Reimagining Rights and Responsibilities in the United States: Freedom of Speech and Media

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Freedom of Speech and Media

Reimagining Rights
& Responsibilities
in the U.S.

Reimagining Rights & Responsibilities in the United States: Freedom of Speech and Media

Carr Center for Human Rights Policy
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Introduction

The First Amendment guarantees some of the most fundamental rights provided to Americans under the Constitution. The right to free expression is a foundational tenet of American values. In fact, it was the First Amendment rights to freedom of speech and the press that provided much of the basis for the revolution that led to America's founding. The First Amendment provides broad protection from government censure of speech, although limitations on some forms of published or broadcast speech, such as obscenity and hate speech, have been allowed.

The right to free speech is critical for the functioning of a healthy democracy. Expression free from the threat of state retaliation pushes the boundaries of the status quo and facilitates progress in all forms. Free speech is protected from government censure by its legal status, but it is also a deeply held value in American society, protected by cultural norms. Today, we are confronted with threats both to the legal protection of free speech and to the social contract that supports a respectful free speech environment.

As the traditional public square governed and protected by federal regulation moves online to spaces governed by private corporations, the rules for how speech is both expressed and censored are also changing. How should legal protections for speech adapt to these new tech-powered, private forums? This chapter will explore the current landscape of free speech and the associated information landscape as well as the threats that they face. (It will not cover issues of hate speech or campaign finance as these topics are covered in more depth in separate chapters in this report. See "Hate Crimes" and "Money in Politics," respectively.)

In the midst of the current technological revolution, free speech is both facing and posing new challenges. Today, stories about social media giants wielding their algorithms for and against the spread of disinformation flood the news. In light of this ongoing debate, freedom of speech has become a central topic when it comes to the protection of individual rights, but it has also raised concerns about the responsibilities of the government, corporations, press, and all Americans to protect the integrity of democracy.

Today, declining trust in institutions contributes to the lack of reliable information and threatens to topple the system of checks and balances, allowing disinformation to have free reign. This trend has contributed to the idea of a post-truth era in which facts are regularly disputed, especially when connected to political agendas.[1] Additionally, there is now a stark partisan divide between Republicans and Democrats about the media's role in keeping politicians from abusing the power of their office, with a dramatic widening of trust in media along party lines since 2016.[2]

> **As the first line of defense against governmental overreach, the press plays an essential role in providing both a lens and critical commentary on the use and abuse of political power in America.**

The combination of freedom of speech with freedom of the press is important for the health of the information ecosystem. Both forms of expression provide opportunities for dissent from the mainstream opinion which is a critical check on hegemonic power. Freedom of speech and press are mutually reinforcing, relying on each other to keep the information ecosystem in balance. When grassroots opinion turns toward misinformation, the press is able to broadcast corrective information, and when the press skews toward propaganda or sensationalism, public opinion can push back. Most importantly, both provide checks on governmental power.

In addition to the importance of the right to dissent without fear of retribution, many people today are concerned with the right to high-quality information. As the information ecosystem has changed, many are left wondering where to turn for a reliable source of truth. Though not directly connected with freedom of speech, the ability to access high-quality information is a complementary — and at times contradictory— element of the social contract under democracy. When the right to speech without regard for accuracy or quality is protected by law, many wonder where the responsibility to protect truth lies.

STAKEHOLDERS: THE GOVERNMENT, THE PRESS, & THE PEOPLE

As the first line of defense against governmental overreach, the press plays an essential role in providing both a lens and critical commentary on the use and abuse of political power in America. This causes perpetual tension between the government and the press. During the Trump administration, this tension has become especially acute.

THE TRUMP ADMINISTRATION AND "FAKE NEWS"

The animosity between the press and the president is not new to American society. Before the Trump presidency, the term "fake news" was used to refer to false news stories spread by hoax and propaganda campaigns. This was a lay term for what today is referred to as disinformation. Disinformation is defined as the deliberate spread of false or misleading information to deceive

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1. Illing, Sean. "A philosopher explains America's "post-truth" problem." *Vox*, 14 Aug. 2018, https://www.vox.com/2018/8/14/17661430/trump-post-truth-politics-philosophy-simon-blackburn.

2. Gottfried, Jeffrey, et al. "Partisans Remain Sharply Divided in Their Attitudes About the News Media." *Pew Research Center*, 25 Sept. 2018, https://www.journalism.org/2018/09/25/partisans-remain-sharply-divided-in-their-attitudes-about-the-news-media/.

and influence public opinion. It is a subset of misinformation, which also includes the unintentional spread of such information due to ignorance or negligence. Today, misinformation takes many forms, ranging from false statements from politicians to unverified claims about health products to altered photos and videos.[3]

During the first year of his administration, President Trump re-appropriated the term "fake news" to attack the press, claiming that major news outlets were perpetrating disinformation in instances when they criticized the president.[4] According to a 2018 analysis of Trump's Twitter communication, "it can be argued that Trump himself is a serial offender in the propagation of mis- and disinformation in the same vein that he accuses the media."[5] The study found that Trump uses the term as a political tactic to cover his own mistruths and distance himself from negative press.

The repetition of these claims has had a strong negative impact on trust in the mainstream media among Americans, especially along party lines. In 2017, The Knight Foundation polled 19,000 Americans on the issue of "fake news" and found that though a strong majority of Americans believe that the spread of false information is a threat to democracy, 41% of Republican respondents and 17% of Democrat respondents consider news stories that cast a politician or political group in a negative light to be "fake news" even when the information is accurate.[6] There is a growing distrust in the media as a primary check on political power, and the partisan divide adds an additional layer of complication to the information landscape.

In addition to making claims that unfavorable reporting is false information, President Trump has, in some instances, aimed his attacks at particular news outlets and journalists as well as the press as an institution. With these claims, he has sought not only to detract from a particular story but to discredit the press as an institution. For example, on October 29, 2018, President Trump referred to the press on Twitter as "the true enemy of the people,"[7] claiming that journalists and news media companies are responsible for spreading animosity in American society. This statement represents the president's campaign to discredit the mainstream media. By undermining the power of the press through attacks on its legitimacy, the President abuses the power of the presidency by enhancing his ability to spread misinformation without recourse.[8]

One major news outlet that has largely avoided criticism from the President is Fox News. The news channel has been the primary source of favorable news coverage of President Trump's administration, and the President has typically praised Fox as a source of legitimate journalism. However, on August 28, 2019, in response to Fox News' coverage of a Democratic Party presidential debate, Trump tweeted criticism of the network, stating, "We have to start looking for a new News Outlet. Fox isn't working for us anymore!"[9] This comment gave weight to what had already become a growing concern that Fox News had become a propaganda enterprise for the Trump administration.[10]

The President's divisive attacks on the mainstream media have escalated from claims of illegitimacy to unrestrained animosity towards critical news outlets. On September 2, 2019, Trump tweeted that in his re-election bid in 2020, the "real opponent is not the Democrats... our primary opponent is the Fake News Media."[11] This dynamic is not new to the White House. The Sedition Act of 1798 promoted by President John Adams prohibited

3. While many forms of misinformation and disinformation involve the spread of false information that could otherwise be verified, visual media manipulation complicates the commonly held assumption that we can trust what we see. With advances in technological capability, media manipulators can now produce altered videos known as deepfakes. These videos use artificial intelligence to map a different face onto an existing video to create a new video that appears to show something that didn't happen. The concern around deepfakes and media manipulation more broadly is that these techniques corrupt what had been a failsafe way for consumers to verify information—seeing it for themselves. This increases the urgency of addressing false information within the information ecosystem and determining the path forward for responsibility in maintaining access to high-quality information.

4. Graves, Lucia. "How Trump Weaponized 'Fake News' for His Own Political Ends." *Pacific Standard*, 26 Feb. 2018, https://psmag.com/social-justice/how-trump-weaponized-fake-news-for-his-own-political-ends.

5. Ross, Andrew S., and Damian J. Rivers. "Discursive Deflection: Accusation of 'Fake News' and the Spread of Mis- and Disinformation in the Tweets of President Trump." *Social Media + Society*, vol. 4, no. 2, 18 May 2018, https://journals.sagepub.com/doi/10.1177/2056305118776010.

6. "American views: Trust, media and democracy." *Knight Foundation*, 16 Jan. 2018, https://knightfoundation.org/reports/american-views-trust-media-and-democracy/.

7. Stewart, Emily. "Trump calls media the 'true Enemy of the People' the same day a bomb is sent to CNN." *Vox*, 29 Oct. 2018, https://www.vox.com/policy-and-politics/2018/10/29/18037894/donald-trump-twitter-media-enemy-pittsburgh.

8. Admitted by President Trump, according to Judy Woodruff of PBS NewsHour: "Lesley Stahl: Trump said he bashes press to 'demean' and 'discredit' them." *CBS News*, 23 May 2018, https://www.cbsnews.com/video/lesley-stahl-60-minutes-president-trump-press/.

9. @realDonalTrump (Donald Trump). "We have to start looking for a new News Outlet...." *Twitter*, https://twitter.com/realDonaldTrump/status/1166712943196680193.

10. Wagner, John. "Trump accuses Fox News of 'heavily promoting the Democrats,' urges followers to look for another news outlet." *The Washington Post*, 28 Aug. 2019, https://www.washingtonpost.com/politics/trump-accuses-fox-news-of-heavily-promoting-democrats-urges-followers-to-look-for-another-news-outlet/2019/08/28/1adec124-c99e-11e9-be05-f76ac4ec618c_story.html.

11. @realDonalTrump (Donald Trump). *Twitter*, https://twitter.com/realDonaldTrump/status/1168499357131427840.

"false,scandalous, and malicious writings," and, more recently, the Nixon administration also viewed the media as theopposition.[12] However, the digital information landscape changes the dynamic by providing a direct link between the President and his supporters without any media gatekeeping.

With arguably the most important bully pulpit for spreading information in the world, the Trump White House has spread misinformation and disinformation. A particularly egregious example related to the White House attacks on the press occurred on November 7, 2018, when White House Press Secretary Sarah Sanders tweeted a doctored video of reporter Jim Acosta appearing to act aggressively toward a White House intern.[13] The falsified video was posted as a response to criticism from the media of the administration's decision to revoke Acosta's press pass after he engaged in a heated exchange with the President at a White House press conference. The video in the post was first circulated by Paul Joseph Watson, a contributor to the far-right website Infowars who is known for creating conspiracy-theory videos.[14] This incident provides a graphic example of the connection between the underbelly of Internet disinformation and its use by the White House.

President Trump has been the source of a continuing stream of false information. According to PolitiFact, as of October 2020, 71% of his claims that have been investigated by the organization have been either "mostly false," "false," or "pants on fire."[15] Trump's lies differ from the lies told by previous presidents in that they often contradict established facts.[16] This erosion of agreed-upon facts makes reasonable political discourse increasingly difficult. One researcher argues, "The assertion of the power to define reality by ignoring inconvenient facts is destructive of democratic governance… If there are no agreed-upon facts, then it becomes impossible for people to make judgments about their government or hold it accountable."[17] These falsehoods, when paired with the President's attacks on the press, have created a vast official landscape of disinformation and misinformation.

DECLINE OF PUBLIC TRUST IN THE MEDIA AND INCREASE IN PARTISAN DIVIDE

Public trust in the mainstream media has been slowly and steadily declining since the late 1970s when trust in many major institutions also started to wane.[18] According to a longitudinal Gallup poll, the widening divide in trust in news media has developed along partisan lines.[19] With the White House creating a narrative that pits the administration against the mainstream media, Americans are left in the middle to pick sides.[20] This finding raises concerns about epistemic cohesion in the current age.

The landscape of news media has changed significantly in the past 2 decades. Digital news sources and social media platforms have increased the speed of information sharing, giving rise to a 24-hour news cycle. A deepening partisan divide in the media has resulted from these changes in the media ecosystem and the increasing political polarization of the country. In an age in which breaking news is available instantaneously from firsthand accounts through social media, the need for mainstream journalism to convey the facts of breaking news events has decreased. According to Michael Schudson of the Columbia Journalism School, "the old days of ritually objective news reporting (he said/she said) are not gone but have been reduced in importance from the 1970s on, as mainstream outlets have increasingly emphasized analysis in news coverage—not quite so much 'who, what, when, where' as 'why.'"[21]

It is increasingly difficult for journalists to keep up with the speed of information-sharing on social media while maintaining strong journalistic integrity. As news events and imagery are posted on social media by unvetted sources in real-time, newsrooms are increasing their efforts on fact-checking and investigative journalism.[22] Although investigative journalism is slower and more expensive to produce than opinion and headline news, it plays a critical role in uncovering information to hold powerful parties accountable to the public. For example, investigative

12. Schudson, Michael. "The Fall, Rise, and Fall of Media Trust." *Columbia Journalism Review*, 2019, https://www.cjr.org/special_report/the-fall-rise-and-fall-of-media-trust.php.

13. @PressSec (Sarah Sanders). "We stand by our decision to revoke…." *Twitter*, 7 Nov. 2018 https://twitter.com/PressSec/status/1060374680991883265.

14. Harwell, Drew. "White House shares doctored video to support punishment of journalist Jim Acosta." *The Washington Post*, 8 Nov. 2018, https://www.washingtonpost.com/technology/2018/11/08/white-house-shares-doctored-video-support-punishment-journalist-jim-acosta/.

15. "Donald Trump." *Politifact*, The Poynter Institute, https://www.politifact.com/personalities/donald-trump/.

16. Pfiffner, James P. "The Lies of Donald Trump: A Taxonomy." *SSRN*, 17 Sept. 2018, http://dx.doi.org/10.2139/ssrn.3286278.

17. Ibid, pp. 14.

18. Schudson, Michael. "The Fall, Rise, and Fall of Media Trust." *Columbia Journalism Review*, 2019.

19. Brenan, Megan. "Americans' Trust in Mass Media Edges Down to 41%." *Gallup*, 26 Sept. 2019, https://news.gallup.com/poll/267047/americans-trust-mass-media-edges-down.aspx.

20. Stocking, Galen, et al. "Partisans are divided on whether they associate the news media or Trump with 'made-up' news." *Pew Research Center*, 5 June 2019, https://www.pewresearch.org/fact-tank/2019/06/05/partisans-are-divided-on-whether-they-associate-the-news-media-or-trump-with-made-up-news/.

21. Schudson, Michael. "The Fall, Rise, and Fall of Media Trust." *Columbia Journalism Review*, 2019.

22. In 2019, *The Washington Post* added 10 investigative journalists in what it called a "major expansion of its investigative journalism." *See* Williams, Rob. "'The Washington Post' Adds 10 Investigative Journalists." *The Washington Post*, 21 June 2019, https://www.mediapost.com/publications/article/337333/the-washington-post-adds-10-investigative-journa.html.

reporting led to the recent headline discoveries regarding Jeffrey Epstein's criminal activity as well as the Ukrainian corruption that led to the Trump impeachment trials.[23,24]

By shifting to a more narrative style, the news is, by nature, filtered through the lens of the values and systems of sense-making of the journalists and editors of the institution. This is different from claims that the mainstream media constitutes "fake news" as these biases are mitigated by professional journalistic standards for objective news-gathering. As news consumers interpret this newer style of reporting, it is unsurprising that Americans would recognize their own values and worldviews in the stories they consume, projecting their own partisan biases.

The behavioral economics concept of confirmation bias would suggest that news consumers are more likely to seek out and believe information that confirms their pre-existing beliefs. Many have argued that the same phenomenon persists on social media, creating ideological filter bubbles that are perpetuated by social media content algorithms (see "Filter Bubbles" below). This would further suggest that society's political polarization would fuel an increase in media partisanship.

During the past several decades, the United States has seen a rise in political polarization as a measure of increasing ideological consistency in both parties.[25] The Pew Research Center's 2014 report concludes that "When responses to 10 [political values] questions are scaled together to create a measure of ideological consistency, the median (middle) Republican is now more conservative than nearly all Democrats (94%), and the median Democrat is more liberal than 92% of Republicans."[26] It would follow, then, that the news media consumed by these constituencies would likewise follow the growing partisan divide in terms of ideological consistency.

Polarization and Attacks on Speech

As political ideologies have become increasingly polarized, the exercise of free speech has become similarly polarized. This section explores how the exercise of counterspeech can infringe upon the right to free speech for ideologically opposed groups.

Additionally, it will describe how whistleblowing as an accountability mechanism for exposing government wrongdoing to the press has been attacked by recent presidential administrations. This limits the ability for free speech to be used to provide checks on government power.

IDEOLOGICAL CLASHES IN CIVIL SOCIETY DEMONSTRATIONS

Protests on college campuses are not a new phenomenon, but in recent years, such protests have often been linked to partisan antipathy toward ideologically extreme campus visitors. Students across the country have staged protests in response to visiting campus speakers with whom they have ideological differences or whose policies or actions they denounce. In many cases, the visiting speaker was blocked from speaking either before arriving on campus or even after the event had begun.

There are many examples of this phenomenon from the past decade, ranging from the cancellation of small events to large events that escalated in some cases to violence. In 2014, the threat of student protests caused commencement speakers Christine Lagarde and Condoleezza Rice to withdraw from speaking at Smith College and Rutgers University respectively.[27] In 2017, students at Middlebury College protested a visiting speaker, Charles Murray, who had been invited to campus by a conservative student group. Protests blocked the speech from taking place and devolved into violence against the speaker and a Middlebury professor while they were attempting to leave the site.[28] The protesters claimed that their efforts did not infringe upon free speech because the university's platform is not required for free speech. The university countered that its platform was available to the speaker because he was invited by students. Two years later, Middlebury College canceled a visit from Ryszard Legutko, a conservative politician from Poland, due to concerns about maintaining the safety of the event and a counter-event planned by student protesters.[29] These incidents exemplify the conflict that can occur when the First Amendment rights of ideologically opposed groups come into conflict.

Ideological tension is a foundation of a healthy democracy and higher education. College administrations have typically

23. Calderone, Michael. "Jeffrey Epstein prosecutors aided by 'excellent investigative journalism'." *Politico*, 8 July 2019, https://www.politico.com/story/2019/07/08/jeffrey-epstein-prosecutors-aided-investigative-journalism-1402221.

24. Schapiro, Mark. "The Story of the Ukraine Scandal Begins With Documents Dumped in a River." *Mother Jones*, Mar./Apr. 2020, https://www.motherjones.com/politics/2020/02/ukraine-impeachment-trump-journalism-yanukovych/.

25. "Political Polarization in the American Public." *Pew Research Center*, 12 June 2014, https://www.people-press.org/2014/06/12/section-1-growing-ideological-consistency/.

26. Ibid.

27. Pérez-Peña, Richard. "After Protests, I.M.F. Chief Withdraws as Smith College's Commencement Speaker." *The New York Times*, 12 May 2014, https://www.nytimes.com/2014/05/13/us/after-protests-imf-chief-withdraws-as-smith-colleges-commencement-speaker.html?_r=0.

28. Beinart, Peter. "A Violent Attack on Free Speech at Middlebury." *The Atlantic*, 6 Mar. 2017, https://www.theatlantic.com/politics/archive/2017/03/middlebury-free-speech-violence/518667/.

29. Syed, Maleeha. "Middlebury College cancels talk with conservative speaker for safety purposes." *Burlington Free Press*, 17 Apr. 2019, https://www.burlingtonfreepress.com/story/news/local/2019/04/17/campus-free-speech-middlebury-college-charles-murray-european-parliament-ryszard-legutko/3494450002/.

avoided any action that would censure speech from any side (except incendiary hate speech or speech that incites violence). Preserving this tension while protecting students and speakers from physical danger has come at a very high financial cost to college administrations. For example, in 2017, the University of California at Berkeley spent more than $2.5 million on security for controversial visitors.[30]

Differences of opinion are the basis for protecting free speech. In settings in which power differentials deter, suppress, or punish dissenting opinions, free expression is denied. In 2016 NFL quarterback Colin Kaepernick began kneeling during the national anthem before each game as a demonstration of protest against police brutality against people of color in the United States. Although Kaepernick gained support from many fellow NFL players on his own team and throughout the league, he faced resistance from NFL team owners, fans, and President Trump. Those who condemned the protest claimed that kneeling during the national anthem showed a lack of respect for the country's armed forces. Kaepernick did not receive a contract with the NFL for the following season, but the protest continued, and the conflict escalated in 2017 when President Trump called on NFL owners to fire players who participated in the protest.[31] The President criticized NFL leadership for not punishing protesting players, calling them "weak and out of control."[32] Following the public anger and President Trump's criticisms, Kaepernick was not signed by an NFL team after the 2016 season and has since settled a suit against the NFL in which he claimed that the league had colluded to bar him from playing due to his protests.[33] This case demonstrates the influence that power structures have on an individual's right to free expression. Kaepernick's protest did not interfere with his ability to perform his football duties, but his public expression cost him his career.

Some ideological clashes have produced criminal violence in recent years, particularly in the 2017 Charlottesville Unite the Right rally and its violent confrontation with a nonviolent counter-protest.

The white nationalist rally and the counter-protest resulted in a state of emergency in the city. Violence broke out, and a white nationalist drove a car into a crowd of counter-protesters, leaving one dead and more than a dozen injured. The driver of the car was later convicted of federal hate crime murder charges and sentenced to life imprisonment.[34] Many blamed President Trump for encouraging white nationalism in his election campaign and for later making a statement after the Charlottesville killing equating the actions of both sides, saying, "We condemn in the strongest possible terms this egregious display of hatred, bigotry and violence on many sides, on many sides,"[35] and later in defense of his comment, "but you also had people that were very fine people, on both sides."[36]

These cases illustrate a shift in the central concern regarding censorship from government suppression of free speech to censorship through counterspeech and harassment from individuals.[37] The outcomes of these events show the potential hazards of allowing censorship through noise by way of counterspeech, ideological opponents, or even online trolls rather than *hard control*, as defined by York and Zuckerman,[38] of speech through policy or institutional norms.

During the summer of 2020, mass protests broke out across the country in response to incidents of police brutality against Black Americans, particularly the murder of George Floyd by Minneapolis police officers.[39] The public response has been a renewed energy behind the Movement for Black Lives with an emphasis on an end to police brutality and some arguing for the abolition of police and the carceral system. The movement has highlighted the endorsement of police violence by the state and the lack of political will to change the system that reinforces violence against and mass incarceration of Black people. This has created a division between protestors and state officials which has led to numerous instances of the arguable suppression of the First Amendment right to assembly. For instance, on June 1, 2020, protestors in Lafayette Square, adjacent to the White House, were forcibly cleared from the area by National Guard and Park

30. Simon, Caroline. "Free Speech Isn't Free: It's Costing College Campuses Millions." *Forbes*, 20 Nov. 2017, https://www.forbes.com/sites/carolinesimon/2017/11/20/free-speech-isnt-free-its-costing-college-campuses-millions/#5cea520e1ee7.

31. Anderson, Brynn. "Trump says NFL should fire players who kneel during national anthem." *Los Angeles Times,* 22 Sept. 2017, https://www.latimes.com/nation/nationnow/la-na-trump-nfl-anthem-20170922-story.html.

32. Schad, Tom. "Donald Trump calls NFL 'weak and out of control' in latest tweet about protests." *USA Today*, 28 Nov. 2017, https://www.usatoday.com/story/sports/nfl/2017/11/28/donald-trump-calls-nfl-weak-and-out-control-latest-tweet-protests-anthem/900535001/.

33. Lockhart, P.R. "Colin Kaepernick's collusion grievance against the NFL, explained," *Vox*, 6 Sept. 2018, https://www.vox.com/identities/2018/9/6/17820158/colin-kaepernick-eric-reid-collusion-grievance-protest-settlement.

34. "Man gets life plus 419 years in deadly Charlottesville car attack." *CBS News*, 15 July 2019, https://www.cbsnews.com/news/james-alex-fields-jr-charlottesville-car-attack-sentenced-life-plus-419-years-today-2019-07-15/.

35. Drobnic Holan, Angie. "In Context: President Donald Trump's statement on 'many sides' in Charlottesville, Va." *Politifact*, The Poynter Institute, 14 Aug. 2017, https://www.politifact.com/article/2017/aug/14/context-president-donald-trumps-saturday-statement/.

36. Drobnic Holan, Angie. "In Context: Donald Trump's 'very fine people on both sides' remarks (transcript)." *Poitifact*, The Poynter Institute, 26 Aug. 2019, https://www.politifact.com/article/2019/apr/26/context-trumps-very-fine-people-both-sides-remarks/.

37. Jørgensen, Rikke Frank. *Human Rights in the Age of Platforms.* MIT Press, 2019, https://doi.org/10.7551/mitpress/11304.003.0012.

38. Ibid.

39. "George Floyd: What happened in the final moments of his life." *BBC News*, 16 July 2020, https://www.bbc.com/news/world-us-canada-52861726.

Police through the use of "smoke canisters, irritants, explosive devices, batons and horses."[40] A few minutes after the incident, President Trump walked through the park so that he could pose for a photo op in front of St. John's Church which sits across the park from the White House. This incident has been cited by many as an example of the Trump administration calling for an attack on lawful assembly without cause.

As protests continued across the country, the city of Portland, Oregon, experienced a heightened response from the federal government. In early July, after nightly protests for more than a month, federal agents were deployed to Portland in a supposed effort to respond to the unrest. The agents were fully militarized, using tear gas and other less-lethal tactics against protestors and, in some cases, pulling protestors into unmarked vans and detaining them without cause.[41] Though the federal forces were sent into the city under the auspices of easing unrest and protecting federal property, city and Oregon state officials have strongly opposed the federal presence, and protests in solidarity with Portland have sprung up across the country, increasing unrest.

All of these examples emphasize the centrality of race in the ideological clashes that occurred (see "Racial Justice"). These instances illustrate the role that racism plays in the experience of free speech in America. Racist expression is currently a form of protected speech under the Constitution, and though it is considered objectionable by many American citizens and institutions, legal censure of racist speech is not always permissible. In recent years, several instances of students at public high schools and universities being expelled for posting racist videos online show the tension between the desire to sanction racist speech with the protection of civil liberties.[42,43] The authorities in these cases justified the decision to expel students on the basis of maintaining a safe educational environment for all students, but the ACLU argues that many of these cases cross the line into illegal censorship of free speech.[44] As anti-racist movements such as Black Lives Matter grow in prominence, cultural norms that seek to suppress racist language clash with the legal protection of non-targeted racist expression. Flashpoints around this topic will continue to occur as tensions regarding race in America rise.

WHISTLEBLOWERS

Although freedom of speech is one of the most ardently defended constitutional rights, it has faced attacks in a variety of forms in recent years. One function of free speech is to create a mechanism for dissent. Whistleblower protections provide an important defense for those who seek accountability for government action from inside the state. The Whistleblower Protection Act of 2007 protects government employees from retaliation when they make a "protected disclosure" of government wrongdoing.[45] This legislation protects the right to free speech to enforce government accountability within agencies that maintain strict confidentiality measures.

On August 12, 2019, a whistleblower within the intelligence community filed a complaint that alleged that President Trump had tried to arrange a quid pro quo deal with the president of Ukraine to investigate his political opponent Joe Biden. As the investigation into this claim was going on, the Trump administration and its supporters in Congress repeatedly demanded that the whistleblower's identity be revealed. Protection of a whistleblower's identity is provided by the Whistleblower Protection Act.[46] The argument against releasing the identity of a whistleblower is that doing so would put the individual in danger of retaliation and discourage other whistleblowers from coming forward. President Trump repeatedly called for the whistleblower's identity to be revealed, claiming that the individual had made false accusations and was "a big anti-Trump person."[47] Disclosing the whistleblower's identity would have led to retaliation from the administration and its supporters.

The whistleblower was not the only target of retaliation during and after the Trump impeachment hearings. The president recently fired several government employees who had testified

40. Bump, Philip. "Timeline: The clearing of Lafayette Square." *The Washington Post*, 5 June 2020, https://www.washingtonpost.com/politics/2020/06/02/timeline-clearing-lafayette-square/.

41. Olmos, Sergio. "Federal Agents Unleash Militarized Crackdown on Portland." *The New York Times*, 17 July 2020, https://www.nytimes.com/2020/07/17/us/portland-protests.html.

42. Kerr, Emma. "Should Students Be Expelled for Posting Racist Videos?" *The Chronicle of Higher Education*, 26 Jan. 2018, https://www.chronicle.com/article/Should-Students-Be-Expelled/242364.

43. Rhett Miller, Joshua. "Georgia students expelled for posting 'racist' TikTok video." *New York Post*, 20 Apr. 2020, https://nypost.com/2020/04/20/georgia-students-expelled-for-posting-racist-video-on-tiktok/.

44. Eidelman, Vera, and Sarah Hinger. "Some Schools Need a Lesson on Students' Free Speech Rights." *American Civil Liberties Union*, 18 Sept. 2018, https://www.aclu.org/blog/free-speech/student-speech-and-privacy/some-schools-need-lesson-students-free-speech-rights.

45. Whitaker, L. Paige. *The Whistleblower Protection Act: An Overview.* Congressional Research Service, 12 Mar. 2007, https://fas.org/sgp/crs/natsec/RL33918.pdf.

46. Wolfe, Jan. "Explainer: Is it illegal for Trump or Congress to name the impeachment whistleblower?" *Reuters*, 7 Nov. 2019, https://www.reuters.com/article/us-usa-trump-impeachment-whistleblower-e/explainer-is-it-illegal-for-trump-or-congress-to-name-the-impeachment-whistleblower-idUSKBN1XH2QS.

47. CBS Evening News. "Trump demands whistleblower's identity be revealed." *YouTube*, 3 Nov. 2019, https://www.youtube.com/watch?v=m6-Qx-ZYcfsc.

or otherwise participated in the hearings in the course of their duties or pursuant to a court order. Trump has fired Intelligence Community Inspector General Michael Atkinson who had concluded the whistleblower's complaint was credible and brought it to Congress.[48] After the impeachment acquittal, the President fired 2 important witnesses from the hearings: U.S. Ambassador to the European Union Gordon Sondland and Ukraine policy officer on the National Security Council Lt. Col. Alexander Vindman.[49] Several other high-level officials involved as witnesses in the impeachment proceedings left their posts during or after the investigation, including former U.S. envoy to Ukraine Marie Yovanovitch and former top U.S. envoy to Ukraine Bill Taylor among others.[50] Many view these events as acts of retaliation for cooperating with the congressional proceedings even though the witnesses were testifying under subpoena. Severe retaliatory tactics like this discourage future whistleblowers from coming forward for fear of retribution.

In March 2020, the President fired Glenn Fine, the acting inspector general of the Pentagon, from his role as the chair of the Pandemic Response Accountability Committee responsible for monitoring government spending under the $2 trillion pandemic relief bill. Fine had been chosen for the new role by the other inspector generals on the committee.[51]

Earlier attacks on whistleblowers have occurred during the past decade. In 2010, during the Obama administration, NSA senior executive Thomas Drake shared unclassified documents with a Baltimore Sun reporter preparing an article on NSA domestic spying on citizens. He was later charged with crimes under the Espionage Act after allegedly bringing the documents home. *The New Yorker* and "60 Minutes" ran stories on the case which led to public scrutiny. The charges were subsequently dropped, leading some to argue that the case fell apart due to media attention.[52] The Drake case illustrates the role of a whistleblower as an instrument of government accountability and the role of the press in revealing abuses of power.

The balance between the role of the press as an instrument of government accountability and the responsibility of the government for protecting national defense secrets has become contentious between whistleblowers, journalists, and national security officials in the digital age.

Under the Obama administration, there was an increase in the prosecution of suspected leakers under the Espionage Act. Before 2009, there were only 3 previous cases tried under the Espionage Act, but during the Obama years, 8 such cases were prosecuted.[53] Though the Espionage Act is targeted at spies who serve foreign governments, the new interpretation of the law has targeted Americans who leak sensitive or classified material to journalists. A 2017 report by the Freedom of the Press Foundation concludes that "the [espionage] law, as currently interpreted, makes no distinction between a person who disclosed information to help foreign enemies undermine U.S. national security and a person who disclosed information to help the press expose illegal government programs."[54]

In 2019, the government indicted Julian Assange, the publisher of Wikileaks, for publishing leaked classified documents revealing criminal conduct by U.S. military officials in Afghanistan. Editors of *The Washington Post*[55] and *The New York Times*[56] criticized the indictment as a dangerous precedent for holding journalists and publishers criminally liable for publishing leaked information about government misconduct.

This is a complex issue that pits national security against government misconduct. The balance between the role of the press as an instrument of government accountability and the responsibility of the government for protecting national

48. Haberman, Maggie, and Michael S. Schmidt. "Trump Has Considered Firing Intelligence Community Inspector General." *The New York Times*, 12 Nov. 2019, https://www.nytimes.com/2019/11/12/us/politics/trump-michael-atkinson-inspector-general.html.

49. Cheney, Kyle, et al. "Impeachment witnesses ousted amid fears of Trump revenge campaign." *Politico*, 7 Feb. 2020, https://www.politico.com/news/2020/02/07/donald-trump-pressure-impeachment-witness-alexander-vindman-111997.

50. Ibid.

51. Savage, Charlie, and Peter Baker. "Trump Ousts Pandemic Spending Watchdog Known for Independence." *The New York Times*, 7 Apr. 2020, https://www.nytimes.com/2020/04/07/us/politics/trump-coronavirus-watchdog-glenn-fine.html

52. Hudson, John. "Does Thomas Drake Owe the Media his Freedom?" *The Atlantic*, 10 June 2011, https://www.theatlantic.com/politics/archive/2011/06/does-thomas-drake-owe-media-his-freedom/351652/.

53. Myre, Greg. "Once Reserved For Spies, Espionage Act Now Used Against Suspected Leakers." *National Public Radio*, 28 June 2017, https://www.npr.org/sections/parallels/2017/06/28/534682231/once-reserved-for-spies-espionage-act-now-used-against-suspected-leakers.

54. Sterne, Peter. "Obama used the Espionage Act to put a record number of reporters' sources in jail, and Trump could be even worse." *Freedom of the Press Foundation*, 21 June 2017, https://freedom.press/news/obama-used-espionage-act-put-record-number-reporters-sources-jail-and-trump-could-be-even-worse/.

55. Goitein, Elizabeth. "The U.S. says Julian Assange 'is no journalist.' Here's why that shouldn't matter." *The Washington Post*, 25 May 2019, https://www.washingtonpost.com/outlook/2019/05/25/us-says-julian-assange-is-no-journalist-heres-why-that-shouldnt-matter/?noredirect=on.

56. "Julian Assange's Indictment Aims at the Heart of the First Amendment." *The New York Times*, 23 May 2019, https://www.nytimes.com/2019/05/23/opinion/julian-assange-wikileaks.html.

defense secrets (which may also include evidence of government misconduct) has become contentious between whistleblowers, journalists, and national security officials in the digital age.

Social Media and Its Impact on the Information Ecosystem

The rise of social media in the United States and globally has transformed the speech and media ecosystem through which information and opinion are disseminated. With social media outpacing print newspapers as a news source for Americans,[57] more than half of all adults report getting their news through Facebook.[58]

Social media have democratized speech by eliminating most barriers to publishing content. In the traditional press model, publishers act as gatekeepers, presenting professionally developed stories and information to consumers based on norms of journalistic neutrality and integrity. Though polarized media and false disputed information have always been realities of the information ecosystem, professional journalistic gatekeeping intends to provide "fair and balanced" information, arguably providing a basis for discourse. Without the gatekeeping function of traditional journalism, social media publication greatly complicates the search for facts and truth on which the integrity of the democratic process depends. The power of social media lies in the platforms' ability to amplify and suppress content based on the calculations of powerful, proprietary machine-learning algorithms. These tools vary in the ways they prioritize the amplification and suppression of different kinds of content across a variety of metrics. With this technology, social media platforms can become ideological echo chambers, amplify harmful false information, and provide a platform for destructive disinformation campaigns. At the same time, social media's democratization of speech has created an unprecedented capacity for grassroots mobilization and has lifted voices who lack access to traditional forms of communication and power.

Social media have had a significant impact on the way traditional mass media function. According to a 2010 study, 60% of mainstream journalists use social media as a source in their research.[59] Social media and other digital platforms have altered the speed at which information can be spread throughout the country and the world. Through algorithmic amplification and organic sharing of content, firsthand accounts of events and armchair analysis can be made available globally in an instant. The circulation of this kind of information is not held to the same journalistic standards that traditional media outlets adhere to, so journalists have difficulty keeping up with the accelerating rate of information explosion that occurs on social media.

SOCIAL MEDIA AND THE DEMOCRATIZATION OF SPEECH

The rise of social media has democratized access to platforms for sharing and spreading ideas and information. It has broken down barriers that had kept individuals from being able to engage more widely in political, social, and cultural activities. The platforms provide a mechanism for users to come together around common interests, facilitating new forms of collective action.

According to a 2018 survey by Pew Research Center, about half (53%) of American adults had engaged in some form of civic activity on social media within the previous year.[60] The examples in the survey include both online and offline actions and a range of effort.[61] In addition to a broad-based increase in small-scale civic engagement, social media have provided a platform for large-scale organizing.[62] The March For Our Lives led by high school students against gun violence was organized through social media, bringing thousands of students together from across the country. Started in 2018 by students from Marjory Stoneman Douglas High School in Parkland, Florida, who experienced firsthand gun violence in schools, this student gun control movement used social media to organize the largest single-day protest against gun violence in history, with hundreds of thousands of protesters demonstrating across the globe.[63,64] (See "Gun Rights and Public Safety.") Similarly, the #MeToo movement harnessed the power of collective action on social media by creating visibility of the broad pervasiveness of sexual harassment. (See "Women's Rights.")

57. Shearer, Elisa. "Social media outpaces print newspapers in the U.S. as a news source." *Pew Research Center*, 10 Dec. 2018, https://www.pewresearch.org/fact-tank/2018/12/10/social-media-outpaces-print-newspapers-in-the-u-s-as-a-news-source/.

58. Schaeffer, Katherine. "U.S. has changed in key ways in the past decade, from tech use to demographics." *Pew Research Center*, 20 Dec. 2019, https://www.pewresearch.org/fact-tank/2019/12/20/key-ways-us-changed-in-past-decade/.

59. Bunz, Mercedes. "Most journalists use social media such as Twitter and Facebook as a source." *The Guardian*, 15 Feb. 2010, https://www.theguardian.com/media/pda/2010/feb/15/journalists-social-music-twitter-facebook.

60. Anderson, Monica, et al. "Public attitudes toward political engagement on social media." *Pew Research Center*, 11 July 2018, https://www.pewresearch.org/internet/2018/07/11/public-attitudes-toward-political-engagement-on-social-media/.

61. The specific actions listed in the survey were: (1) taken part in a group that shares an interest in an issue/cause (34%), (2) encouraged others to take action on issues important to them (32%), (3) looked up information on local protests/rallies (19%), (4) changed profile picture to show support for a cause (18%), and (5) used hashtags related to a political/social issue (14%).

62. Willingham, AJ. "Slacktivism is over. The #NeverAgain movement is about what's next." *CNN*, 25 Mar. 2018, https://www.cnn.com/2018/03/25/us/march-for-our-lives-slacktivism-trnd/index.html.

63. "Mission and Story." *March for Our Lives*, https://marchforourlives.com/mission-story/.

64. "March for Our Lives Highlights: Students Protesting Guns Say 'Enough Is Enough.'" *The New York Times*, 24 Mar. 2018, https://www.nytimes.com/2018/03/24/us/march-for-our-lives.html.

Critics argue that social media have created a culture of "slacktivism," a pejorative term used to describe the low-cost, low-impact activism of supporting causes through social media (e.g. sharing posts by advocacy organizations, using political hashtags, or signing an online petition). However, movements like #MeToo, Black Lives Matter, and March for Our Lives have shown that social media can be a powerful tool for mass group mobilization both online and off. Author and lecturer Clay Shirky argues that the power of social media to impact social movements is not just that the technology strengthens tactical organizing capacity, but that these platforms change the competitive landscape by empowering traditionally under-resourced movements compared to incumbents.[65] Examples of social media playing a leading role in movements against authoritarian regimes can be found throughout the world, from the Arab Spring in the early 2010s[66] to the Umbrella Movement in Hong Kong where social media was referred to as an "insurgent public sphere."[67] These movements benefitted both from the power to organize in mass numbers, the anonymity that many platforms provide which protects protesters from state retribution, and the speed with which stories could be shared throughout the region and world.

The uplifting of marginalized voices is one of the aspects of social media with the greatest positive potential for society, and data suggest that this is a critical function of the platforms. In a Pew Research Center survey about political engagement on social media, Black and Hispanic survey respondents stated that social media were very important for their ability to engage in civic activity. The Pew survey indicated that social media are more important for minority respondents than for whites.[68] This finding suggests that social media are already playing an important role in redistributing access to the tools of civic engagement and applying pressure on elected officials. The same study found that a majority of Americans believe that social media are an important tool for getting elected officials to pay attention to the issues people care about and for creating sustained movements for social change.[69] This finding shows that social media can play the role that traditional media have played in holding government accountable, and has become a mechanism for the public to raise concerns to elected officials through mass action.

However, a 2020 internal audit by civil rights experts suggested that Facebook has fallen short in its commitment to protecting civil rights on the platform.[70] In fact, the auditors contended that Facebook's decision to protect freedom of speech at the expense of other protections such as nondiscrimination or equality has had a detrimental effect on the platform's impact on civil rights. The report suggested that Facebook should be doing more to strengthen civil rights on the platform, but auditors were most concerned with Facebook's decision to exempt politicians' speech from fact-checking and community standards violations.

In particular, the auditors cited a specific instance in May 2020 in which President Trump posted on Facebook and Twitter regarding a wave of protests for racial justice following the murder of George Floyd. The President wrote, "...These THUGS are dishonoring the memory of George Floyd, and I won't let that happen. Just spoke to Governor Tim Walz and told him that the Military is with him all the way. Any difficulty and we will assume control but, when the looting starts, the shooting starts..."[71] This statement would ordinarily be flagged by Facebook's Violence and Incitement Community Standard as it references a call to action against a particular group of people. However, Facebook leaders allowed the post to remain on the platform because it served as "a warning about impending state action" which is not prohibited by the Violence and Incitement Community Standard.[72]

With Facebook's broad reach and power to scale, civil rights concerns are also amplified. The civil rights experts who conducted the audit found that the platform has prioritized free speech over all else, concluding that free speech should be constrained in favor of other civil rights enhancements.

THE IMPACT OF SOCIAL MEDIA ON FREEDOM OF SPEECH

During the past decade, there has been an increasing reliance on social media for news and political information. Although television is still the most popular source for news, social media surpassed print newspapers in 2017 in percent of the population using the platform for news, with the gap widening in 2018.[73] Nearly two-thirds of adults in the U.S. get their news from social

65. Gladwell, Malcolm, and Clay Shirky. "From Innovation to Revolution: Do Social Media make Protests Possible?" *Foreign Affairs*, vol. 90, no. 2, Mar. 2011, pp. 153-154, http://search.proquest.com.ezp-prod1.hul.harvard.edu/docview/853657631?accountid=11311.

66. Howard, Philip N., and Muzammil M. Hussain. "The Upheavals in Egypt and Tunisia: The Role of Digital Media." *Journal of Democracy*, vol. 22, no. 3, 2011, pp. 35-48, doi:10.1353/jod.2011.0041.

67. Lee, Paul S. N., et al. "Social media and Umbrella Movement: insurgent public sphere in formation." *Chinese Journal of Communication*, vol. 8, no. 4, 2015, pp. 356-375, https://doi.org/10.1080/17544750.2015.1088874.

68. Anderson, Monica, et al. "Activism in the Social Media Age." *Pew Research Center*, 11 July 2018, https://www.pewresearch.org/internet/2018/07/11/public-attitudes-toward-political-engagement-on-social-media/.

69. Ibid.

70. Murphy, Laura W., et al. *Facebook's Civil Rights Audit*. Facebook, 8 July 2018, https://about.fb.com/wp-content/uploads/2020/07/Civil-Rights-Audit-Final-Report.pdf.

71. Trump, Donald J. Response to unrest in Minneapolis. *Facebook*, 29 May 2020, https://www.facebook.com/DonaldTrump/posts/10164767134275725.

72. Murphy, Laura W., et al. *Facebook's Civil Rights Audit*. Facebook, 8 July 2018.

73. Shearer, Elisa. "Social media outpaces print newspapers in the U.S. as a news source." *Pew Research Center*, 10 Dec. 2018, https://www.pewresearch.org/fact-tank/2018/12/10/social-media-outpaces-print-newspapers-in-the-u-s-as-a-news-source/.

> **The complex design of social media sites...use algorithms to determine what content to amplify and what to suppress, but in contrast to traditional media, these platforms are not legally responsible for monitoring the content of speech that users post or promote.**

media.[74] With the increase of time and political engagement on social media, digital platforms have a growing impact on the political information ecosystem.

Social media platforms present a new kind of speech outlet, distinct from the way that traditional media functioned in the pre-digital age. The complex design of social media sites like Facebook use algorithms to determine what content to amplify and what to suppress, but in contrast to traditional media, these platforms are not legally responsible for monitoring the content of speech that users post or promote. Traditional news outlets are liable for any defamatory material that they publish, but since social media are not considered publishers, they are exempt from this accountability.

CONTENT CURATION AND CDA 230

The freedom from liability for social media providers is a result of the Communications Decency Act, Section 230 (CDA 230). This legislation states that "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider."[75] The legislation frees platforms from liability for the information that is posted by social media users on the site.

The CDA 230 originated in 1996 when lawmakers were trying to promote self-regulation among tech companies. It began with a case in which a financial firm sued a bulletin-board website for libel after a user of the site accused the firm of fraud.[76] The website moderators claimed that their site functioned like a library which is not liable for the content within books it provides to the public. The court found that the platform was, in fact, liable because the moderators had edited posts to remove objectionable language and was thus acting more like the editor of a newspaper. The CDA 230 freed social media from liability for content while preserving the "Good Samaritan" principle that encouraged sites to conduct some degree of content monitoring (e.g. to remove foul language

or obscenity). The sponsors argued that this provision maintained freedom of speech on the internet by distinguishing platforms from publishers, similar to the distinction between libraries and newspapers. Under this theory, internet platforms serve as hosts for users to post content for which they are independently responsible. The CDA 230 allowed platforms to engage in content curation for the betterment of the community insofar as they saw fit to do so.

Today, the conversation around the CDA 230 has been turned on its head. Critics of the legislation argue that companies are using the provision as a shield to protect them from being held accountable for their decisions about curating the content on their platforms. This curation includes both the decisions that social media platforms make about what information is promoted on the site as well as the way that algorithms enhance the reach of information that is likely to engage more users. Some argue that the policies and algorithms that determine the ability of different posts to spread are a form of content curation that is akin to publishing. However, critics are divided along partisan lines: conservatives typically argue that sites like Facebook have censored conservative content, while liberals argue that the platforms should be required to take a stronger stand against disinformation and hate speech.[77]

Social media platforms have largely refrained from content curation, except for removing certain types of speech that violate community standards such as hate speech, calls for violence, and solicitations of sex. In the era of false information in the public sphere, calls have increased for social media to address the spread of disinformation online. However, social media sites have been hesitant to take on the responsibility of being the arbiters of truth.

The norm is for platforms to rely on the "marketplace of ideas." This refers to the idea that valuable content will beat out less valuable content through forces akin to the "invisible hand" of the unregulated market. Mark Zuckerberg has invoked the marketplace of ideas in his defense of Facebook's 2019 decision to stop fact-checking political speech. This is related to the idea of counterspeech as the remedy for undesirable speech, meaning that more speech is a better remedy than restricting free speech. The concept was originated by Justice Louis D. Brandeis in *Whitney v. California* (1927): "If there be time to expose through discussion the falsehoods and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence."[78]

74. Shearer, Elisa, and Jeffrey Gottfried. "News Use Across Social Media Platforms 2017." *Pew Research Center*, 7 Sept. 2017, https://www.journalism.org/2017/09/07/news-use-across-social-media-platforms-2017/.

75. "Section 230 of the Communications Decency Act." *Electronic Frontier Foundation*, https://www.eff.org/issues/cda230.

76. Selyukh, Alina. "Section 230: A Key Legal Shield For Facebook, Google Is About To Change." *National Public Radio*, 21 Mar. 2018, https://www.npr.org/sections/alltechconsidered/2018/03/21/591622450/section-230-a-key-legal-shield-for-facebook-google-is-about-to-change.

77. Geltzer, Joshua A. "The President and Congress Are Thinking of Changing This Important Internet Law." *Slate*, 25 Feb. 2019, https://slate.com/technology/2019/02/cda-section-230-trump-congress.html.
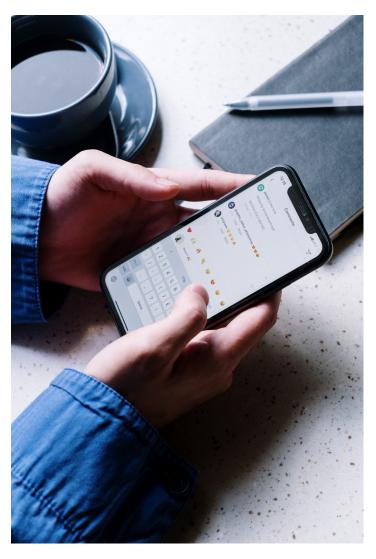
78. Hudson Jr., David L. "Counterspeech Doctrine." *The First Amendment Encyclopedia*, Middle Tennessee State University, Dec. 2017, https://www.mtsu.edu/first-amendment/article/940/counterspeech-doctrine.

In response to the "marketplace of ideas" theory, proponents of social media regulation argue that the freedom from liability enjoyed by social media platforms through the CDA 230 threatens the information ecosystem.[79,80] The argument for social media regulation is that platforms should be treated like publishers. This treatment would subject social media platforms to the same defamation and libel law that governs newspapers and other traditional media outlets. While these outlets are not required by law to publish factually accurate information, the defamation and libel laws provide an incentive to reject user posts that would constitute defamatory or libelous material. This incentive could have an effect similar to the traditional gatekeeping function of the mainstream media. In response, opponents of social media regulation argue that marginalized voices who benefit from the democratized social media platforms would be diminished.[81] In addition, smaller social media sites would not have the resources to monitor content at scale, and the internet might become less receptive to innovation.[82]

FILTER BUBBLES

Because social media algorithms are designed to show users content that will be most relevant to them,[83,84] analysts have commented on the tendency of social media to reflect back to the user their own biases. This phenomenon is referred to as a filter bubble. Filter bubbles are related to the pre-existing sociological concept of echo chambers. An echo chamber is the idea that people often surround themselves with others who share similar views, and the term filter bubble refers to the algorithmic reinforcement of echo chambers as described previously.

Filter bubbles are linked to the ideologically heterogeneous media landscape which provides news and political information with an ideological slant that can be amplified amongst ideologically aligned circles on social media.[85] In a study of political bubbles on Twitter, researchers found that the willingness to engage with media from the opposing political viewpoint was not equally distributed across the political divide. Conservative Twitter users were more likely to follow media accounts from left-leaning sources than liberal users were to follow equally right-leaning media accounts.[86]

Research into the polarizing effect of social media has produced mixed results.

A 2016 study found that the use of social media and search engines was correlated with an increase in mean ideological separation, but the study also found that social media users were exposed to an increase in diverse views.[87] A 2018 Pew Research

79. Cruz, Ted. "Sen. Ted Cruz: Facebook has been censoring or suppressing conservative speech for years." *FOX News*, 11 Apr. 2018, https://www.foxnews.com/opinion/sen-ted-cruz-facebook-has-been-censoring-or-suppressing-conservative-speech-for-years.

80. Hatmaker, Taylor. "Nancy Pelosi warns tech companies that Section 230 is 'in jeopardy.'" *TechCrunch*, 12 Apr. 2019, https://techcrunch.com/2019/04/12/nancy-pelosi-section-230/.

81. "Offline-Offline." *Online Censorship*, https://www.onlinecensorship.org/content/infographics.

82. Harmon, Elliot. "Changing Section 230 Would Strengthen the Biggest Tech Companies." *The New York Times*, 16 Oct. 2019, https://www.nytimes.com/2019/10/16/opinion/section-230-freedom-speech.html.

83. "How News Feed Works." *Facebook for Business*, https://www.facebook.com/help/publisher/718033381901819.

84. "About your Twitter Timeline." *Twitter Help Center*, https://help.twitter.com/en/using-twitter/twitter-timeline.

85. Eady, Gregory, et al. "How Many People Live in Political Bubbles on Social Media? Evidence From Linked Survey and Twitter Data." *SAGE Open*, vol. 9, no. 1, 2019, https://doi.org/10.1177/2158244019832705.

86. Ibid.

87. Flaxman, Seth, et al. "Filter Bubbles, Echo Chambers, and Online News Consumption." *Public Opinion Quarterly*, vol. 80, no. S1, 2016, pp. 298-320, https://doi.org/10.1093/poq/nfw006.

Center study found that 14% of U.S. adults said that their views on an issue had changed because of something they had seen on social media in the past year.[88] These findings suggest that social media may increase users' exposure to information from competing ideological sources, but the studies are not conclusive. In addition, Facebook's own research found that while users are most likely to share content that aligns with their own political ideology, they are exposed to a wider range of differing opinions due to the weak-tie relationships that Facebook surfaces, which are more likely to differ from one's closer, strong-tie circle.[89]

Psychological concepts about information processing have been used to analyze how users experience the information that they encounter on social media. Confirmation bias studies demonstrate that individuals are more likely to accept as valid information that confirms what they already believe to be true about the world than information that contradicts it.[90] This implies that in "the marketplace of ideas" in which users are expected to evaluate conflicting perspectives, confirmation bias will skew toward the person's pre-existing ideology. If this is true, the way individual users process the information they encounter may play a role in shaping the information ecosystem.

SOCIAL MEDIA AND POLITICAL SPEECH

Social media have become a primary source of news for many Americans. The platforms that host the news content reflect the changing political landscape and have instituted their own policies that determined the parameters of the information ecosystem.

A controversial example of a social media policy decision was Facebook's announcement in 2019 that the company would exempt speech content posted by political entities from the fact-checking mechanism that it applies to other forms of speech on the platform.[91] Facebook executives argued that the platform should not be the arbiter of political speech even when statements include false information. Facebook's stance is that the marketplace of ideas and a free press can effectively police political speech while allowing voters the opportunity to assess politicians' messages.

> **14% of U.S. adults said that their views on an issue had changed because of something they had seen on social media in the past year.**

But the marketplace can only function when it includes a healthy, free press able to fulfill the fact-checking function and inject critical responses to false political speech. This relies on the capacity of resource-strapped journalists to analyze the veracity of claims in the vast number of political ads hosted by social media, using Facebook's ads library tool[92] and disseminating corrective information to the public. Even assuming that such a fact-checking system is feasible, another concern is the implication that social media news consumers will be reached by corrective information and that they will be able to effectively update their understanding of the information based on fact-checking. Both assumptions rely heavily on different components of the information ecosystem outside of Facebook's control.

Facebook's announcement of its political ad policy was met by widespread criticism. News outlets, advocacy groups, politicians, and hundreds of Facebook employees denounced the policy, claiming that allowing the spread of false information by politicians was harmful to democratic integrity. In a defiant example aimed at demonstrating the danger of the Facebook policy, Adriel Hampton, a political activist from California, registered to run for governor in the 2022 election openly stating that he would run ads on Facebook with false information.[93] Facebook quickly responded by rejecting Hampton's false ads, claiming that his political candidacy was illegitimate. Other politicians also took part in testing Facebook's policy by posting obviously false information in ads. The ads were permitted on the platform under the new policy, including one in protest of the policy by presidential candidate Elizabeth Warren.[94] The critics argued that Facebook's policy allows politicians to freely spread and promote false information without recourse.

88. Bailik, Kristen. "14% of Americans have changed their mind about an issue because of something they saw on social media." *Pew Research Center*, 15 Aug. 2018, https://www.pewresearch.org/fact-tank/2018/08/15/14-of-americans-have-changed-their-mind-about-an-issue-because-of-something-they-saw-on-social-media/.

89. Bakshy, Eytan, et al. "Exposure to Diverse Information on Facebook." *Facebook Research*, 7 May 2015, https://research.fb.com/blog/2015/05/exposure-to-diverse-information-on-facebook-2/.

90. Casad, Bettina J. "Confirmation bias." *Encyclopedia Britannica*, https://www.britannica.com/science/confirmation-bias.

91. Clegg, Nick. "Facebook, Elections and Political Speech." *Facebook*, 24 Sept. 2019, https://newsroom.fb.com/news/2019/09/elections-and-political-speech/.

92. "Ad Library." *Facebook*, https://www.facebook.com/ads/library/?active_status=all&ad_type=all&country=US&impression_search_field=has_impressions_lifetime.

93. O'Sullivan, Donie. "He's running for governor to run false ads on Facebook. Now Facebook is stopping him." *CNN Business*, 30 Oct. 2019, https://www.cnn.com/2019/10/29/tech/facebook-california-candidate-false-ads/index.html.

94. Kang, Cecilia, and Thomas Kaplan. "Warren Dares Facebook With Intentionally False Political Ad." *The New York Times*, 12 Oct. 2019, https://www.nytimes.com/2019/10/12/technology/elizabeth-warren-facebook-ad.html.

Following the backlash against Facebook's political ad policy, Twitter announced that paid political speech would be prohibited on its platform.[95] The idea behind this decision was that Twitter could avoid being an arbiter of truth while also minimizing the spread of disinformation, especially during the upcoming presidential campaign. While many have praised Twitter's policy, there are significant consequences to this decision. For instance, a freeze on political advertising—especially the low-cost targeted advertising available through social media—favors incumbent candidates because less established campaigns will have fewer financial resources to employ on more expensive paid advertising.[96] Additionally, Twitter faced criticism for its lack of clarity about what its policy would mean for advertising around issues-based advocacy (e.g., climate change, women's rights, etc.)[97]

Meanwhile, Twitter has been incorporated into the official platforms of the White House, as President Trump uses the social media service for communicating with the public. In 2019, a federal appeals court ruled that President Trump violated the First Amendment by blocking Twitter users who were critical of him from following his account.[98] The court pointed out that "[t]he salient issues in this case arise from the decision of the President to use a relatively new type of social media platform to conduct official business and to interact with the public. We conclude... that the First Amendment does not permit a public official who utilizes a social media account for all manner of official purposes to exclude persons from an otherwise-open online dialogue because they expressed views with which the official disagrees."[99] Because the president is making significant statements to the public through Twitter, it is unconstitutional for him to bar his critics from access to that information.

Recommendations

First Amendment rights are at a turning point as the information and speech landscape changes with the technological revolution. The landscape in the past was determined by journalistic norms and trust in media institutions. Today, the democratization of the information-sharing ecosystem relies largely on the assumption

that truth will prevail in the marketplace of ideas. With the rise of disinformation campaigns, this laissez-faire system may not be sustainable. Regaining control of the media landscape will require change from all stakeholders—the media, the government, social media platforms, and consumers—focusing on a mixture of external regulation, self-regulation, and media literacy education.

Taking a holistic view of the information ecosystem and its effects on freedom of speech today, the current system is riddled with weaknesses. Traditional information gatekeeping is too slow and too centralized to keep up with the pace of technological change, and the "marketplace" incentives that drive social media platforms do very little to censor false information before it spreads. The business model of "surveillance capitalism,"[100] a term coined by Shoshana Zuboff to describe the market for data capture and manipulation, creates a misalignment in incentive structures between the objectives of the public sphere and the interests of private corporations that control the vast majority of online speech.

PUBLIC INTEREST FRAMEWORK

The public interest must be built into the information ecosystem. According to media scholar Ethan Zuckerman, this will require inserting public interest values into the design of the public sphere through a "digital public infrastructure."[101] This infrastructure would create spaces within the digital landscape in which public interest values are prioritized over commercial interests.

Integrating the public interest directly into the design of digital services is similar to what occurred with radio in the early 20th century and with TV broadcast decades later.[102] In one such example, Federal Communications Commissioner Newt Minow, disappointed in 1961 by the "vapid content" provided by private broadcasting companies, sought ways to provide public interest broadcasting to fill in "holes in educational, news, and civic programming—areas left underserved by the market."[103] By the early 1970s, public service television and radio broadcasters like PBS and NPR were bringing *Sesame Street* and *All Things Considered* to the American public.

95. @jack (jack). "We've made the decision to stop all political advertising...." *Twitter*, 30 Oct. 2019, https://twitter.com/jack/status/1189634360472829952.

96. Stewart, Emily. "Twitter chose to ban political ads. But pressuring Facebook to do the same could backfire." *Vox*, 5 Nov. 2019, https://www.vox.com/recode/2019/11/5/20943751/twitter-political-ads-ban-facebook-strategists-acronym-democrats-trump.

97. McGregor, Shannon C. "Why Twitter's ban on political ads isn't as good as it sounds." *The Guardian*, 4 Nov. 2019, https://www.theguardian.com/commentisfree/2019/nov/04/twitters-political-ads-ban.

98. Savage, Charlie. "Trump Can't Block Critics From His Twitter Account, Appeals Court Rules." *The New York Times,* 9 July 2019, https://www.nytimes.com/2019/07/09/us/politics/trump-twitter-first-amendment.html.

99. United States, Court of Appeals for the Second Circuit. *Knight First Amendment Institute, et. al v. Donald J. Trump, et al.* Docket no. 18-1691-cv, 9 July 2019. https://int.nyt.com/data/documenthelper/1365-trump-twitter-second-circuit-r/c0f4e0701b087dab9b43/optimized/full.pdf#page=1.

100. Zuboff, Shoshana. *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power.* Public Affairs, 2019.

101. Zuckerman, Ethan. "Building a More Honest Internet." *Columbia Journalism Review*, 2019, https://www.cjr.org/special_report/building-honest-internet-public-interest.php.

102. Ibid.

103. Ibid.

The case for a digital public infrastructure rejects technological determinism. MIT technology sociologist Langdon Winner observed that technological artifacts are products of the political, economic, and cultural contexts in which they are designed.[104] As such, public interest should shape the course of technological progress.

TRANSPARENCY AND ACCOUNTABILITY

Transparency and accountability are important components of the future of a regulated internet that would provide oversight of the practices of social media companies.[105]

The traditional media landscape relied on the power checking systems enforced by the press and public opinion to hold government and private actors accountable. In the system proposed here, a similar degree of oversight would monitor what is currently considered proprietary. For instance, the algorithms that govern what information is promoted and what is suppressed on social media are considered proprietary and are not accessible for investigation by anyone outside the companies. Because these algorithms play a large role in shaping the information ecosystem, accountability proposals should include algorithmic transparency to allow the public to better understand how algorithms can be used to safely and responsibly to protect freedom of speech and the information users consume.

MICRO-TARGETING

Micro-targeted advertising can be designed for specific audiences based on their unique characteristics.[106] A policy that imposes restrictions on micro-targeting in political advertising would help empower the "marketplace of ideas" by which such political messaging is meant to be scrutinized.

Federal Election Commission chair Ellen Weintraub has endorsed such a policy, arguing that with micro-targeting, "It is easy to single out susceptible groups and direct political misinformation

to them with little accountability, because the public at large never sees the ad."[107] This proposal is being considered for self-regulation by some companies. For example, Google and Facebook have begun considering a ban on micro-targeting ahead of the 2020 election[108,109] in which digital ad spending for political campaigns in the 2020 election is projected at $2.8 billion. These policies must be designed with caution, however, because harsh targeting limitations could benefit incumbents and other well-resourced and established campaigns, depending on how such limitations are designed.

SOCIAL MEDIA CONTENT

A broader category of potential regulation would be to alter or repeal the protection from content liability that tech companies have under CDA 230. This provision allows disinformation to circulate without social media platforms being held accountable.

Opponents of changes to CDA 230 argue that undoing this provision would roll back the progress toward the democratization of the information ecosystem. They claim that the voices that would not have access to a more limited social media environment are the same that have historically been left out of other mainstream communications.[110] Alternatively, the revocation of the "Good Samaritan" protections provided by CDA 230 could lead to an environment in which platforms provide no moderation at all in order to maintain platform status rather than taking on the liabilities of a publisher.

The debate over CDA 230 is wide-ranging, spanning the analysis of downstream effects on free speech, the effects on the information ecosystem, the practical design of legal or legislative changes, and the feasibility of implementation.[111] Those in favor of modification or repeal of CDA 230, like former Vice President Joe Biden,[112] cite the difference between the editorial responsibility of traditional media companies compared to the freedom from liability enjoyed by tech companies. Repeal is considered an extreme tactic to fight the spread of disinformation on the internet. Other options

104. Winner, Langdon. "Do Artifacts Have Politics?" *Daedalus*, vol. 109, no. 1, 1980, pp. 121–36, https://www.cc.gatech.edu/~beki/cs4001/Winner.pdf.

105. Zittrain, Jonathan. "Facebook Could Decide an Election Without Anyone Ever Finding Out." *The New Republic*, 1 June 2014, https://newrepublic.com/article/117878/information-fiduciary-solution-facebook-digital-gerrymandering.

106. "Traditional Media vs. Social Media Advertising." Lyfe Marketing, https://www.lyfemarketing.com/traditional-media-versus-social-media/.

107. Weintraub, Ellen L. "Don't abolish political ads on social media. Stop microtargeting." *The Washington Post*, 1 Nov. 2019, https://www.washingtonpost.com/opinions/2019/11/01/dont-abolish-political-ads-social-media-stop-microtargeting/.

108. Hern, Alex. "Google and Facebook 'considering ban on micro-targeted political ads.'" *The Guardian*, 7 Nov. 2019, https://www.theguardian.com/media/2019/nov/07/google-facebook-considering-ban-micro-targeted-political-ads.

109. Scola, Nancy. "Facebook considering limits on targeted campaign ads." *Politico*, 7 Nov. 2019, https://www.politico.com/news/2019/11/07/facebook-targeted-campaign-ad-limits-067550.

110. Harmon, Elliot. "Changing Section 230 Would Strengthen the Biggest Tech Companies." *The New York Times*, 16 Oct. 2019, https://www.nytimes.com/2019/10/16/opinion/section-230-freedom-speech.html.

111. Hwang, Tim. "Dealing with Disinformation: Evaluating the Case for CDA 230 Amendment." *SSRN*, 17 Dec. 2017, http://dx.doi.org/10.2139/ssrn.3089442.

112. "Joe Biden, Former Vice President of the United States." *The New York Times*, 17 Jan. 2020, https://www.nytimes.com/interactive/2020/01/17/opinion/joe-biden-nytimes-interview.html.

include modifications through judicial or legislative means, including adding restrictions in certain contexts.

One such restriction was enacted in 2018 with the Stop Enabling Sex Traffickers Act (SESTA). This amendment states that internet platforms are treated like a publisher and held liable for any activity on the platform that advertises sex work. This is a specific provision that pokes a hole in the CDA 230 platform protections in the context of sex work.[113]

Opponents of regulation that would further restrict CDA 230 protections argue that such regulation is likely to have grave consequences for freedom of speech online and that legislative and judicial bodies lack the technical competence to effectively implement and enforce the proposed modifications.[114] These changes, it is argued, would be more proficiently and flexibly handled by the tech companies themselves.

Many arguments for social media regulation hinge on the alteration or repeal of CDA 230. However, it is important to note that even a full repeal of CDA 230 would likely have little or no direct effect on the spread of disinformation. Treating social media platforms like publishers would subject them to defamation law, but not to liability for other forms of information inaccuracy.

SOCIAL MEDIA SELF-REGULATION

Apart from external regulation, self-regulation of tech companies should be expanded. Policies of self-regulation could mirror some proposals for external regulation, including transparency and limiting of micro-targeting. With the speed of technological innovation that exists today, it may be difficult for external regulation to keep up with shifting trends and usage of social media. Iteration and testing would be useful for optimizing self-regulation.

Facebook recently established a quasi-self-regulatory system in its own Oversight Board which will function like an appeals court for content moderation decisions.[115] It remains to be seen how this governing body will serve the future of the platform's ability to control the spread of false information on the site. Some argue that this Oversight Board should adhere to international human rights standards rather than rules that have been internally

designed. Depending on the success of this body, solutions like this and other creative options may become a critical piece of a broader regulatory framework.

ROLE OF TRADITIONAL MEDIA IN NEW MEDIA LANDSCAPE

In addition to self-regulation by social media companies, the traditional media need to be clear with the public about the way that the industry has changed in light of the new information ecosystem. It is the responsibility of the traditional media to be forthcoming about how much of traditional journalism has shifted from describing events to providing analytical interpretations.[116] This shift is occurring within the framework of standards of journalistic integrity and an increase in traditional investigative reporting. There also must be an emphasis on the differences between different types of news sources—those that adhere to journalistic objectivity standards and those that rely on greater subjectivity.

A Pew Research Center study found that a majority of adults believe that traditional news media have the greatest responsibility in addressing false information in the news.[117] This indicates that it is incumbent upon the press to articulate the role that the traditional media play in the new information landscape in order to partner with other stakeholders to help address the problem of misinformation and disinformation.

CRITICAL MEDIA LITERACY

Developing the capacity of media consumers to evaluate conflicting information within the marketplace of ideas is critical for the information ecosystem to function effectively under the principles of free speech and media freedom.

Currently, the education system does very little to educate students to think critically about media consumption. A Pew Research study found that Americans are generally unable to discern what kinds of statements are factually based and which are opinions.[118] Additionally, another study indicated that people have difficulty parsing truth from a range of information sources.[119]

In a rapidly changing media environment, people need to learn how to navigate through the vast amounts of information that they encounter every day. This includes learning digital compe-

113. Romano, Aja. "A new law intended to curb sex trafficking threatens the future of the internet as we know it." *Vox*, 2 July 2018, https://www.vox.com/culture/2018/4/13/17172762/fosta-sesta-backpage-230-internet-freedom.

114. Hwang, Tim. "Dealing with Disinformation: Evaluating the Case for CDA 230 Amendment." *SSRN*, 17 Dec. 2017.

115. Zuckerberg, Mark. "A Blueprint for Content Governance and Enforcement." *Facebook*, 15 Nov. 2018, https://www.facebook.com/notes/mark-zuckerberg/a-blueprint-for-content-governance-and-enforcement/10156443129621634/?hc_location=ufi.

116. Schudson, Michael. "The Fall, Rise, and Fall of Media Trust." *Columbia Journalism Review*, 2019.

117. Mitchell, Amy, et al. "Many Americans Say Made-up News is a Critical Problem that Needs to be Fixed." *Pew Research Center*, 5 June 2019, https://www.journalism.org/2019/06/05/political-leaders-activists-viewed-as-prolific-creators-of-made-up-news-journalists-seen-as-the-ones-to-fix-it/.

118. Mitchell, Amy, et al. "Distinguishing Between Factual and Opinion Statements in the News." *Pew Research Center*, 18 June 2018, https://www.journalism.org/2018/06/18/distinguishing-between-factual-and-opinion-statements-in-the-news/.

119. Raine, Lee, et al. "Trust and Distrust in America." *Pew Research Center*, 22 July 2019, https://www.people-press.org/2019/07/22/trust-and-distrust-in-america/.

tencies as well as the tools of critical analysis required to under-stand biases. Media literacy scholars emphasize that there is an important distinction between teaching the technical skills for working in digital spaces and the critical comprehension of media in an interdisciplinary fashion.[120]

Advocates for media literacy have been pushing education systems for decades. The modern conception of media literacy was developed first by UK-based scholar, Len Masterman in the 1980s.[121] As described by Masterman, "The central unifying concept of Media Education is that of representation. The media mediate. They do not reflect but re-present the world. The media, that is, are symbolic sign systems that must be decoded. Without this principle, no media education is possible. From it, all else flows."[122] Leading educators using Masterman's concepts formed the Association for Media Literacy and produced the Key Concepts for Media Literacy.[123]

1. All media are constructions.
2. The media construct reality.
3. Audiences negotiate meaning in media.
4. Media have commercial implications.
5. Media contain ideological and value messages.
6. Media have social and political implications.
7. Form and content are closely related in the media.
8. Each medium has a unique aesthetic form.

Source: Association for Media Literacy.

This method may face some challenges that hinder its development and implementation. First, the political backlash could get in the way of developing a curriculum. Developing evidence of political falsehoods to teach in schools would require the collective acknowledgment that certain politicians have perpetuated such falsehoods. Second, the idea of teaching media literacy implies a hierarchy of ways of thinking. In a society that is already deeply polarized, teaching students how to discern who or what to trust will require certain assumptions about what makes good and bad information. The development of a media literacy curriculum will need to take existing polarization into account in order to create dialogue rather than tools for dismissing opposition.

How to Reimagine Rights and Responsibilities:

- **Create a Digital Public Infrastructure.** Enact federal legislation to establish a public interest mandate for for-profit social media platforms, requiring digital platform companies to support the development of digital spaces designated for public use, and requiring these companies to develop standards of interoperability, data portability, and data openness.

- **Provide Funding Mechanism for Public Interest Uses of Social Media.** Through federal and state legislation subsidize innovation to reinvent public functions that social media have displaced, for example by taxing digital advertising to create a public social media fund to support experimental approaches to public social media platforms and new forms of investigative journalism, as recommended by the American Academy of Arts and Sciences in its 2020 report, *Our Common Purpose*.

- **Require Social Media Transparency and Accountability.** Enact federal legislation to require social media platforms to operate with transparent procedures in order to allow researchers, oversight officials, regulators, and journalists to understand how and for what purposes social media algorithms are designed, and to establish oversight and accountability measures to require algorithms to be used safely and responsibly to promote freedom of speech and protect against racial, gender, religious, disability, or LGBTQ discrimination.

- **Promote Media Literacy.** Develop media literacy education to assist media consumers evaluate information and navigate the rapidly changing marketplace of ideas. Media literacy is critical for a democratic information system to function effectively under the principles of free speech and media freedom in the midst of technological change.

120. Gutiérrez-Martín, Alfonso, and Kathleen Tyner. "Media education, media literacy and digital competence." *Comunicar*, vol. 19, no. 38, 2012, pp. 31-39, https://doi.org/10.3916/C38-2012-02-03.

121. Jolls, Tessa, and Carolyn Wilson. "The Core Concepts: Fundamental to Media Literacy Yesterday, Today and Tomorrow." *Journal of Media Literacy Education*, vol. 6, no. 2, 2014, pp. 68 -78, https://digitalcommons.uri.edu/jmle/vol6/iss2/6.

122. Masterman, Len. *Teaching the Media.* Routledge, 1989.

123. Jolls, Tessa, and Carolyn Wilson. "The Core Concepts: Fundamental to Media Literacy Yesterday, Today and Tomorrow." *Journal of Media Literacy Education*, vol. 6, no. 2, 2014, pp. 68 -78.

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