

10.

POLITICAL ECONOMY

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Overview

This collection takes as its focus the knowledge and know-how required to participate in distinctive, lasting, and critical inquiries on many aspects of media studies. For political economy studies of media, communication, and information, the craft of criticism can take a variety of established paths and also admit trailblazers. We are fortunate to join a field that is always in the process of re-tooling and developing. My effort here is focused on providing a partial intellectual history of the approach for critical media studies researchers who may be interested in incorporating aspects of **political economy of communication** (or **critical political economy**) into their own research, or in comparing approaches. Critical political economy of communication is distinguished from liberal political economy or media economics. I am also interested in showing threads of continuity from mass communication research to digital media studies.

This chapter is organized in three parts. The first part lays out the inherited basis for critical (Marxian) political economy of communication, and discusses major influences and landmark studies in the field. The second part addresses the centrality of intellectual property rights (IPRs) to the political economic approach in media studies. The final part addresses how political economy can inform the global movement to expand communication rights in the **Information Society**, using research on digital rights activism as an example.¹ The political economic research on pirate politics, which I will review here, is unorthodox and incorporates mixed methods, but nonetheless fit for the purpose of illustrating the craft of criticism in global media studies. **Pirate politics** is the institutionalization of political parties

promoting copyright reform throughout Europe and in other parts of the world.

Critical political economy is, first and foremost, radical and normative. It seeks to get at the root of social problems by exposing the underlying power relations contributing to observable conflict. Critical political economy considers both economic and non-economic values, providing a normative basis from which to critique a broader range of social institutions including incumbent media systems, the nuclear family, the legal system, the political system, religious traditions, health, and education, among others. This approach promotes a method of analysis for providing a more just and rational course of action when confronting serious social problems related to pervasive inequalities under conditions of capitalist **globalization**. Political economists of communication tend to take media production, the production of other formats of commodified information, and international trade in media and information, as objects of critical inquiry. In contrast, **liberal political economy** is also normative, but aims to troubleshoot problems in the world economy rather than to critique inequalities, ideologies, and other root causes.

The focus on commodity makers, admittedly, discloses a productivist bias of political economy of communication, meaning that culture, audiences, texts, and the affective and aesthetic dimensions of culture in media systems are often neglected or omitted. Some critical political economists embrace it while seeking ways to acknowledge, if not compensate for, the blind spots, particularly for political cultures. For example, Robert McChesney² and Douglas Kellner³ explore the impoverishment of democratic culture and news media together using political economic analysis. The perspective taken by such critical scholars is that political economy

can do a fine job of accounting for the systems-side of media studies, and its ramifications for political life, while depriving certain fields of inquiry which are better left for cultural studies, textual analysis, and audience studies to analyze with distinctive interpretive methods.

Critical political economy of communication, as distinguished from liberal political economy or media economics, inherits a structural-functionalist orientation from Marxist sociology of capitalist production, although there are long-standing and ongoing efforts in the field to temper its functionalism with post-positivist thinking. In other words, explanations for how society works as a mechanical system have lost favor to more complex models based in part on biological models of change characterized by feedback and adaptation. Political economist Sandra Braman⁴ refers to the need to develop and improve “socio-technical” research methods—those that can recognize the mutual influences of communication, information, and the economy. Elsewhere she relates the hermeneutic of political economy of communication as being social history read through the “lens of the progressive commodification of ever more types of information and informational activities.”⁵ This standpoint on media culture is historical, although it can provide case studies from the present day. Political economy aspires to provide analyses of how social life is affected by the capitalist **commodity form**, or the form in which wealth appears in capitalist society—historically, or in the present day.⁶

Put into practice in politics historically, political economy has informed labor, ecological, and women’s movements internationally. More recently, digital rights activism is informed by a political economy of software and the Internet. Digital rights activism is an oppositional social movement that has grown up around legal conflicts over the commodification of media and software—especially in the pro-“piracy” movement. “Pirate parties” run political campaigns promoting reforms for legal file sharing and other modes of bypassing the established system of intellectual property rights protections. The creation and operation of The Pirate Bay, a notorious search engine for locating media and software on the Internet, inaugurated a protracted period of social conflict over copyright around the world. For my case study in this chapter, I use political economy to put the experiences of the Swedish and German Pirate Parties into an international perspective, showing how they implicate broader power structures and relationships, including the terms of trade in **intellectual property** (IP) between Europe and the

United States. The Pirate Bay became a political rallying point for Swedish file-sharers and “netizen geeks” worldwide after the site was targeted for closure by Swedish authorities, under considerable pressure from the U.S. State Department and U.S. Trade Representative’s office.

Political economy is well suited to the study of the encroachment of market logic and commodification into everyday life, as well as to active opposition to commodification.⁷ Political economy is less well suited to address some of the uses and gratifications of the Internet for access to knowledge, media, and culture, which the Pirates also explicitly thematize, and so my full treatment of pirate politics considers these aspects from other interpretive standpoints.⁸ Since Dallas Smythe’s elucidation of the production of **audiences as commodities** opened up aspects of media reception to political economic analysis,⁹ there is more shared space than ever with cultural studies, including audience studies, screen studies, popular communication studies, and popular music studies. The notion that media companies’ real “products” are the cybernetic audience ratings they produce for advertisers (in market based media systems) reoriented a great deal of political economic inquiry from the production of textual commodities to the production of audience commodities. The commodification of leisure time in consuming entertainment leads to industrial shaping of people’s consciousness and a more thorough alienation of those who constitute mass media audiences. With the orientation of political economy being a general standpoint for critical media studies, then, for the purpose of this chapter, I offer a presentation of its domain of concerns and a view of its orienting landmarks. Digital networks and networking have emerged as contemporary foundations of technology practices for producing, distributing, and consuming information goods and services and audience commodities.¹⁰ Political economists disagree about whether digitization and networking per se have altered foundationally the capitalist commodity form. For example, Dan Schiller¹¹ and Vincent Mosco present the case for capitalist continuity, whereas Michael Hardt and Antonio Negri¹² and Nick Dyer-Witheford¹³ argue a discontinuity thesis.

Critiques of the **culture industries** since the 1940s have considered the alienation effects of mass media, the propagandistic and ideological uses of media, and other abuses of people conceived as audiences. Marxist scholarship of the celebrated “Frankfurt School” studies of radio and film in the 1940s set the tone for many subsequent studies. The scope of the political economic standpoint is inflating,

as well as totalizing. Considering media production as an expression of human reason (or as “un-reason” according to the Frankfurt School) exposes a dialectical or evolving historical process, expressed in social conflict. Looking at both the “enlightenment” (as a Western representation of reason) and “mass deception” (as a perpetration of mythological thinking)¹⁴ functions of the culture industries has provided an ongoing critique of uncritical, orthodox approaches to media research. Critical political economy takes the standpoint of a social diagnostic, providing corrective remedies for “administrative” social science research, such as media economics, psychological media effects research, and other professions that facilitate the operation of an unreformed media system. It also challenges approaches to media studies that do not look at the realities of institutional power relationships, the empirical operation of scarcity in business, and other aspects of the more destructive side of the economic and technological changes.

Of necessity, critical political economy of communication tends to focus on the production and circulation of IP, since the outputs of the culture industries tend to be information- and knowledge-based products and services that become commodities for sale once they are copyrighted, trademarked, or in some cases, patented. Since the production and defense of IP is predicated on state action in the law and policy-making domain, political economy of communication is especially attuned to the role of the state in media commodification, especially in the many instances where the state participates in promoting free trade and common markets for IP. Directed as it is at the law and legal institutions which mystify and enshroud IPRs with an aura of legitimacy and inevitability, political economy of the culture industries is ultimately an **ideology critique** of law, for example, in unmasking IP as a hegemonic practice, or in identifying the most powerful economic interests in telecommunications policy or trade and investment treaties, such as the Anti-Counterfeiting Trade Agreement (ACTA), the Trans-Pacific Partnership (TPP), and the Intellectual Property Enforcement Directive II (IPRED II) (more below). Ideology critique in political economy is the exercise of unveiling normative practices or traditions, such as law, education, family, religion, commerce, and work routines, as being ideological or as containing coercive or powerful effects, and proposing how the practices might be freer. For example, the treaty law underpinning international free trade and copyright regimes for media receives a great deal of attention in critical political

economy as promoting the entrenched interests of powerful states and private corporations.

Since the rule of law in the liberal juridical tradition bestows legitimacy to the exercise of state power, political economy of communication is especially sensitive to state action in creating and shaping markets, or practices constitutive of **media law and policy**. Political economists are interested in explicating “how [capitalist] economic power saturates the entire policymaking process.”¹⁵ State action has been required for structuring and commercializing new electronic media platforms, such as radio, television, telephony, and data services. The state imperative to regulate markets for media and to intervene in economic crises extends also into broader fields of information policy, including intellectual property law. Policy-makers, courts, and police maintain ongoing processes of legal “harmonizations” with international standards, including cross-border enforcement of copyright infringement claims. Digital piracy has provided a reliable pretext for ongoing interventions since the early 1990s,¹⁶ culminating with the “Uruguay Round” of World Trade Organization trade negotiations in 1994, which produced national requirements for criminal penalties for digital piracy.

Political economy of communication has targeted deregulation, privatization, and commercialization of media and telecommunications policy for criticisms, especially since Information Society programs, or public programs designed to jump-start or develop infrastructures and industries oriented toward the production and export of IP, have been modeled on the neoliberal guidelines of the New Economic Model or “Washington Consensus” reform package.¹⁷ For developing countries, the World Bank and International Monetary Fund typically prescribe privatization of state-owned media and telecommunications enterprises, the pursuit of private financing for development, deregulation, and only light public interest regulation as preconditions for receiving loans and political support from more powerful Western countries. If not media dependency, then these institutional harmonizations with global capitalism often develop relationships of “asymmetrical interdependence.”¹⁸

Political economic analyses of Information Society programs and institutions look for evidence of system-level contradictions in policy models as well as economic and industrial realities, especially seeking out examples of social conflicts over IP, labor, leisure, access, and distribution. Examples include **copyright maximalism**, which refers to the ever-increasing protections for private owners of IP

combined with ever-diminishing rights for copyright licensees and fair use; **post-privacy**, which refers to the diminished right to privacy of personal information linked to digital media use; and **trade imbalances**, which refer to asymmetries of trade in products and services, for example, those based on royalties from IP, in a trade relationship between countries.

Intellectual History of Political Economy

As previously mentioned, studies of critical, international political economy of communication tend to disclaim positivist approaches to empirical research, preferring historically informed research methods such as case studies, and often in mixed methods approaches. Political economists start from a recognizably social scientific standpoint by emphasizing the systematic approaches to their method. Typically, political economists begin with a research question pertaining to an empirical assessment related to ownership and control of one or more aspects of media, information, or audiences as commodities. Identification and operationalization of independent and dependent variables depend upon the nature and scope of the study; for example, the directionality of certain media and information flows (or contraflows) between countries and geolinguistic regions can be analyzed with respect to the size of a language market, the market power of national producers, and international terms of trade.¹⁹ The commodification of any audience can be analyzed using ethnographic methods²⁰ as well as data from broadcasting industries and ratings companies. The conversion of play and leisure time online into valuable commodities can be assessed through analyses of marketing and advertising strategies.²¹

Marxism informs the basic categories of critical political economy, and historical materialism broadly construed provides a counterpoint to the liberal tradition of political economy found in Adam Smith and David Ricardo. The **labor theory of value** underlies Marxist analysis, emphasizing the transformative power of human labor upon natural resources and capital and class agency to produce **commodities**, or useful things that are also exchangeable for other things. The labor theory of value also contributes the concept of **surplus value**, which accrues to a productive enterprise in and through productive labor, and is removed as profit from the enterprise through the force of the capitalist. Profit, rent, and interest are the surplus value created by workers. Through this

basic framework, which also provides a moral philosophy, critical political economy elaborates an analysis of labor exploitation; the critical political economy of communication and information moves this analysis to the productive realm of culture industries, media industries, and information services. Critical political economy proceeds from the perspective of the social totality, which is to say that it offers a social systems level view, proceeding from the basis of a critique of the commodity form of capitalism as a whole.²² Classical or neoliberal economics proceeds from macro- or micro-levels of analysis, typically focusing on the firm, industry, or country level, and examining only economic value.

John Downing²³ provides an intellectual history of political economy of communication that focuses on the evolution of key debates over media ownership, concentration, and control. These early debates addressed whether there is sufficient evidence for there being concentrated media ownership, whether there is a relationship between high concentration of media ownership and risks of democratic deficits, and whether high ownership concentration of media is linked to a reduction of media diversity and competitiveness.²⁴ A long-standing emphasis on corporate ownership, concentration, and control over the means of production can be traced to management studies of Adolf Berle and Gardiner Means,²⁵ whose research distinguished control exerted by executive decision-makers from that of corporate owners. Half a century later, Graham Murdock²⁶ clarified and updated the relationships between ownership and control by separating economic from legal ownership, and allocative from operational control. **Allocative control** of capital expenditures happens in the corporate boardroom, while **operational control** guides the quarterly and daily routines and activities of the enterprise at the news desk, production studio, editorial office, and so forth.

As culture industries and aesthetics were the principal targets of analysis and critique by Max Horkheimer and Theodor Adorno, Marxist political economy remained mostly implicit in the work of the Institute for Social Research at Goethe University ("the Frankfurt School"). As discussed previously, mass media research informed by Herb Schiller and his contemporaries laid the groundwork for contemporary political economy of communication. But critical media studies receives regular calls to refresh its political economic analysis, especially for new varieties of labor exploitation cultivated in online environments.²⁷ Such criticisms tend to imply

that political economy needs to adapt to new informational means and modes of production (which are qualitatively different from those of mass media), new varieties of productive work (which are qualitatively different from leisure-work), and new quanta of exchange value and surplus value. It should be possible to shed the skin of the inherited repertoire and grow into the new one. It is at this juncture where the question of the transferability of old to new models of analysis arises.

Taken alone, the critical political economy standpoint surveys social processes and structures for signs of power structures, conflict, and contradiction, but by itself can only "reach in" to make its assessments of exploitation and ideology using the interpretive method of Marxist dialectics. The "dialectical imagination"²⁸ in play in Frankfurt School work, for example, draws from lived experience with the capitalist mode of production and is informed by Georg Wilhelm Friedrich Hegel and his predecessors Gottfried Wilhelm Leibniz, Baruch Spinoza, Aristotle, and Epicurus.²⁹ History is read "backward" and symptomatically as oppositional social relations between powerful classes, driven by exchange relationships yoked to profitability and a growth impulse, while being cloaked by law, religion, and the nuclear family, among other social institutions with ideological functions.

Leaving aside the possibilities of doing "immanent critique" as a real-time examination of social relations in the present day, the empirical materials with which dialectics works are typically historical in nature. This means that evidence of an historical record should be collected and organized in a way that can be described, analyzed, measured, classified, and repeatedly cross-checked by subsequent analysts, ideographically (focusing on individual cases or events) and using hermeneutic reflection to build theories. While historical methods do not admit repeatability as a test of validity, they do admit the falsifiability test—which is to say that an historical claim can be refuted by presenting sufficient evidence to the contrary. For example, the claim that the U.S. media industries became more competitive after the passage of the 1996 Telecommunications Act can be qualified or refuted by examining increased ownership concentration, by industry sector, over time. To be sure, a variety of post-positivist and even post-Marxist approaches to historical methods compete for standing, including feminism, cultural geography, and post-structuralism. In general, these approaches tend to present a genealogical rendering of historical subjects rather than a teleological one.

Political economic work on media industries prior to the diffusion of digital platforms and computerization of media was oriented towards mass media industries, mass audiences, and the formulaic, factory-like production of texts and artifacts, from newspapers to television, film, and broadcasting, and the tendency for these media to have significant effects on audiences, much like hypodermic injections of powerful medications. Frankfurt School work on radio and film by Horkheimer and Adorno infers an ideological relationship of culture industries and their products with respect to national audiences, emphasizing the exploitability of audiences by authoritarian personalities and the reifying effects of popular culture on aesthetics, public opinion, and the social imagination. For example, they explore the psychological manipulations of Father Caughlin's depression-era political radio sermons. Adorno, especially, aimed to bring "the stars down to earth" and to emphasize the irrational aspects of political culture fed by the culture industries.³⁰ His essay on the *Los Angeles Times* astrology column diagnoses astrology as a media product contributing to the superstitions of alienated and mystified people learning to relate to each other only through intermediaries like astrologists. Adorno also explored early film comedy with Charlie Chaplin as a sublimation of cultural pain and traumas. Later, Dallas Smythe would address the "consciousness industries" and their use of advertising to colonize audiences' leisure time.³¹

In the 1980s, the Reagan and Thatcher administrations supervised a thorough-going reorientation of international communication systems, from a regime based on state protections of media producers and distributors, to a "free flow" approach to information and media across political borders, effected through deregulation, privatization, and free trade agreements. Continental European studies of debates surrounding a general crisis around the public broadcasting model disclosed ever-increasing pressures to promote content conforming to the needs of a "global shopping center"³² at the expense of local cultures. Political economy expressed an early interest in computing, networking, and information processing under these conditions. Canadian political economists Vincent Mosco and Brenda Dervin recharacterized the deregulatory and privatizing pressures on national media systems as being informed by the "pay-per society," in which media goods and services are meted out individualistically and on a commercial model.³³ Mosco, for example, explored the computerization of the United Services Automobile Association in an

influential case study that considered the standpoint and interests of information and media workers.³⁴ In the 1990s, British political economy of communication focused on the consequences of the formation of the single market for media in the European Union and anticipated future scholarship addressing a **digital divide**, or situation of permanent inequality of access to contemporary communication resources.³⁵ Political economists have asked whether or not Information Society projects in the European Union should not instead be oriented towards guaranteeing communication rights, rather than promoting private property rights exclusively.³⁶

After the commercialization of the Internet in the United States between 1992 and 1995 and the “dot-com boom” of 1995–2000, critical political economy of communication confronted announcements of the end of media scarcity and claims that the Internet and its World Wide Web upended the economics of supply and demand.³⁷ Various pronouncements on the death of scarcity, death of distance,³⁸ and “frictionless capitalism”³⁹ were made in the 1990s by dot-com mythologists, who minimized or overlooked the historical function of technology hype in obscuring powerful stakeholder interests in the Internet’s commercialization, or “normalization.”⁴⁰ In particular, by the early 2000s, business practices began to gel that depended increasingly on a variety of “cybernetic commodification”⁴¹ strategies built up from online surveillance, data mining, and digital rights management. The development of the **digital enclosure**⁴² provided the technical and legal prerequisites for the transformation of the Internet into a general delivery platform for mass markets.

Sociological accounts of surveillance contribute to an understanding of the “panoptic sort”⁴³ as surplus value creation through automated classification and winnowing of personally identifying information. Surveillance can produce economic value as well as promote behavioral conformity,⁴⁴ for example, by inculcating the expectation of being observed. It serves the important role of regularizing and normalizing Internet users into predictable audiences. Surveillance and cybernetic commodification underlie the functionality of the model for digital distribution and guide the underlying operations of the so-called “Celestial Jukebox,”⁴⁵ a term used by media and telecommunications magnates to resell the original concept of David Sarnoff’s “radio music box” for the policy-makers of the twenty-first century. The intertwined system of media and technology companies, its technical infrastructures and standards, and

the deregulated legal system supporting it together form the present-day Celestial Jukebox model. Near-ubiquitous broadband, online film distribution, online gaming, software delivered as a service, and cloud-based streaming music services now provide more and more commercial content for digital distribution, while monitoring user behaviors, data mining user profiles for predictive modeling, and excluding non-payers. Crucially, personalization technologies work in tandem with access control technologies to gather user data and serve content appropriate for marketing.

Critical political economy also investigates the historical and material bases of large-scale patterns of change in international communication and development communication, including perspectives focusing on north-south hemispheric relations. International political economy of communication often situates its analyses within a core-periphery model of economic flows, informed by world systems theory of Immanuel Wallerstein⁴⁶ and Christopher Chase-Dunn,⁴⁷ but also generates objections and modifications to this theory. **World systems theory** considers the economic geography of global capitalism to exhibit a core-and-periphery structure, such that the capitalist core in the Northern hemisphere exploits the peripheral South. Global media studies incorporating political economy sometimes imply a world systems theory orientation to political economy, inherited from Schiller’s imperialism and cultural imperialism theses.⁴⁸ Schiller ascribes the expansionist power of global capitalism to the ideological push exerted through Hollywood and state propaganda agencies of the United States and its allies. The power geometries of world systems theory appear considerably messier and much more complicated than Schiller’s “strong globalization” thesis would imply.⁴⁹ Many legal regimes now coordinate capital and information flows, and evidence of counter-flows challenging the U.S. media industries’ dominance emerges from Southern hemispheric sources, such as Nigeria’s “Nollywood” and India’s “Bollywood.”

International Political Economy of Intellectual Property Rights

Intellectual property rights law is supposed to mediate between individual self-interest and an emergent social good. But, considered historically, and from a political economic standpoint, IPRs’ expansive nature in the Information Society tends to accrue to the net benefit of private interests. Political economy is

uniquely suited to illuminate the power relationships and transformations around the international production, distribution, and consumption of IPRs, at macro-, meso-, and micro-levels. From the codified law policy domain to the commercial repertoires in popular communication, IPRs disclose geopolitical power dynamics as well as smaller processes.

In the mid-1990s, as the world's economies reoriented from Cold War geopolitics to unipolar hegemony by the United States and competition through regional free trade agreements, the harmonization of legal treatments of IP became an urgent matter for the net exporters of royalties-bearing copyrights and patents. The need for IPR owners to export media, software, and other protected content and services internationally, and to predict reliably the outcomes of cross-border copyright infringement lawsuits, became a major source of international coordination and negotiation in the World Trade Organization. The Uruguay Round of world trade agreements (1982–1994) completed a long cycle of consolidation of advantages for IPR owners, and set the stage for explosive growth in digital IP exports by the United States. Competition with the United States for advantage in media exports has proved extremely challenging for the European Union, which is one of the largest trading partners with the United States.

Current research and theory on intellectual property tends to emphasize the relative difficulty or ease of building "leak-proof" IP for media producers and distributors; the economic valuation and devaluation of IP; and/or the social consequences of asymmetrical media trade relationships and strong IP rights enforcement. Leak-proof IP systems are, typically, designed as closed-circuit distribution channels for copy-protected digital files and streams, where every byte of digital content is audited by the distributor within an enclosure of copy protection and personalization. Varieties of digital rights management and other technical measures for restricting access to copyrighted materials have been developed in all the culture industries. The technical specifications, business models, and usability of these systems tend to preoccupy the business and trade literature on IP, which is not reviewed here.

Scholarship on the enhanced or diminished value of particular categories or classes of IP, media "piracy," and infringement tend to fall in the domain of orthodox media economics studies. Political economy and other critical approaches to media studies, on the other hand, tend to consider IP relationally, in terms of power in trade relationships—such as imbalanced trade

relationships between national or regional importers and exporters of media, media industries as promoters of soft power, and media industries as engines for economic development. Using IP for economic competitive advantage became a foreign policy objective for countries pursuing export-led growth around the world, after industrialized countries abandoned state-led growth models and signed on to liberalized trade agreements beginning in the 1980s. In the discussion that follows, I identify the key legal frameworks by which restrictions on piracy (or infringement of IPRs more generally) are expressed as a global class interest institutionalized in law and backed by the coercive powers of the state.

The economic rents, or profits, created through IP ownership are monopolistic and typically come through royalties and licensing. The strategic value of royalties-bearing copyrights, patents, and digital content delivery classified by the Organization for Economic Cooperation and Development as "other services"⁵⁰ unifies the economic interests of the United States government and private sector. Consequently, the U.S. State Department and U.S. Trade Representative's office coordinate the promotion of a maximalist approach to IP abroad through trade negotiation—that is, the United States consistently pushes for increased protections for private IP owners, including ever-larger remedies and harsher penalties for copyright infringement. Globally, IPRs are now recognized in copyright, patent, trademark, and trade secrets, and protecting this private property is a large and growing responsibility of powerful nations and their trading blocs.

Internationally, IP law developed into a regularized system in Europe, in order to help authors, artists, and inventors pursue commercial interests in neighboring countries. During that period (mid to late 1800s) the United States pursued an isolationist IP policy, protecting only domestic creators from literary and other forms of infringement for about a century. This situation changed once the country became a net exporter of IP in the nineteenth century. The Berne Convention for the Protection of Literary and Artistic Works and subsequent iterations (1886–1979) yielded expanding protections for increasingly numerous categories of IP. Under Berne, copyright terms are set to a minimum of 50 years, with longer terms adopted by many countries. Although the United States did not ratify the Berne Convention until 1988, and did so in a limited fashion, the United States moved aggressively to achieve consistent legal treatment of IP internationally through multilateral agreements after World War II.

The 1946 General Agreement on Tariffs and Trade (GATT), together with the institutionalization of the International Monetary Fund and World Bank, further stimulated international trade in IP, governing IPRs until the establishment of the United Nations World Intellectual Property Organization (UN-WIPO) and the implementation of its Trade Related Aspects of Intellectual Property Rights (WTO-TRIPS). The TRIPS is considered to be the strongest international agreement creating obligations within member states for the protection and enforcement of IPRs. TRIPS harmonizes many aspects of IP globally and facilitates non-discriminatory treatment of foreign owned IP. In the process, TRIPS consolidates the legal powers of a transnational class of IPR owners, and provides a unified interest in defending and strengthening these powers. Besides the UN-WIPO and GATT-TRIPS obligations, another international IP agreement to which the United States is a signatory is the North American Free Trade Agreement (NAFTA). NAFTA does not bind members to Berne or WIPO, but commits the United States, Mexico, and Canada to abide by the Geneva and Berne Conventions of 1971, the Paris Convention of 1967, and international conventions on plants and agronomy.

IP infringement cases have grown organically with the explosion of IPR claims, and structurally through the extension of copyright terms and expansion of penalties for infringement. Research in law and the social sciences has queried whether maximalism, together with the uncompetitive behaviors it promotes, disturbs the reciprocity and sharing of intellectual work that was made part of the social contract in modern IP rights laws. The agglomeration and consolidation of IPRs in giant media and technology companies are frequently criticized for disrupting the balance of private and public interest and voiding the social contract, particularly by political pirates who see their own activism as a long-term corrective. Intense commercialization may well have already reached a threshold at which further creativity and participation enabled "through sharing of cultural stock"⁵¹ is observably retarded. Some researchers have argued that the U.S. IPR regime and trade policy are mostly if not completely privatized, objectively benefitting only the interests of private property owners.⁵²

The IP industries exhibit a tendency to ownership consolidation, and media deregulation in the late twentieth century also promoted the growth of media giants. While countries sign treaties to promote ostensibly pro-competitive media regulations, most

do not make strong regulatory interventions against monopolies and monopolistic tendencies. Although anti-trust law was developed and strengthened after industrial-age experiences with robber barons and financial crises, it has observably failed in preventing high levels of ownership concentration to develop in media and telecommunications industries.

The trade relationship in media and entertainment between the United States and the European Union provides an example of asymmetrical interdependence of economic power in IP, where market power is shared in a lopsided trade relationship. This trade relationship lies at the heart of pirate politics. The European Union takes substantial inflows of U.S. media without becoming entirely dependent on the United States for programming, while the United States takes a smaller share of media content and services from European sources. Together they pursue an arms race of copyright maximalism, agreeing to escalate enforcement and liability provisions jointly while pursuing competitive advantage in trade in IPRs independently. The United States records the greatest trade surplus in royalties and license fees in the world (U.S.\$32 billion annually), whereas European countries record their greatest trade deficits in royalties and license fees (U.S.\$16 billion dollars annually). U.S. exports accrue almost half the world's royalties and license fees for patents, trademarks, and copyrights. Together, the United States and the European Union generate nearly 75 percent of the world's exports in cultural services, 32 percent coming from the United States and 42 percent from European Union countries. Within the European Union there is a regional trade imbalance as well, with only the United Kingdom, France, and Sweden achieving trade surpluses for royalties-bearing products and services.⁵³

A major reason why the European Union agrees to ratchet up protections for IPR owners and penalties for infringers in cooperation with the United States is because the EU defines its own orientation to the Information Society in terms of IPRs, specifically, as a regional implementation of the WIPO Copyright Treaty. The implementation of this treaty is called the "InfoSoc Directive" (also known as the "Copyright Directive"), and is a crucial step in the creation of a common market and basis for establishing future competitive advantages over the United States. While the Copyright Directive provides important means for cross-border trade in IP and provides legal remedies for infringement of IPRs, the criminal and civil penalties for file sharing sparked resistance from some courts and all political pirates.

Case Study: Pirate Politics in the European Information Society

Political economy can illuminate pirate politics by identifying and critiquing the structural and institutional features of the media industries that have pursued an aggressive political agenda to criminalize copyright infringement by online file-sharers. The histories of the Pirate Parties of Sweden and Germany are an allegory for the ready employment of force by the informational state to regulate the Internet for the benefit of the major corporate IPR owners. The pirate politics case study employs political economy of communication as a critical standpoint, as well as historical methods. While it does not claim to access the uses or gratifications, thoughts, or beliefs of "pirates" or online file-sharers, the political economy standpoint can orient the analyst to questions about why file-sharers have come to be targeted by the culture industries with increasingly severe threats and penalties, and why their positioning as illegal subjects has informed their oppositional collective action.

For the study of the activist politics surrounding piracy or copyright infringement,⁵⁴ I used the political economic standpoint in combination with mixed methods, beginning with an historical approach to the topic area of European copyright reforms. As discussed previously, political economy is an appropriate critical perspective for research on the Information Society, especially since European countries have defined their respective paths in terms of integration into a common market for media and information commodities. The political economic standpoint leads to examination of the current legal framework to promote the detection and punishment of purported file-sharers through active, mass surveillance of Internet connections, through implementation of "graduated response" or "three-strikes" policies for cutting access to infringing users, fines, and imprisonment. As the Celestial Jukebox model of media distribution became institutionalized in Europe, the oppositional agency of the Pirates grew into a pan-European and even worldwide resistance movement, beginning in Sweden in the Pirate Bay's social milieu.

The basic research question for my book, *Pirate Politics*, is how best to explain, in the context of the escalating "copyright" worldwide, the emergence and formal engagement of marginalized and oppositional actors with the European political system. My grand theory used for the study was Habermas's Theory of Communicative Action, which is a sociological theory of modernization based on a tension between

instrumental rationality and communicative rationality played out in culture and all social institutions. The Theory of Communicative Action provides a plausible account of pirate politics as the transformation of a new social movement based in civil society into a formal political party providing demands and other inputs into the European parliamentary system. The political economy perspective offers insights into how the political and economic systems interact with the cultural lifeworld from which the Pirates operate.

The formalization of the Swedish and German Pirate Parties around 2006 can be examined as a case study of a process of political communication oriented towards preserving the communication features for which the Internet is most widely known, as political and human rights, namely, free speech, privacy, and access to knowledge. From a critical political economy standpoint, the challenges of this research project stemmed from the need to understand what was unique about the digital rights movement. The Pirates' emergence appeared to be anti-systemic; that is, its program and platform of Internet privacy, free speech online, and greater access to culture challenged the growth of commercial media companies' IPR strategies and their model of Internet regulations. The Pirates' program also exhibited reflexive and recursive characteristics common to previous new social movements such as the European Green movement and even labor politics of the twentieth century. Therefore, I developed a comparative case study, considering the mobilization of resources and identities for both the German and Swedish Pirate Parties, and related these cases to historical research on the European Greens and other new social movements.

Since the project used qualitative research, I set out to contribute to theory development, rather than to test a theory. I developed theoretical concepts on the basis of my interviews with key informants, who were (for the most part) Scandinavian researchers of communication law and policy. Since the best-quality academic research on pirate politics was being conducted in Sweden at the time, I found an opportunity to work in a communication department at a Swedish university for a year, attend academic conferences and research circles, and network with other scholars in Sweden. I also came to meet many Swedish university students, who represent the majority of the members of the Pirate Party of Sweden. I developed hypotheses after I gathered data from secondary sources (principally news reports, blogs, Wikileaks, and published research), discussed pirate politics in class with students, and compiled field notes and

memos. Informants were not subjects, but were teachers for me, providing active and collaborative input in guiding me to published studies and other secondary data sources. I used triangulation in drawing from multiple key informants and sources of data, hoping to improve the reliability and validity of my findings in the process.

I sampled theoretically as my basic analysis emerged for my case studies, for example, in experimenting with accounts of political activism provided by competing new social movement theories, including perspectives from post-structuralist scholars on hegemony and from psychology scholars on relative deprivation. I settled on new social movement theories compatible with the political economy standpoint and informed by research mobilization and political identity to describe digital rights activism as a variety of "cultural environmentalism." Then the study's main concepts—spoilage and exploitation of the Internet commons by the system, imbalanced international IP trade relationships, oppositional collective social action, and legitimacy crisis—eventually reached theoretical saturation when no new information or evidence gathered changed the basic findings or arguments.

Developing and trying to refute various "null hypotheses" about my own study, by doing extra research to undermine my key claims, and then making re-assessments, provided an excellent way to improve the validity of the research findings. Political economy of communication should strive to move, hermeneutically, between improving certainties methodologically and reflecting critically on its own limits. In the case of *Pirate Politics*, an important omission was my neglect of law, policy, and technology related to **hacking** in relation to piracy. Broadly speaking, hacking involves unauthorized access to computers and databases for an instrumental purpose, and is tied historically to episodes of mass digital piracy. The project also pointed to the need for more research on the dynamics of popular communication and new social movements interacting with the fields of international relations and public diplomacy.

Conclusion

Critical political economy of media and communication is an enduring and ongoing critique of the capitalist practices of intellectual property creation, preservation, growth, and projection. Political economy considers media systems as providing a strong evidentiary basis for the potentials for

cultivation and exploitation of the consciousness of media viewers, readers, and audiences. The scope of analysis for political economy expands as media and information production comes to encompass all personal and social interactions with networks, and as computer code for media enclosures becomes transposed into legal code protecting copyright and network security. Exploitation potentials can begin at the moment of surveillance by network owners and their affiliates.

The broadened scope for analysis presents conceptual challenges, but also opportunities to reconsider the subjects of analysis. Alternatives to the traditional focus on economic production of state and corporate agents as principal subjects do exist, especially where these can lose control over the constitution of audiences. Cultural studies has made much to-do about audiences as empowered "prosumers," but when these audiences increasingly resemble clusters of traces and other patterns emerging from statistical datasets of online user behaviors, audience agency and identity requires reexamination. At least nominally, media managers ascribe audience identities on the basis of algorithmically generated profiles, since they are not always discoverable through other means.

Speaking in terms of social systems and their ability to cope with change, the turn to data mining for marketing and advertising facilitated a basic differentiation of mass media audiences from new media audiences, enabled by information technologies, and also by economic and legal frameworks carefully prepared by departments of state, transnational trade blocs, and commercial interest groups. The consequences of this situation for audiences are open for debate, and the political economic position will emphasize the restrictions and limitations placed on freedom by technical and instrumental means to capitalist ends.

The intellectual history of political economy presses the critic to materialize the abstractions by providing real and continually updated cases of conflict over communication rights. The scalability of the approach makes it suitable for analyses from the macro- to the micro-levels, and especially, for connecting the levels of analysis. The constitution and reconstitution of media monopolies, of total enclosures, of work routines without escape, of life without free association or privacy are hauntings of the accumulating evidence for Horkheimer and Adorno's original proposition—of enlightenment as mass deception—or even something worse.

Notes

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