

Patriotism as paranoia

Steve Kurtz and the Critical Art Ensemble

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Folklore warns that the devil can only enter your house if you invite him in. What it's not so clear about is that more often than not the devil poses as just the person you need when you're in trouble. Steve Kurtz, an artist living in Buffalo, New York, invited the devil into his house on 11 May 2004. What would you do if you woke up one morning and found your wife lying next to you in bed unresponsive, apparently dead? Call for emergency medical assistance, obviously – which is exactly what Kurtz did. But, at least in the paranoid America of Bush, Cheney and the ironically named Patriot Act, calling on the power that helps also means calling on the power that surveys and persecutes. Hope Kurtz had died of heart failure. But the medical technicians, noticing laboratory equipment in the house – meant for an art installation Kurtz was preparing for an exhibition at the Massachusetts Museum of Contemporary Art (Mass MoCA) as part of the Critical Art Ensemble (CAE), of which he is a core member – decided that something looked fishy and called in the FBI, who detained Kurtz overnight. As Stephanie Cash writes in *Art in America*,

they searched his home for two days, as well as his office at SUNY–Buffalo, where he is a faculty member. The bureau confiscated his wife's body, his house, car, equipment, computer hard drive, books, writings, correspondence, art projects and other items, even his cat.

The municipal Health Department condemned the house as a health hazard for a time.

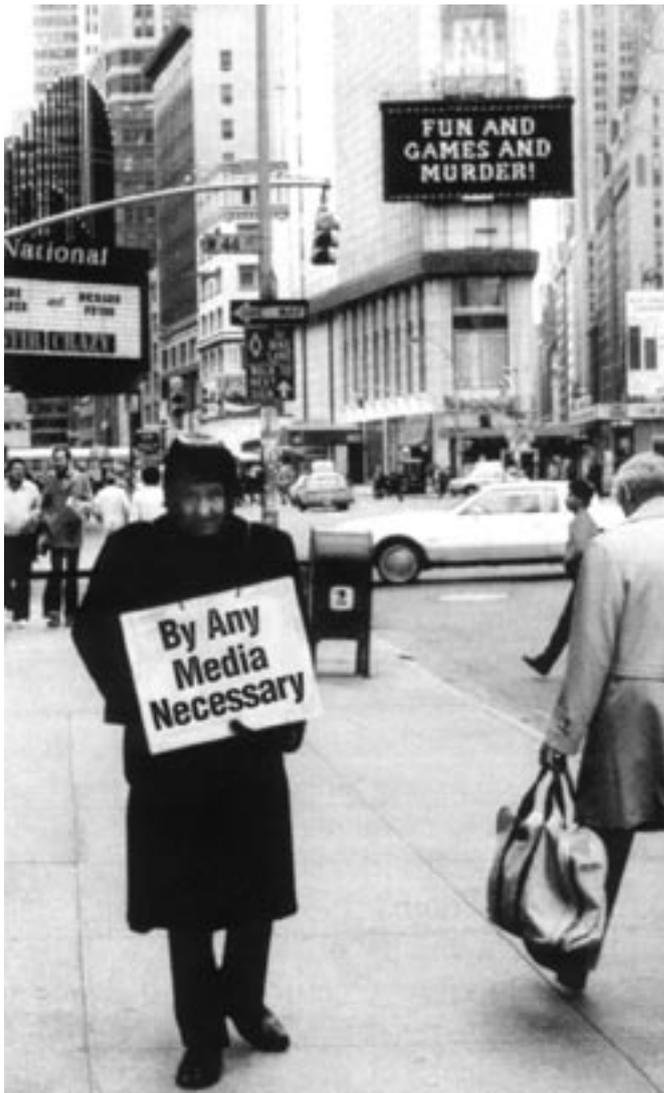
What was behind this extraordinary response to the call for help from a man stricken with grief? Of course, in the United States of Bush, Cheney and the Patriot Act, the answer depends upon just how paranoid you are. Perhaps the simplest and most ingenuous view is to accept that the medical technicians who arrived at Kurtz's door had been unsettled by the sight of the scientific equipment they'd noticed. Was it not their simple duty to ask themselves what had been going on here, and whether the materials they saw could have anything to do with the death of a woman who was, after all, quite young to have died of heart failure?

And what would an artist be doing working with test tubes and Petri dishes anyway? For those familiar with contemporary art it will hardly be surprising to learn that artists deal directly with technological processes as their materials, rather than depicting them in images or objects. But it should not be forgotten that, while most contemporary artists and theorists hold to the doctrine that art need not be visually distinguishable from the things of everyday life, this proposition has never held much sway with the wider public. And the legal consequences of this indistinguishability have yet to be worked out. It is nearly eighty years since customs officials imposed duty on a Brancusi sculpture being imported into the United States on the grounds that it was clearly not an art object but rather a machine part. Today this seems laughable precisely because we see Brancusi's work, whatever else it is, as the *ne plus ultra* of modern aesthetic stylization. But in Brancusi's time the idea of making a fetish of the machine, of seeing beauty in the smooth and inhuman – now so familiar as to seem positively

old-fashioned – was new and counter-intuitive. Likewise, today, the very claim by someone working with lab equipment that he is doing so as an artist appears so implausible to many people that in itself such a claim might be enough to arouse mistrust. If Steve Kurtz had been painting pictures about genetic manipulation rather than creating a participatory experience around the subject, he might never have been arrested.

But even given the not-in-themselves-inexplicable suspicions that might have arisen in the minds of paramedics entirely innocent of contact with contemporary art, even assuming that their sense of duty required them to call upon more expert hands to probe into this possibly mysterious demise, what happened next is extraordinary. Instead of an apology with the extenuation of ‘better safe than sorry’, Kurtz was presented with an indictment – as were a number of his artist and scientist collaborators. They were under investigation as bioterrorists.

Bioterrorism is a threat with particular resonance in the United States, where a series of both real and hoax anthrax attacks were perpetrated through the mail in the months following the attacks on the World Trade Center. Among the targets of the infected mailing were senators and the media. Five people died in the attacks, but panic was widespread. By the time of Hope Kurtz’s death, the attacks had long since stopped and the panic died down. Indeed, the case seemed to become very quiet indeed as its investigation stalled, with many observers convinced that the perpetrator of the anthrax mailings, far from being a representative of international terrorism, was a disaffected former US military researcher who could have obtained anthrax spores at Fort Detrick, Maryland. As George Monbiot wrote about the case in the *Guardian* (21 May 2002),



Several prominent scientists have suggested that the FBI’s investigation is being pursued with less than the rigour we might have expected because the federal authorities have something to hide. The FBI has dismissed them as conspiracy theorists. But there is surely a point after which incompetence becomes an insufficient explanation for failure.

In other words, the anthrax terrorist is a man who knows too much to be prosecuted. Here is how Monbiot describes the still-unknown man who had the ability to produce a rogue biological weapon:

an American working within the US bio-defence industry, with a doctoral degree in the relevant branch of microbiology. He is skilled and experienced at handling the weapon without contaminating his surroundings. He has full security clearance and access to classified information.

The only thing Kurtz has in common with the person capable of producing a home-made biological weapon is his citizenship. Kurtz’s work as an artist certainly concerns science, and he collaborates with scientists when necessary in order to make it, but he is not one himself. Indeed, part of the point of the Critical Art Ensemble’s work is to show that, as laypeople, we can understand much more about the science that affects our lives,

or that may do so, than we realize. But it is 'real science' only to the extent that what one did in one's high school chemistry lab is real science. It is essentially a species of absurdist performance art.

The contrast between the US government's response to the anthrax attacks and its conduct in the face of the non-crimes of Steve Kurtz is blatant. In the end, of course, it could hardly be denied that Kurtz and his colleagues were indeed using biotechnology in an artistic context; indeed, two of them, fellow CAE members Beatriz da Costa and Steve Barnes, were subpoenaed in art's authorizing institution itself, the museum, and the artwork they exhibited at the Mass MoCA, *Free Range Grains*, was impounded as well. The artists were being investigated under provisions of the US Biological Weapons Anti-Terrorism Act of 1989 and its expansion in the USA Patriot Act of 2001:

Whoever knowingly possesses any biological agent, toxin, or delivery system of a type or in a quantity that, under the circumstances, is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose, shall be fined under this title, imprisoned not more than 10 years, or both.

It seems self-evident that a museum exhibition should count as a peaceful purpose, so, just as in the case of the apparent hands-off treatment of the anthrax killer, the vigorous prosecution of an innocent like Kurtz cries out for ulterior explanation. As Kurtz's lawyer Paul Cambria put it in the early days of the case, 'I only hope that it is not simply aimed at trying to silence his message or the methods he's using to convey his message.' In fact, this is the theory that is popular among Kurtz's supporters: that Kurtz's arrest was more than simply what Cambria calls 'a paranoid overreaction that would never have happened before 9/11'. Instead, on this view, 'the feds (FBI, Joint Anti-Terrorism Task Force, U.S. Attorney's office) are opportunistically exploiting the convenient hook of suspicious biological material (in the context of post-9/11 anthrax incidents, both real and hoaxed) to go after an intellectual for his IDEAS' (the words are those of Ed Cardoni, director of the Buffalo arts organization Hallwalls). Had the devil been waiting for an invitation?

Typical of the work Kurtz has done as part of Critical Art Ensemble is a project like *Flesh Machine*, 1997–98. As described on the group's website, this is an event in which

Participants take donor screening tests and gather information on reproductive technology. On the CD, viewers can view factual data on in vitro fertilization (IVF) treatment, new methods for assisted reproduction, egg and sperm donor profiles, and even take a donor screening test themselves.... Those who pass the donor screening test are asked to give blood for DNA extraction and amplification.... At the on-site cryopreservation lab cell samples are taken for flash freezing. A cross-media profile of an individual's genetic representations is constituted.... Participants can then assess the potential value of their bodies as commodities and hence their place in the new genetic market economy.

The artists take on the role of helpful and authoritative scientific experts in order to undermine unquestioning belief in the political and economic neutrality of technical expertise. The artistic shortcoming of this strategy, however, is also its political shortcoming: although the conclusions the artists want to enforce may be in themselves correct, the fact that the conclusions are foregone means that CAE's didacticism inadvertently reinforces the public's position of childlike dependency. The democratic thrust of art emerges where artist and public engage on equal terms.

Also, one might wonder whether scientific authority is quite as imposing a social force as CAE imagine. Their contention that 'science has slowly but surely become the key myth maker within society, thus defining for the general population the structure and dynamics of the cosmos and the origins and meaning of life, or, in other words, defining nature itself' is initially plausible. But in the United States today, 'creation



science' vies with evolutionary biology as an accepted teaching about the origin and form of life. Religion and science remain very much in contention, occasionally giving rise to weird hybrids. It's not so much that 'the theory of evolution is an example of science fulfilling the ideological needs of capital', as the CAE claim, as that capital, once established, will adapt itself to seemingly any ideological structure in force.

All in all, the artistic

work of the Critical Art Ensemble is characterized by a strange mix of analytical sophistication and rhetorical naivety. Yet their sustained questioning of the links between biotechnology and capital – best represented in their books, such as *Flesh Machine*, *Molecular Invasion* and *Digital Resistance*, all published by Autonomedia – is a necessary labour as we move, seemingly inexorably, into a world in which food, reproduction and selfhood are becoming technical constructions as well as the cultural ones they always were. Given the marginal position of artists in US cultural life, one should beware of imagining the authorities lose much sleep over their dissident discourse, so there remains something deeply puzzling about the government's dogged refusal simply to leave Steve Kurtz alone. The scariest charges against Kurtz were eventually dropped, but he is still being prosecuted – and the potential punishment is stunningly harsh. The charges against him now are federal crimes of mail and wire fraud, four counts in all. These charges are connected to the means by which he obtained the biological materials he was using, though the possession of such materials is common and not in itself criminal, and the laws under which the indictments were obtained are targeted at fraudsters, such as those behind telemarketing swindles. Each charge carries a maximum sentence of twenty years in prison. Robert Farrell, the head of the Department of Genetics at the University of Pittsburgh's School of Public Health, from whom Kurtz had received his biological samples, was also charged. (Thus, another absurdity: if Farrell was Kurtz's co-conspirator, he could not have been the victim of Kurtz's supposed fraud – and if not Farrell, then who?)

Even assuming the case against him is finally quashed, the legal bills Kurtz and his associates are accumulating in the process of defending themselves must be enormous. In the months following his arrest a number of benefit events were held around the USA to raise money, as well as one in London (of which I was one of the organizers). Now, even with the case having gone temporarily quiet as the defence has an opportunity to review the prosecution's case in preparation for upcoming court dates, the bills continue to mount, and donations to Kurtz's defence fund are still being taken through its website, www.caedefensefund.org. If Kurtz finally goes free, his prosecution will surely have had the same effect that censorship has had on other serious artists like Andres Serrano or Robert Mapplethorpe: his work will be better known, more widely disseminated and increasingly respected. That will be cold comfort for the torment he has been put through, but encouraging to anyone in favour of an art that thrives on contention and an active public.

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