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Welcome to the State of Nature -- Internet Violence

In the beginning, John Locke once wrote, all the world was America. We now recognize this as an ethnographic conceit. But the point Locke was trying to make remains valid: Before there was government, there was civil society, and before civil society, there was a state of nature. This world without rules or binding norms is a plaything of political philosophers. It is a tool we use to learn about the concept of legitimacy: How we decide who has authority and the right to impose limits on our liberty.

Anthropologists like to point out that there never has been a state of nature. Individuals do not predate society, rather our sense of individuality arises from, and is formed by, the groups in which we are nurtured and mature. A basic fault line in any political debate is the line distinguishing the individual from the group. My bias is toward libertarianism, so I tilt in favor of the individual.

I say the state of nature exists. You are in it right now. It's called the World Wide Web, a forum into which fully formed individuals emerge and confront one another in the absence of controlling norms or authority of any type. We celebrate the freedom of this unbounded universe, but is there a dark side? Can life here be nasty, brutish and short, as Thomas Hobbes found the state of nature?

I've been reading about cyberstalking and harassment this past week. I've a stalker or two, folks who send me snarky anonymous notes and who then reach out to friends to spread the same vitriol about me. I've traced the Internet Protocol address of one of these folks, and was not at all surprised to see who it was. I already knew the writer was a loose canon waiting to fire. I'm reading a good psychiatric textbook on stalking. Seeing the warning signs is valuable.

Evan Axelrod's, *Violence Goes to the Internet: Avoiding the Snare of the Net* (2009), is as good a starting point as any for understanding the misuse of the Internet. Axelrod starts with a simple enough premise. The Internet reflects the behaviors of the people who use it. As in any community, Internet users are prone to acts of violence and other unlawful behavior. The Internet is just another community with folks striving to accomplish their ends, this times in a virtual

community.

But the Internet poses special challenges. Unlike the confrontations we have with one another in the physical world, there is an imaginary tint to the virtual world. We are free to assume false identities, or no identities at all. The normal restraining impulses of physical presence or facial cues are absent. People vent on line without fear of consequences, either in terms of social disapproval or even prosecution. The Internet lowers the inhibitions to self control. As a result, it becomes a tool of all the various forms of social pathology present in the face-to-face interactions.

The point seems obvious, but it is profound. Look, for example, at the comments in an on-line newspaper about an ongoing trial in any given community. Many of them reflect a rabid, free-floating hostility that is most often repressed, or kept in check, in social settings. Is permitting an inner dog to howl anonymously really a good thing?

Axelrod's work is really inaptly titled. Sure, it is the case that he cautions that on-line behavior represents simply one part of a continuum of behavior that can lead to more tangible threats of harm. But Axelrod's read focus is on the extent to which the Internet becomes the means through which folks engage in all manner or tortious and twisted behavior. He has overviews of child pornography, fraud and defamation, as well as more narrowly understood violent acts.

Axelrod wrote this volume for the Charles C. Thomas publishing house, in Springfield, Illinois. Thomas is a law-enforcement publishing company, publishing the equivalent of hornbooks for cops on emerging and problematic areas of law enforcement. As a result, the book is concerned less with he dark side of regulation than with the dark consequences of a failure to regulate at all. The unstated assumption that Axelrod applies is the the Internet needs policing. His work is intended to focus attention on classes of harm, educating readers on the sorts of things that can go wrong in an unregulated market.

But the book had real value for me. I am slow to grasp the significance of the Internet in our lives. Reading this volume made me realize just how many cases I have handled in which a computer played a key role, either as the means of committing a crime, an instrumentality making the crime possible, or as a forensic tool used to prosecute a non-computer related crime. The book also appealed to me as a means of conceiving the extent to which tort law can and should grow to permit individuals to seek redress for the harm caused by them by folks misusing the Internet.

The blogosphere is likened by some to the Wild West. We strap on a keyboard and ride the web into a desert of conflicting dramas. The strong survive. Weaker souls perish. The twisted hide behind the cacti and seek to needle the survivors without consequence to themselves. But for all

that, the Internet is presents an evolving community. We bloggers live in a state of nature with virtually no rules.

An emerging form of mayhem that stifles easy solution is cyber harassment. Communications, whether emails or online posts, may be designed and intended to annoy or to harass. The sender may seek the cloak of anonymity. It is often possible for find the source of such a communication. But do you bother to contact the Internet Service Provider? Won't that just provoke the sender to go elsewhere to continue their rampage? The internet makes every coward a virtual hero. Or suppose the stalker does not seek cloak of anonymity, and is so bold as to harass or defame in plain view. Do you respond? You might find a lawyer willing to tackle the stalker for fear that she too may become a target. The shifting sands of the Internet provide a firm foothold for cyber bullies. Deciding how and whether to engage folks who cross the line from cranky snark to tortious predator is difficult. The state of nature yields no easy solution here.

As I read Axelrod on anonymity, I was reminded that years ago, when I was en editorial writer for The Hartford Courant, the paper had a policy of contacting each letter writer before publishing their letter. The paper confirmed that the writer had sent the piece, and then printed the writers name with the published letter. In this way, the paper protected itself from libel suits. It also imposed minimal norms of communicative integrity. Perhaps the law ought to permit plaintiffs to recover damages from entities that simply pass though anonymous or pseudonymous chatter? It would chill communications, to be sure, but the chill would really amount to little more than scaring off the rabid.

Or perhaps service providers ought to be required to assign fixed addresses to those using their service. A person aggrieved could write to request the name of a writer. Sure, we'd loose some freedom under such a regime. But there would be an increase in accountability.

The dark side of the Internet is that is a world without consequences for those who choose to abuse it. Making users accountable strikes me as a worthy goal.

Question: Can this community police itself? If so, how. I am not sure that Axelrod has the answers, but he was a good start. His brief book provides a snap shot of all the things that can go wrong on line. I recommend it.