

- [PDF](#)
- [Send to a friend](#)

Learning to Love the Rules

Essay by [Wendy Seltzer](#), May 14, 2008 in response to [Tacit Governance](#)

“Rules are norms that have failed,” David Weinberger says in [“Tacit Governance.”](#) While his description rings true, the need for formalized governance is a sign of success, not failure. Our challenge is to move from norms to rules, building rules for the Internet that offer the flexibility that allowed norms-based communities to get big enough to need them.

Norms-based online governance works when a community adopts or forms around a technology. Thanks to shared goals, community members are willing to accept tacit limitations for the common good. But community can be oppressive as well as benevolent, and norms can be exclusionary rather than (or even while) productive. When AOL’s connection to the wider Internet released a flood of newbies on established newsgroups, the Usenet “community” [responded](#) with jibes of “go home” more often than by welcoming with education in the norms. Old-timers’ defensive reactions undervalued the potential contributions of those not yet inducted, discouraging many who could in fact add to discussions of news, tech, or even Net culture.

While we may look back nostalgically on rose-tinted moments of shared values, we can’t think that the early adopters should have a monopoly on technologies. Norms can leak beyond their community, as when consensus-based black-hole lists filter traffic to those who haven’t joined the consensus. New correspondents need a means to challenge those limitations. We might all learn from newcomers who [use a social network “abnormally.”](#) but only if we make room for them to do so.

So when we recognize the need for more explicit rules, we are acknowledging that our population has grown too large or our technology too important to be governed only by the norms of an insider “community.” As Weinberger suggests, the transition from informal norms to formalized rules can be painful. It’s hard to craft good rules, hard to set out in black-and-white the nuances that have evolved unstated, and harder still to abandon those that don’t scale.

Too often, we on the Internet think of governance as someone else’s problem. We cede the rulemaking to others while we focus on the more interesting problems of technology, or culture, or community. If we don’t develop rules from within, building on the norms, we’re liable to get worse imposed upon us. When we leave governance to the governance wonks, we get systems like [ICANN](#), an organization that gets so far into the procedural woods and interest group politicking that it loses sight of the values of the user community it was built to serve.

If we want to do governance right, then, we must do it ourselves. Sure, that requires defining the “we” in the social contract, but that’s less critical than setting up a governance framework that’s open to outsiders. The community is catalyst but not boundary membrane.

Formal must not mean rigid, since there’s often a fine line between disruptive innovation and mere disruption. Rules-based governance need not displace norms or established communities. Instead, the rules are infrastructure upon which multiple communities can flourish with their own stricter norm-sets. A constitution is a minimal structure of rules built for extension.

We may not like rules, but we need them, and if we don’t do them ourselves, others will impose

them upon us. We should learn from both the governance and the technical expertise: Plan for a revolution every generation, but build so we don't need one.

Wendy is a Fellow at [the Berkman Center](#) for Internet and Society at Harvard Law School and a visiting assistant professor at [Northeastern University School of Law](#), where she teaches IP, cyberlaw, and antitrust. She blogs at <http://wendy.seltzer.org/blog/>

All Considering Rules and Governance Essays

[Tacit vs. Explicit Governance](#)

- [The Good Governance Mix](#)
by [Charlie Leadbeater](#)
- [The Virtues of Being Explicit – A Reply to “Tacit Governance”](#)
by [David Johnson](#)
- [Internet Forestry: A Principles Approach to Governance](#)
by [Pierre de Vries](#)

[View all thematic areas »](#)

Source URL: http://publius.cc/learning_love_rules#comment-0