you if you distribute copies of the software, or if you modify it.

For example, if you distribute copies of such a program, whether gratis or for a fee, you must give the recipients all the rights that you have. You must make sure that they, too, receive or can get the source code. And you must show them these terms so they know their rights…

This guarantee of free self-replication in perpetuity gives open-source software several important advantages that packaged, proprietary software does not share. By lowering the barriers to entry associated with proprietary code -- notably, cost and technical controls on reproduction -- open-source code is "released into the wild", made available for use and testing by a highly-motivated international community of largely self-educated programmers, each pursuing their own end.

A free software advocate named Rob Bos put it this way, in February 1999:

Open source programs are tried and proven, they are constantly pressed from every direction to do specific tasks, and do them well; and for the simple reason that they are written to work, not

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The minimal compact: An "open source" constitutional framework for post-national collectivities (v0.1.1)

Adam Greenfield

v0.1.1

0. Introduction, purpose and scope
In recognition of the apparent inability of nation states to adequately address and provide for human goals and desires in the twenty-first century, and anticipating that if anything this situation will only worsen, it is desirable to begin thinking about alternatives to this obsolescing structure.

Of interest are alternatives that are designed from the beginning to:

- *Ensure* the greatest freedom for the greatest number, without simultaneously abridging the freedoms of others.
- *Permit* individuals with common goals and beliefs to act in their own interest at the global level and with all the privileges afforded nation states, even when those individuals are separated by distance.
- *Provide* robust resistance to attempts to concentrate power, and other abuses of same.

This paper is intended to sketch, however schematically, just such an alternative.

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redistribute copies, either with or without modifications, either gratis or charging a fee for distribution, to anyone anywhere. Being free to do these things means (among other things) that you do not have to ask or pay for permission.

You should also have the freedom to make modifications and use them privately in your own work or play, without even mentioning that they exist. If you do publish your changes, you should not be required to notify anyone in particular, or in any particular way…

In order for these freedoms to be real, they must be irrevocable as long as you do nothing wrong; if the developer of the software has the power to revoke the license, without your doing anything to give cause, the software is not free.

Key to this understanding is that users are free to make any desired modification to the code at all, except those that restrict the freedoms enunciated in the license. From version 2 of GNU General Public License, June 1991:

To protect your rights, we need to make restrictions that forbid anyone to deny you these rights or to ask you to surrender the rights. These restrictions translate to certain responsibilities for

overlapping, conflicting or unilateral interests may be negotiated. Accordingly, "though this be a state of liberty, yet it is not a state of licence."

(This negative definition will prove unacceptable to many libertarians, for whom only an absolute guarantee under law of personal freedom is acceptable. Of course, as we shall see, Compact communities motivated by libertarian beliefs could very easily offer a "distribution" supplementing the core articles with locally-binding provisions intended to further enhance the individual's prerogatives. They are quite welcome to do so, as long as such articles do not abridge the core agreement.)

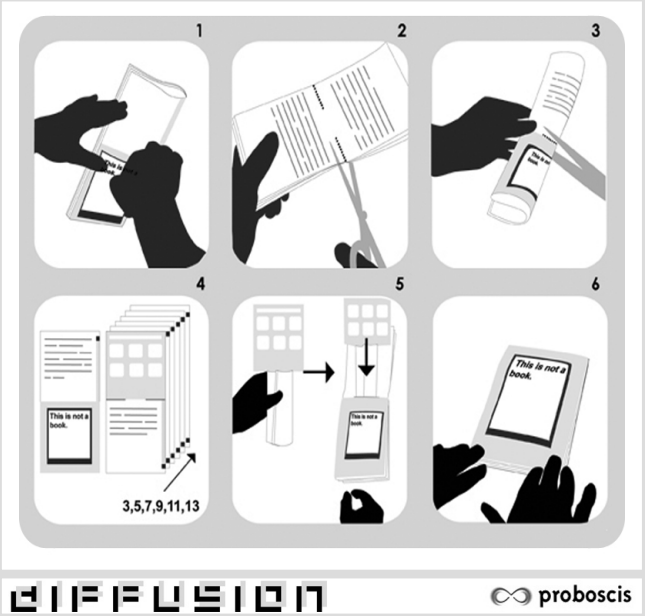
The question then becomes, what kinds of constitutional structures are appropriate to furthering the stated aims in an internetworked, interdependent age? What sorts of arrangements of power between humans can account for the deep variation in beliefs and assumptions among the six billion of us who share this planet, while still providing for a common jurisprudence? What measures can be taken that enhance the common security without unduly infringing on the sovereignty of the individual?

A basic distinction needs to be made immediately: that between "freedom from" and "freedom to." "Freedom to" is a positive assertion of rights. The individual may be free to work, to not work, free to speak, free to believe or to not believe… free to steal, free to rape, free to murder.

As Locke made most clear, liberty conceived solely in terms of "freedom to" will always result in an atomic society where some human beings exploit the freedom afforded them to oppress others. This is unacceptable in any human community, and potentially suicidal when allowed to play out at the global scale.

Further, and more pragmatically, it is my belief that explicit provisions of "freedom to" can never be comprehensive, since the total range of human situations can never be anticipated in any written constitution, no matter how flexible or how frequently updated.

The *minimal compact* is only interested in "freedom from", proceeding from the belief that it is quite sufficient to guarantee an explicit refuge from all forms of compulsion to provide for human happiness. Liberty when construed as "freedom from" has the important advantage of tending to organize a commons, a space where mutual,



I believe that a useful model for the desired structure can be found in the open-source or "free" software movement. This mode (and ethos) of development provides several fertile metaphors, not least the basic, deeply appealing idea of a voluntary global community empowered and explicitly authorized to reverse- engineer, learn from, improve and use- validate its own tools and products.

Given the open-source software movement's self-evident success in spurring the spontaneous cooperation of a widely dispersed community, in an impressively short period of time, without recourse to conventional incentives, it has to be taken seriously as a potential source of organizing principles for other realms of human endeavor. (An added attraction is that open-source software is generally held to be superior in utility, adaptability and robustness to proprietary alternatives.)

Of particular interest in the present context is the concept of a "codebase", a core of universally-recognized and accepted instructions maintained on a public registry, and a "distribution", which offers a praxis for supporting locally differing, self-contained (but essentially interoperable)

variations on the single codebase.

Taking these concepts as model, the agreement under contemplation in this paper, the minimal compact, proposes a post-national, virtual state: a hyperlocal polity whose constitution is conceived as codebase. Such a constitution would specify a minimum number of articles to which all signatories subscribe, allowing an instantiation of the state to form anywhere and anywhen one or more signatories is present.

Instantiations are free to supplement the core agreement with an arbitrary number of articles appropriate to local contexts, and are further invited to submit such innovations to a central (but distributed) registry for prospective enactment by other signatory communities, or potentially adoption into the core framework.

Provided thusly, the state could manifest in and adapt to widely separated locations and contexts, much as anyone can produce, package and release distributions of "free" software, so long as the distribution itself offers in turn the same provisions for free licensure.

While I personally have deep social-democratic, Buddhist, feminist and environmental leanings,

document -- and even so, I fear that it reads like an overly ambitious first-year law student's essay. It is in the nature of a request for comments.

Please note that this version does not specify the actual content of the prospective compact, in the recognition that any such content must arise from a deep and ongoing collaborative process to have any legitimacy.

1.0 The minimal compact: aims and goals

The French and American Revolutions, with their motivating beliefs inscribed in the *Declaration of the Rights of Man* (1789) and the *Bill of Rights* (1789, ratified 1791) resident in the first ten amendments to the Constitution of the United States of America, proposed the consent of the human citizen as the ultimate source of all constitutional legitimacy.

The minimal compact (when instantiated, "Compact") exists to reinscribe and extend this logic.

The Declaration understood sovereignty to "[reside] essentially in the nation", but located the source of legitimacy in the consent of the governed. From the present vantage point, this seems to be an artifact of a social and technical

self-determination the nation state paternalistically denies us.

We can take back an appropriate measure of control over the circumstances that literally govern our lives -- we the uncredentialed, the nonexpert. We can teach ourselves what we need to learn, share whatever knowledge we glean, build on the insights of the others engaged in the same efforts. Just as the novice programmer is invited to learn from, understand, and improve upon -- to "hack" -- open-source software, the minimal compact invites us to demystify and reengineer government at the most intimate and immediate level. We can hack democracy.

It is my great hope that this paper is received as it is intended: in the spirit of the movement that inspired it, it is the free contribution of a self-educated, motivated amateur. It is not intended to be anything but a beginning, and it is certainly not a "bulletproof" or definitive statement of any of the principles proposed within.

Although I am indebted to the various authors and sources cited for their contributions and suggestions, the viewpoints and opinions contained herein are the author's alone, as are

any errors in interpretation, in fact or understanding.

Feedback and suggestions for future versions are welcomed at: ag@studies-observations.com

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Shibuya-ku, March 2003; revised for Diffusion edition, Helsinki, March 2009.

the minimal compact as presented makes no provision for any of these beliefs. It enshrines no particular viewpoint.

These articles would guarantee the signatory certain inalienable and unabridgeable rights, prescribe certain modes for resolution of the inevitable conflicts between signatories -- and no more. They would remain explicitly mute as to questions of a community's internal organization, ethical or moral norms, modes of resource allocation, ethnic or linguistic composition, and so on. The articles merely suffice to establish an arena for individuals and communities to pursue their ends in ways that are maximally mutually beneficial.

Lastly, while it should be noted that the minimal compact is not an "Internet state" proper, it has certain natural affinities with the logic and original underlying ethos of the Internet, and would be effectively impossible without access to the cheap, reliable, global communication it affords.

0.1 Version notes

Inasmuch as I am neither a historian nor a constitutional law scholar, I have deliberately limited the ambit and scope of this version of this

Accordingly, the minimal compact framework has been designed to address only those issues absolutely necessary to guarantee individual sovereignty and support communities of sovereign individuals.

Equally, simple, unambiguous statements in natural language make for clear decisions. Whether these are the "right" or the best decisions can only be determined in the light of lived experience.

2.0 Why post-national?

The current perception of nation states as essentially moribund stems from a variety of heterogeneous sources, not least of which is personal experience. At the very least, it is inarguable that the nation state is the subject of increasing centrifugal tensions -- power devolving both upward (toward transnational and global agreements), outward (toward hyperlocal media such as CNN, non governmental organizations) and downward (toward regional, local, metropolitan, watershed, ethnic and other constituencies, as well as various forms of "direct democracy").

the following provisions seem essential:

- Signing the Compact must always be understood to be a purely voluntary act.
- Each signatory is recognized as sovereign by all other signatories, granted the full range of powers traditionally accorded states ("...to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do") except as such conflict with other provisions.
- Other national citizenships or other affiliations may be maintained, without limitation. No such affiliation should be nullified by the act of signing the Compact, at least not as concerns the Compact community itself. (The other institutions affected may well have their own opinions.)
- At risk of the forfeiture of their Compact citizenship, no signatory may enforce any rule, regulation or policy that abrogates or nullifies any of the provisions of the Compact.
- No signatory to the Compact may take any measure to abridge the freedoms of any other signatory in good standing, to include without limit life, liberty, association, belief, and expression.

Also left undetermined by this document are the necessary provisions for modification of the core Compact by all signatories, for maintenance of the central registry, for forfeiture of citizenship, and for the resolution of other critical questions (e.g., may only natural human persons be signatories?).

Those interested in helping to formulate and test these provisions are asked to contact the author at the address listed on the cover page.

6.0 Conclusion: Democracy for the rest of us

All of the above is offered in the hope that that the times are once again propitious for attempts to extend the ambit of our personal freedoms -- this time, in ways that establish a more robust, more permanent foundation for these freedoms on an essential respect for other members of the human community.

Steve Mann's concept of sousveillance ("watchful vigilance from underneath") provides one welcome model for renegotiating the terms of control, but it does not go far enough. The minimal compact goes yet one step further, with its implicit faith that the ordinary human being is capable of assuming the burden for

milieu which required layers of representation and mediation between citizen and deliberative body in order to function efficiently. Believing purely representative democracy to be not merely a suboptimal compromise but an unwarranted infringement on the prerogatives of the citizen, the Compact intends to disintermediate, and accordingly understands sovereignty to vest in the individual human person, within limits as defined herein.

Let there be no mistake: this is in spirit essentially a post-Enlightenment, High Modernist project, with necessary adaptions to a world which is understood to be neither stable, nor perfectly knowable. Implicit in this document is a belief that human beings can at least contingently agree on the meaning and importance of concepts such as "freedom" and "rights".

1.0 Why minimal?

As a practical matter, it is unlikely that effective percentages of the planetary citizenry could be persuaded to adopt any framework that spoke to anything other than an essential core of agreed principle. (As things stand, it is already easy to caricature this project as guilelessly utopian.)

comparable political arrangements.

Interestingly, when taken together, all the above also implies that the Compact metapolity is effectively indestructible, at least from without, at any level below that of literal extinction. With no national targets to strike at, no particular real estate or symbolic center, for strategic purposes the Compact is a state with "no there there". As Deleuze and Guattari said of their figure of the rhizome

You can never get rid of ants because they form an animal rhizome that can rebound time and again after most of it has been destroyed… may be broken, shattered at a given spot, but it will start again on one of its old lines, or on new lines.

That the Internet, also, famously "routes around failure" in just such a manner only buttresses the contention that communities self-consciously constituted in this way are harnessing usefully robust organizing principles.

4.0 A minimal compact

It is left to future discussions to determine the exact shape and nature of a minimal compact such as the one proposed herein. However, in pursuit of the goals outlined in section 1 above,

common with a truck driver from Antwerp than either has with a psychologist or a graphic designer of their respective nationalities.

This is less an issue of class, however, than of interest and affinity; as well, the crude Marxian analysis utterly misses the fact that people are far "thicker" than a job title can ever suggest: extraordinary complexes of tastes, experiences, predilections, prejudices, and preferences.

The minimal compact is intended to allow for the formation of polities organized around whatever axis (or axes) of affinity the individual finds most definitive, rather than sintering people selected by a common accident of birth into a notional community. It is anticipated that the formation of such polities would go some way toward resolving the contradiction identified by Albertsen and Diken (following Virilio, Bauman and others), in that the Compact's common framework for the resolution of political questions has been endowed with the same quality of escape enjoyed by power itself.

The rights and responsibilities of citizenship are thus made portable, set free to follow their holder wherever he or she may venture or settle in the physical world.

which interaction is intended to be as nearly frictionless as possible. No matter what their other features, states recognizing the Compact by definition uphold the provisions specifying free flows of people, ideas and information.

In order to preserve the rights afforded Compact members, as well as the economic advantages that flow as a consequence of membership in the ultimate free-trade zone (hopefully, sufficiently strong incentive), all signatories are enjoined to extend this full range of core freedoms to all other signatories.

- **Highly robust**: As open-source software is constantly tested and validated by its community of users, and suboptimal code reformulated, so the Compact is continually acid-tested by its signatories. By setting local communities free to innovate by the thousandfold; by providing for the incorporation of provisions that have been found to enhance the viability of signatory communities, promote wider-spread adoption, or otherwise further Compact goals into the core agreement; and by similarly providing for the deletion of provisions that tend to work against such goals, this framework searches the space of possible constitutional forms more efficiently than

This tension is expressed acutely in Albertsen and Diken's paper "Mobility, Justification and the City". Albertsen and Diken define power as inherently mobile "action at a distance", while understanding politics to hinge on a "hopelessly local" reliance on concentration, reflection and dialogue. Following this recognition, they diagnose an "increasing gap between power and politics": the inherent mobility of power in a networked age appears to be inimical to the civic and communal virtues that politics depends on vitally.

The immanent polity: Portable citizenship for a mobile age

Partially, this is due to the survival of the historical identification of polity and territory into an age in which the binding makes little practical sense. The historian Eric Hobsbawm usefully defines a nation state as "a bounded territory with its own autonomous institutions"; our present interest is in decoupling allegiance from territoriality, finding physical location to be a remarkably poor predictor of a person's deepest beliefs and motivations.

As Marxists have always understood, a truck driver from Atlanta may well have more in

mechanism to supplement this body of understanding, and a registrar to maintain the current version, the state is free to adapt to local circumstances. In areas where the Compact is mute, there can be no puzzling over (nor recourse to) the "framers' intention".

Human communities are free to build their jurisprudence upon Compact principles, and are encouraged not merely to innovate but to refer these innovations to the registrar for prospective adoption in a future version of the Compact. Ultimately, it is hoped, "modules" governing various features of state policy could be promulgated in such a way, such that a given state could be quickly characterized as a "core plus 1a2d3b" or "1b2d3c" polity.

- **Infinitely reproducible and nonlocal**: Much in the way "ad-hoc" wireless networks arise and subside as needed, a sovereign Compact state appears wherever and whenever one or more Compact signatories appears. Law is thus freed from dependence on national or statutory borders; no longer does jurisdiction or venue override the rights afforded an individual.

- **Interoperable and mutual**: Compact states constitute a "metapolity", a hyperstate within

to the political realm requires a more detailed analysis of the movement's provisions.

Open-source software is effectively a grant of intellectual property to the public domain, with certain licensure provisions designed to ensure that the insights literally encoded in it remain public and available for free use and reuse. Here, for example, is gnu.org's natural-language definition of "free" software:

Free software... refers to four kinds of freedom, for the users of the software:

- The freedom to run the program, for any purpose (freedom 0).
- The freedom to study how the program works, and adapt it to your needs (freedom 1). Access to the source code is a precondition for this.
- The freedom to redistribute copies so you can help your neighbor (freedom 2).
- The freedom to improve the program, and release your improvements to the public, so that the whole community benefits (freedom 3). Access to the source code is a precondition for this.

A program is free software if users have all of these freedoms. Thus, you should be free to

simply to sell copies. Free software doesn't just work better, it works orders of magnitude better. Open sourcing an application gives the source code to a large number of developers, instead of a small, tight group. Free software projects have a pool of developers and an effective budget multiple times higher than an equivalent proprietary development project, and will, given all other equal things, advance at a rate many times faster because of their access to an much larger development team. Peer review of code isn't just a pipe dream, it is an essential means to writing superior applications, no matter where they are written.

What would this logic look like, if extended to the documents that organize governance of human polities? Would conceiving of a given state's constitution as analogous to a distribution of open-sourced software help resolve any of the issues that beset the nation state? (This is the original question that inspired the concept of a minimal compact.)

Some features of states with "open-source" constitutions are foreseeable. Such a state is:

- **Flexible, adaptive and extensible**: Given an inviolable core agreement of principles, a

Subsume, not supplant

Realistically, any hope for usefully widespread adoption of the contemplated framework resides in the ability of elites privileged by status quo ante arrangements to perceive an enlightened self-interest in a world governed by Compact. To this end, it is recommended that a great deal of thought be given to the problem of how to reformulate nation states as Compact states.

In a similar manner to those nationalists of various European origins who feel able to maintain an autonomous national and linguistic identity as citizens of the European Union, adherents to one or another national identity should be made to feel that many essential elements of their Greekness or Americanness or Chineseness would survive under the aegis of a minimal compact.

3.0 Why open-source?

As has been mentioned, the open-source or "free" software movement represents an intriguing nexus of ideas about the constitution of arbitrarily distal individuals into a community, and features of emergent cooperation and self-correction among the members of that community. Seeing how and why these innovations may be relevant