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#### **Journal**

Indiana Journal of Global Legal Studies, 5(2)

#### **Author**

Maurer, WM

#### **Publication Date**

1998

Peer reviewed


Spring 1998

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Bill Maurer

*University of California, Irvine*

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## Recommended Citation

Maurer, Bill (1998) "Cyberspatial Sovereignties: Offshore Finance, Digital Cash, and the Limits of Liberalism," *Indiana Journal of Global Legal Studies*: Vol. 5: Iss. 2, Article 7.

Available at: <http://www.repository.law.indiana.edu/ijgls/vol5/iss2/7>

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# Cyberspatial Sovereignties: Offshore Finance, Digital Cash, and the Limits of Liberalism

BILL MAURER\*

sovereign ('sovryn). . I. *sb.* 1. a. One who has supremacy or rank above, or authority over, others; a superior; a ruler, governor, lord, or master (*of* persons, etc.). Freq. applied to the Deity in relation to created things.<sup>1</sup>

In his answer to his article's title question, *The Internet as a Threat to Sovereignty? Thoughts on the Internet's Role in Strengthening National and Global Governance*,<sup>2</sup> Henry Perritt relies on the liberal theory of international relations, and liberal understandings of state, market, and morality, to argue that the Internet does not necessarily pose a threat to sovereignty, but may in fact bolster it. As Perritt states, "the Internet has the potential to strengthen national and global governance—thus enhancing sovereignty rather than destroying it."<sup>3</sup> From the perspective of national governance, Perritt argues, the Internet can help strengthen the rule of law by providing access to government documents and decisionmaking. From the perspective of global governance, the Internet can help strengthen international law by promoting access to information (from international treaties to on-the-ground reports of human rights and other abuses) and by strengthening global markets and economic interdependence.

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\* Assistant Professor of Anthropology, University of California, Irvine. I would like to thank Alfred C. Aman, Jr., and the editors of the *Indiana Journal of Global Legal Studies* for inviting me to contribute this article. I would also like to thank the following for suggestions of sources, good conversations about the topic, and critical readings of various drafts of this article: Eve Darian-Smith, Liisa Malkki, Diane Nelson, Richard Perry, Henry Pontell, and Wayne Sandholtz. Special thanks to Susan Bibler Coutin for her careful reading and extremely helpful comments on this article.

1. OXFORD ENGLISH DICTIONARY 77 (2d ed. 1989).

2. Henry H. Perritt, Jr., *The Internet as a Threat to Sovereignty? Thoughts on the Internet's Role in Strengthening National and Global Governance*, 5 *IND. J. GLOBAL LEGAL STUD.* 423 (1998).

3. *Id.* at 424.

My response to Perritt is motivated by two chief concerns. The first has to do with the opposition between liberalism and realism in international relations (IR) theory within which Perritt situates his arguments. Rather than viewing liberalism as the antidote to a realist position, which characterizes IR in terms of anarchy and brute power relations among sovereign states taken to be abstract actors, I propose we view liberal IR theory as part of an ideology that encodes and works to enforce problematic visions of state, sovereignty, market, and morality. Other theoretical trends in IR theory might help us out of the liberalism/realism impasse and throw into question the implicit moral judgments about governance, democracy, and international order at the heart of liberalism.

The second concern has to do specifically with Perritt's claims about the market. Perritt assumes that the Internet can help reduce transaction costs, making the market more "efficient" and helping more and more people and governments to become market players. Increasing participation in the market means, according to Perritt and other neoliberals, increasing interdependence, which, in turn, means increasing peace among peoples and nations. As Perritt writes, when "states and their citizens become more vested in the smooth operation of global markets, prospects for peaceful settlement of disputes improved because the economic costs of political disruption are too great for any side to bear."<sup>4</sup> He continues: "Under the liberal tradition, it is a positive achievement to reduce the power of the government over the economy and place that power in the hands of private citizens, who will trade and invest internationally, creating economic interdependence that provides a foundation for world peace."<sup>5</sup>

In the sections that follow, I explore two recent specific instances where the Internet has been used as a market—in offshore financial services, or the "tax haven" business that currently underwrites the economies of several small Caribbean states, and the "digital cash" initiatives of several computer and banking firms which promise to "revolutionize" the market itself. This exploration questions the assumption that increasing economic interdependence, facilitated by Internet technology, serves the interests of both "sovereignty" and "world peace." Doing so entails denying "the market" the privileged position it occupies in Perritt's article, and in much of the writing on globalization from both the left and the right, as a kind of "black box" whose workings are immune

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4. *Id.* at 439.

5. *Id.*

to analysis, and which we must at all costs either work to resist, or help to "grow" and "expand", lest we become its hapless victims.

This article is guided by the assumption that "sovereignty", the construct at the heart of Perritt's article as well as many of the assessments of Internet technology and economic globalization, cannot be taken to have given, self-evident, or stable meanings. Differently positioned persons and governments have different conceptions of sovereignty and put them into play in state and market politics in different ways. Notions of sovereignty also change over time. Thus, I have chosen to head each section of this essay with definitions of sovereign from the *Oxford English Dictionary*.<sup>6</sup> My aim in doing this is to destabilize the terms of the debate as I throw light on cases where the meanings of sovereign, state, market, and subject, and the moral implications of these meanings, are currently being reformulated and made more complex beyond the limits of liberal theory.

b. A husband in relation to his wife. *Obs.*<sup>7</sup>

One of the advantages of liberal IR theory compared to realism is its recognition that sovereignty is not a monolithic concept, something that states simply "have", and that they use as a basis of their power in an anarchic world. As Perritt argues, liberalism compels us to put "sovereignty" in "its proper political contexts. . . ."<sup>8</sup> For liberals, this proper context ought to be "democracy", and they argue that one of the main obstacles to the world order envisioned in liberalism is the continued presence of totalitarian, non-democratic states. For liberals, sovereignty should not be the preserve of the sovereign state alone, but must be seen as emanating from the subjects who empower their state to act in the international arena. Thus, liberal IR theory emphasizes the goal of "democratization." Perritt's vision of "good governance" hinges on this liberal ideal. Another key to good governance, according to liberal theory, is minimal state interference in the affairs of the private market where individuals realize their interests and freely achieve their ends.

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6. OXFORD ENGLISH DICTIONARY, *supra* note 1, at 77.

7. *Id.*

8. Perritt, *supra* note 2, at 432.

Democracy and the free market are equated here: both depend on individuals able to realize their interests without interference from other individuals or state agents. Only in such a context can people make consumer and political choices that reflect their "true" interests. Because, for Perritt, the Internet can enhance democratization by increasing access to and participation in governance, and because it can facilitate market transactions, it can therefore enhance the liberal vision of sovereignty. Only totalitarian states whose sovereignty depends on control over their subjects have anything to fear from the Internet.<sup>9</sup>

Perritt is quite correct to emphasize the political contexts of sovereignty. Liberalism, however, must at the same time be accountable for its own assumptions and moral claims, some of which may not hold up under critical scrutiny. Chief among these, perhaps, is its assumption about the implicit morality of the "free market", which is presumed to exist above and beyond politics or culture, to be truly universal, or at least potentially so, if only states would get out of the business of meddling in the economy. It is no surprise that, in Perritt's account, the Internet comes to resemble a free market.

There are, however, other trends in IR theory that question the tenets of liberalism and highlight the shared assumptions of liberalism and realism. Alexander Wendt labels these trends "critical IR theory", and they include postmodernism,<sup>10</sup> constructivism,<sup>11</sup> neo-Marxism,<sup>12</sup> feminism,<sup>13</sup> and others.<sup>14</sup> I will not review these different contributions in any depth here. Most useful for my purposes is the theoretical trend called constructivism. Constructivism draws attention to the fact that the sovereigns, subjects, interests, and identities presupposed in liberal and realist IR theory are never given, but are actively

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9. *Id.* at 431.

10. See R.B.J. WALKER, *INSIDE/OUTSIDE: INTERNATIONAL RELATIONS AS POLITICAL THEORY* (1993); Richard Ashley, *Untying the Sovereign State: A Double Reading of the Anarchy Problematique*, 17 *MILLENNIUM J. INT'L STUD.* 227 (1988).

11. See FRIEDRICH V. KRATOCHWIL, *RULES, NORMS, AND DECISIONS: ON THE CONDITIONS OF PRACTICAL AND LEGAL REASONING IN INTERNATIONAL RELATIONS AND DOMESTIC AFFAIRS* (1989); Friedrich Kratochwil & John Gerald Ruggie, *International Organization: A State of the Art on an Art of the State*, 40 *INT'L ORG.* 753 (1986); NICHOLAS GREENWOOD ONUF, *WORLD OF OUR MAKING: RULES AND RULE IN SOCIAL THEORY AND INTERNATIONAL RELATIONS* (1989); Alexander Wendt, *Constructing International Politics*, *J. INT'L SECURITY* 71 (1992).

12. See ROBERT W. COX, *PRODUCTION, POWER, AND WORLD ORDER: SOCIAL FORCES IN THE MAKING OF HISTORY* (1987); STEPHEN GILL, *AMERICAN HEGEMONY AND THE TRILATERAL COMMISSION* (1990).

13. Anne Sisson Runyan & V. Spike Peterson, *The Radical Future of Realism: Feminist Subversions of IR Theory*, 16 *ALTERNATIVES* 67 (1991); CHRISTINE SYLVESTER, *FEMINIST THEORY AND INTERNATIONAL RELATIONS IN A POSTMODERN ERA* (1994).

14. See Wendt, *Constructing International Politics*, *supra* note 11.

constructed, in intersubjective social relationships. The meanings these entities contain, the kinds of actions they are capable of carrying out, and the moral implications of those actions are revealed in specific historical, cultural, and political contexts.<sup>15</sup>

As Wendt argues in an influential article that debates in IR between realists and liberals reveal these parties' "shared commitment to 'rationalism.'" Like all social theories, rational choice directs us to ask some questions and not others, treating the identities and interests of the agents as exogenously given and focusing on how the behavior of agents generates outcomes."<sup>16</sup> Both realists and liberals, Wendt continues, "take the self-interested state as the starting point for theory."<sup>17</sup> They also, in the slippage that equates states with individual human persons, take the self-interested individual as the starting point of theory. Following Foucault's analysis of liberal governmentality,<sup>18</sup> I suggest that we cannot view the kinds of individual persons constructed in modern worlds as separate from the kinds of states they inhabit and construct and which at the same time inhabit and construct their personhood. Any constructivist discussion of the state must also include a constructivist discussion of the human person. This latter approach is something at which anthropology has been very good, and I will return to anthropological discussions of the construction of persons in the next section.

Timothy Mitchell, also following Foucault, argues that the state must be seen as the effect of relations of power that call it into being as having a force all its own. He writes that "[t]he state needs to be analyzed as . . . a structural effect. That is to say, it should be examined not as an actual structure, but as the powerful, metaphysical effect of practices that make such structures appear to exist."<sup>19</sup> For Mitchell, the state is an effect of

detailed processes of spatial organization, temporal arrangement, functional specification, and supervision and surveillance, which create the appearance of a world

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15. Alexander Wendt, *Anarchy is What States Make of It: The Social Construction of Power Politics*, 46 INT'L ORG. 391 (1992); ONUF, *supra* note 11.

16. Wendt, *Anarchy is What States Make of It*, *supra* note 15, at 391-92.

17. *Id.* at 392.

18. Michael Foucault, *Governmentality*, in THE FOUCAULT EFFECT: STUDIES IN GOVERNMENTALITY 87 (Graham Burchell et al. eds., 1991); FOUCAULT AND POLITICAL REASON: LIBERALISM, NEO-LIBERALISM AND RATIONALITIES OF GOVERNMENT (Andrew Barry et al. eds., 1996).

19. Timothy Mitchell, *The Limits of the State: Beyond Statist Approaches and Their Critics*, 85 AM. POL. SCI. REV. 77, 94 (1991).

fundamentally divided into state and society. . . . These processes create the effect of the state not only as an entity set apart from society, but as a distinct dimension of structure, framework, codification, planning, and intentionality.<sup>20</sup>

Just as the state is an effect of specific historical circumstances and relations, so too is sovereignty. Mitchell's analysis of the state can easily be extended to the sovereign, the market, and the individual person of modern democracies. In the process of such analysis, all of these constructs must be momentarily held apart to demonstrate the contingency and historicity of their linkages (as in the relatively recent historical notion of the "sovereign state", for example). As Wendt writes, "[t]he sovereign state is an ongoing accomplishment of practice, not a once-and-for-all creation of norms that somehow exist apart from practice."<sup>21</sup> This statement compels analysts to recall sovereignty's original definitions, having to do with God-ordained monarchical power as well as other, not obsolete or hidden definitions like "a husband's dominion over his wife." As feminist political theorists remind us, of course, the latter is not a definition of sovereignty substantially challenged by liberal theory, but in fact reinforced by it.<sup>22</sup>

I am arguing, thus, that we need to view *sovereignty* as an effect of practices and a justification *for* practices that call it forth as an autonomous space of power. As my discussion of offshore finance and digital cash below demonstrates, we need also to view the *market* as the effect of practices that construct state and sovereignty and that shape and reshape the human *subjects* who enact such practices. Understanding the co-construction of state, sovereignty, market, and subject throws into relief the *moral* claims subjects make in any momentary configuration of these power-effects. Such moral claims tend to hide or naturalize the very terms—sovereignty, the market, the rule of law—from which they draw their moral force.

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20. *Id.* at 95.

21. Wendt, *Anarchy is What States Make of It*, *supra* note 15, at 413.

22. See CAROLE PATEMAN, *THE SEXUAL CONTRACT* (1988). See also IRIS MARION YOUNG, *JUSTICE AND THE POLITICS OF DIFFERENCE* (1990).



c. A person or thing which excels or surpasses others of the kind. Now *rare*.<sup>23</sup>

What kind of subject is presupposed by modern, liberal sovereignty? And how might Internet technology unsettle it, or at least expose its fabrication? Authors from across the social sciences have examined the construction of the modern subject as an autonomous individual, consisting of a stable self, rooted in a place or nation, relatively solid and unchangeable, knowing its interests and needs and trying rationally to fulfill them.<sup>24</sup> The subject of liberalism is also sovereign, in the sense of owning itself and having sole control over its actions and thoughts. This is what made the subject of liberalism so unique and radical at its inception during the Enlightenment. Rather than being authored and animated by God, who placed it in relation to other subjects in a great chain of being, the liberal subject self-authors, self-regulates, and self-defines.<sup>25</sup>

The few ethnographic studies of human-computer interactions that now exist seem to suggest that the Internet has the potential to reshape this sovereign subject of modernity by highlighting some of the processes that work to ensure its seeming stability. In doing so, they echo, ironically enough, anthropological discussions of conceptions of personhood in societies radically different from those of the modern West. These conceptions help highlight the contingency and specificity of the kind of modern subjectivities that underlie market, state, and sovereignty under liberalism.

In her ethnography about "constructing identity in the culture of simulation," Sherry Turkle argues that the virtual worlds of the Internet have the potential to reshape notions of mind, self, body, and machine.<sup>26</sup> Turkle begins her investigation with "multiple-user domains" (MUDs), virtual spaces in which people craft alternate personas (human, non-human, and other) and interact with such personas crafted by other people (and, often, computers themselves). As Turkle argues, "MUDs put you in virtual spaces in which you

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23. OXFORD ENGLISH DICTIONARY, *supra* note 1, at 77.

24. See, e.g., Jane Collier et al., *Sanctioned Identities: Legal Constructions of Modern Personhood*, in 2 IDENTITIES: GLOBAL STUD. CULTURE & POWER 1 (1995); PETER FITZPATRICK, *THE MYTHOLOGY OF MODERN LAW* (1992); MICHAEL FOUCAULT, *DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON* (1977); ANTHONY GIDDENS, *MODERNITY AND SELF-IDENTITY: SELF AND SOCIETY IN THE LATE MODERN AGE* (1991); C.B. MACPHERSON, *THE POLITICAL PHILOSOPHY OF POSSESSIVE INDIVIDUALISM: HOBBS TO LOCKE* (1962).

25. See John L. Comaroff, *Images of Empire, Contests of Conscience: Models of Colonial Domination in South Africa*, 16 AMERICAN ETHNOLOGIST 661 (1989). See also Bill Maurer, *Writing Law, Making a "Nation": History, Modernity, and Paradoxes of Self-Rule in the British Virgin Islands*, 29 L. & SOC'Y REV. 255 (1995).

26. SHERRY TURKLE, *LIFE ON THE SCREEN: IDENTITY IN THE AGE OF THE INTERNET* 10 (1995).

are able to navigate, converse, and build."<sup>27</sup> To Turkle's informants, their sense of self, in large measure, often derives from their interactions with other virtual persona in MUDs. As one put it, "[p]art of me, a very important part of me, only exists inside PernMUD."<sup>28</sup> People can exist in multiple MUDs at once, through different (or the same) virtual persona. For some of Turkle's informants, "RL", or "real life", is just one of the many social spaces in which their personas are engaged at any given time. As one related to her:

I split my mind. I'm getting better at it. I can see myself as being two or three or more. And I just turn on one part of my mind and then another when I go from window to window. I'm in some kind of argument in one window and trying to come on to a girl in a MUD in another, and another window might be running a spreadsheet program or some other technical thing for school. . . . And then I get a real-time message [that flashes on the screen as soon as it is sent from another system user], and I'll guess that's RL. It's just one more window. RL is just one more window . . . and it's not usually my best one.<sup>29</sup>

Turkle's study suggests that participants in Internet communities are engaged in a deconstruction of some of the dichotomies at the heart of the liberal subject: self/other, mind/body, public/private, male/female, etc. In pulling apart these dichotomies—having experiences on the Internet as a creature of a different gender, or an imaginary gender, crafting multiple "private" lives in the multiple "public" spaces of MUDs, and so forth—participants in Internet communities bring to light the contingency, constructedness, and mutability of the sovereign subject. As another of Turkle's informants states, "why grant such superior status to the self that has the body when the selves that don't have bodies are able to have different kinds of experiences?"<sup>30</sup>

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27. *Id.* at 11.

28. *Id.* at 12.

29. *Id.* at 13.

30. *Id.* at 14.

In her reflection on subjectivity in the computer age, Allucquère Stone compares the virtual personas created by Internet users with cases of multiple personality disorder (MPD) in order to make the provocative suggestion that the Internet demonstrates that the link between a "real" person and their various "prosthetic" extensions in cyberspace is tenuous, always needing to be reinforced and recreated.<sup>31</sup> This relationship between real and virtual depends upon the assertion that the latter is always secondary to the former. This assertion serves to guarantee to the liberal subject that its Internet personas are nothing to worry about or be alarmed by. However, she asks, what are we to make of those cases in which the articulation between real and virtual is broken or interrupted? Stone discusses the case of a male psychiatrist who "masqueraded" as a female quadriplegic over the Internet, creating a whole personality for her and, through her, taking his psychiatric services (pro bono) on-line. When the ruse became too difficult to maintain, the "real" person attempted to "kill off" the "virtual" person he had created.<sup>32</sup> Yet, for the countless women who benefitted from her counseling, the virtual person had always been a "real" person and continued to exist for them even after the man was exposed. People expressed longing for her after she was "gone" and "missed" her. For Stone, the true ruse here was the psychiatrist's initial assumption that he would maintain "control" over the persona he had created, since, he thought, it was "only" a fictional extension of his own personality. But he/she was a very different person in his/her on-line life. Women who befriended the virtual woman complained, after communicating with the real man, that they just could not connect with him, something was missing, he just was not her. Comparing Internet users to people with MPD makes evident all the work required to forge the liberal subject with one personality, one mind, and one body. For Stone, that tenuousness holds promise, for in breaking those links between real and virtual, she argues, human subjects can refigure the relationship between them, privilege the virtual over the real, recognize that the

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31. See ALLUCQUÈRE ROSANN STONE, *THE WAR OF DESIRE AND TECHNOLOGY AT THE CLOSE OF THE MECHANICAL AGE* (1995).

32. See *id.* at 69-76.

real is just as virtual as the virtual, break the liberal subject apart, and explore new ways of being in the world.<sup>33</sup>

To an anthropologist, there is something familiar in the descriptions of the kinds of subjects people can be through Internet technology. No longer sovereign individuals with solid, fixed identities, these persons seem partible, divisible, and consciously constructed through their relationships with other personas even as the relationships themselves seem prior to the constructed person. The virtual psychiatrist only "truly" came to exist as she was constituted in her relationships with other persons over the Internet. There was nothing "there" beforehand—which is why the "real" psychiatrist thought he was doing nothing other than play-acting a role until he realized that the role had become its own person. Partible persons, persons who are "dividuals", not "individuals", persons defined by relationships instead of autonomous selves who are selves first and form relationships second, are also the characters of the contemporary ethnography of Melanesia, as that body of literature has been transformed by scholars like Marilyn Strathern<sup>34</sup> and Debbara Battaglia.<sup>35</sup> As Strathern writes:

Far from being regarded as unique entities, Melanesian persons are as dividually as they are individually conceived. They contain a generalized sociality within. Indeed, persons are frequently constructed as the plural and composite site of the relationships that produced them. The singular person can be imagined as a social microcosm.<sup>36</sup>

Strathern revisits earlier ethnographic accounts of Melanesian society and persons (an opposition which her book seeks to undercut) and finds that they also noted the primacy of relationships over selves. As Maurice Leenhardt wrote in 1947, a living being "knows himself only by the relationships he maintains with others. He exists only insofar as he acts his role in the course

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33. *See id.* at 76-81.

34. MARILYN STRATHERN, *THE GENDER OF THE GIFT* (Gilbert H. Herdt et al. eds., 1988).

35. *RHETORICS OF SELF-MAKING* (Debbara Battaglia ed., 1995); DEBBORA BATTAGLIA, *ON THE BONES OF THE SERPENT: PERSON, MEMORY, AND MORTALITY IN SABARL ISLAND SOCIETY* (1990).

36. STRATHERN, *supra* note 34, at 13.

of his relationships."<sup>37</sup> Leenhardt depicts the person of New Caledonia as a series of lines (*a---b*) representing relationships, radiating out from a central space, which he characterized as "empty":

Their social reality is not in their body but in this empty place where they have their names and which corresponds to a relationship. . . . But no name can cover the whole person. The Canaque [Caledonian] is obliged to have a different name for every domain which involves his person in various relationships and participations. In all this, he is unaware of himself; he is the empty space enclosed by the circle of *a's*.<sup>38</sup>

Strathern argues that Leenhardt's only mistake was to worry over that empty space at the center. She writes:

[H]is mistake was to conceive of a center at all. The center is where twentieth-century Western imagination puts the self, the personality, the ego. For the "person" in this latter day Western view is an agent, a subject, the author of thought and action, and thus "at the center" of relationships.<sup>39</sup>

For Melansians (like MUD-users?) there simply *is* no "empty center." Instead, there are relationships conceived as prior to the person, which create and support the person, itself a microcosm of those social relationships.

d. A free citizen or voter of America. *U.S. Obs.*<sup>40</sup>

Unlike the Melanesian persons described by Strathern, however, the partible, flexible, and dividual of the Internet intersects with neoliberal market logic, in which everything is subordinate to the "global economy." The question of sovereignty posed by globalization is never merely the sovereignty of states

37. MAURICE LEENHARDT, *DO KAMO: PERSON AND MYTH IN THE MELANESIAN WORLD* 153 (Basia Miller Gulati trans., 1979).

38. STRATHERN, *supra* note 34, at 269 (quoting LEENHARDT, *supra* note 37, at 154, 156).

39. *Id.*

40. OXFORD ENGLISH DICTIONARY, *supra* note 1, at 77.

but also the sovereignty of persons conceptualized as autonomous individual agents. We need to counterpose the rugged individualism of old markets with the prosthetic Internet individuals of potential new markets while we simultaneously interrogate the old, supposedly solid, sovereign states of modernity and the potential for such states to be "losing control" of their sovereignty in the face of globalization.<sup>41</sup> The literature on globalization is mostly preoccupied with the latter—with states and their potential erosion or bolstering—and relatively silent on the former. The cases I present here bring to the fore both the potential reconstruction of the subject made possible in the confluence of Internet technology and neoliberal markets and the potential de-linking and reconfiguration of the state-sovereignty relationship. These cases suggest that the debate on "whither the sovereign state?", within which Perritt's article is located, is misguided. It is misguided precisely because it presumes a link between state and sovereignty and the valences these two terms hold when apart from each other. A "non-sovereign" state can still be a *very* powerful state indeed; a "sovereign" state can be relatively powerless; and, as its earlier meanings suggest, a sovereign need not have anything to do with a state at all.

In this section, I examine recent discussions about the subjectivity behind offshore financial services and the kinds of persons who are supposed to inhabit such offshore worlds. I am interested in the new person these discussions seek to call into being. The person seems, at first glance, like the rugged individual of old American mythology. But, it is also strangely centerless and rootless, possesses changeable interests and skills, and seems unstable and flexible.<sup>42</sup> This vision of the person is not limited to offshore finance enthusiasts; it is also put forward in other quarters, from new management tracts to *Wired*.

Internet-based discourse about the person participating in offshore finance tends to focus on the problem of citizenship. In their promotional literature, tax haven specialists proclaim citizenship to be a changeable, flexible status to be picked up and dropped at will. Many provide advice on how to acquire multiple citizenships. Adam Starchild, an offshore finance proselytizer who is prominent on the World Wide Web, encourages investors to dispense with what he views as ancient, irrational, primordial sentiments and attachments, and instead to embrace a late capitalist nomadism he terms "PT":

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41. See SASKIA SASSEN, *LOSING CONTROL? SOVEREIGNTY IN AN AGE OF GLOBALIZATION* (1996).

42. See EMILY MARTIN, *FLEXIBLE BODIES: TRACKING THE ROLE OF IMMUNITY IN AMERICAN CULTURE—FROM THE DAYS OF POLIO TO THE AGE OF AIDS* (1994).

The majority of Somalis are nomads who have proved themselves gratifyingly resistant to the chaos of civil war and famine. While Western attention has been focused on farmers and devastated city dwellers, the nomads continue to use their mobility—as they have for centuries—to avoid much of the hardship.

Cities and mechanized agriculture, the results of “civilization,” are the first to be hurt when the structure of civil order collapses. War has destroyed the largest towns; farmers were quickly cut off from supplies with the onset of hostilities.

Nomads, with their camel, goat, and sheep herds, are highly mobile and can generally avoid areas where there is fighting.

On an international scale there is a survival lesson here for the civilized world as well. Do you want to escape the control over your life and property now held by modern governments? The PT concept could have been called Individual Sovereignty, because PTs look after themselves. We don't want or need authorities dominating every aspect of our existence from cradle to grave. The PT concept is one way to break free.

In a nutshell, the PT merely arranges his or her “paperwork” in such a way that all governments consider him a tourist—a person who is just “passing through.” The advantage is that being thought of by government officials as a person who is merely “parked temporarily,” a PT is not subject to taxes, military service, lawsuits, or persecution for taking part in innocent but forbidden pursuits or pleasures. Unlike most citizens or subjects, the PT will not be persecuted for his beliefs or lack of them. PT stands for many things: a PT can be a “prior taxpayer,” “perpetual tourist,” “practically transparent,” “privacy trained,” or “permanent traveler,” if he or she wants to be. The individual who is a PT can stay in one place most of the time. Or all of the time. PT is a concept, a way of life, a way of perceiving the universe and your place in it. One can be a full-time PT or a part-time PT. Some may not want to break out all at once, or become a PT at all. They just want to be aware of the possibilities, and be prepared to

modify their lifestyle in the event of a crisis. Knowledge will make you a sort of PT—a “possibility thinker” who is “prepared thoroughly” for the future.<sup>43</sup>

Starchild's rhetoric suggests a kind of person, one apart from state and society, almost like the rugged individual of olden days. Yet, this person is different. It is not unitary, but multiple and flexible, able to adapt to new circumstances quickly and easily. It only has its own self to rely on, it owes nothing to society for its self and it owns itself, like the modern subject conceptualized by Hobbes and Locke.<sup>44</sup> Yet, the PT is complexly changeable. Like the imagined Somali nomad, it can pack up and leave at a moment's notice, rearrange its paperwork, and blend into whatever new surroundings it finds itself in. This notion of the person resonates with trade publications on “new workers” in “high-risk society.” Take, for instance, one of Newt Gingrich's favorite tomes, *Working Without A Net*:<sup>45</sup>

The high risk culture seems to be a frightening place, but it doesn't have to be . . . . Learning to work without a net makes discomfort tolerable. Working without a net doesn't mean taking crazy risks. It means becoming less reliant on traditional symbols of security such as one particular job. . . . In effect, we exchange our external nets for internal ones. Internal security nets are portable. When we take a new job or take on a new challenge, our inner strengths travel with us.<sup>46</sup>

Consider yet another book in the same vein, but aimed at a different audience, *Managing Generation X*:

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43. Adam Starchild, *The Offshore Entrepreneur* (last visited April 27, 1998) <<http://www.au.com/offshore/sample/beaptdontliveany.html>>. As Susan Coutin has pointed out to me, it is curious that Starchild chooses to glorify the mobility of camel-herders and not, for instance, of unemployed urban dwellers or migrant workers.

44. See C.B. MACPHERSON, *THE POLITICAL PHILOSOPHY OF POSSESSIVE INDIVIDUALISM: HOBBS TO LOCKE* (1962). See also Collier, *supra* note 24.

45. MORRIS R. SHECHTMAN, *WORKING WITHOUT A NET* 6 (1994) (describing a safety-net, or social welfare policies). These various texts all beg the question of the practices and policies responsible for “insecurity” in the first place.

46. *Id.* at 6.



Managers who are beginning to understand Generation X already know that Xers' intense ambition is part of our quest for security in this unstable world. Xers are ambitious for regular confirmation of our success at work because we are working on short-term contracts—we provide managers with valuable work products in exchange for managers' commitment to making us more valuable commodities in the workplace. . . . our work-repertoires and creative abilities are the only long-term assets on which we can depend. . . . Xers think of ourselves as the sole proprietors of our own creative prowess—we have to be entrepreneurial with our skills and abilities in order to build within ourselves portable assets for the future. Thus, entrepreneurial Xers are creating a new kind of career security which fits with the economy of the future—a career security which is not tied to any one company, manager, customer or client. Xers are building a form of career security which resides within ourselves.<sup>47</sup>

Becoming a PT seems to be the only solution to the instability and insecurity of the world these authors describe. Jurisdictions that offer offshore financial services have positioned themselves in the business of helping to make Starchild's PT vision a reality. Many of the same Caribbean states marketing their offshore financial services are also marketing their citizenship. They piggy-back such "cash-and-carry citizenships" with offshore finance: "most Americans invest in a second nationality as a way to reduce or avoid U.S. taxes."<sup>48</sup> St. Kitts and Nevis, which is just beginning to get into the game of offshore finance, offers citizenship for a mere \$250,000 and an investment in real estate.<sup>49</sup> New citizens of Caribbean islands "view their new citizenship as a gateway to the world"<sup>50</sup> and as a hedge against the increasing insecurity that Shechtman's netless workers (who, of course, while wired out of the welfare safety net, are wired into the Internet), Tulgan's Gen-Xers, and Starchild's PTs encounter.

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47. BRUCE TULGAN, *MANAGING GENERATION X: HOW TO BRING OUT THE BEST IN YOUNG TALENT* 114-15 (1996).

48. Mark Fineman, *Resort Islands Now Offer Cash-and-Carry Citizenship*, L.A. TIMES, Nov. 28, 1997, at A5.

49. *Id.*

50. *Id.*

I should pause here to emphasize that I am not arguing that we are all becoming PTs, or that Internet technology is going to make us all start carrying around seventeen passports along with our laptops, faxes, modems, and cell phones as we compete on a global labor market with other individuals similarly decked-out with new technologies and identity papers (another Newt Gingrich vision of the future). I am also, of course, not arguing that the state is over, it is all the global market, and we had better start dealing with it. I am not claiming that authors like Starchild, Shechtman, and Tulgan are accurately describing a world coming into being. Rather, I am claiming that such texts represent increasingly common *discourses* about the global economy and the place of state, citizenship, and identity in it. Policymakers, academics, journalists, and fictional television characters also speak these discourses.

My argument rests on the belief that these discourses are in themselves important, whether or not we believe they capture some "truths" of what may be an emerging new world order. They are the kinds of practices that have the potential to reshape the moral universe within which many people currently move, think, and work. And they may be doing so in various quarters. But assessing whether or not, or to what extent, they are doing so is not my current task. Rather, I simply wish to look at sites of meaning-production within which state, market, sovereignty, and subject are being reconceptualized, for doing so calls into question the implicit meanings animating Perritt's article. The worlds of offshore financial services and digital cash, I argue, are two such sites.

2. *spec. a.* The recognized supreme ruler of a people or country under monarchical government; a monarch; a king or queen.<sup>51</sup>

In April 1997, the world's first Internet offshore bank went into receivership. Incorporated in the mid-1980s in the Caribbean island of Antigua, the European Union Bank (EUB) established a website in 1994 to attract wealthy clients looking for places to invest their money outside the regulatory and revenue authorities of their home countries. The EUB promised high

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51. OXFORD ENGLISH DICTIONARY, *supra* note 1, at 77.

interest rates and "complete financial confidentiality."<sup>52</sup> All manner of shady characters—from the bank's former chairman, the "reformed heroin addict" Lord Mancroft, to Russian-born owners with links to the KGB and "Russian mobsters"—were reported to have been involved in the scandal that brought the bank down.<sup>53</sup> Because the EUB, incorporated in the independent Commonwealth of Antigua and Barbuda, falls outside the Bank of England's "supervisory remit", "British investors . . . will receive no compensation" for their losses.<sup>54</sup>

Antigua has been at the center of a boom in cyberspace financial activity, including banking, offshore trust companies, and offshore gambling. It boasts no tax on income or capital gains and relative ease of incorporation. Antigua's dozen or so "virtual casinos" pay \$100,000 a year into government coffers for "an Internet casino license that offers a . . . promise of minimum regulation, maximum anonymity and tax-free profit."<sup>55</sup>

Recent media accounts of the offshore sector echo, and often quote directly from, a U.S. State Department report on narcotics trafficking, released in March 1997, by the Bureau for International Narcotics and Law Enforcement Affairs.<sup>56</sup> In the section on Antigua, the State Department report explicitly links offshore financial services with narcotics money laundering and lauds efforts on the part of the Antiguan government to combat criminal activities with new legislation.<sup>57</sup> Meanwhile, Antiguan government concern over potential bad press in the wake of the EUB scandal led to the posting of new offshore regulations on the government's web-page.<sup>58</sup>

What is the basis of the assumption that these offshore financial activities are always suspect, and why are newspapers so eager to report Antiguan banking scandals? Although newspaper accounts and U.S. government reports emphasize the financial sector's links to organized crime and drug trafficking, it is likely that much of the financial activity has to do with wealthy individuals' (or, more likely, their financial managers') efforts to evade the taxes of their

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52. Richard Miles, *Internet's First Offshore Bank Collapses*, GUARDIAN WEEKLY, Aug. 17, 1997, at 14.

53. *Id.*

54. *Id.*

55. Mark Fineman, "Virtual Casinos" Cash In on Lax Rules in Antigua, L.A. TIMES, Sept. 21, 1997, at A16.

56. BUREAU FOR INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS, U.S. DEP'T OF STATE, INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT, 1996 (1997) [hereinafter STATE DEPARTMENT 1997], available at <[http://www.state.gov/www/global/narcotics\\_law/1996\\_narc\\_report/carib96.html](http://www.state.gov/www/global/narcotics_law/1996_narc_report/carib96.html)>.

57. *See id.* at 198-202.

58. *See Offshore Business in Antigua and Barbuda* <<http://www.antigua-barbuda.com/offshore.html>>.

home countries.<sup>59</sup> I do not mean to trivialize the risks of fraud inherent in offshore banking. Nor do I mean to endorse offshore investing or the moral ambiguity of evading taxes in the name of pecuniary gain. I also do not want to be taken as a supporter of Prime Minister Lester Bird's government, racked by numerous scandals and allegations of shady dealings for decades. At the same time, however, I am hesitant to endorse the U.S. government's response to the "threat" of money laundering in Antigua and other offshore jurisdictions, which has taken the form of "Mutual Legal Assistance Treaties" that subordinate local authorities (corrupt though they may be) to U.S. government agencies.<sup>60</sup>

While my concern here may seem to be about the "sovereignty" of independent governments in the face of what we might call U.S. narco-enforcement imperialism, I am, in fact, less interested in the putative autonomy of small states' governments (and threats to it) than I am in the rhetorical constructions of state, sovereignty, market, and morality brought into play in writings on offshore finance. The newspaper reports, for instance, only cover part of the story. They often omit any explanation of why small states like Antigua are in the game of offshore finance, citizenship for sale, and Internet casinos in the first place.

The U.S. government's position on offshore finance, embodied in the State Department report,<sup>61</sup> holds that weak, small states, like Antigua, find themselves overwhelmed by a global organized crime network; this, together with local government corruption, warrants the United States' "mutual legal assistance."

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59. See ANTHONY GINSBERG, *TAX HAVENS* (1991). See also Bill Maurer, *Complex Subjects: Offshore Finance, Complexity Theory, and the Dispersion of the Modern*, *SOCIALIST REV.*, VOL. 95 (3 & 4), at 113; Susan Roberts, *Fictitious Capital, Fictitious Spaces: The Geography of Offshore Financial Flows*, in *MONEY, SPACE, AND POWER* 91 (Stuart Corbridge et al. eds., 1994). I want to emphasize here the normalcy of offshore investing. As Ginsberg notes, as much as 50% of the world's money sits "offshore" at any given time. GINSBERG, *supra* note 59, at 7. While tax evasion is a significant part of offshore finance, many multinational companies make use of offshore centers simply to move money from one part of the company to another, and simply to keep their money moving during a 24-hour global trading day, transferring assets from one offshore site to another, to major onshore financial centers, and on to the next offshore center, following the trading day as the planet spins on its axis.

60. See Maurer, *Writing Law*, *supra* note 25.

61. Of course, it is difficult to get a handle on a single "U.S. government position", given its many-headedness. I do not have the space here to compare the State Department report cited earlier with Department of Treasury reports, Federal Reserve reports, and the Financial Action Task Force's reports. The differences are especially significant in the digital cash debates, which I discuss below. See Board of Governors of the Federal Reserve System, *Report to Congress on the Application of the Electronic Fund Transfer Act to Electronic Stored-Value Products* (visited Apr. 6, 1998) <[http://www.bog.frb.fed.us/boarddocs/RptCongress/eftr\\_rpt.pdf](http://www.bog.frb.fed.us/boarddocs/RptCongress/eftr_rpt.pdf)>; Financial Action Task Force on Money Laundering, *FATF-VII Report on Money Laundering Typologies*, (Aug., 1996) <<http://www.treas.gov/fincen/advis4.pdf>>.

But how do Caribbean leaders who write offshore finance legislation author state, sovereignty, market, and morality?

As I have discussed elsewhere,<sup>62</sup> Caribbean leaders involved in promoting their territories as offshore financial service centers invent and then emphasize unique identities for their jurisdictions, stressing stability, reputation, security, and secrecy. They are actively involved in the marketing of their niche for capital. For these leaders, sovereignty in its liberal sense is not the goal nor even on the screen. For many, such as leaders in the British Virgin Islands and Cayman Islands, sovereignty, in the liberal sense, which would entail political independence from the United Kingdom, is perceived to have the ability to destroy the financial services business. These jurisdictions' links to Britain, given local legislative autonomy, are only formalities at this point. However, they are deemed central to the jurisdictions' "reputations" on the market of international financial services. Furthermore, in a region where "free trade" has meant the decimation of export agriculture, where grants from the Foreign and Commonwealth Office are rarer and smaller because of Britain's desire to shuck off its remaining colonies, and where tourism can no longer bring in the revenues it once did, marketing a jurisdiction to offshore investors seems a reasonable route to economic health.<sup>63</sup> A new "native" of St. Kitts-Nevis, an offshore finance analyst, explains, "[o]ur governments need the income. . . . The time when you could go and beg for money from England or the United States is gone. We've got to get some kind of income to live on."<sup>64</sup>

The social and political forces behind offshore finance suggest that there are at least two interconnected ways to view the active construction of sovereignty, market, state, and morality by Caribbean leaders involved in offshore finance. These differ significantly from the U.S. State Department's assumptions about the business and from liberal expectations. The first consists of a vision of weak states overpowered by the "normal" procedures of the global economy which demand that they market themselves as places of distinction, within which specialized services can occur. The second is a vision of states governed by leaders who are fully aware that the link between state and sovereignty

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62. See Maurer, *Writing Law*, *supra* note 25; Maurer, *Complex Subjects*, *supra* note 59; Bill Maurer, *Creolization Redux: The Plural Society Thesis and Offshore Financial Services in the British Caribbean*, 71 *NEW W. INDIAN GUIDE* 249 (1997). See also Roberts, *Fictitious Capital*, *supra* note 59.

63. See Ronald Sander, *The Growing Vulnerability of Small States: The Caribbean Revisited*, 343 *THE ROUND TABLE* 361 (1997). This article has been republished—not surprisingly—on the Antigua and Barbuda homepage at <<http://www.antigua-barbuda.com/common.html>>.

64. Fineman, *Resort Islands Now Offer Cash-and-Carry Citizenship*, *supra* note 48.

increasingly distorts their state's position in the world economy and their state's identity as a state. These leaders recognize that the state must become an apparatus that facilitates capital mobility (just as the Internet becomes a mechanism to facilitate capital mobility). For such leaders, sovereignty, in its traditional liberal sense, is moot. Perhaps the real "sovereign" in this vision is outside the state, above and beyond it, transcendent, like the feudal monarchs whose power purportedly derived from and was ordained by God.

4.a. A gold coin minted in England from the time of Henry VII to Charles I, originally of the value 22s. 6d. but subsequently worth only 10s. or 11s.<sup>65</sup>

Let's turn to another case where the terms sovereignty, state, market, and morality seem to signify in ways that may undermine Perritt's liberalism and cause us to make predictions about the Internet's impact more complex. This case originates not in small Caribbean microstates, but in the halls of major multinational banks like Citicorp and computer software giants like Microsoft and Intuit. For the past five years, these corporations have been floating ideas and testing products designed to replace physical cash as a medium of exchange by using the Internet and other computer technology. Such efforts to create "digital cash" or "e-cash", prototypes of which already exist on the World Wide Web<sup>66</sup> and can be used to carry out economic transactions, have generated arguments about the end of money itself. These arguments have called into question the institution of central banks, the future role of nation-states, and their abilities to regulate—or even endorse—their national currencies, in new economies of cyberspace.<sup>67</sup>

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65. OXFORD ENGLISH DICTIONARY, *supra* note 1, at 77.

66. See, e.g., *CyberCash* (visited Apr. 7, 1998) <<http://www.cybercash.com>>. See also Michael Krantz, *Cyber Vending Machine*, TIME, Oct. 7, 1996, at 78; James Staten, *CyberCash Pays Over Web*, MACWEEK, Feb. 6, 1996, at 4; James Staten, *CyberCash Ushers in New Era*, MACUSER, May 1996 at 37.

67. See Robert M. Metcalfe, *Daniel Lynch: Founding Chairman of CyberCash, Inc.*, INFOWORLD, Jan. 29, 1996, at 74; Michael Schrage, *Carl Pascarella: Branding Digital Cash: Visa Plans the Leap From Value Exchange to Information Exchange*, MEDIaweek, May 29, 1995, at IQ14; Kim Nash, *Cybercash at Risk: Money Laws Lacking*, COMPUTERWORLD, Dec. 23, 1996, at 1; Simon Fluendy, *Virtual Money: Does Cybercash Have a Future in Asia?* FAR E. ECON. REV., Nov. 7, 1996, at 83; Patiwat Panurach, *Money in Electronic Commerce: Digital Cash, Electronic Fund Transfer, and Ecash*, 39 COMM. OF THE ACM 45 (1996); Karrie Jacobs, *Digital Dollars*, IND. DESIGNMAG., Mar.-Apr. 1996, at 66; David Peyton, *Here Comes E-cash, But Washington Isn't Ready*, COMPUTERWORLD, July 3, 1995, at 37; Andrew Singleton, *Cash on the Wirehead*, BYTE, June 1995, at 71; Ellis Booker, *Financial Services Spread Across the Web*,

Again, my aim here is not to support these accounts of the end of money or the nation-state, or to claim that such accounts actually have purchase on "reality" as it is unfolding. I am very wary of the prophetic claims of both supporters and detractors of digital cash, who alternately claim that digital cash will unify the world in one glorious common market and make nation-states a thing of the past (and, with them, wars, poverty, famine), or that digital cash is just one small step away from the total commodification of everything—that "we'll all be tattooed with something akin to a universal pricing code to make sure we're not using someone else's" digital money, and "[h]idden in the code will be the numbers '666.'" And we all know what that means.<sup>68</sup> Rather, as with the discourse on PTs and offshore finance, I am interested in these discourses themselves for the ways they destabilize and re-write liberal conceptions of sovereignty, state, subject, and market. Whether or not those discourses translate into the kind of practices that produce new effects—new states, new persons—is an open question. They do, however, highlight the limits of liberalism. And that is a useful thing.

Much of the recent writing on digital cash emphasizes its utter normalcy. Scott Cook, the CEO of Intuit (the market leader in personal finance software), has stated that "financial products are already electronic. Wealth isn't stored in gold bars or coins or stock certificates anymore. It's stored on mainframe hard drives. Between financial institutions, finance is already digital."<sup>69</sup> An author for *Fortune* has also remarked, "it's still just money. For currency traders and others dealing in huge sums, who have long been able to zap billions of dollars across the globe in seconds, money as electrons isn't anything new. Nearly

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COMPUTERWORLD May 15, 1995, at 12; Charles Arthur, *How To Cash in on the Net*, NEWSCIENTIST, Feb. 18, 1995, at 19; Gary H. Anthes, *Digital Cash Solution Sought*, COMPUTERWORLD, Sept. 26, 1994, at 24; Eva Freeman, *How to Move E-Cash Around the Internet*, DATAMATION, Oct. 1996, at 58; Amy Cortese, *The Future of Money: E-cash Could Transform the World's Financial Life*, BUS. WK., June 12, 1995, at 66; James Gleick, *Dead as a Dollar*, N.Y. TIMES MAG., June 16, 1996, at 26. See generally Sebastian Rupley, *All the Web's a Wallet—Or Soon Will Be*, PC MAG., May 28, 1996, at 60 (providing a precis of five books on the topic).

68. Justin Fox, *What's New About Digital Cash?* FORTUNE, Sept. 30, 1996, at 51.

69. Gene Koprowski, *The Money Changers: Digital Cash Innovators Talk Banks, Bits, Bytes and Bucks*, FORBES, Aug. 26, 1996, at 68.

ninety percent of the money that changes hands in the United States every day does do electronically."<sup>70</sup>

Digital cash endeavors seek to capture that remaining ten percent through innovative technologies like "smart cards" embedded with a chip containing information representing downloaded money, which serves as the medium of exchange, or software-based on-line "cybercash", which can be used over the World Wide Web to conduct transactions currently involving credit cards.<sup>71</sup> Cybercash makes small fee-for-use schemes possible and profitable. It allows aspiring "online entrepreneurs"<sup>72</sup> to earn money by, for example, charging Web-surfers a dollar or fifty cents to use on-line software, play a game, or read a story.<sup>73</sup> Many such enterprises probably cannot afford to accept Visa or Mastercard, and few on-line consumers would be likely to hand over their credit card numbers for such a tiny transaction.

There are two chief worries put forward in the business press about digital cash. The first is that it will erode the sovereignty of the nation-state by taking away from sovereign states their ability to control their money supply. The second is that it will lead sovereign states to interfere in the free market of cyberspace in the name of guaranteeing the security of Internet transactions. On the one hand, the state will weaken and fall apart; on the other, it will ruin the market by being too strong.

The first worry is a species of the "globalization is weakening states" argument. Here, the forces of the market are portrayed as usurping sovereignty from the nation-state. Specifically, digital cash represents the end of central banks' abilities to regulate the money supply, rendering currencies "unmanageable."<sup>74</sup> Peter Newman argues that "[t]his will mean a separation between nations and their own economies, the 21<sup>st</sup>-century equivalent of the church-and-state split of the 19<sup>th</sup>-century."<sup>75</sup> Critics of this position point out that money has been "imaginary stuff" for quite some time, "its value derived

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70. Fox, *supra* note 68, at 50.

71. See Koprowski, *supra* note 69, at 70. See also Peter C. Newman, *E-Cash: A Looming Financial Revolution*, MACLEAN'S, June 26, 1995, at 30.

72. Michael Krantz, *Cyber Vending Machine*, TIME, Oct. 7, 1996, at 78.

73. See Staten, *CyberCash Pays Over Web*, *supra* note 66, at 4. See also Staten, *CyberCash Ushers in New Era*, *supra* note 66, at 37.

74. See Newman, *supra* note 71, at 30.

75. *Id.*



purely from trust," and that "switching from paper imaginary money to digital imaginary money simply isn't that big a deal."<sup>76</sup>

The second worry, interestingly enough, stems from fears of the potential for digital money transactions to become a kind of offshore finance and money laundering activity. Both supporters and opponents of digital money voice this concern.<sup>77</sup> As one opponent stated, "[f]unds floating in cyberspace will become the ultimate tax haven. The more money that vanishes into the untaxable ether, the less tax will be paid by sophisticated computer traders – which will place an extra tax burden on society's computer-challenged citizens, who will be least able to carry the burden."<sup>78</sup> "Money laundering will become fast and simple. The existence of untraceable funds will encourage criminal activities."<sup>79</sup> Supporters of digital money, however, see states' responses to this potential as the real danger. U.S. Comptroller Eugene Ludwig has voiced concerns about "the potential severity of any e-money-related criminal activity," and has called for increased government regulation.<sup>80</sup> Industry specialists counter that the industry can best regulate itself, and that the market will weed out bad players. Furthermore, as *Forbes* reports, "if government rules become too burdensome, electronic money players will simply shift their operations overseas. One member of the Chicago Merc, Rand Financial Services, relocated to Bermuda to be free of onerous regulation by the federal government."<sup>81</sup>

According to promoters, their own market dominance ensures that the market will work to keep criminality out of digital economies. In a world where "trust" is the ultimate backer of currencies, and where essentially private currencies like digital cash have an increasingly important role to play in the

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76. Fox, *supra* note 68, at 54.

77. See Newman, *supra* note 71, at 30. See also Koprowski, *supra* note 69, at 71, 74.

78. Newman, *supra* note 71, at 30.

79. *Id.*

80. Koprowski, *supra* note 69, at 73. There is more to say here, of course, about the many heads of the state and the way that certain reports and recommendations of regulatory or advisory bodies get put to all sorts of purposes their authors probably never envisioned. Take, for instance, one of my own papers on offshore finance, Bill Maurer, *Law Writing, Immigration, and Globalization in the British Virgin Islands*, 2 *IND. J. GLOBAL LEGAL STUD.* 413 (1995), being republished on the World-Wide Web through the House of Representatives Internet Law Library service at <<http://law.house.gov/246.html>>. In the debates over digital cash, there is a story (which I do not have space here to tell) about the way the Department of Treasury used the Federal Reserve's report on e-cash to justify denying electronic benefits payments (EBT) to people on welfare, despite the fact that the Federal Reserve report had absolutely nothing to do with EBT. In addition to the Federal Reserve report to Congress cited above, see Federal Reserve System, 12 CFR Part 205 [Regulation E; Docket No. R-0959] *Electronic Fund Transfers, Final Rule*, (visited Apr. 28, 1998) <<http://www.bog.frb.fed.us/boarddocs/press/BoardActs/1997/19970813/R-0959.pdf>>.

81. Koprowski, *supra* note 69, at 74.

exchange and accumulation of wealth, digital cash companies that can bolster their trustworthiness in the eyes of consumers will "win" in the long run, and those that cannot will be forced out of the market. As Scott Cook from Intuit states, "brand names will become more important:"

If you're going to deal with a financial institution remotely, all you have to go by is the brand, the record of service and trustworthiness that stands behind it. You can compare it to the process that grocery products went through over the last century. Brands were not important in groceries a hundred years ago—you used to trust your local grocer to tell you if the crackers were good. But now you trust Nabisco or another brand. The same will be true of banks.<sup>82</sup>

Similarly, Sholom Rosen, Citibank's vice president for emerging technologies, states: "You may not be loyal to your bank yet, but the idea is to make you loyal by providing services that make your life a lot easier."<sup>83</sup>

One reason industry experts fear government intrusion is the potential for private economic transactions to lose the anonymity they now have (for some). If consumers know that government agents can peek into their digital cash transaction histories, they will be less willing to use the product and will stick to old-fashioned paper money. As David Chaum, CEO of Digicash, told *Forbes*, "the real home run is to replace paper money. This will never be achieved without an electronic payment system that allows people to protect their privacy, which Digicash now offers."<sup>84</sup> An overriding assumption here is that consumers do actually seek anonymity.<sup>85</sup> The take-home message in most of the business press accounts is that digital cash is nothing to worry about, that it will make everyone's life easier, and that it will take care of itself if only the state leaves it be.

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82. *Id.* at 68.

83. *Id.* at 71. See also Schrage, *supra* note 67, at IQ14, IQ16.

84. Koprowski, *supra* note 69, at 70.

85. See Fox, *supra* note 68, at 50. See also Krantz, *supra* note 72, at 78.

### 5. A variety of pear. *Obs.*<sup>86</sup>

There are obvious parallels in accounts of offshore finance and digital cash, most notably in the fears about money laundering and the emphasis on creating reputations of trustworthiness. But these parallels are deceptive. The issue of anonymity and secrecy is fore-grounded for both phenomena. However, at least in popular accounts, secrecy in offshore finance is the vice that allows shady dealings, while secrecy in digital cash is the virtue that will boost the market share of digital cash providers. At the root of the moral concern with secrecy in the first case is the individual presumed to engage in potentially illicit behavior, the rootless PT who owes allegiance to no one and nothing, whose citizenship is a commodity purchased like any other, delineating no particular loyalty to state or sovereign. Yet the person interested in secrecy in digital cash is much the same. It seeks a non-state-based free global market through the Internet; its interests lie in protecting its own autonomy from the prying eyes of the state or of Visa International, which might like to know its spending habits and might like to trace its purchasing history. Why are there no warning-bells about this latter person? Why do writings on digital cash often seem to echo Perritt's confidence that the market will enhance democracy, peace, and freedom, making the world a better place for us all?

I believe the answer lies, again, in conceptions of state, sovereignty, market, and morality, conceptions that seem to hinge on the locus of origin of economic transactions. Offshore transactions originate precisely "offshore", somewhere else, a space imagined to lie outside of powerful sovereign states. At the same time, for governments involved in offshore finance, it is the market that demands offshore services be made available and the market which necessitates that small states offer such services in order to survive in the world economy. Digital cash transactions, on the other hand, happen *within* the domain of that market, inside the heavens to which small states desperately want access. Above, in the sovereign (in the sense of ordained, lofty, superordinate, like the Deity over all else) space of this market, "good" individuals conduct "private" transactions, without culture or politics or interests other than rational economic self-interest. This heavenly market regulates itself; government intervention would only cause it to fall to the ground in pieces.

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86. OXFORD ENGLISH DICTIONARY, *supra* note 1, at 77.

Even as Caribbean states attempt to empty their citizenships of content by offering them for sale on this market, offering their citizenships as empty placeholders within which PTs can temporarily reside before moving on, they still contain meaning, they still carry the mark that denies them entry into the Kingdom of Heaven. An Antigua becomes a "corrupt, weak state"; people who make use of Antiguan offshore financial services are "suspect"; people who purchase citizenships or other legal statuses (or collect them, or are denied them, as many international working-class migrants are as they move from place to place) carry the taint that necessitated such a purchase (or collection) in the first place. Not "truly" without culture like "real" participants in the "global economy", they can never escape that original sin of having once belonged to a place, a state, a sovereign territory that did not subordinate itself to the "global market."

I am suggesting that when sovereignty is seen to reside in an abstraction called "the market", then participants in that market, who accept that sovereignty, become by definition "people without culture",<sup>87</sup> people supposedly beyond and above "petty" localisms, people with "empty" identities. Such people are "sovereign subjects", then, in that their identities are purely subordinate to that of their sovereign, the sovereign market. But when sovereignty seems to reside in a small state that uses its powers to craft niches for flight capital to rest in, or when leaders of small states tweak the system, like computer hackers, testing its limits and attempting to reprogram its operating procedures to their own advantage, then participants in *this* world are seen as morally suspect, corrupt, and dangerous. They are not sovereign subjects, but subjects who need continually to attempt to erase that essential stain. This stain, of course, is the stain of origin—in the Third World, in the former Soviet Union, in China or Taiwan or Hong Kong. It is also the stain of the state: Antigua, unlike Microsoft, is a "state", and a "state" has no business tweaking the "market."

The different moral assessments of offshore finance and digital cash I am arguing, should lead us to call into question the assumptions motivating the kind of world where Microsoft has powers denied states, where the market becomes that lofty above, where some of "us" are allowed to be "people without culture" whose subjectivities become normative and normalized and actively enforced for the rest of the world, even as the rest of the world may have other intentions. The real "suspects" here are ourselves—and here I mean mostly white citizens

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87. See RENATO ROSALDO, CULTURE AND TRUTH: THE REMAKING OF SOCIAL ANALYSIS 198-204 (1989).

of First World countries, with stable jobs, pension funds, and multiple attachments to and investments in the global economy. Critiquing liberalism means making explicit the privilege granted us by virtue of our origins to never need to shop for citizenships, or evade or question sovereigns. The task, then, is to expose ourselves: to open up the politics and culture of neo-liberalism, the politics and culture of "the market" as it appears more and more to be a sovereign domain, to show how it is always contested, negotiated, and constructed in practices not necessarily of our choosing but just perhaps within our sovereign power to transform.

