
ORWELL'S GHOST: HOW TELETECHNOLOGY IS RESHAPING CIVIL SOCIETY*

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In the context of the intellectual firepower and brilliant, technically informed discussion presented at this symposium, and of the unique US presidential election that is its subject—as the organizers have called it, the *YouTube* election—I come before you today on a risky enterprise. I am going to tell you a ghost story.

Unlike most tellers of ghost stories, I am relating mine in broad daylight. But I hope to frighten you all a little, nevertheless.

I am neither a lawyer nor a regulatory scholar. My interest is in the history, ebb and flow of ideas. I am captivated by the power of the narratives that our media industry produces, including both our popular mass media and the professional or learned media. Our social and political institutions, it seems to me, rest heavily on these narratives, constantly reweaving and reinterpreting them. Against this background I bring you my own brief narrative today, which you are welcome to think of as an offline blog.

Once upon a time there was an Englishman called Eric Blair. He was born in 1903 to middle class parents in Bengal, then a part of British India. His father was a civil servant in Queen Victoria's Raj. He obtained a high school education at Eton but his family could not afford to educate him further. From 1922 to 1927 he worked as a policeman in Burma, today called the Union of Myan-

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mar. He thereafter devoted himself to freelance writing, eking out a living with jobs ranging from dishwashing to teaching. He researched the living conditions of the poor in Lancashire and Yorkshire, fought in Spain against General Franco, where he survived being shot in the neck, wrote for media such as the *New Statesman* and the BBC, and died of tuberculosis in 1950, having known much illness and suffering. He was forty-six. We remember him today for his writings published under the name of George Orwell, including two novels, the allegory *Animal Farm* and a nightmarish vision of a totalitarian future, *Nineteen Eighty-Four*.

The images and refrains of *Nineteen Eighty-Four* so permeate popular culture that few educated people can escape them. The slogan *Big Brother Is Watching You*, and the terms *Thought Police*, *Doublespeak* and *Newspeak* are elements of Orwell's chilling picture of an omnipresent State extending its surveillance and manipulation into every aspect of human life through means including the control of media.

It requires no great insight to realize that Orwell's concerns resonate disturbingly with our own time. In view of this, I think you will be glad to learn that my ghost story does not invoke the well-known specter of the Big Brother State, alarming as that apparition is. Instead I am going to take you on a somewhat more devious route.

Orwell published his dystopia in 1949. But some seventeen years earlier, in 1932, his former French instructor at Eton had published a novel which also envisioned a dark future. That work was *Brave New World*, by Aldous Huxley, and it, too, cast a long shadow over later generations.

While many people think of *Brave New World* and *Nineteen Eighty-Four* as identical in message, there are interesting differences between them. Media scholar Neil Postman has pointed out that whereas Orwell warned of a future in which the State would bury the truth by manipulating the media, Huxley feared a tomorrow in which it would be unnecessary to bury the truth, because no one would care about it. In Huxley's vision, we would not be enslaved by government so much as seduced by a proliferation of technologies capable of confusing and discouraging critical thought.¹

At this point you might fear that my whole speech is about literary works from decades past. To relieve you of this anxiety I bring you now to the present day, and the thought of one of our leading legal scholars, Richard Posner.

Judge Posner is the author of many distinguished legal commentaries. I introduce him into my story for two separate but closely related reasons. First, because among his publications is an article, published in the year 2000, called

¹ Neil Postman, *The Huxleyan Warning*, in *AMUSING OURSELVES TO DEATH: PUBLIC DISCOURSE IN THE AGE OF SHOW BUSINESS* (1985).

*Orwell Versus Huxley: Economics, Technology, Privacy, and Satire.*² There he contends that imaginative writing like Orwell's and Huxley's is better viewed for its literary merits than as social comment.

However, my second reason for mentioning Judge Posner concerns me here more than the content of his article on Orwell and Huxley. This second reason is the very fact that an eminent and busy jurist of our day, concerned with legal issues of pressing and practical importance, should take the time to publish a comparative analysis of two early twentieth-century literary figures.³ This fact invites us to consider the scope and forms of Judge Posner's public discourse, which in turn shed useful light on the mass media, teletechnology and changes occurring in the fabric of civil society.⁴

Please note that my comments here have little if anything to do with the juristic merits of the Judge's opinions. I am interested in him today less as a legal thinker per se than as a respectfully observed case study in media change.

An examination of Judge Posner's body of work shows that his concern with Orwell and Huxley is not the recreation of a literary hobbyist, but goes to the heart of his professional concern with the challenges of a rapidly changing culture. Judge Posner's view of the law is deeply characterized, perhaps even defined, by a sense of social change. His interest in Orwell and Huxley reflects this.

To explain this, it is helpful to compare Orwell's intellectual world with our own. Orwell lived through the twilight of the British Empire. It was receding in his time, but was still very much a fact of his life; an immense, cohesive presence embodying administrative might and national control. He lived, further, through the rise of the Soviet state and the Fascist regimes of Europe.

To Orwell, the monolithic state was the primary fact of political life. It was something to which technologies of all kinds were but instruments to do the state's bidding. By giving voice to this image of the over-arching state, Orwell expressed not an individual perception but assumptions that had been long and widely established among both haters and defenders of the state.

² Richard A. Posner, *Orwell Versus Huxley: Economics, Technology, Privacy, and Satire*, 24 PHIL. & LITERATURE 1 (2000).

³ Many lawyers have written legal commentary at a high literary level, or have (like Bacon, Montesquieu, and De Tocqueville) applied themselves successfully to literary areas outside the law, or have (like John Grisham and Sir John Mortimer, QC) drawn on their legal knowledge to produce bestsellers, while some have (like Walter Bagehot) gone straight on to attain general literary distinction without ever practicing the law, but Judge Posner exemplifies a breadth of interdisciplinary activity that is unlike any of these.

⁴ While Locke wrote of civil society as a community supported by government and government-sanctioned laws, I use the term in the sense, later adopted by Hegel in his *Philosophy of Right*, where civil society refers to those cooperative activities that lie outside the ambit of government.

Huxley had a different perspective. His family was one of the most brilliant in England, encompassing both the sciences and the arts. He himself was a polymath with a profound grasp of the many factors that shape history other than the decisions of the state. His understanding of the defining forces of the twentieth century was keener than Orwell's, in that he saw these as not only political but technological, with new technologies possessing a power that would in important ways transcend the traditional powers of the state.⁵

It is thus wholly appropriate for a leading jurist at the dawn of the twenty-first century to concern himself with the differences between Orwell and Huxley.

These two imaginative writers between them encapsulate what is arguably the major social fact of our age, namely the receding into history of the monolithic state and its replacement by a complex pattern of technological impacts that together constitute a new direction for civil society.

In my ghost story, therefore, the ghost is not that of Orwell himself, even though I am happy, albeit nervously so, to think that his shade is with us today. The ghost of which I speak, which haunts all contemporary political discourse, is that of an outdated concept of the monolithic state and the clear political and social lines of demarcation that once surrounded it—or seemed to.

If the monolithic state has receded, or is receding, into ghostliness, what, then, has replaced it, or is replacing it? To answer this question I return to Judge Posner. Three features of the Judge's work offer us a window into this new world. They are: the interdisciplinary scope of his work, the media he uses to circulate his views, and his resistance of traditional political labels. All these provide clues to the reshaping of civil society, and the directions from which that reshaping is coming.

First, then, the interdisciplinary aspect. I have already noted that Judge Posner has published literary scholarship. In addition to his article on Orwell and Huxley, for example, he has published a book called *Law and Literature*. His work on law and economics has opened up new areas of fertile inquiry between these two fields. His other activity ranges from legal psychology, national security policy and national intelligence structures, to the role and conduct of public intellectuals, pragmatic philosophy, political theory, moral theory, sexuality and biography.

This interdisciplinary tendency parallels a resurgence of interdisciplinary discourse in contemporary culture.⁶ While this resurgence has diverse intellec-

⁵ Isaac Asimov, a celebrated explainer of scientific and technological fact as well as a fictional imaginer of possible scientific futures, maintains that Orwell had scant sense of technological change and "no feel for the future." See 1984, in ASIMOV ON SCIENCE FICTION 262 (1981).

⁶ The relevance of interdisciplinary studies to an understanding of contemporary, technologically-shaped political discourse is very great. Much seminal intellectual activity in the

tual origins, it has, for a variety of reasons, been vigorously fueled by the emergence of the Internet. One reason is that the Internet not only encourages informality of communication but seems to demonstrate that stimulating ideas are generated in greater numbers if some conventional boundaries between professional intellectual fiefdoms are relaxed.

The Internet is subversive of such established boundaries—between professions and between all other social groups. It is a truism, for example, that the Internet is fueling the momentum of globalization. But what is less widely appreciated is that, as the work of sociologist Saskia Sassen shows,⁷ globalization's most significant aspect is that it appears to be signaling a larger human, social and political change of a kind and on a scale too complex to be translated into gross national product. On a platform of electronic connectivity, global civil society is coalescing into a landscape of private information exchange that rivals, and promises to eclipse in social and cultural effects, the landscape of the state as traditionally conceived.

The blurring of the lines between disciplines and professional jurisdictions is a telling metaphor for this. In Orwell's time, the state, both in the sense of centralized government and in the sense of sovereign national community, not only dominated but provided the ruling social paradigms of the well-compartmentalized civil society. The British class system put everyone in his or her place. In Orwell's early years, a respectable young Englishman faced but a handful of clearly defined career choices, such as the law, the civil ser-

first half of the twentieth century placed an almost messianic value on specialization and the creation and preservation of esoteric intellectual jurisdictions, reacting to the sweeping philosophical systems of the nineteen-hundreds with strong antipathy toward interdisciplinary thought. Initially spearheaded by the linguistic preoccupations of the Vienna Circle and British philosophers influenced by Ludwig Wittgenstein, this trend has since morphed, through Jacques Derrida and others, into a very differently flavored brand of discourse combining European social metaphysics with heavy importations of the vocabulary and metaphors of language analysis; through figures such as Jürgen Habermas, it has powerfully permeated the philosophy of law and civil society. The roots of both the earlier and later forms of these linguistically-inspired philosophies share an interesting antipathy toward technology, the development of which strongly invites interdisciplinary conversation. Since these shifts in intellectual fashion have both affected and reflected important aspects of general culture, the major currents of intellectual history of the past century or more cannot be properly analyzed without attention to the interdisciplinary implications of technology. In the sense in which I reference it here, interdisciplinary philosophy remains today a much overlooked and enormously fertile area of inquiry promising to help us engage the challenges of telecommunications technology, which is part of what is arguably the most interdisciplinarily intensive generation of technology ever produced. This inquiry relates to the divergent intellectual and political processes of different disciplines, the differing metaphors and paradigms that these generate, and their implications for information exchanges among disciplines.

⁷ A snapshot of Sassen's thought is provided in N.J. Slabbert, *Saskia Sassen and the Rise of Urban Globalization*, URBAN LAND, Feb. 2008, at 151.

vice, the military, or something in the city, a phrase that covered commercial activity in general. It is easy to laugh transatlantically at these quaint relics of the universe of P.G. Wodehouse, but they had their American counterparts, as you will be reminded if you read Sinclair Lewis's *Babbitt*,⁸ a book which shows that America, despite its frontier myths, has not been without its share of rigid social structures, etiquettes and labels.

Teletechnology is the enemy of these rigid structures, etiquettes and labels. By teletechnology I mean all of those information processing and transmission media that involve, gravitate around or are allied to the Internet. Previously, a marginalized individual wishing to approach the great, the powerful and the well-connected, to plead redress of some grievance, had first to navigate the manor wall, the butler, the security guard, or at least the membership requirements of the country club. Now, if you get hold of their cell phone number or e-mail address you're well on the way. And if you set up a well-conceived weblog, there's a good chance they'll come to you. One of the icons of this aspect of the Internet is a *New Yorker* cartoon by Peter Steiner which depicts a dog at a computer, observing: "On the Internet, nobody knows you are a dog."

Which brings me to the media that Judge Posner uses to distribute his ideas. These have not been limited to the traditional print media of legal scholarship, namely hard-copy legal journals and books, but have made substantive use of the Internet, including *The Becker-Posner Blog*, a collaborative weblog with Nobel Prizewinning economist Gary Becker, Judge Posner's own website, and online exposure such as interviews published in independent electronic journals like *Slate*.

This use of the Internet for kinds of intellectual discourse that were previously reserved for hard-copy learned journals parallels tendencies that are visible on a large scale in both the legal profession and contemporary culture. Its extension into legal scholarship is illustrated by a *Yale Law Journal Pocket Part* editorial on this subject in September 2006; *Pocket Part* being the online companion to the *Yale Law Journal*.⁹ This editorial referenced the new ability of law professors to download articles from the Internet long before they appear in journals, legal weblogs which critique slip opinions months before they see print, and a freer medium allowing "a jazzier style of writing." The editorial also referenced law professor Jack Balkin's report of a role played by his blog in torpedoing a domestic espionage bill sponsored by Senator Arlen Specter. *Pocket Part*, incidentally, was introduced by the Yale Law School in 2005,

⁸ SINCLAIR LEWIS, *BABBITT* (1922) (fictionally portraying a middle-class America mindlessly and complacently adhering to regimented categories of thought and activity established by the prevailing commercial culture).

⁹ The Yale Law Journal Pocket Part Home Page, <http://www.yalelawjournal.org/> (last visited Apr. 14, 2008).

which indicates how recent and emergent are online impacts on intellectual discourse.

The power of the blogosphere has yet to be fully demonstrated and grasped. To say it is immense is a gross understatement. The blogosphere is a universe including all the people in the world who want to be published, who prior to the Internet would not have been able get published easily if at all, and who now can be published to their hearts' content as long as they can gain access to a computer. It may be unduly colorful to say that this is an informational counterpart of the unlocking of nuclear power, but it is not inaccurate. Moreover, the power of the Internet is two-way. In addition to all those who wished to speak and had no voice until now, there are those millions whom every lobbyist and advocate wished to reach but could not and now can. Howard Dean's presidential candidacy in 2004 was the first flickering of the electioneering implications of this development.

I now move on to the third of the three features of Judge Posner's activity that I present to you as illustrating the emergent cultural climate. This third feature is the Judge's resistance of traditional political labels. It is the most complicated of the three attributes that I describe; it is also the most important to my present purpose, because it relates strongly to the kind of civil society that is now taking shape, and to your Symposium's theme of the 2008 election in the context of contemporary media.¹⁰

Judge Posner is seen by many as a conservative thinker, but much of his intellectual stance does not at all fit neatly into what is usually perceived as the conservative mold. For example, his association with the philosophical tradition of pragmatism aligns him in at least some respects with a reformist liberal tradition represented by philosopher John Dewey's circle and their present-day intellectual heirs.

This blurring of traditional lines of political demarcation is not unique to Judge Posner; as I have mentioned, I have referenced him today largely because several of his attributes conveniently illustrate broader cultural trends. Indeed, our society is in political ferment to a degree that we have not experienced for several generations.

¹⁰ Traditional lines of political demarcation in the US have been weakening for some time without the Internet's help. In early 1992, Ross Perot outpolled both President George H.W. Bush and Bill Clinton, finishing in that year's election with some 19% of the popular vote. Perot's platform was a mix of planks derived from both traditionally conservative and traditionally conservative attitudes. See, e.g., Walter Shapiro, *He's Ready, But Is America Ready For President Perot?*, TIME, May 25, 1992. The months of speculation as to whether New York City Mayor Michael R. Bloomberg would follow Perot's example and enter the 2008 election as a political independent indicates that the prospect of an independent president is strongly intriguing to many.

For much of the twentieth century, our political choices have been between large, more or less unambiguous blocs of left and right—an ideological hang-over from Orwell's era, the days when the political landscape was dominated by presences so immense that it was difficult to mistake their identity. The Internet has, for the present and for the foreseeable future, changed that landscape. The Internet is an engine of political fragmentation because it gives voice to nuances, niches and interest groups which were previously not always voiceless, but which at best spoke in whispers or social asides. It allows speculation and murmuring to take a place alongside formal journalism and official propaganda as media phenomena, and the underground to come into daylight.

The ideological discipline and management of national parties has always been a difficult coalition-building challenge, and while in some ways it is being assisted by online technology, the Internet can also be counted on to introduce new complications, rendering nationally visible political shapes and colors that were previously beyond the visible spectrum. Judge Posner, himself a notable public intellectual, has considered the role of public intellectuals—individuals who play a powerful role in representing or leading public opinion—to be so important that he has published a book on the subject.¹¹ But we may well be entering an era in which, to paraphrase Andy Warhol, everyone will be a public intellectual for fifteen minutes. In fact, my presentation today may have used up my own fifteen minutes twice over.

If you are skeptical about the prospect of seeing new political movements come to light in the foreseeable future, I urge you to consider the career of a political thinker who recently passed from us, William F. Buckley. When Buckley came on the scene, conservatism in America scarcely possessed an intellectual voice, and there is good reason to speculate that the conservative resurgence that led to the Reagan years would have been difficult to achieve without it. Do not underestimate the power of well-formulated, effectively distributed ideas. If the Internet is nothing else, it delivers effective distribution to those ideas that flourish, however marginally, outside the comfortable mainstream.

Although I understand why your symposium describes the 2008 election as the *YouTube* election, I am pleased to see a question mark behind this description, because I suggest to you that it is a common misconception that the Internet is a visual medium, a kind of extension of television and the motion picture. Marshall McLuhan, a gifted but in crucial ways mistaken analyst of media and technology, may seem a dated figure now, but in stressing the visual side of telecommunications he continues to speak for a good deal of twentieth century perception and misperception of the information processing age.¹²

¹¹ RICHARD A. POSNER, *PUBLIC INTELLECTUALS: A STUDY OF DECLINE* (2002).

¹² The philosophical and sociological reasons for McLuhan's success in striking a major

While its visual powers are considerable, the Internet is also an extraordinarily potent medium of the written word as a vehicle for information, disinformation, arguments, truth and lies, in no particular order. It is the disreputable lost cousin of democracy suddenly come home to embarrass and perplex us all with inconvenient utterances and discomfiting rhetoric.

The 2008 election is therefore indeed one which is poignantly haunted by a ghost—a political ghost representing old certitudes and political clarities, not only of Orwell's milieu but of the salad days of the Baby Boomers. This phantom is especially confusing because it is not the ghost of a deceased entity whom we at least know is safely dead; it is more like a retired CEO, who returns to the office periodically to see if he can still influence the new order. And of course one can never be sure that he will not.

But what is clear is that there is indeed a new order, even though we do not yet know its nature. And it is unlikely that we will know this nature for some considerable time, because the Internet is an experience so very different from anything that has preceded it. The screenwriter William Goldman once said of Hollywood that one thing you could say about it with certainty was that nobody there knew anything.¹³ Of the Internet, I suggest, you can presently say the same thing, with all due deference to those many bright people who understand very clearly how many of its parts work. Even those who acknowledge that technologically driven civil society is somehow being transformed into a new political and cultural phenomenon continue to think of this transformation in terms derived from traditional ideas about sovereign States engaged in traditional forms of confrontation. Former United Nations Secretary General Kofi Annan, for example, has referred to civil society empowered by telecommunications as becoming the new superpower¹⁴—a phrase that usefully captures the

nerve in the world of media studies with books like *The Gutenberg Galaxy* and *Understanding Media* are as useful to an understanding of twentieth-century perceptions of media technology as is the content of anything McLuhan wrote. See generally MARSHALL MCLUHAN, *THE GUTENBERG GALAXY* (1962); MARSHALL MCLUHAN, *UNDERSTANDING MEDIA* (1964).

¹³ WILLIAM GOLDMAN, *ADVENTURES IN THE SCREEN TRADE* (1983). Goldman does not suggest that Hollywood is populated by ignoramuses; his point is rather that the factors determining the success or failure of a film are so awesomely numerous and complex as to defy prediction.

¹⁴ Press Release, United Nations, Secretary-General Describes Emerging Era in Global Affairs with Growing Role for Civil Society Alongside Established Institutions (July 14, 1998), available at <http://www.un.org/News/Press/docs/1998/19980714.sgsm6638.html>.

The global information revolution has transformed civil society before our very eyes. . . . the relationship between the United Nations and civil society has changed beyond all recognition. . . . Information technology has empowered civil society to be the true guardians of democracy and good governance everywhere. Oppressors cannot hide inside their borders any longer. A strong civil society, bound together across all borders with the help of modern communications, will not let them. In a sense, it has become the new super-power—the peoples determined to promote better standards of life in larger freedom.

magnitude of the change that is occurring, but at the expense of suggesting that we are still somehow in the Cold War era, except that we now have iPods.

There is as yet today no coherent and comprehensive philosophical account of the Internet. Philosophers have generally emerged from their studies to observe its existence with wariness and bewilderment. The market to explain its social, philosophical, moral and political impacts is wide open. Papers which purport to explain it tend to invoke poetic license to a great degree. The title of my own address today, *How teletechnology is reshaping civil society*, is an example. The truth is that all I have been able to do is remark on some general features of the Internet impacts that I perceive, and admit to you that these are but the tip of the iceberg.

Politically, what lies beneath that tip can be summed up, I think, by two observations. The first is that while it is in the nature of democracy for free elections to be unpredictable, the 2008, or *YouTube* election, is taking place in a technological climate that has, in my view, blessed us with the greatest bounty of unpredictability in history. Of course, I don't mean by this that we won't have predictions. We are never short of those, and at least some of them must turn out to be true. What I do mean is that our harvest of wild cards, of unforeseen factors, will be particularly rich in coming months, thanks to the informational terra incognita of the Internet.

My second summary observation is that political transformation is driven by intellectual transformation, and we have now, I believe, entered an age of great philosophical transformation—one in which technology itself is being made into what universities call a humanity,¹⁵ which I think is a very substantial philosophical event indeed. This is, moreover, a highly verbal event, despite the perceptions of those who tend to see the Internet as most significantly an extension of the visual media.

Id.

¹⁵ The most philosophically sophisticated inquiries into the nature and effects of technology over the past hundred years have been critical onslaughts against technology rather than efforts to incorporate its transformative effects into humane studies, so the commencement of such an integration now would represent a significant shift. Lewis Mumford and Jacques Ellul are examples of highly gifted, influential thinkers whose work was handicapped by their industrial, pre-electronic concepts of technology, while technologists seeking to reposition technology as a positive moral experience and form of social progress, such as Buckminster Fuller, have tended to be poorly skilled as philosophical apologists. This imbalance can be traced back to the Renaissance, when the Roman idea of liberal arts (including arithmetic, geometry and astronomy) receded in favor of a concept of cultural rather than practical education. Twentieth-century reaction against this trend has generally resulted less in a philosophical engagement of technology than in a retreat from the kind of philosophical discourse that such engagement requires. For further remarks on Mumford and Fuller in these contexts see N.J. Slabbert, *Lewis Mumford: Pioneer of Multidisciplinary Urban Thought*, URBAN LAND, Oct. 2006, at 172; N.J. Slabbert, *Richard Buckminster Fuller's Plea for Comprehensive Design*, URBAN LAND, Feb. 2007.

The kinds of changes that I have briefly referenced today—interdisciplinary ferment, the rapid global exchange of information and opinion, and the erosion of traditional lines of political demarcation—signal, I suggest, a seismic shift in the nature of civil society, and thus necessarily, it seems to me, in the foundations of our thinking about government and the political processes related to government, which have for the past century or more, been contoured around our thinking about the limitations and capabilities of civil society.

If you wonder how one can remark confidently upon great change without pretending to understand it or to offer clear maps for its navigation, I invoke for you the analogy of climate change. It has been known for generations that industrial technologies have altered the physical character of the Earth, but only fairly recently have we begun to recognize the magnitude of the change and engage its implications and scope with concerted effort. Teletechnologies are changing the nature of our political life—the life of civil society and therefore of the nature of government, with whose shape it is closely interlinked—as vastly as any effects upon our physical world wrought by industrial technology, and with as much novelty to our established patterns of thought. Indeed, I suggest that what has traditionally been called civil society is indeed now rapidly coming to be, if it is not already, identical with information technology society as defined by Internet use. To this extent, the 2008 election may not really be the first twenty-first century US presidential election, but rather the last twentieth-century election, in the sense that it is an election still being conducted with the perceptions of civil society inherited from a pre-Internet age.

I told you at the outset that in relating this brief ghost story, I would try to frighten you a bit. I point out that those in this room today belong to the generation that bears the responsibility to understand the long-term nature and political implications of teletechnology. If that responsibility does not frighten you, I don't know what will.

