Caribbean nationalist discourses and self-perceptions.

Offshore finance becomes a "necessity," then: first, because these states see little other recourse given the demise of a model of development based on direct aid and trade preferences from former colonial powers. And second, because offshore finance empowers visions of national distinctiveness and modernity, which, in turn, find special purchase in an oddly oppositional "rights" discourse – in a "right to offshore finance" – that Caribbean leaders direct against international critics of offshore finance (including me and my colleagues).⁴ The end of the former powers' obligations to the postcolonial Caribbean means that Caribbean countries must "diversify" their economies. The creation of distinctive "island identities" through image industries like tourism and offshore finance firmly connects that potential diversification to national pride. In the Caribbean, offshore finance also reflects a reterritorialization of regionalism. In St. Lucia, that reterritorialization co-occurs with the country's promotion as a cultural center of the

Caribbean. Local poet Derek Walcott's winning of the Nobel Prize for Literature, the internationally billed St. Lucian Jazz Festival, and recent academic and policy conferences, all speak to the country's strategy to re-center itself, culturally, in a Caribbean region that, via St. Lucia, is contorting toward China. Where, through various failed attempts at West Indian federation, St. Lucia had once been the political center of regional integration, it is now a cultural center of regional disjunction.

St. Lucia's offshore experience suggests questions about parts and wholes at different levels of scale: of what is St. Lucia a part: the Caribbean? a new China? the global economy? Of what is the Vieux-Fort Goods Distribution Free Zone a part: the island of St. Lucia? China? Of what is an IBC incorporated in St. Lucia but listed on the Hong Kong Stock Exchange a part: the St. Lucian economy? the Chinese economy? the Hong Kong Stock Exchange? These questions are answerable only under the sign of nostalgia for a before-time in which such place distinctions would have made sense.

Recall Radin's unwitting infolding of the lines of the Cartesian coordinate system, her innocent near-desublimation of liberalism's binaries. For St. Lucia the topography of difference folds in on itself, or falls back into its own disjunctions. It does so without negation but through the positive necessity for, and a positive lack that constitutes, offshore finance in the Caribbean. The positive necessity is assumption of the absence of any other alternative for the Caribbean under regimes of finance capital. The positive lack is the assumption that there is nothing "there," except a legislative framework and some technological infrastructure. That framework and infrastructure are not, by themselves, determinate. If they were, then offshore finance would not "succeed," anywhere, because every place would be a tax haven for some other place. What is necessary for "offshoreness" is precisely to be an elsewhere that is a nowhere and an everywhere, rather like St. Lucy's eyes and her vision. So, where is St. Lucia's offshore "center?" It's hard to say, since it is not a place or a point on the Cartesian grid.

The problem of analysis becomes a problem of critical vision. What, after all, does St. Lucy "see?" Not the clear, enumerable facts of liberal inquiry, but facts on a more theological plane.

Algebraic Reason and Visions of Illiberal Property

Algebraic reason, the obsession with solving for x to find the hidden figure in the whodunit, dominates liberal and critical approaches to property. Algebraic reason does not provide a critical ground outside

the discourses and practices of property under liberalism and capitalism so much as a “re-setting” of their insides (as Annelise Riles noted during the Wenner-Gren conference). Algebraic reason demands that the givens and unknowns be knowable things in the world: objects or persons, abstractions or relations. It demands that these be apprehensible to a knower who formulates the problem of the unknowns in linguistic utterances or sign systems that themselves undergird the apparatus of that which is to be known. For Marx, the unknown, the hidden term, was the labor that accounts for surplus value, and accounts for it in the mathematical sense of algebraic reckoning. He used equations to understand the ideology of the general equivalent, itself indexed through an equation of setting everything to the value of money. Yet labor as constitutive of value was already quite well known to liberal theory.

In the cases at hand, algebraic reason leads regulators and critics down well-worn paths. Discussions about cyberspatial properties turn on the no-space and the every-space of cyberspace. Yet the spatial referents within which these properties are framed remains some transfiguration of the nation-state, the community, the abstract individual, the market, and so on. We solve the problem of internet banks’ community reinvestment requirements either by hypostasizing “community” or by elevating to new heights abstract individual “equality.” We solve the problem of taxation on electronic commerce either by defending the state’s territorial jurisdiction (to say nothing of its “right” to revenue and its “duty” to its citizens’ commonwealth) or by reifying the consumer transaction into the ancient *oikos*, taxing transactions based on the home-space within which consumption is imagined to occur. For St. Lucian offshore finance, we are led to ask questions about what is where and recapitulate a nostalgia for a world of territorial sovereignty and jurisdictionality neatly spatialized.

As I see it, the task is not to conjure a critical metalanguage within which to stand outside and above property formations. The very call to something outside and above partakes of the depth ontologies charting the Cartesian grids about which Radin unwittingly reminds us. Instead, I want to set a mousetrap, a restaging of the larger fictionalities carrying with them the flow and the blurring of the objects and subjects in cyberspatial properties. Just as a mousetrap for Hitchcock was a play within the play, so I will now put forward an analysis within an analysis, and turn to the first popular text on algebra, Muhammad ibn al-Khuwarizmi’s ninth-century *Compendium on Calculating by Completion and Reduction*. It is from al-Khuwarizmi that English and

other European languages derive the term “algorithm,” meaning a procedure for solving a problem that involves a repetition of an operation (a performative iteration). The text presents abstract principles of solving equations and then illustrates them with cases having to do with what, under contemporary capitalisms, would be glossed as property relations: divisions of an inheritance; payments of dowry; prices in a market; and transactions involving slaves and their debts.

There are moments of incommensurability in the translated text, however. The 1831 translator, Frederic Rosen, admires the “science” and clarity of logic he finds in this ninth-century Arabic tome, in contrast to “Hindu” mathematical treatises. The latter treatises, Rosen complains, have a tendency to espouse “dogmatical precepts, unsupported by argument, which, even by the metrical form in which they are expressed, seem to address themselves rather to the memory than to the reasoning faculty of the learner.” He continues, “The Hindus give comparatively few examples, and are fond of investing the statement of their problems in rhetorical pomp” (in al-Khuwarizmi 1831: x).

At the same time Rosen is baffled by the set of examples that make up the final third of the book. The science seems to break down, and Rosen is forced to add footnotes to the effect that:

The solutions which the author has given of the remaining problems of this treatise, are, mathematically considered, for the most part incorrect. It is not that the problems, when once reduced into equations, are incorrectly worked out; but that in reducing them to equations, arbitrary assumptions are made, which are foreign or contradictory to the data first enounced. (*sic*, in al-Khuwarizimi 1831: 133)

al-Khuwarizmi introduced numbers in what Rosen repeatedly calls an “arbitrary” manner, in order to solve the problems of inheritance that arise when men rescind their testaments on their deathbeds, or give slave-girls with dowries to their inheritors.

Rosen overlooked the theological implications of the text, however. Because of this, he misapprehends the function of number. Like all classical Islamic texts, this one begins “In the Name of God, Gracious and Merciful!” (p. 1) and concludes, “God is the Most Wise!” (p. 174). Rosen was misled by the apparent “simplicity of style” (p. xi) into thinking that numbers always reflected countable objects in the world. The “arbitrary” numbers in al-Khuwarizmi’s text beg the question: What is the nature of the numbers, the countable items, the facts in the world that “people generally want?” For al-Khuwarizmi, they always emanate

from and speak to the law. In this case, it is a divine law, although, as it is of a world before the (apparent) modern separation of “religion” from the rest of life, divine law is a misnomer, and “law” itself should suffice. Indeed, Rosen’s only recourse in figuring out the problems that occupy the last third of the book is to “the law.” Without adjudicating the very notion of “religion” here, however, my point is simply this: al-Khuwarizmi’s facts do not so much index the spatiotemporal coordinates of things in the world, as operate on a level of divine knowledge flows. For al-Khuwarizmi, numbers were not transparent. Enumeration was not a natural act but a metaphysical one. Solving for x was not finding the “real” value of a slave or cost of a bride. It was, instead, partaking in, following along with, pointing toward the quintessence, the absolute. It follows that the kind of “property relations” recounted in al-Khuwarizmi’s text were also a means of pointing toward the absolute.

The “arbitrary” numbers also beg the question of the implicit metaphysics of Rosen’s footnotes, and, I am suggesting, our own liberal and critical inheritances. Not bracketed by divine call but written in the margins that escape it, Rosen’s footnotes nevertheless are not objective (read secular, rational) commentary. This is not merely because Rosen fails to acknowledge the text as “religious.” Rather, Rosen’s commentary is itself enframed by liberal property and the Cartesian grid of subjects and objects, abstractions and relations. The key opposition for Rosen is number as an abstract principle, on the one hand, and things in the world that can be counted, on the other. It is an opposition that is incredibly productive, animating whole liberal worlds full of objects and subjects, things that can be possessed and people or other entities who can establish relations of ownership. It also animates the citizen/state, equality/community opposition, and the self-as-proprietor central to liberal capitalism. At the same time, the arbitrariness of the delineation of such oppositions must be sublimated for this self to take shape, and for rules of property transfer to appear as merely technical and morally ambivalent rather than morally charged affairs. This is precisely the issue in all three of the cases of cyberspatial properties explored in this chapter: the effort at sublimating the messy morality of property into clear and natural relations between subjects about objects.

Cyberspatial property, I am suggesting, like *all* property, is a “mobile locus of becoming commingling identities as it migrates” via imaginary lines of flight (undersea cables? satellite link-ups?) (Bogue 1996: 95, writing on Deleuze and Guattari 1996: 85). It constitutes “a disjunction

that remains disjunctive, and that still affirms the disjoined terms, that affirms them throughout their entire distance, *without restricting one by the other or excluding the other from the one* (Deleuze and Guattari 1996: 76, original emphasis). Here, the disjunctions between fact and evidence, property-as-thing and property-as-relation, object and subject maintain their efficacy in liberal and critical analysis only if both terms of the dichotomies are kept disjointed and their difference affirmed. Yet, as Deleuze and Guattari suggest, that disjunction never fully purifies either term; hence, property, even in its mere invocation, is the necessary but failed work of purification. Cyberspatial properties make this failure explicit. Like St. Lucy's eyes on a plate, deterritorialized from the mountain that her body has become and reterritorialized out of the "quintessence" (the mysterious divine fifth element of medieval alchemy) to "see" (that is, to witness) the obligations of faith, property demands its own testimony. Our modes of facticity and analysis alike are preconditions for the emergence of property.⁵ Here, those modes include our efforts to deduce the secret of the commodity, the limits of the liberal and critical theory of property, the mousetraps we continually set and are caught in when we mistakenly strike out to solve the whodunit.

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Notes

1. Even in advance of the FSMA's passage consolidation had *not* significantly changed patterns of lending in low-income neighborhoods (Avery et al. 1999). Consolidations allowed mega-banks to go national, and thus to choose which jurisdictions to lend to in order to meet their CRA obligations. If a bank only has to demonstrate a certain level of "effort," it can choose to lend to poor areas that are less poor than others.

2. This vision of the nation-state is not simply spatial, but social-republican. As with the debate over internet banking, structures from imagined capitalisms past crop up: "brick and mortar" banks, and "storefront" retailers, as opposed to mega-conglomerate financial holding companies and Walmart.

3. Offshore finance interdigitates with the merchant-capitalist fraction of Caribbean islands' elites, which may account for the degree of social acceptability that offshore finance has found in the region. "The 'hegemony' of circulation over production in the region from precolonial days had engendered a sophisticated legal and financial infrastructure to facilitate import-trading activities" (Marshall 1996: 209). And the resurgence of the merchant elite and decline of the agricultural-industrial-government sector elite during the 1990s reflected global shifts in governance from welfare statism to neoliberalism.

4. Roberts, Hampton and I were taken to task by Caribbean social scientists (especially the Marxists!) for our criticisms of offshore finance as a development strategy at a Caribbean studies conference in the spring of 2000.

5. I follow here some of Marilyn Strathern's conference comments.

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