The contemporary politics of open source software

This paper examines the technical speech of free and open source software developers and users as public sphere discourse. I start by tracing the metaphors to describe it, then move on to trace the cultural and political effects of the phenomenon

Freedom does not mean, Do as you like. For Free software partisans, freedom means the ability to use, see, change, and distribute code. These are licensed freedoms. "Code" is but another word here for the "source," which is the human-readable form of software, and it is a kind of speech, and not really different from, say, a recipe or a playscript or even something looser, like a conversation. In fact, open-source freedom tries to capture the character of an ideal conversation, where you may quote, add to, and further speak what is spoken without fear of legal reprisal, without anxiety that you are somehow stealing your interlocutors' words as you yourself articulate them. Only the speakers may not be known to each other and may be addressing their speech to strangers. The point is free speech, modeled on that present in a discursive group like a community and codified by a set of licenses that enjoin the freedoms sketched above. The reigning metaphor of free software adherents is community, the currency, speech.

The author of the free software movement is Richard Stallman, and his idealistic conception of community derives from his experiences as a graduate student at MIT in the early 70s, before software had been turned into a money-making commodity dominated by large corporations. In those prelapsarian early days, information could flow freely without regard to concerns of property. The aim was to build what worked, not to make money. But with the advent of moneyed interests, that all changed, and the situation that obtained until about the early 90s and still dominates the field came into being: software,

like recorded music, like books, like anything else copyrighted, could be licensed but not freely distributed, inspected, modified. Instead of the source—the human-readable code—users of most software are presented with "binaries", or machine -readable code.

The chief license used by the free software group is the GNU General Public License, which mandates the freedoms above. Businesses and some governments have problems with this license, as it decrees that all software integrating a work licensed under it becomes licensed GPL. The effect is called viral, and for a reason. It's as if a line of Ovid's, which is public domain, made a modern text using it also public domain. Commercially, from some perspectives, it would be the kiss of death.

Open source advocates differ by using the bazaar as the governing metaphor, a term famously suggested by the libertarian Eric S. Raymond, and are more commercial in their understanding of what freedom means and in their approach to enjoining it. And no surprise: they are modeling their discourse on a quintessentially commercial activity, after all, the bazaar. Community, as in the community of developers who freely share ideas, is not erased. Rather, it sits in tension with the bazaar, and Raymond can in one sentence write of the community and in the other of the bazaar as if they were faces of the same coin. He can do this, in part, because open source is predicated on a nonrivalrous conception of property (and also because, as a libertarian, that's the way he thinks: in terms of property). Nevertheless, the fact that open source is commercially friendlier, means that it can lead to rivalrous situations, should a company, say, wish not to contribute to originating project, as is allowed in some open source licenses. For, in addition to the GPL, open source uses about fifty other licenses, and these vary in the freedoms granted to users of the code. If Ovid were licensed using a commerce-friendly open-source license, he may have no effect on the incorporating text beyond adding value to the text in which he finds himself.

Copyright in either case is by no means weakened, as a concept or device for

protecting the author's interests in what is done with her intangible property. Rather, in some ways, it is strengthened. What is changed is the license attendant upon copyright. Instead of generally limiting distribution open-source licenses enjoin distribution.

Whatever their principled differences, both camps are nowadays increasingly referred to by the acronym FOSS, which stands for Free and Open Source Software. Though free software partisans lay claim to a purer ideology of freedom, both for the present and the future, a stance that on occasion defies pragmatics, and open source adherents argue that there is no necessary politics to open source, which is mainly about coding, anyway, FOSS is now seen as increasingly political, especially outside of the US. By "political," I mean that it touches on areas having little to do with coding or software and a lot to do with resource allocation and public, national, and foreign policy.

Recently, social theorists have argued that open source seems to operate within the public sphere, where that is defined in Habermas-ian terms as an idealized space for democratic, rational debate by private bourgeois individuals. The claim is that however flawed, open source is characterized by rational debate and is further radically open to any competent speaker, and it is not a vehicle of government or business interests. It's actors are, also, ideally conceived as private individuals voluntarily participating in the exchanges to build software.

I'm going to return to the idea of the public sphere and open source, for the term "public sphere" has lost much of its interpretive force in the last dozen years, even as it has gained currency in popular discourse. Of course, a cursory glance at the public open-source mail lists, which is where, historically, much of open-source discussions take place, suggests that many discussions about coding and community are not rational, for instance, nor are they entirely open or disinterested. They are like any other self organizing human forum. But this noisiness hardly detracts from conceiving open source discussions as exemplifying public sphere discourse. But a "community" or even bazaar,

is not the same as public sphere. As Michael Warner has recently argued in *Public and Counterpublics*, "a public is a relation among strangers," and it comes into being through an "address to an indefinite stranger"; it "exists by virtue of being addressed." The term "community" is used today as a shorthand for classes of persons sharing similar subject positions or interests, and speaks not at all to any intimacy of knowledge one may have of others in the class. Nevertheless, Warner's point is that communities are not called into being by the address to the indefinite stranger, whereas publics are. Read in this light, the archive of FOSS suggests that it functions less as a community or even bazaar, and more as an operation of a public sphere, for in FOSS, speech is traditionally public speech and the sphere of activity public. Further, removed from the strictures of governmental or corporate scripting, it naturally operates as a self-organizing discourse in civil society.

To argue that FOSS is a public sphere discourse is to claim something more than a difference in nomenclature from community or bazaar. It also allows us to understand the effects of FOSS' own sense *as* a public, in producing the subject identity that characterizes those who participate in its field, and in conceiving its role vis-à-vis the larger public sphere. For instance, FOSS adherents maintain a mostly oppositional rhetoric: They act in opposition to the exemplary bad guy, Microsoft, they act in opposition to bad practices, they act in opposition to bureaucracy, they act in opposition to just about anything that limits freedom, and they also act in opposition to chaos. They don't like wasting time. The point, as should be clear, is that FOSS maintains itself as a counterpublic, one marked by its oppositional stance to the prevailing bourgeois public sphere but otherwise essentially characterized by the same conditions of expression as the dominant public sphere.

But let's take a step back. How does one even determine who is a participant in open source activity? Although I'm pretty sure no one is exactly forced to participate in open-source production, it's an easy mistake, however, to conceive of FOSS communities

as peopled by lone agents who form communal relations in the building of software. Since about 2000, numerous free software and open source projects, such as Linux, the alternative operating system, Apache, the Web server, and OpenOffice.org, the office suite, have been marked by the presence and support of large enterprises, such as IBM, Sun, Intel, and others, as well as many smaller companies. These business allocate programmers to work on the project and they may end up working closely with programmers who are not part of the company, who may even be volunteers: an odd situation. The allocated programmers do not necessarily engage in all the community aspects of the project which interests the others; they may, of course, but it's not axiomatic. Many are just doing a job, and are not emotionally or socially invested. It's not clear that they would continue contributing to the project if they were not paid to do so.

And yet, because the code produced is released under open-source licenses, it is open source, and anyone outside of the company producing it can access, develop, and use the code according to the provisions of the license. From this perspective, the application of public sphere dynamics to open source would seem a lot more problematical. For not only are many of those actually doing the coding only incidentally voluntarily participating in public sphere discourse, but their relation to specific interests arguably conditions and thus vitiates the seeming nature of their participation.

Of course, public sphere discourse does not exclude commercial speech. Traditionally, it is understood to exclude the *state's* intervention in determining public speech: a public must be independent of the state or other institutional frameworks. It must be self organizing. However, the issue here is interested speech, or speech whose rationality and whose logic affects the self-organization of the public, and its origins, whether state or corporate equivalent, seem hardly to matter. What does matter is how the freedom of that speech, and the self-organizing capability of the public, are affected. For FOSS, the public is ostentatiously organized according to a technological imperative. That

imperative specifies that FOSS makes good code because the system is meritocratic and absent exogenous demands the best code wins. An exogenous demand is something like a marketing or business decision that, say, makes the code more convenient to naïve users but also a lot more buggy, insecure, and crash-prone. Think of the difference between Windows and Linux in these areas. The anxiety, if there is one, is that interested projects are not adequately free.

But casting the logic of free and open source software development in this idealized light tells only part of the story. Developer centric accounts of FOSS exclude domains where the acceptance of free and open source software has been most expanding: among groups who are primarily endusers, not developers, especially institutional, such as local, regional, and national governments, which may maintain tens of thousands of workstations and servers, and who see in FOSS advantages that are at once fiduciary and political, as well as technological.

In what is probably the most cogent account of the history and social and business impact of open source today, Steve Weber, in *The Success of Open Source,* points out that "many countries have distinct security and political incentives to avoid lock in to proprietary software products." "Lock in" refers to the phenomenon of being stuck with an application because a significant portion of the files you've created using it are only readable and editable with it. And the exemplary proprietary product producing "vendor lock in" is Microsoft's Windows or Office. It starts to become clearer why national governments should be wary of such lock in when one analogizes it, as Weber does, to some other resource, such as petroleum:

> "No national government, if it had alternatives, would have chosen… to accept dependence for steel or petroleum on a single supplier…based in a potential rival nation. And so it is no surprise that the Chinese government in particular has supported the development of Red Flag Linux and other open source packages as a

distinct alternative to proprietary software—in part as a development tool, and in part as a lever to reduce potential dependence on a company that just happens to be based on Redmond, Washington."

FOSS is more than code: it is also a means for a kind of technological and, to a degree, economic autonomy. That autonomy takes on decidedly anti-colonialist colors in the case of developing nations throughout the world. The rhetoric can be, as in the case of Peru, framed as a defense of national security or brazen attacks. Brazil's former minister in charge of information technology, Sergio Amadeu, famously described Microsoft as peddling the equivalent of drugs, and other ministers in other countries have pointed to US information technology as being part and parcel of the greater US cultural and economic imperialism. Open source, which is not at all fixed to the US and is more international than American, and which can always be localized, or made home-grown, provides the answer, at least in rhetoric and probably also in fact.

But is this just a re-valorization of a liberal logic? That's probably the wrong question to ask; open source is not exactly a critique of liberalism or liberal notions of property, though it can be deployed in the service of such, given its emphasis on "community" and the focus on how work is produced and distributed. But such a claim seems a little beside the point. Open source is primarily interested in using copyright and patents to ensure that the public addressed by the work has essentially the same license to collaborate on it as the original author. It is further interested in ensuring that the claim of intellectual property is not used as a means of privatizing wealth (and thus minimizing it for the public) but as a means of increasing it for the public. The process rests on liberal conventions and utilizes an essentially liberal apparatus, the public sphere.

And is the trans- and international acceptance of FOSS really a departure from US cultural imperialism? For instance, with its emphasis on geek culture, libertarianism, US "stars," English, and so on, it seems rather hollow to claim that FOSS is panacea to

imperialism. But it is, I would argue, for FOSS has just begun. In most countries, it is not at all mature and exists, if it exists, as a nascent counterpublic emulating the cool culture of abroad but writ in the language of local color.

More to the point, however, open source lends itself to unsettling what's been called a neo-liberal agenda of enjoining mostly (but not exclusively) developing countries to comply with the dictates of developed nations' corporate interests under the guise of liberal social justice. FOSS defies this agenda by strongly encouraging the development of a local public sphere which, given the broader context, operates as a counterpublic: it is in opposition to the prevailing logic.