

# Weapons of mass distraction

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## Abstract

*The Circle invites an ever closer look at the ethos of current and emerging surveillance technology. Dave Eggers' novel foreshadowed the culminating moments in 2018, when high-powered social media platforms generated a maelstrom of controversy in the US and UK and then nothing changed. Concern over the integrity of electoral processes around the globe has risen to new heights, as privacy experts warn that unfettered growth of surveillance capitalism could change democracy forever. Far from a case of unintended consequences run amok, corporate tech executives admit that continual mining of personal data for unrestricted use by corporations and political operatives that specialise in psychological manipulation were part of the original design. The dark side of all this connectivity as highlighted by the ruckus over Cambridge Analytica places mainstream news producers squarely under the microscope. This article examines the wilderness between the goal of reporting in the public's interest and the current role of news organisations.*

**Keywords:** surveillance technology; propaganda; psychological manipulation; investigative journalism; political rights; main stream media

## 1 Introduction: propaganda or wishful thinking?

Surveillance technologies and algorithmic programming enable mining of personal data for collection by governments and sale to marketers for the purposes of predicting and modifying behaviour through psychological manipulation. High-profile tech companies – through voice and facial recognition technology, social media accounts, user apps for goods and services, RFID (radio frequency identification) chips and history retained by phone, VOIP (voice of internet protocol) and internet service providers – collect more detailed personal information on individual consumers than every other source combined. The storm that erupted over Cambridge Analytica demonstrates just how government officials, candidates for public office and political operatives working on their behalf deploy private intelligence agencies to destroy opposition and use propaganda to undermine democracy while claiming to bolster it.

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1 Executive Director, Global Institute for Freedom and Awareness, USA (Emeritus Professor of Law, JD, LL.M). Many thanks to the presenters and participants of the 'Joining the Circle: Capturing the Zeitgeist of Big Tech Companies, Social Media and Privacy Conference' held at London's Inner Temple on 23 May 2018, discussing Dave Eggers, *The Circle* (Vintage Books 2014). Much appreciation goes to Paul Bernal and Alicia Wanless each of whom provided timely feedback for the development and clarity of this essay.

Media focus upon hateful rhetoric, while noting the speed at which legitimate disagreements devolve into an impasse, often overshadows rational discourse around viable solutions for large-scale humanitarian crises. International broadcast media features clusters of panellists warning that entire governments have been hijacked by vigilantes inspired by populist rhetoric steeped in nationalist ideologies, while proposals that actually advance socio-economic justice are largely ignored. Meanwhile, tech's strongest minds are being used to augment authoritarian control, provide a rapid means to manufacture consent, quash dissent and threaten harm and/or personal chaos.

Any discussion of *propaganda* in social or mainstream media requires some definition if for no other reason than, similar to its epistemological cousin '*politically correct*',<sup>2</sup> the word is widely used with intent to alert an audience or those in dialogue that deception is nigh. It delivers strong impetus to summarily dismiss ideas inimical to one's stated beliefs. Propaganda as a tool directly aims to influence opinion and behaviour. Common characteristics include high-volume (inundation) and subtle insidious deployment of logical fallacies such as gross generalisation, intentional vagueness, oversimplification, red herrings, slogans, stereotypes and unstated assumptions.<sup>3</sup> Indoctrination, in context, is acceptance of false, inappropriate, misleading, or unwarranted assumptions as forgone conclusions. Arguments in Eggers' *The Circle* favouring round-the-clock 360-degree transparency provide a cogent example.

Journalist Margaret Atwood's review of the book reasonably concludes that it forces readers to consider the 'means of social construction, deconstruction of privacy, corporate ownership of surveillance data and their impact upon democracy'.<sup>4</sup> It features the world's leading tech company, set upon a live-in campus of new age design to optimise ingenuity and experimentation with total transparency where every moment of every day is recorded and accessed in real-time. Atwood describes Eggers' portrayal as the 'green and pleasant land of a satirical utopia' where 'recycling and organics abound, people keep saying how much they like each other, and the brave new world of virtual sharing and caring breeds monsters'.<sup>5</sup> The monstrous scale of privacy invasion in the Western world is thinly veiled at best.

Collective understanding of the role of free speech and association in constitutional democracies has been compromised as tides of obfuscation mask the precarious assault on whistle-blowers, investigative journalists, and their confidential sources of information. One consequence from our failure to curb propaganda in the media is a collective haze supported by journalism that advances insularity over public education concerning the demise of basic freedoms. Meaningful safeguards are not yet realised in law, as democratically elected governments openly disregard individual rights. A judiciary

2 The phrase '*politically correct*' has had an array of definitions. It has been used to describe what is politically wise, and it has been employed as ironic self-mockery. The phrase has driven contentious debates in which free speech and free choice are pitted against civility and inclusion. But it hasn't just changed meaning, it has changed targets. Kat Chow, "'Politically correct': the phrase has gone from wisdom to weapon' (NPR 14 December 2016) <<https://www.npr.org/sections/codeswitch/2016/12/14/505324427/politically-correct-the-phrase-has-gone-from-wisdom-to-weapon>>.

3 Propaganda as defined reference article is mainly selected from the English Wikipedia <[www.cs.mcgill.ca/~rwest/wikispeedia/wpcd/wp/p/Propaganda.htm](http://www.cs.mcgill.ca/~rwest/wikispeedia/wpcd/wp/p/Propaganda.htm)>.

4 Margaret Atwood, 'When privacy is theft' (*New York Books*, 21 November 2013) <[www.nybooks.com/articles/2013/11/21/eggers-circle-when-privacy-is-theft](http://www.nybooks.com/articles/2013/11/21/eggers-circle-when-privacy-is-theft)>.

5 Martin Banks, 'Cambridge Analytica revelations are only "tip of the iceberg", warns EU data protection chief' (*The Parliament Magazine EU*, 20 March 2018) <[www.theparliamentmagazine.eu/articles/news/cambridge-analytica-revelations-are-only-tip-iceberg-warns-eu-data-protection-chief](http://www.theparliamentmagazine.eu/articles/news/cambridge-analytica-revelations-are-only-tip-iceberg-warns-eu-data-protection-chief)>.

keen to extol the intrinsic role that free speech plays in democratic governance is slow to redress official abuse of basic civil rights. Unsurprisingly, the last bastion of refuge – in a fast eroding system of checks and balances – yields little more than perpetual seduction by mainstream media personalities demonstrably more eager to become part of the story than with authenticity and relevancy in reporting. Predictably, the dark side of that erosion *wags the dog*.

Recent tech scandals involve countless social, political and consumer issues,<sup>6</sup> but here we focus upon the international coordination of technologies designed to spread disinformation<sup>7</sup> further and faster with only limited manpower and increasing precision.<sup>8</sup> We now have expanded awareness of how low standards are for news reporting. Current use and reach of surveillance technology summons two collective responses: continual examination of our use of social media,<sup>9</sup> and meaningful exploration of our commitment to democratic rule. Broadcast news that facilitates that examination and commitment on behalf of the general welfare will by definition curtail its use of subtle techniques that direct viewers toward actions that mostly neutralise democratic processes.<sup>10</sup>

### 1.1 EVOLUTIONARY FORCES: FROM CYBERSPACE TO OUTER SPACE

Discussions in the new millennium over the role of digital media in sparking populist uprisings against repressive regimes outlined a promising trajectory of the coming era.<sup>11</sup> Human rights organisers agree that new social media platforms had unparalleled capacity for extending the global reach of proposals for socio-economic justice.<sup>12</sup> Early proponents of digital media could be forgiven for their exuberant optimism. Social media

6 Avery Hartmans, 'The 17 Biggest Tech Scandals of 2017' (*Business Insider*, 30 December 2017) <[uk.businessinsider.com/biggest-tech-scandals-2017-12](http://uk.businessinsider.com/biggest-tech-scandals-2017-12)>.

7 Advertisements evolved from the traditional commercial advertisements to include also a new type in the form of paid articles or broadcasts disguised as news. These generally present an issue in a very subjective and often misleading light, primarily meant to persuade rather than inform.

8 Behavioural advertisers use sophisticated algorithms to analyse the collected data, to build detailed users' personal profiles and to assign them to various interest categories. See e.g. Office of the Privacy Commissioner of Canada, *Online Behavioural Advertising in Brief* <[www.priv.gc.ca/en/privacy-topics/advertising-and-marketing/behavioural-targeted-advertising/02\\_05\\_d\\_52\\_ba\\_02](http://www.priv.gc.ca/en/privacy-topics/advertising-and-marketing/behavioural-targeted-advertising/02_05_d_52_ba_02)>.

9 Jay Baer, '6 Unexpected Trends in 2018' (*Social Media Research*, 2018) <[www.convinceandconvert.com/social-media-measurement/6-unexpected-trends-in-2018-social-media-research](http://www.convinceandconvert.com/social-media-measurement/6-unexpected-trends-in-2018-social-media-research)>; see Laura Scaife, 'Learning from the laws of the sea, Foucault and regulatory theory: proposing a "regulatory harbour" model for the regulation of social media, that serves rather than rules the waves' (2018) 69(4) *Northern Ireland Legal Quarterly* (this issue). Arguing that a sensible approach begins with principles and the impetus to *assist* rather than *command* in ways that encourage flourishing expression.

10 In behavioural economics, nudge theory has recently been deployed by governments in order to lead people towards particular desirable outcomes. Thomas Smith, 'The future of behavioural economics: nudge theory' (*Market Mogul*, 7 August 2017) <<https://themarketmogul.com/nudge-theory>>.

11 John Wihbey, 'The Arab Spring and the internet: research roundup' (Harvard Kennedy School, Shorenstein Center on Media, Politics and Public Policy, 25 September 2013) <<https://journalistsresource.org/studies/international/global-tech/research-arab-spring-internet-key-studies>>. Wihbey focuses upon a 2012 report from the Pew Research Center, 'Social networking popular across globe: Arab public's most likely to express political views online' (Pew Research Center Global Attitudes Project, 14 December 2012) and looks at the distinct online dynamics of nations in the region: 'In Egypt and Tunisia, two nations at the heart of the Arab Spring, more than 6 in 10 social networkers share their views about politics online. In contrast, across 20 of the nations surveyed, a median of only 34% post their political opinions. Similarly, in Egypt, Tunisia, Lebanon and Jordan, more than 7 in 10 share views on community issues, compared with a cross-national median of just 46%'.

12 See generally, John G McNutt, *Technology, Activism, and Social Justice in a Digital Age* (Oxford University Press 2018).

was hailed as the harbinger of instant access to news and information that would allow like-minded individuals to make informed choices or act in concert to benefit their community. Twitter, once billed as the coalescing force behind the Arab-spring and its liberating global impact, is now more widely known as the tour de force that shoved the global community into its (newly built) nuclear bunkers waiting for Donald John Trump and Kim Jong Un to finish comparing the size of their 'buttons'.<sup>13</sup> Over the next decade, studies indicated that the new technologies would soon be dominated by mob rule, cyber-bullies and privacy invasions that constrain their targets. At the outset, such prospects seemed remote at best.<sup>14</sup> Yet increasingly, with the aid of robotics,<sup>15</sup> the scope of targeted harassment has widened,<sup>16</sup> personal threats have increased,<sup>17</sup> and the pace of direct manipulation has left the average citizen to cope with conflicting impulses.<sup>18</sup>

A single body, the Federal Communications Commission (FCC), operates with congressional oversight to prevent media monopolies and address complaints.<sup>19</sup> As the sole regulator of radio, television, cable, wire and satellite communications within the USA and its territories, journalists report that the agency is as susceptible to the defects of crony capitalism as any other. FCC chair, Ajit Pai, is currently under investigation for ties to Sinclair Broadcasting, a company whose bid for large-scale merger is widely predicted to undermine grassroots democracy.<sup>20</sup> FCC scrutiny of the excesses of cable

13 'Trump to Kim: my nuclear button is "bigger and more powerful"' (*BBC News*, 3 January 2018) <[www.bbc.com/news/world-asia-42549687](http://www.bbc.com/news/world-asia-42549687)>; According to Yanis Varoufakis the comparisons also happen behind closed doors. His initial encounter with is German counterpart Wolfgang Schauble, Finance Minister, included the warning 'it's yours against mine'. Yanis Varoufakis, 'The six Brexit traps that will defeat Theresa May' *The Guardian* (London, 3 May 2017) <[www.theguardian.com/politics/2017/may/03/the-six-brexit-traps-that-will-defeat-theresa-may](http://www.theguardian.com/politics/2017/may/03/the-six-brexit-traps-that-will-defeat-theresa-may)>.

14 Dylan Curran, 'Are your phone camera and microphone spying on you?' *The Guardian* (London, 6 April 2018) <[www.theguardian.com/commentisfree/2018/apr/06/phone-camera-microphone-spying](http://www.theguardian.com/commentisfree/2018/apr/06/phone-camera-microphone-spying)>; Jacob Hoffman-Andrews, 'New Twitter policy abandons a longstanding privacy pledge' (*Electronic Frontier Foundation*, 22 May 2017) <[www.eff.org/deeplinks/2017/05/new-twitter-policy-abandons-longstanding-privacy-pledge](http://www.eff.org/deeplinks/2017/05/new-twitter-policy-abandons-longstanding-privacy-pledge)>.

15 Chris Baraniuk, 'How Twitter bots help fuel political feuds' *Scientific American* (New York, 27 March 2018) <[www.scientificamerican.com/article/how-twitter-bots-help-fuel-political-feuds](http://www.scientificamerican.com/article/how-twitter-bots-help-fuel-political-feuds)>.

16 Nadia Khomami, 'NSPCC records 88% rise in children seeking help for online abuse' *The Guardian* (London, 13 November 2016) <[www.theguardian.com/society/2016/nov/14/nspcc-records-88-rise-in-children-seeking-help-for-online-abuse](http://www.theguardian.com/society/2016/nov/14/nspcc-records-88-rise-in-children-seeking-help-for-online-abuse)>.

17 The risk is ever present for women reporting sexual assault by high-profile figures. See, Robin Barnes and Paul Wragg, 'Social media, sporting figures and the regulation of morality' in David Magnan and Lorna Gillies (eds), *The Legal Challenges of Social Media* (Elgar Law, Technology and Society 2017) ch 8 (discussing the treatment of rape victim by fans of high profile footballer in UK). Elise Viebeck, 'An alt-right Twitter account leaked the address of Kavanaugh's accuser' *Chicago Tribune* (Chicago, 18 September 2018) <[www.chicagotribune.com/news/nationworld/ct-kavanaugh-accuser-online-attacks-20180918-story.html](http://www.chicagotribune.com/news/nationworld/ct-kavanaugh-accuser-online-attacks-20180918-story.html)>http://www.chicagotribune.com/news/nationworld/ct-kavanaugh-accuser-online-attacks-20180918-story.html>. Trump's second nominee to the US Supreme Court has been accused of raping a woman and the FBI has not been called upon to investigate the rape. However, the woman and her family have been forced to relocate due to death threats.

18 Caroline C Ravello, 'Preserving your sanity: the social media dilemma' *Guardian* (Trinidad and Tobago, 14 June 2017) <[www4.guardian.co.tt/lifestyle/2017-06-14/preserving-your-sanity-social-media-dilemma](http://www4.guardian.co.tt/lifestyle/2017-06-14/preserving-your-sanity-social-media-dilemma)>.

19 For a summary of the functions of the US FCC, see Nadeem Unuth, 'The Federal Communications Commission (FCC)' (*Lifewire*, 21 March 2018) <[www.lifewire.com/federal-communications-commissions-3426347](http://www.lifewire.com/federal-communications-commissions-3426347)>.

20 Kieren McCarthy, 'FCC inspector general sticks corruption probe into chairman Ajit Pai amid \$4bn media merger' (*The Register*, 15 February 2018) <[www.theregister.co.uk/2018/02/15/fcc\\_chairman\\_investigation](http://www.theregister.co.uk/2018/02/15/fcc_chairman_investigation)>; Kevin Carty, 'Sinclair's vast media merger threatens democratic ideals. Congress must fight it' *The Guardian* (London, 24 November 2017) <[www.theguardian.com/commentisfree/2017/nov/24/sinclair-tribune-media-merger-free-speech](http://www.theguardian.com/commentisfree/2017/nov/24/sinclair-tribune-media-merger-free-speech)>.

news organisations in particular has fallen by the wayside.<sup>21</sup> Nonetheless, the motivation and wherewithal to advance technological capabilities in arenas where surveillance capitalism, critical infrastructure design and national security all meet is nothing short of astounding.<sup>22</sup>

FCC 2017 approval of SpaceX's plan for broadband internet satellites was advertised as meeting the need to bring high-speed internet access to rural areas. It effectively eliminates all consumer choice in the matter of connectivity: 800 miles above Earth, a US-licensed constellation will deliver broadband using low-Earth orbit satellites. Its primary aim may have more to do with expanding the range of territory over which newer technologies can monitor and track movement, by capturing activities in remote places where fibre-optic cables and cell towers cannot reach. The official statement lauds the action as 'another step to increase high-speed broadband availability and competition in the United States'.<sup>23</sup> By 2020, Galileo, which is an £8-billion satellite navigation system designed to rival the US-controlled global positioning system, will operate with similar capabilities.<sup>24</sup> Debate in the EU about the role of Galileo, and who will have access to its capabilities, has further complicated negotiations over Brexit.<sup>25</sup>

As US surveillance expands, legislators in both political parties used the Congressional Review Act to swiftly dismantle newly issued broadband user privacy rights before they went into effect.<sup>26</sup> Bowing to advertisers' demands for the ability to track every move as somehow vital to innovation, the real winners are those who capitalise upon data-driven marketing economies, including purveyors of unilateral mechanisms that operate outside the awareness of the data subject.<sup>27</sup> Platform operators hide the details of their metrics,<sup>28</sup> encouraging consumer engagement with surveys and 'like' buttons which demand no cognitive effort. Studies cite proof that individuals often go on to disseminate media content after having only seen the headline and introduction, with the result that false and

21 Harper Neidig, 'FCC to vote on rolling back media ownership rules' (*The Hill*, 25 October 2017) <<http://thehill.com/policy/technology/357172-fcc-to-vote-on-rolling-back-media-ownership-rules>>.

22 'Snapshot: using satellites and data analytics to protect the Homeland' (Homeland Security Science and Technology, 29 September 2017) <[www.dhs.gov/science-and-technology/news/2017/09/29/snapshot-using-satellites-and-data-analytics-protect-homeland](http://www.dhs.gov/science-and-technology/news/2017/09/29/snapshot-using-satellites-and-data-analytics-protect-homeland)>.

23 Sarah Young, 'FCC approves SpaceX's plan for broadband internet satellites' (*Consumer Affairs*, 23 March 2017) <[www.consumeraffairs.com/news/fcc-approves-spacexs-plan-for-broadband-internet-satellites-033018.html](http://www.consumeraffairs.com/news/fcc-approves-spacexs-plan-for-broadband-internet-satellites-033018.html)>.

24 Daniel Boffey, 'Security row over EU Galileo satellite project as Britain is shut out' *The Guardian* (London, 13 June 2018) <[www.theguardian.com/technology/2018/jun/13/eu-member-states-block-uks-access-to-galileo-satellite-programme-after-brexit](http://www.theguardian.com/technology/2018/jun/13/eu-member-states-block-uks-access-to-galileo-satellite-programme-after-brexit)>; for a brief summary of the evolution and issues related to the referendum from multiple perspectives in and around the UK and EU, see Dagmar Schiek, 'On the never-ending road to Brexit: perspectives for the European Union' (2018) 69(3) *Northern Ireland Legal Quarterly* 221–30.

25 Daniel Boffey, 'EU split over exclusion of UK from Galileo after Brexit' *The Guardian* (London, 23 May 2018) <[www.theguardian.com/politics/2018/may/24/eu-split-exclusion-uk-galileo-brexit](http://www.theguardian.com/politics/2018/may/24/eu-split-exclusion-uk-galileo-brexit)>.

26 James Hood, 'Senate agrees to ditch broadband users' privacy rights' (*Consumer Affairs*, 23 March 2017) <[www.consumeraffairs.com/news/senate-agrees-to-ditch-broadband-users-privacy-rights-032317.html](http://www.consumeraffairs.com/news/senate-agrees-to-ditch-broadband-users-privacy-rights-032317.html)>.

27 Louise Matsakis, 'How the government hides secret surveillance programs' (*Wired*, 9 January 2018) <[www.wired.com/story/stingray-secret-surveillance-programs](http://www.wired.com/story/stingray-secret-surveillance-programs)>.

28 E.g. Google's search algorithms are a commercial secret, so the chance of a transparent audit of how they make those decisions is slim. What standards does Google use? If it only follows my previously manifested desires, it is not going to give me the information that would most be of use to me. A C Grayling, 'The googlization of everything: has Google turned evil?' (*Salon*, 12 April 2011) <[www.salon.com/2011/04/12/the\\_googlization\\_of\\_everything\\_siva\\_vaidhyanathan](http://www.salon.com/2011/04/12/the_googlization_of_everything_siva_vaidhyanathan)>.

misleading content will often be remembered by the sender and or recipient as true, effectively dragging consumers down a digital rabbit hole.<sup>29</sup>

Algorithms that rank content and personalise its presentation are said to be at ‘the heart of the complex, interdependent process underlying digital discourse’.<sup>30</sup> The next level of debate must include the methods by which they will be integrated with artificial intelligence (AI) technologies to produce outcomes that are not all that complex, but instead assist those seeking to control individuals through use of highly personal information captured by their internet service providers under ‘take it or leave it’ terms of service.<sup>31</sup> Widespread failure to require algorithmic auditing that reveals the nature and scope of intrusion and bias risks long-term suppression of troves of useful information about digital manipulation.<sup>32</sup> While the private sector engine may be fuelled by proprietary, patentable, profitable ventures, and we routinely applaud ingenuity,<sup>33</sup> the line in the sand must be highlighted by public media.<sup>34</sup> Acknowledging that Netflix knew exactly why its original TV series would be a hit – based on data about the viewing habits of its 33 million users<sup>35</sup> – does not excuse pernicious use against consumers. Assume that its calculations involve a list of every show watched and how often, even those merely browsed, later come back to, lingered over, saved to favourites, and then linked to personal data that is collected and stored indefinitely.<sup>36</sup>

In sum, individually identifiable information on movies watched over a decade, paired with a vast array of private information, such as medical history or travel, and then cross-referenced with lists of friends, lovers, email content, Facebook posts, chats, text messages and the like in order to play havoc with the life of an individual target and used to deter or stop a political opponent, for example, is despotic.<sup>37</sup> The obvious effects of buying a new car or designer watch that you don’t need and can’t afford or expensive vacations that render little of the promised excitement, pales in comparison to accepting

29 A Wanless and M Berk, ‘Participatory propaganda: the engagement of audiences in the spread of persuasive communications’ (Proceedings of Social Media and Social Order, Culture Conflict 2.0, Oslo, 1 December 2017).

30 Manan Vatsyayana, ‘How algorithms are radically changing public discourse, shaping public opinion’ (*Scroll*, 12 February 2018) <<https://scroll.in/article/867888/how-algorithms-are-radically-changing-public-discourse-shaping-public-opinion>>.

31 ‘Take it or leave it: how NYC residents are forced to sacrifice online privacy for internet service’ (*Digital Equity Laboratory*, 2 June 2018) <[www.digitalequitylab.org/take-it-or-leave-it](http://www.digitalequitylab.org/take-it-or-leave-it)>.

32 Jessi Hempel, ‘Want to prove your business is fair? Audit your algorithm’ (*Wired*, 9 May 2018) <[www.wired.com/story/want-to-prove-your-business-is-fair-audit-your-algorithm](http://www.wired.com/story/want-to-prove-your-business-is-fair-audit-your-algorithm)>.

33 Grayling (n 28) quotes Siva Vaidhyanathan as an admirer of the innovations promised by the latter aim, but wary of power Google retains over how its users view the world.

34 Human Rights Watch, ‘Liberty to monitor all: how large scale US surveillance is harming journalism, law, democracy’ (28 July 2014) <[www.hrw.org/report/2014/07/28/liberty-monitor-all/how-large-scale-us-surveillance-harming-journalism-law-and](http://www.hrw.org/report/2014/07/28/liberty-monitor-all/how-large-scale-us-surveillance-harming-journalism-law-and)>.

35 Jessica Leber “‘House of cards’ and our future of algorithmic programming’ (*Technology Review*, 26 February 2013) <[www.technologyreview.com/s/511771/house-of-cards-and-our-future-of-algorithmic-programming](http://www.technologyreview.com/s/511771/house-of-cards-and-our-future-of-algorithmic-programming)>.

36 See e.g. ‘Policy position on online behavioural advertising’ (Office of the Privacy Commissioner of Canada, December 2015) <[www.priv.gc.ca/en/privacy-topics/advertising-and-marketing/behaviouraltargeted-advertising/bg\\_ba\\_1206](http://www.priv.gc.ca/en/privacy-topics/advertising-and-marketing/behaviouraltargeted-advertising/bg_ba_1206)>.

37 Lauren Etter, Vernon Silver and Sarah Frier, ‘How Facebook’s political unit enables the dark art of digital propaganda’ (*Bloomberg*, 21 December 2017) <[www.bloomberg.com/news/features/2017-12-21/inside-the-facebook-team-helping-regimes-that-reach-out-and-crack-down](http://www.bloomberg.com/news/features/2017-12-21/inside-the-facebook-team-helping-regimes-that-reach-out-and-crack-down)>.

the validity of a costly medical procedure directed at uniquely vulnerable individuals,<sup>38</sup> voting against your interests in a national referendum,<sup>39</sup> or becoming the target of black-ops contractors when choosing to exercise your civil and political rights.<sup>40</sup> Without wider media scrutiny and calls for public discussion of the studies that reveal the toll this has taken through distortion of social norms and civil society amounts to journalistic negligence.<sup>41</sup> News media that focuses upon the vitriol while ignoring the relevance of known factors that affect consumer choices offer only limited insight, let alone investigation, into critical issues that impact the general welfare.<sup>42</sup>

Some critics accept these circumstances as evidence that mainstream media organisations are not currently designed to operate as a *Fourth Estate*, but rather as public relations outlets for their corporate owners and sponsors.<sup>43</sup> Close examination reveals that direct public acknowledgment of their constitutionally protected role nearly always coincides with an attack by authoritarian personalities such as Donald Trump. He often declares fake media to be the real enemy of the American people while targeting individual journalists and specific news organisations.<sup>44</sup> The drumbeat of alarm over Trump's 'fake news' mantra sparked a coordinated effort where 350 editorial boards committed to simultaneously publishing a 'We Are Not The Enemy' response on 19 August 2018.<sup>45</sup> Not since the 2006 collective re-publication of those vile cartoons of the Prophet Mohammed has the print press shown such solidarity while claiming to defend a stated principle.<sup>46</sup>

## 1.2 UNMEDIATED PUBLIC DISCOURSE

For all of the advances in the last two decades, changes in the global digital sphere have produced an unmediated discourse that rejects reasoned disagreement.<sup>47</sup> Historically,

38 Robert Glatter, 'Bot or not? How fake social media accounts can jeopardize your health' (*Forbes*, 23 December 2017) <[www.forbes.com/sites/robertglatter/2017/12/23/bot-or-not-how-fake-social-media-accounts-can-jeopardize-your-health/#54ce61e7bac5](http://www.forbes.com/sites/robertglatter/2017/12/23/bot-or-not-how-fake-social-media-accounts-can-jeopardize-your-health/#54ce61e7bac5)>.

39 Claudia Geib, 'We've seen what bots do to democracy. are we adapting fast enough?' (*Futurism*, 21 March 2018) <<https://futurism.com/bots-democracy-ireland-referendum>>.

40 Jeremy Scahill, 'Blackwater's black ops, internal documents reveal the firm's clandestine work for multinationals and governments' (*The Nation*, 15 September 2016) <[www.thenation.com/article/blackwaters-black-ops](http://www.thenation.com/article/blackwaters-black-ops)>. Tim Hains, 'Ronan Farrow on Trump collusion with Nat'l Enquirer, "echo chamber" memo, research into Israeli meddling in US politics' (*Real Clear Politics*, 24 August 2018) <[www.realclearpolitics.com/video/2018/08/24/ronan\\_farrow\\_on\\_trump\\_media\\_collusion\\_with\\_national\\_enquirer.html](http://www.realclearpolitics.com/video/2018/08/24/ronan_farrow_on_trump_media_collusion_with_national_enquirer.html)>.

41 Tim Hains, 'How social media distorts our perceptions of groups' (*Practical Ethics*, 10 July 2017) <<http://blog.practicaethics.ox.ac.uk/2017/07/how-social-media-distorts-our-perceptions-of-groups>>.

42 Ezra Klein, 'Trump picks cultural fights to distract Americans from his policies and their results' (*Vox*, 9 October 2017) <[www.vox.com/policy-and-politics/2017/10/9/16447610/trump-pence-nfl-distraction](http://www.vox.com/policy-and-politics/2017/10/9/16447610/trump-pence-nfl-distraction)>.

43 Ashley Lutz, 'These 6 corporations control 90% of the media in America' (*Business Insider*, 14 June 2012) <[www.businessinsider.com/these-6-corporations-control-90-of-the-media-in-america-2012-6](http://www.businessinsider.com/these-6-corporations-control-90-of-the-media-in-america-2012-6)>.

44 Nick Visser, 'Comey memo: Trump floated idea of jailing journalists to make them "talk"' (*Huffington Post*, 20 April 2018) <[www.huffingtonpost.com/entry/trump-jail-journalists-james-comey-memos\\_us\\_5ad96befe4b029ebe0229019](http://www.huffingtonpost.com/entry/trump-jail-journalists-james-comey-memos_us_5ad96befe4b029ebe0229019)>.

45 See typical example, 'Journalists are not the enemy' *Boston Globe* (Boston, 16 August 2018) <<https://apps.bostonglobe.com/opinion/graphics/2018/08/freepress>>.

46 Robin Barnes, *Outrageous Invasions, Celebrities' Private Lives, Media and the Law* (Oxford University Press 2010) 113–24. Read discussion of the global fallout which begins in the section titled 'The cartoons that travelled the globe'.

47 Mark Thompson, 'From Trump to Brexit rhetoric: how today's politicians have got away with words' *The Guardian* (London, 27 August 2016) <[www.theguardian.com/books/2016/aug/27/from-trump-to-brexit-rhetoric-how-todays-politicians-have-got-away-with-words](http://www.theguardian.com/books/2016/aug/27/from-trump-to-brexit-rhetoric-how-todays-politicians-have-got-away-with-words)>; Steven Hayward, 'Political attacks, circa 1800' *New York Times* (New York, 20 April 2011) <[www.nytimes.com/roomfordebate/2011/01/10/assassins-and-american-history/political-attacks-circa-1800](http://www.nytimes.com/roomfordebate/2011/01/10/assassins-and-american-history/political-attacks-circa-1800)>.

strong advocacy coupled with strategic commitment to single outcomes routinely accounted for differences over solutions. However, current trends impede measurable progress toward higher levels of debate.<sup>48</sup> Disputes over which set of underlying facts inform basic understanding of the problem now seamlessly devolve into endless vilification.<sup>49</sup> For example, our long-standing need to investigate electoral accounting and skewed outcomes in high-stakes elections has been hijacked by incessant focus upon fascism.<sup>50</sup> A range of deflective techniques within public discourse pass without traditional corrective measures that might otherwise serve to contain or modify offending behaviours.<sup>51</sup>

Among the justifications for total transparency in *The Circle* is the suggestion that illicit behaviours are easily neutralised. One could cite or even applaud the swift seemingly public response when Facebook founder and chief executive officer (CEO), Mark Zuckerberg, suffered a \$10-billion loss of revenue in a single week following revelation of the grievous machinations of Facebook executives in their support of the psy-ops cyber-firm known as Cambridge Analytica.<sup>52</sup> Flash reports across a stream of media platforms pointed toward ripples on the Stock Exchange, advertiser defections and eroding consumer confidence.<sup>53</sup> Given the stakes, with Cambridge Analytica reportedly flipping a major election in the USA, as well as the Brexit referendum in the UK, how does one assess a \$10-billion loss? Examined in context it might prove far too little, way too late and woefully insufficient to deter future encroachment.<sup>54</sup> Reports that stock prices correlated with projected loss of revenue far outpaced outrage over an assumed lapse in moral judgement are entirely relevant given the scant coverage of Facebook's clear patterns of prior deviance.<sup>55</sup> In the aftermath, the Federal Trade Commission opened an investigation into whether Facebook violated an earlier (2011) consent decree

48 'Civility, public discourse and the 2016 presidential campaign' *Diane Rehm Show* (25 October 2016) <<https://dianerehm.org/shows/2016-10-25/civility-public-discourse-and-the-2016-presidential-election>>.

49 Germany began enforcing strict rules that could fine major internet sites such as Facebook, Twitter and YouTube up to €50 million for failure to remove posts containing hate speech within 24 hours of receiving a complaint. The massive amount of hate content, in particular, has been a problem for the sites. In June, Facebook said it removes 66,000 such posts every week. Zoey Chong, 'Germany kicks year off with strict online hate speech law' CNET (1 January 2018) <[www.cnet.com/news/german-hate-speech-law-goes-into-effect-on-1-jan](http://www.cnet.com/news/german-hate-speech-law-goes-into-effect-on-1-jan)>.

50 Christina Pazzanese, 'In Europe, nationalism rising' *Harvard Gazette* (Cambridge MA, 27 February 2017) <<https://news.harvard.edu/gazette/story/2017/02/in-europe-nationalisms-rising>>; Sasha Polakow-Suransky, 'White nationalism is destroying the West' *New York Times* (New York, 12 October 2017) <[www.nytimes.com/2017/10/12/opinion/sunday/white-nationalism-threat-islam-america.html](http://www.nytimes.com/2017/10/12/opinion/sunday/white-nationalism-threat-islam-america.html)>.

51 For an insightful discussion and commentary see, 'Where should the limits to freedom of speech be set?' (*Debating Europe*, 4 June 2015) <[www.debatingeurope.eu/2015/06/04/where-should-the-limits-to-freedom-of-speech-be-set/#.W3\\_dddJZRjo](http://www.debatingeurope.eu/2015/06/04/where-should-the-limits-to-freedom-of-speech-be-set/#.W3_dddJZRjo)>.

52 Lisa Marie Segarra, 'Mark Zuckerberg lost 10 billion in one week after Facebook's privacy scandal' *Time* (24 March 2018) <<http://time.com/money/5213181/mark-zuckerberg-lost-10-billion-in-one-week-after-facebooks-privacy-scandal>>.

53 'Facebook has lost \$70 billion in 10 days – and now advertisers are pulling out' (*Financial Post*, 27 March 2018) <<https://business.financialpost.com/technology/u-s-ftc-investigating-facebooks-privacy-practices>>.

54 Andrew Hutchinson, 'How will Facebook change in the wake of the Cambridge Analytica issue?' (*Social Media Today*, 28 March 2018) <[www.socialmediatoday.com/news/how-will-facebook-change-in-the-wake-of-the-cambridge-analytica-issue/520103](http://www.socialmediatoday.com/news/how-will-facebook-change-in-the-wake-of-the-cambridge-analytica-issue/520103)>.

55 Annie Gowen and Max Bearak, 'Fake news on Facebook fan the flames of hate against the Rohingya in Burma' *Washington Post* (Washington, 8 December 2017) <[www.washingtonpost.com/world/asia\\_pacific/fake-news-on-facebook-fans-the-flames-of-hate-against-the-rohingya-in-burma/2017/12/07/2c1fe830-ca1f-11e7-b506-8a10ed11ecf5\\_story.html?utm\\_term=.83fcbac73e08](http://www.washingtonpost.com/world/asia_pacific/fake-news-on-facebook-fans-the-flames-of-hate-against-the-rohingya-in-burma/2017/12/07/2c1fe830-ca1f-11e7-b506-8a10ed11ecf5_story.html?utm_term=.83fcbac73e08)>.



with the agency over data leaks. Similar efforts are underway in Australia.<sup>56</sup> Nonetheless, polling showed that Facebook's platform users remained unphazed.<sup>57</sup> Facebook executives have been directly implicated in privacy invasions and in the advocacy of violence, not only in the West, but in fuelling ethnic violence in south-east Asia. These violations are under-reported by mainstream media.<sup>58</sup> Zuckerberg seemed ill-prepared to explain the company's role in the spread of hate speech against Rohingya Muslims in Burma<sup>59</sup> after UN investigators concluded that Facebook had played a 'determining role' in that genocide.<sup>60</sup> Within months of the privacy debacle, Facebook lost an additional \$119 billion – the largest one-day drop in the history of the Stock Exchange – alongside revelations of its links to elections of authoritarian leaders around the world.<sup>61</sup> Facebook's days of reckoning following years of abuse and indifference demonstrate that corporate and government accountability in real-time is lagging.<sup>62</sup>

Trends toward superficial analysis leave US citizens sifting through national media reports that fail to distinguish indifference from complicity and are far more prone to dismiss outright advocacy of violence as mere hyperbole.<sup>63</sup> *New York Times* reporter Maggie Haberman has covered Trump exclusively for the past three years, during 18 months on the campaign trail and 18 months in office. His use of Twitter as a 'breaking news service' has emerged as a constant talking point among journalists since the 2016 election. According to Haberman, journalists 'file stories, watch Twitter and make calls' non-stop throughout the day.<sup>64</sup> The leader of the current administration has achieved global notoriety, surpassing all former US presidents in every category of disrepute, and

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- 56 Jones Day, 'Changes to the ACCC's power to obtain information' (*Lexology*, 1 February 2018). The Australian Competition and Consumer Commission had been tasked with assessing whether platforms like Facebook were using their market power in commercial dealings to the detriment of users, news media and advertisers. <[www.lexology.com/library/detail.aspx?g=a28026f0-9ce7-43db-ac10-a86ef7e0acd0](http://www.lexology.com/library/detail.aspx?g=a28026f0-9ce7-43db-ac10-a86ef7e0acd0)>.
- 57 A Reuters/Ipsos poll has found that Facebook has so far suffered no ill effects from the recent privacy scandal. Chris Kahn, 'Three-quarters Facebook users as active or more since privacy scandal' Reuters (6 May 2018) <[www.reuters.com/article/us-facebook-privacy-poll/three-quarters-facebook-users-as-active-or-more-since-privacy-scandal-reuters-ipsos-poll-idUSKBN117081](http://www.reuters.com/article/us-facebook-privacy-poll/three-quarters-facebook-users-as-active-or-more-since-privacy-scandal-reuters-ipsos-poll-idUSKBN117081)>.
- 58 Timothy McLaughlin, 'How Facebook's rise fueled chaos and confusion in Myanmar' (*Wired*, 6 July 2018) <[www.wired.com/story/how-facebook-rise-fueled-chaos-and-confusion-in-myanmar](http://www.wired.com/story/how-facebook-rise-fueled-chaos-and-confusion-in-myanmar)>.
- 59 Adam Taylor, 'The big questions for Mark Zuckerberg on Facebook's role in Burma' *Washington Post* (Washington, 10 April 2018) <[www.washingtonpost.com/news/worldviews/wp/2018/04/10/the-big-questions-for-mark-zuckerberg-on-facebooks-role-in-burma/?noredirect=on&utm\\_term=.64285686baa4](http://www.washingtonpost.com/news/worldviews/wp/2018/04/10/the-big-questions-for-mark-zuckerberg-on-facebooks-role-in-burma/?noredirect=on&utm_term=.64285686baa4)>.
- 60 Jen Kirby, 'New UN report documents evidence of mass atrocities in Myanmar against the Rohingya' (*Vox*, 18 September 2018) <[www.vox.com/world/2018/9/18/17873638/rohingya-united-nations-myanmar-war-crimeshttps://www.vox.com/world/2018/9/18/17873638/elise\\_rohingya-united-nations-myanmar-war-crimes](http://www.vox.com/world/2018/9/18/17873638/rohingya-united-nations-myanmar-war-crimeshttps://www.vox.com/world/2018/9/18/17873638/elise_rohingya-united-nations-myanmar-war-crimes)>.
- 61 'A threat to global democracy: how Facebook and surveillance capitalism empower authoritarianism' (*Democracy Now*, 1 August 2018) <[www.democracynow.org/2018/8/1/a\\_threat\\_to\\_global\\_democracy\\_how](http://www.democracynow.org/2018/8/1/a_threat_to_global_democracy_how)>; Barbara Ortutay, 'Facebook's \$119 billion loss is biggest one-day drop in history of US Stock Market' *Chicago Tribune* (Chicago, 27 July 2018) <[www.chicagotribune.com/business/ct-biz-facebook-worst-trading-day-20180726-story.html#](http://www.chicagotribune.com/business/ct-biz-facebook-worst-trading-day-20180726-story.html#)>.
- 62 Nicholas Thompson and Fred Vogelstein, 'Inside the two years that shook Facebook – and the world' (*Wired*, 12 February 2018) <[www.wired.com/story/inside-facebook-mark-zuckerberg-2-years-of-hell](http://www.wired.com/story/inside-facebook-mark-zuckerberg-2-years-of-hell)>; Nicholas Thompson, 'Mark Zuckerberg talks to Wired about Facebook's privacy problem' (*Wired*, 21 March 2018) <[www.wired.com/story/mark-zuckerberg-talks-to-wired-about-facebooks-privacy-problem](http://www.wired.com/story/mark-zuckerberg-talks-to-wired-about-facebooks-privacy-problem)>.
- 63 Aaron P Bernstein, 'Judge to Trump: no protection for campaign rally speech inciting violence' NBC (1 March 2016) <[www.nbcnews.com/politics/politics-news/judge-trump-no-protection-campaign-rally-speech-inciting-violence-n741731](http://www.nbcnews.com/politics/politics-news/judge-trump-no-protection-campaign-rally-speech-inciting-violence-n741731)>.
- 64 Maggie Haberman, 'Trump is not what he seems' Speech (Covering the Trump White House, hosted by CSPAN, 21 July 2018) <[www.youtube.com/watch?v=rg4IqrIpuQU](http://www.youtube.com/watch?v=rg4IqrIpuQU)>.

described by a leading conservative as a 'Frankenstein's monster of past presidents' worst attributes'.<sup>65</sup> On 16 August 2018, the *Washington Post* published an open letter to Donald Trump submitted by retired Navy Admiral William H. McRaven, commander of the 2011 Navy SEAL raid in Pakistan that killed Osama bin Laden.<sup>66</sup> McRaven neatly summarised the non-partisan American view of this presidency:

A good leader tries to embody the best qualities of his or her organisation. A good leader sets the example for others to follow. A good leader always puts the welfare of others before himself or herself. Your leadership, however, has shown little of these qualities. Through your actions, you have embarrassed us in the eyes of our children, humiliated us on the world stage and, worst of all, divided us as a nation. If you think for a moment that your McCarthy-era tactics will suppress the voices of criticism, you are sadly mistaken.<sup>67</sup>

Less like a lightning rod than a tsunami, the Trump presidency, also known as Trumpocracy, has delivered a new paradigm of governance that feeds off chaos and deflection, broadly assisted by the knowing efforts of Facebook executives and the companies that pay for their data.<sup>68</sup>

During the summer before Trump's election there was an explosion of violence across the USA. A media storm around Facebook's deleterious influence featured a leaked memo by company executive Andrew Bozworth who simply declared: 'that's what we do. We connect people.' In context it rang like an endorsement. Four days earlier a French police commander and his partner were murdered by an ISIS affiliate in their home near Paris. The Jihadist then appeared on Facebook Live with their surviving toddler announcing that he was still deciding what to do with him and urging others to follow suit.<sup>69</sup> The night before that, a mass shooting at Orlando Florida's Pulse nightclub that left 49 dead and 58 injured was viewed as a live broadcast. Footage of stampedes and trapped victims pleading for help via text messages from a bathroom are still available on line.<sup>70</sup> According to a Facebook representative, they remain because there is no violation of community standards. A disturbing video that does not incite violence is presumed to be

65 According to Harvard Law Professor Jack Goldsmith: 'Donald Trump is testing the institution of the presidency unlike any of his 43 predecessors. We have never had a president so ill-informed about the nature of his office, so openly mendacious, so self-destructive, or so brazen in his abusive attacks on the courts, the press, Congress (including members of his own party), and even senior officials within his own administration. Trump is a Frankenstein's monster of past presidents' worst attributes: Andrew Jackson's rage; Millard Fillmore's bigotry; James Buchanan's incompetence and spite; Theodore Roosevelt's self-aggrandizement; Richard Nixon's paranoia, insecurity, and indifference to law; and Bill Clinton's lack of self-control and reflexive dishonesty.' Jack Goldsmith, 'Will Donald Trump destroy the presidency?' (*The Atlantic*, October 2017) <[www.theatlantic.com/magazine/archive/2017/10/will-donald-trump-destroy-the-presidency/537921](http://www.theatlantic.com/magazine/archive/2017/10/will-donald-trump-destroy-the-presidency/537921)>.

66 For commentary on the official documents pertaining to the raid, see Eli Watkins, 'CIA releases more files it says came from Bin Laden Raid, including his journal' CNN (2 November 2017) <[www.cnn.com/2017/11/01/politics/cia-osama-bin-laden-release](http://www.cnn.com/2017/11/01/politics/cia-osama-bin-laden-release)>.

67 William McRaven, 'Revoke my security clearance too' *Washington Post* (16 August 2018) <[www.washingtonpost.com/opinions/revoke-my-security-clearance-too-mr-president/2018/08/16/8b149b02-a178-11e8-93e3-24d1703d2a7a\\_story.html](http://www.washingtonpost.com/opinions/revoke-my-security-clearance-too-mr-president/2018/08/16/8b149b02-a178-11e8-93e3-24d1703d2a7a_story.html)>.

68 Bernard Marr, 'Where can you buy Big Data? Here are the biggest consumer data brokers' (*Forbes*, 7 September 2017) <[www.forbes.com/sites/bernardmarr/2017/09/07/where-can-you-buy-big-data-here-are-the-biggest-consumer-data-brokers](http://www.forbes.com/sites/bernardmarr/2017/09/07/where-can-you-buy-big-data-here-are-the-biggest-consumer-data-brokers)>.

69 Angelique Chrisafis and Kim Willsher, 'French police officer and partner murdered in "odious terrorist attack"' *The Guardian* (London, 14 June 2016) <[www.theguardian.com/world/2016/jun/14/french-police-officer-wife-murdered-larossi-abballa-isis](http://www.theguardian.com/world/2016/jun/14/french-police-officer-wife-murdered-larossi-abballa-isis)>.

70 Lizette Alvarez and Richard Pérez-Peña, 'Orlando gunman attacks gay nightclub, leaving 50 dead' *New York Times* (New York, 12 June 2016) <[www.nytimes.com/2016/06/13/us/orlando-nightclub-shooting.html](http://www.nytimes.com/2016/06/13/us/orlando-nightclub-shooting.html)>.

posted and shared in order to raise awareness, thus viewers receive a warning.<sup>71</sup> Chicago native Anthony Perkins filmed his own murder live on Facebook three days before Bozworth's infamous memo explaining the objectives of social media:<sup>72</sup>

Size matters, above all else.

And that end of connecting more people more often justifies the means – even if it involves sketchy treatment of data or satisfying the demands of a repressive foreign regime.

All the work we do in growth is justified. All the questionable contact importing practices. All the subtle language that helps people stay searchable by friends. All of the work we do to bring more communication in.

Sketchy treatment of data meets with his approval. This raises the question of whether multinational data collectors' treatment of personally identifiable data is subject to effective monitoring and review by any governing authority. In 2017, Australian-based Ars Technica leaked Facebook's pitch to potential advertisers.<sup>73</sup> The tech giant was caught advertising its ability to leverage a time-sensitive marketing strategy to coax Australian and New Zealand teenagers, as young as 14 years old, to purchase certain products when they felt anxious and worthless.<sup>74</sup> Algorithms pinpoint 'moments when young people need a confidence boost' because they are overcome with emotion in highly vulnerable states. Failing to disclose whether this was a global strategy, early dissembling suggesting the possibility of 'disciplinary' action was replaced with discussion of the ad's accuracy.<sup>75</sup> Beyond its proprietary algorithms, Facebook buys data about its users' offline behaviour from third parties to enlarge targeting capability.<sup>76</sup>

71 Laurie Segall, 'CNN still shows video: shooting death of Chicago man captured live on Facebook' (*Money*, 20 June 2016) <<http://money.cnn.com/2016/06/17/technology/facebook-live-shooting-death>>. It's not clear whether the same policy would apply under the Audiovisual Media Services Directive (AVMSD). See Michael Russ, 'Problematically proactive: a summary of recent legal developments in the field of internet intermediary liability' (2018) 69(4) Northern Ireland Legal Quarterly (this issue), describing a proposal to amend the current AVMSD (2010) (Directive of European Parliament and the Council 2010 13/EU of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) [2010] OJ L 95/1). Not expected to exercise editorial control over the user content they host, only having substantial control over the way this content is organised, they will still be expected to prevent adult content, such as pornography or advertisements for alcohol, from being made readily available to children. They will also be expected to prevent access to content which is hateful to minority ethnic groups as well as content which seeks to incite violence.

72 Angela Bronner Helm, 'Chicago man captures own murder on Facebook live' (*The Root*, 18 June 2016) <[www.theroot.com/chicago-man-captures-own-murder-on-facebook-live-1790855712](http://www.theroot.com/chicago-man-captures-own-murder-on-facebook-live-1790855712)>.

73 Sam Machkovech, 'Report: Facebook helped advertisers target teens who feel "worthless"' (1 May 2017) <<https://arstechnica.com/information-technology/2017/05/facebook-helped-advertisers-target-teens-who-feel-worthless>>.

74 Described as insecure, defeated, anxious, silly, useless, stupid, overwhelmed, stressed, or like a failure. Michael Reilly, 'Is Facebook targeting ads at sad teens?' (*Technology Review*, 1 May 2017) <[www.technologyreview.com/s/604307/is-facebook-targeting-ads-at-sad-teens](http://www.technologyreview.com/s/604307/is-facebook-targeting-ads-at-sad-teens)>.

75 Ibid. In 2014, for example, a few of the company's researchers published a paper in a high-profile journal in which they detailed how they manipulated 700,000 users' news feeds with varying degrees of happy or sad content to see how the users reacted.

76 Mark Bergen and Jennifer Surane, 'Google and Mastercard cut a secret ad deal to track retail sales' (*Bloomberg*, 31 August 2018) <[www.bloomberg.com/news/articles/2018-08-30/google-and-mastercard-cut-a-secret-ad-deal-to-track-retail-sales](http://www.bloomberg.com/news/articles/2018-08-30/google-and-mastercard-cut-a-secret-ad-deal-to-track-retail-sales)>; Nathan Ingraham, 'Facebook buys data on users' offline habits for better ads, and opting out is a lot more complicated than it should be' (*Engadget*, 30 December 2016) <[www.engadget.com/2016/12/30/facebook-buys-data-on-users-offline-habits-for-better-ads](http://www.engadget.com/2016/12/30/facebook-buys-data-on-users-offline-habits-for-better-ads)>.

### 1.3 CAMBRIDGE ANALYTICA: WHO'S MONITORING THE FRIGHTFUL FIVE?

Curiously, US media showed only limited interest in how Cambridge Analytica quietly closed its doors. Given the scope of its offences, there are no updates on the trajectory of official investigations into its operations,<sup>77</sup> or into the global reach of psy-op firms in general.<sup>78</sup> Fact-checking disclosures by whistle-blower Christopher Wylie seem to be low on the list of US media priorities.<sup>79</sup>

If Cambridge Analytica wrought political disruption with intent to undermine democracy, and emerging revelations over misuse of citizens' private information focus upon other data-analytic companies in the USA, UK, Israel and Canada,<sup>80</sup> who and what is policing and counteracting this influence?<sup>81</sup> Right-wing strategist Steve Bannon is alleged to have requested that the group develop more effective voter suppression strategies.<sup>82</sup> This methodology is characterised by Wylie as a form of modern-day digital colonialism.<sup>83</sup> The wherewithal to put Trump in office, pass Brexit and thwart the civil institutions of countries that are struggling to develop them, if true, would be an undeniably toxic mix.

Why are military-style information operations being used to undermine democracy?<sup>84</sup> Why are national news outlets lock-scoped on playboy playmate revelations while military-grade psy-ops are disrupting the lives of millions right under their investigative noses?<sup>85</sup> Why are corporate executives excused for allowing the acquisition of personal data of millions of its users? Facebook reportedly removed Cambridge Analytica from its platform and made relevant changes as far back as 2014 to restrict unauthorised access to private data. This claim appeared alongside mounting speculation about the scope of televised hearings before the Senate Judiciary and Commerce Committees.<sup>86</sup> Many analysts observed that septuagenarians in the US Congress were so far outmatched by the tech star that they could not fathom the depth of their own ignorance, allowing Facebook

77 Issie Lapowsky, 'UK regulators may fine Facebook over Cambridge Analytica' (*Wired*, 10 July 2018) <[www.wired.com/story/uk-regulators-may-fine-facebook-over-cambridge-analytica](http://www.wired.com/story/uk-regulators-may-fine-facebook-over-cambridge-analytica)>.

78 Eric Schmitt and Thom Shanker, 'Big pay luring military's elite to private jobs' *New York Times* (New York, 30 March 2004) <[www.nytimes.com/2004/03/30/us/big-pay-luring-military-s-elite-to-private-jobs.html](http://www.nytimes.com/2004/03/30/us/big-pay-luring-military-s-elite-to-private-jobs.html)>.

79 Natasha Lomas, 'Fake news inquiry calls for social media levy to defend democracy' (*Tech Crunch*, 30 July 2018) <<https://techcrunch.com/2018/07/30/fake-news-inquiry-calls-for-social-media-levy-to-defend-democracy/>>.

80 Mike Memoli and Anna Schecter, 'Bannon turned Cambridge into "propaganda machine," whistleblower says' NBC (25 April 2018) <[www.nbcnews.com/politics/donald-trump/bannon-turned-cambridge-propaganda-machine-whistleblower-says-n869126](http://www.nbcnews.com/politics/donald-trump/bannon-turned-cambridge-propaganda-machine-whistleblower-says-n869126)>; Merritt Kennedy, "'They don't care": whistleblower says Cambridge Analytica aims to undermine democracy' NPR (27 March 2018) <[www.npr.org/sections/thetwo-way/2018/03/27/597279596/they-don-t-care-whistleblower-says-cambridge-analytica-seeks-to-undermine-democracy](http://www.npr.org/sections/thetwo-way/2018/03/27/597279596/they-don-t-care-whistleblower-says-cambridge-analytica-seeks-to-undermine-democracy)>.

81 Siva Vaidhyanathan, *Antisocial Media: How Facebook Disconnects Us and Undermines Democracy* (Oxford University Press 2018).

82 Memoli and Schecter (n 80).

83 Ibid.

84 Kennedy (n 80).

85 Colin Freeze and David Ebner, 'Parliamentary committee to question AggregateIQ founders about data-misuse allegations' *Globe and Mail* (Toronto, 23 April 2018) <[www.theglobeandmail.com/politics/article-parliamentary-committee-to-question-aggregateiq-founders-about-data](http://www.theglobeandmail.com/politics/article-parliamentary-committee-to-question-aggregateiq-founders-about-data)>. The global effects of the Trump presidency alone will take years to untangle. AggregateIQ is accused of using Facebook data to build Ripon, the election software platform in the US and UK, in addition to serving as a proxy money-laundering vehicle for funnelling illegal funds into campaigns calling for the UK to leave the EU.

86 Mallory Locklear, 'Cambridge Analytica is closing but it solves nothing' (*Engadget*, 2 May 2018) <[www.engadget.com/2018/05/02/cambridge-analytica-closing-solves-nothing](http://www.engadget.com/2018/05/02/cambridge-analytica-closing-solves-nothing)>.

CEO, Mark Zuckerberg, to ‘charm, evade, and mislead his way through the committee-hearing gauntlet’.<sup>87</sup> At his company’s annual F8 Developer conference, there were reports that a typically quiet developer-focused affair was transformed into a litmus test for Facebook’s handling of the personal data breach.<sup>88</sup> Zuckerberg’s keynote was about moving on from Cambridge Analytica, even though we still have no idea who else may have purchased Cambridge Analytica researcher Aleksandr Kogan’s trove of data.<sup>89</sup>

In contrast, the UK’s Digital, Culture, Media and Sport Parliamentary Committee posed a few of the following unanswered questions to Facebook’s chief technology officer, Michael Schroepfer.<sup>90</sup> How many developers were penalised between 2011 and 2014? What is the scope of the non-disclosure agreement between Facebook and Cambridge Analytica? Does Facebook plan to take legal action against the company? Who at Facebook is leading the Cambridge Analytica investigation? What is the nature and scope of developers using personal data? What are the financial and data-sharing arrangements between and among Facebook in the US, Aggregate IQ in Canada, SCL Group/Cambridge Analytica in the UK, and Black Cube in Israel?<sup>91</sup> What means exist for assessing the scope of data legally acquired from Facebook,<sup>92</sup> but later sold in contravention of an unenforced company policy and how much of it might still be in use elsewhere?<sup>93</sup> Facebook’s digital forensic audit at Cambridge Analytica’s London office<sup>94</sup> began three days earlier than the UK Information Commissioner could obtain a search warrant.<sup>95</sup>

87 Will Oremus, ‘The Senate fought Mark Zuckerberg, and Mark Zuckerberg won’ (*Slate*, 10 April 2018) <<https://slate.com/technology/2018/04/the-senate-fought-mark-zuckerberg-and-mark-zuckerberg-won.html>>; Emily Stewart, ‘Lawmakers seem confused about what Facebook does – and how to fix it’ (*Vox*, 10 April 2018) <[www.vox.com/policy-and-politics/2018/4/10/17222062/mark-zuckerberg-testimony-graham-facebook-regulations](http://www.vox.com/policy-and-politics/2018/4/10/17222062/mark-zuckerberg-testimony-graham-facebook-regulations)>.

88 Nick Statt, ‘How to watch Mark Zuckerberg’s keynote at Facebook’s F8 Developer Conference’ (*The Verge*, 1 May 2018) <[www.theverge.com/2018/5/1/17304376/facebook-f8-2018-live-stream-agenda-mark-zuckerberg-keynote-start-time](http://www.theverge.com/2018/5/1/17304376/facebook-f8-2018-live-stream-agenda-mark-zuckerberg-keynote-start-time)>.

89 See Paul Bernal, ‘Fakebook: why Facebook makes the fake news problem inevitable’ (2018) 69(4) *Northern Ireland Legal Quarterly* (this issue). Facebook does not just help with identifying the potential audience, but also provides the mechanisms to target them – from the tools for advertisers to the various groups, pages and so forth where they can be found. Paid political advertisements are only a small part of this – the spreading of information in other ways is a critical part of the way that fake news works. Critically, much of this happens without those behind the fake news needing to take any action: Facebook’s whole ‘sharing’ system does much of this automatically. Kogan exploited a Facebook feature called ‘friends permission’ that allowed developers to access the profiles of not only the person who installed their app but all their friends too.

90 Gian Volpicelli, ‘The stupefying pointlessness of Facebook’s political theatre’ (*Wired*, 27 April 2018) <[www.wired.co.uk/article/facebook-cambridge-analytica-dcms-evidence-parliament](http://www.wired.co.uk/article/facebook-cambridge-analytica-dcms-evidence-parliament)>.

91 Devin Coldewey, ‘Facebook reportedly suspends AggregateIQ over connection to improper data-sharing’ (*Tech Crunch*, 6 April 2018) <<https://techcrunch.com/2018/04/06/facebook-reportedly-suspends-aggregateiq-over-connection-to-improper-data-sharing>>; Ifreke Inyang, ‘Whistle blower reveals firm that hacked President Buhari’s emails’ *Daily Post* (Nigeria, 28 March 2018) <<http://dailypost.ng/2018/03/28/whistle-blower-reveals-firm-hacked-president-buharis-emails>>.

92 Fred Imbert, ‘Facebook says it gave companies “one-time” access to user data after restricting information 2015’ *CNBC* (1 July 2018) <[www.cnn.com/2018/07/01/facebook-says-it-gave-companies-access-to-user-data-after-restricting-2015](http://www.cnn.com/2018/07/01/facebook-says-it-gave-companies-access-to-user-data-after-restricting-2015)>.

93 Jane Wakefield, ‘Facebook scandal: who is selling your personal data?’ (*BBC News*, 11 July 2018) <[www.bbc.com/news/technology-44793247](http://www.bbc.com/news/technology-44793247)>.

94 Sarah Frier, ‘Facebook says Cambridge Analytica audit on hold amid UK probe’ (*Bloomberg*, 19 March 2018) <[www.bloomberg.com/news/articles/2018-03-19/facebook-says-cambridge-analytica-agreed-to-forensic-data-audit](http://www.bloomberg.com/news/articles/2018-03-19/facebook-says-cambridge-analytica-agreed-to-forensic-data-audit)>.

95 Hannah Summers, ‘Investigators complete seven-hour Cambridge Analytica HQ search’ *The Guardian* (London, 24 March 2018) <[www.theguardian.com/news/2018/mar/23/judge-grants-search-warrant-for-cambridge-analytica-offices](http://www.theguardian.com/news/2018/mar/23/judge-grants-search-warrant-for-cambridge-analytica-offices)>.

Cambridge Analytica executives invoke the spectre of a witch-hunt, claiming that their 'efforts to correct the record pertaining to numerous unfounded accusations' have only led to their vilification for activities that are both legal and widely accepted as standard business practice in political and commercial arenas.<sup>96</sup> Open debate and analysis of the accuracy of that statement would undoubtedly serve the public interest. Chasing down the porn star suing Donald Trump, while providing her lawyer with close to a million dollars-worth of free airtime to expound upon every burp, hiccup and growl in the legal intestinal track of a dispute over a non-disclosure agreement in the most widely disclosed saga of any American President is simply unacceptable.

It will take years to assess the damage to democratic order bred by surveillance capitalism, some in plain sight, others foreshadowed by the ubiquity of manipulation and other offences.<sup>97</sup> Volumes will be written about the psycho-neurosis bred by the privacy invasions, stolen elections,<sup>98</sup> exacerbated traumas,<sup>99</sup> and the intentional infliction of emotional distress upon large groups of long-standing, fully integrated people deported or expelled from their homes and communities in violation of their civil and human rights.<sup>100</sup> Much of this is owing to the impact of the Frightful Five, a phrase coined by journalist Farhad Manjoo, a *New York Times* tech reporter whose many articles and forthcoming book detail how leading US tech companies operate more like totalitarian governments than private companies.<sup>101</sup>

Manjoo analyses the impact of Facebook, Google, Amazon, Microsoft and Apple.<sup>102</sup> Siva Vaidhyanathan, author of *The Googolization of Everything*, describes the pattern facilitated by social media giants, as the 'Authoritarian Playbook' which starts with flooding public debate with propaganda and spreading disinformation about opponents,

96 Antonia Blumberg, 'Cambridge Analytica being investigated by Justice Department, FBI: report' (*Huffington Post*, 15 May 2018) <[www.huffingtonpost.com/entry/cambridge-analytica-investigated-by-justice-department-fbi\\_us\\_5afb691be4b0779345d3dd20](http://www.huffingtonpost.com/entry/cambridge-analytica-investigated-by-justice-department-fbi_us_5afb691be4b0779345d3dd20)>.

97 Grayling (n 28). The most recent development in lawsuits initiated by publishers and authors against Google's book digitisation plan was a March 2011 decision by a New York court: the settlement offer, according to Judge Denny Chin, would 'give Google a significant advantage over competitors, rewarding it for engaging in wholesale copying of copyrighted works without permission'. It would also gain Google the profits from 'orphan works' whose copyright holders cannot be located.

98 Michael Regan, 'An 11-year-old changed election results on a replica Florida State website in under 10 Minutes' (*PBS*, 12 August 2018) <[www.pbs.org/newshour/nation/an-11-year-old-changed-election-results-on-a-replica-florida-state-website-in-under-10-minutes](http://www.pbs.org/newshour/nation/an-11-year-old-changed-election-results-on-a-replica-florida-state-website-in-under-10-minutes)>; J Eliza Newlin Carney, 'Jill Stein pulls back the curtain on America's voting chaos' (*Prospect*, 15 December 2016) <<http://prospect.org/article/jill-stein-pulls-back-curtain-america%E2%80%99s-voting-chaos>>.

99 Daniel K Gelb, 'Privacy invasions now last forever' *New York Times* (New York, 14 November 2011) <[www.nytimes.com/roomfordebate/2010/09/30/cyberbullying-and-a-students-suicide/privacy-invasions-now-last-forever](http://www.nytimes.com/roomfordebate/2010/09/30/cyberbullying-and-a-students-suicide/privacy-invasions-now-last-forever)>.

100 Suzanne Gamboa, 'After judge's contempt threat, Trump admin returns deported mom, child to US' *NBC* (10 August 18) <[www.nbcnews.com/storyline/immigration-border-crisis/after-judge-s-contempt-threat-trump-admin-returns-deported-mom-n899691](http://www.nbcnews.com/storyline/immigration-border-crisis/after-judge-s-contempt-threat-trump-admin-returns-deported-mom-n899691)>.

101 Terry Gross, 'How 5 tech giants have become more like governments than companies' *NPR* (26 October 2018) <<https://www.npr.org/2017/10/26/560136311/how-5-tech-giants-have-become-more-like-governments-than-companies>>.

102 Farhad Manjoo, 'Tech's Frightful Five: they've got us' *New York Times* (New York, 10 May 2017) <[www.nytimes.com/2017/05/10/technology/techs-frightful-five-theyve-got-us.html](http://www.nytimes.com/2017/05/10/technology/techs-frightful-five-theyve-got-us.html)>.

and then concludes with the harassment and intimidation of critics.<sup>103</sup> Scott Galloway's book, *The Four: The Hidden DNA of Amazon, Apple, Facebook and Google*, explores the power wielded by US tech conglomerates in their race to the top.<sup>104</sup> In August 2018, Apple became the first publicly traded US company to reach a \$1 trillion.<sup>105</sup> Author Shoshana Zuboff declared: 'Google is ground zero for a wholly new subspecies of capitalism in which profits derive from the unilateral surveillance and modification of human behaviour.'<sup>106</sup> In retrospect, her studies offer a clear perspective on the emerging integration of AI technologies. She warns that Behavioural Futures Markets have spread to the insurance, health and finance sectors.<sup>107</sup>

The recent release of Facebook's virtual reality platform, Oculus Go, is designed to replace both mobile phones and personal computers and increase the total depth of individual monitoring.<sup>108</sup> Verizon USA, a mega digital service provider, assists such efforts with non-stop offers of hundreds of dollars in discounts toward the purchase of Google's Nest smart home devices, with its furtive venture into digital health monitoring. Despite myriad ethical implications, the advent and promotion of sex robots, now a \$30-billion industry, could bring new meaning to the term marital privacy – given the spring 2017 marriage of 31-year-old AI engineer Zheng Jiajia to Ying Ying, a life-size robot that he created.<sup>109</sup> Representing the ultimate smart device with unmatched access and surveillance capabilities, planning for custom orders – in the image of your favourite Hollywood actor no less – is already in the works.<sup>110</sup>

Connectivity is no longer an option. Under surveillance capitalism, tracking must ultimately generate revenue: feeding the cycle of surveillance, data capture, product

103 'Threat to global democracy' (n 61). They use Facebook and WhatsApp to distribute propaganda about themselves, flooding out all other discussion about what's going on in politics and government. Secondly, they use the same sort of propaganda machines, very accurately targeted, to undermine their opponents and critics publicly. And then, thirdly, they use WhatsApp and Facebook to generate harassment, the sort of harassment that can put any non-governmental organisation, human rights organisation, journalist, scholar or political party off its game, because of constantly being accused of paedophilia, rape, or being threatened with rape, kidnapping, or murder, which makes it impossible to actually perform publicly in a democratic space.

104 Tom Upchurch, 'Why is it so hard to ditch Apple, Amazon, Google and Facebook?' (*Wired*, 5 October 2017) <[www.wired.co.uk/article/scott-galloway-the-four-book-review](http://www.wired.co.uk/article/scott-galloway-the-four-book-review)>.

105 Ibid. The four-horse race to become the first trillion-dollar company. In a casually incisive style, he uncovers how each of these companies have deployed iconic leadership, technology, storytelling, fearless innovation, lightning execution – and blatant plagiarism – to devastating effect.

106 Shoshana Zuboff, 'The secrets of surveillance capitalism' (*Cybersalon*, 22 May 2017) <<http://cybersalon.org/the-secrets-of-surveillance-capitalism-by-shoshana-zuboff>>; John D McKinnon and Douglas MacMillan, 'Google says it continues to allow apps to scan data from Gmail accounts' *Wall Street Journal* (New York, 20 September 2018) <[www.wsj.com/articles/google-says-it-continues-to-allow-apps-to-scan-data-from-gmail-accounts-1537459989?mod=trending\\_now\\_1](http://www.wsj.com/articles/google-says-it-continues-to-allow-apps-to-scan-data-from-gmail-accounts-1537459989?mod=trending_now_1)>.

107 Zuboff (n 106)

108 Dave Lee, 'Has Facebook slipped up with VR?' (*BBC News*, 11 February 2017) <[www.bbc.com/news/technology-38941256](http://www.bbc.com/news/technology-38941256)>.

109 Angela Chen, 'There's no evidence that sex robots provide health benefits' (*The Verge*, 5 June 2018) <[www.theverge.com/2018/6/5/17429602/sex-robot-health-science-therapy-relationships](http://www.theverge.com/2018/6/5/17429602/sex-robot-health-science-therapy-relationships)>; Chen Jingwen, 'Chinese man marries his robot after failing to find a human wife' (*Asia One*, 4 April 2017) <[www.asiaone.com/asia/chinese-man-marries-his-robot-after-failing-find-human-wife](http://www.asiaone.com/asia/chinese-man-marries-his-robot-after-failing-find-human-wife)>. The story flows straight from Greek mythology. King Pygmalion of Cypress, a sculptor par excellence, expressed his feminine ideal in a life-size ivory statue and fell madly in love with his own creation. <[www.greeka.com/greece-myths/pygmalion-galatea.htm](http://www.greeka.com/greece-myths/pygmalion-galatea.htm)>.

110 Doug Bolton, 'Scarlett Johansson lookalike robot created by Hong Kong man in his flat' *The Independent* (London, 14 April 2016) <[www.independent.co.uk/life-style/gadgets-and-tech/news/scarlett-johansson-robot-hong-kong-ricky-ma-a6967971.html](http://www.independent.co.uk/life-style/gadgets-and-tech/news/scarlett-johansson-robot-hong-kong-ricky-ma-a6967971.html)>.

development and sales.<sup>111</sup> While retaining the lion's share of capability when it comes to privacy invasion, Google evades the limelight, even though it was first to surreptitiously implement tools that operate without consumer knowledge, through 'deceit and obfuscation'.<sup>112</sup> Apple CEO Tim Cook's call for enhanced user privacy at a recent China summit indirectly speaks to the power it has amassed.<sup>113</sup> Zuboff agrees: 'They do not have the right to claim our reality and our actions for their own revenue streams.'<sup>114</sup> Data and Society research analyst Laura Reed and researcher Robyn Caplan put together a set of case studies to complement the contemporary issues primer *Mediation, Automation, and Power*, for the Algorithms and Publics project.<sup>115</sup> These case studies explore situations in which algorithmic media is shaping the public sphere across a variety of dimensions, including the changing role of the journalism industry.<sup>116</sup> It examines the use of algorithms for censorship and international compliance, how algorithms are functioning within foreign policy aims, digital gerrymandering, the spread of misinformation and more.<sup>117</sup> Professor Luciano Floridi analyses how the production of YouTube videos will shift with the emergence of DeepFake,<sup>118</sup> where facial mapping and voice-over technology is used to alter videos to create an entirely different message. The sway of fake Twitter accounts spreading disinformation will pale in comparison.<sup>119</sup>

## 2 Distractions and deception

Freedom of the press is guaranteed to encourage the free flow of facts without censorship to enable intelligent action on the part of the electorate and to provide a social safety valve.<sup>120</sup> Journalist Maggie Haberman believes that poor performance during the lead-up to the Iraq War, lax coverage of the 2008 presidential campaign and the Clinton email fiasco in 2016 have decimated public trust in media institutions.<sup>121</sup> While they certainly didn't help matters, the rhetoric of a free press was overtaken by the reality of

111 Zuboff (n 106).

112 Dylan Curran, 'Are you ready? Here is all the data Facebook and Google have on you' *The Guardian* (London, 30 March 2018) <[www.theguardian.com/commentisfree/2018/mar/28/all-the-data-facebook-google-has-on-you-privacy](http://www.theguardian.com/commentisfree/2018/mar/28/all-the-data-facebook-google-has-on-you-privacy)>; 'Google tracks your movements – like it or not' CBS (13 August 2018) <[www.cbsnews.com/news/google-tracks-your-movements-like-it-or-not](http://www.cbsnews.com/news/google-tracks-your-movements-like-it-or-not)>.

113 'Apple's Tim Cook calls for more regulations on data privacy' (*Bloomberg News*, 24 March 2018) <[www.engadget.com/2018/03/24/tim-cook-calls-for-tougher-regulation-of-personal-data](http://www.engadget.com/2018/03/24/tim-cook-calls-for-tougher-regulation-of-personal-data)>: 'This situation is so dire and has become so large that probably some well-crafted regulation is necessary, the ability of anyone to know what you've been browsing about for years, who your contacts are, who their contacts are, things you like and dislike and every intimate detail of your life – from my own point of view it shouldn't exist.'

114 Shoshana Zuboff, 'Rendering reality and cash cows' (*Science Node*, 17 October 18) <<https://sciencenode.org/feature/shoshana-zuboff-part-two-rendering-reality.php>>.

115 Laura Reed and Robyn Caplan, 'Who controls the public sphere in an era of algorithms: case studies' (*Data Society*, 13 May 2016) <<https://datasociety.net/output/who-controls-the-public-sphere-in-an-era-of-algorithms-case-studies>>.

116 Nikolay Malyarov, 'Journalism in the age of algorithms, platforms and newsfeeds' (*Fipp*, 18 October 2016) <[www.fipp.com/news/features/journalism-in-the-age-of-algorithms-platforms-newsfeeds](http://www.fipp.com/news/features/journalism-in-the-age-of-algorithms-platforms-newsfeeds)>.

117 Reed and Caplan (n 115).

118 'I never said that! High-tech deception of "deepfake" videos' Associated Press (2 July 2018) <[www.cbsnews.com/news/i-never-said-that-high-tech-deception-of-deepfake-videos](http://www.cbsnews.com/news/i-never-said-that-high-tech-deception-of-deepfake-videos)>.

119 Nicholas Confessore, Gabriel Dance, Richard Harris and Mark Hansen, 'The follower factory' *New York Times* (New York, 27 January 2018) <[www.nytimes.com/interactive/2018/01/27/technology/social-media-bots.html](http://www.nytimes.com/interactive/2018/01/27/technology/social-media-bots.html)>.

120 American Historical Society, 'News and Propaganda' <[www.historians.org/about-aha-and-membership/aha-history-and-archives/gi-roundtable-series/pamphlets/em-2-what-is-propaganda-\(1944\)/news-and-propaganda](http://www.historians.org/about-aha-and-membership/aha-history-and-archives/gi-roundtable-series/pamphlets/em-2-what-is-propaganda-(1944)/news-and-propaganda)>.

121 Haberman (n 64).



a pernicious influence quietly operating in the background long before 2004. As war propaganda flourished in mainstream media outlets, high court judges weakened tort law and pursued flawed interpretations of First Amendment freedoms. Hunting down celebrities served to distract the masses,<sup>122</sup> as privacy advocates were rebuked for approaching a *slippery slope of runaway censorship*.<sup>123</sup> The *public's right to know*<sup>124</sup> became the rallying cry in the high courts as investigative journalism languished on life-support.<sup>125</sup> The perceived need for fidelity to truth-telling as a civic virtue gave way to unwarranted constitutional protection for noxious opinions, hateful satirical lambastes and outrageous invasions of privacy.<sup>126</sup> It began with public officials.<sup>127</sup> Then libel, slander and false accusations were similarly directed at celebrities with impunity,<sup>128</sup> and then extended to citizens who became involved in *matters of public concern*.<sup>129</sup> Many cases would then go on to challenge fundamental requirements of foreknowledge and consent.<sup>130</sup> These rulings promoted a tabloid circus within a loose atmosphere of denial, obfuscation and spin.<sup>131</sup> *He said—she said* and lots of opinion dished with a dose of embarrassing private facts gives way to a realm of disruption that perpetuates confusion.<sup>132</sup>

## 2.1 FROM *NEW YORK TIMES V SULLIVAN* TO TELL-ALL, SELFIE, TWITTER CULTURE

*New York Times Co v Sullivan* denied the libel claim of a corrupt police official seeking to bankrupt national newspapers as part of the southern strategy to cripple the civil rights movement.<sup>133</sup> Its progeny features a steady stream of Supreme Court cases interpreting the US Constitution as providing legal protection for speech rights when weighed against privacy and reputational torts.<sup>134</sup> As the appetite for print news began to decline and talk-

122 Barnes (n 46) 19–31. See generally, Rebecca Moosavian, ‘Stealing “souls”? Article 8 and photographic intrusion’ (2018) 69(4) Northern Ireland Legal Quarterly (this issue).

123 Charles Sykes, *The End of Privacy* (St Martin’s Griffin 2000) 230.

124 Clifford Rechtschaffen, ‘The public right to know’ (Center for Progressive Reform 2018) <[www.progressivereform.org/perspright.cfm](http://www.progressivereform.org/perspright.cfm)>.

125 For a summary of its devolution see, Robert McChesney and John Nichols, *The Death and Life of American Journalism* (Nation Books 2010) 7–56.

126 Barnes (n 46) 125–55. The recent censorship in the US of right-wing conspiracist Alex Jones provides a recent and very interesting subject for debate around these issues. See Steve Coll, ‘Alex Jones, the First Amendment, and the digital public square: how should we challenge hate-mongering in the age of social media?’ *New Yorker* (New York, 20 August 2018) <[www.newyorker.com/magazine/2018/08/20/alex-jones-the-first-amendment-and-the-digital-public-square](http://www.newyorker.com/magazine/2018/08/20/alex-jones-the-first-amendment-and-the-digital-public-square)>.

127 Barnes (n 46) 63–4.

128 Ibid 20–31.

129 Ibid 134–7.

130 Ian Wilkie, ‘Sacha Baron Cohen: is he wrong to make fools of the unwitting?’ (*The Conversation*, 18 July 2018) <<http://theconversation.com/sacha-baron-cohen-is-he-wrong-to-make-fools-of-the-unwitting-100193>>; Jennifer Mann and Robert Patrick, ‘“Girls gone wild” ordered to pay \$5.77 million to woman filmed in St Louis’ *St Louis Post Dispatch* (St Louis, 26 April 2012) <[www.stltoday.com/news/local/crime-and-courts/girls-gone-wild-ordered-to-pay-million-to-woman-filmed/article\\_0bbb7adf-757b-53cb-90ce-124a459dd28d.html](http://www.stltoday.com/news/local/crime-and-courts/girls-gone-wild-ordered-to-pay-million-to-woman-filmed/article_0bbb7adf-757b-53cb-90ce-124a459dd28d.html)>. Teen girls given alcohol and filmed in naked play for videos sold internationally raised questions of meaningful consent.

131 See e.g. Will Gore, ‘Now Charlie Gard’s parents have ended their court case, we should ask why his case became the media circus it did’ *The Independent* (24 July 2017) <[www.independent.co.uk/voices/charlie-gard-court-case-ruling-became-media-circus-a7857841.html](http://www.independent.co.uk/voices/charlie-gard-court-case-ruling-became-media-circus-a7857841.html)>.

132 Sonia Moghe, ‘Ex-Trump World Tower doorman’s “catch-and-kill” contract released’ CNN (25 August, 2018) <[www.cnn.com/2018/08/24/politics/trump-tower-doorman-contract-ami](http://www.cnn.com/2018/08/24/politics/trump-tower-doorman-contract-ami)>.

133 Rick Perlstein, ‘Lee Atwater’s infamous 1981 interview on the southern strategy’ (*The Nation*, 13 November 2012) <[www.thenation.com/article/exclusive-lee-atwaters-infamous-1981-interview-southern-strategy](http://www.thenation.com/article/exclusive-lee-atwaters-infamous-1981-interview-southern-strategy)>.

134 Sykes (n 123) 80.

shows surfaced as a main stage for public discussion,<sup>135</sup> self-disclosure and a tell-all-show-all atmosphere of reality TV and Facebook Live led to shifts in assumptions about privacy.<sup>136</sup> Those who understood its value were marginalised as overly sensitive conspiracy theorists. Heroines proclaimed: 'I've got nothing to hide.'<sup>137</sup> In the wake of 9/11, the idea that survival of the nation required trading privacy for security was never seriously questioned by mainstream media.<sup>138</sup> US courts strained to justify protection for dissemination of information. With rare exceptions, the broadcast of private, disparaging, false and even hateful speech was deemed protected and somehow consistent with the public interest.<sup>139</sup> Then came the threat to overturn those tables when the journalistic spotlight reached the late US Supreme Court Justice Antonin Scalia, caught lying about his absence from a public ceremony vital to his role as a public servant.<sup>140</sup> He later warned – in a 2006 interview with journalist Norm Pearlstine – that he just might have to reconsider his support for the landmark case that paved the way for such reporting.<sup>141</sup> ABC's Investigate News team uncovered that just as the current Chief Justice was being sworn in to high office, Antonin Scalia played golf with his right-wing posse while nursing wounds over failure to acquire the title of Chief Justice: something he evidently preferred to lie about.

*New York Times Co v Sullivan* was rightly decided, but much of its progeny opened the flood gates for rulings that wholly undermined the intrinsic value of privacy and reputation as an individual right.<sup>142</sup> Following a perceived invasion of his privacy, Antonin Scalia might have become a late-breaking opponent of newspapers' right to disclose that a public servant had lied about matters related to the discharge of official duties. Twelve years hence, the new age of reality television is bolstered by tell-all blogs and a culture of selfie-expression<sup>143</sup> where you simply record and post in real-time while counting the re-tweets, likes and shares for psychological satisfiers and proof of

135 Barnes (n 46) 36–9.

136 Omer Tene and Jules Polonetsky, 'A theory of creepy: technology, privacy and shifting social norms' (2013) 16 *Yale Journal of Law and Technology* 59 <<https://yjolt.org/theory-creepy-technology-privacy-and-shifting-social-norms>>.

137 Xavier Harding, "'Who Cares, I have nothing to hide': why the popular response to online privacy is so flawed" (*MIC*, 22 March 2018) <<https://mic.com/articles/188563/who-cares-i-have-nothing-to-hide-why-the-popular-response-to-online-privacy-is-so-flawed>>.

138 Lee Rainie and Shiva Maniam, 'Americans feel the tensions between privacy and security concerns' (Pew Research Center, 19 February 2016) <[www.pewresearch.org/fact-tank/2016/02/19/americans-feel-the-tensions-between-privacy-and-security-concerns](http://www.pewresearch.org/fact-tank/2016/02/19/americans-feel-the-tensions-between-privacy-and-security-concerns)>.

139 'The court and free speech' *New York Times* (New York, 23 April 2010) <[www.nytimes.com/2010/04/24/opinion/24sat1.html](http://www.nytimes.com/2010/04/24/opinion/24sat1.html)>.

140 Brian Ross, 'Supreme ethics problem?' *ABC News* (23 January 2006) <<https://abcnews.go.com/Nightline/Investigation/story?id=1534260>>.

141 Dahlia Lithwick, 'Target practice, Justice Scalia sets his sights on *New York Times Co v Sullivan*' (*Slate*, 7 July 2007) <[www.slate.com/articles/news\\_and\\_politics/jurisprudence/2007/07/target\\_practice.html](http://www.slate.com/articles/news_and_politics/jurisprudence/2007/07/target_practice.html)>.

142 Barnes (n 46) 140–2.

143 Baer (n 9): 'Photo-driven social media is ascendant: every social platform features a lot of photos. But only three are almost entirely photo or video dependent: Instagram, Pinterest, and Snapchat. Among the top six social media destinations, only those three saw an increase in usage in the past year, with Instagram moving from 34 percent to 36 percent, Pinterest moving from 30 percent to 31 percent, and Snapchat moving from 29 percent to 31 percent.'

legitimacy.<sup>144</sup> Addictive stimuli were built in to today's technology,<sup>145</sup> which may explain why Donald Trump is now seen by many as addicted to Twitter,<sup>146</sup> with predictions that it may eventually lead to his downfall.<sup>147</sup>

## 2.2 MISTRESSES AND BANKERS IN THE AGE OF MASS DISTRACTION

Infotainment evolved from a storyline that related 'human interest' stories with the public good.<sup>148</sup> News about entertainment and humorous reporting of light news is different from using the personal difficulties of those in the industry to entertain the public. As the lines blurred, high courts abandoned first principles and the long-term damaging effects are difficult to quantify. Circa 2009, major news outlets decided that the world needed non-stop coverage of Tiger Woods' mistress count and full-blown panel discussions of all things monogamous.<sup>149</sup> Behind the scenes, the same cadre of Wall-Street bankers with singular responsibility for a global economic meltdown gave themselves millions of dollars in bonuses as taxpayers funded massive bailouts.<sup>150</sup> That style of distraction since 2016 has morphed into full-scale propaganda both online and in cable news broadcasts. With the exception of mass protests, and the occasional mention of the massive teacher strikes across the mid-west,<sup>151</sup> citizens endured near hourly updates on the lawsuit brought by Trump's former lover.<sup>152</sup> Under cloud of a million-dollar judgment if she disclosed details surrounding her affair with Trump, ten multimillionaires offered to pay it in full if she would just tell all.<sup>153</sup>

Media narratives rang against the backdrop of a still photo slide-show of the adult film actress.<sup>154</sup> One could easily be forgiven for never imagining that there could be that many different photos of a single person taken in a life-time. Once you have endured it all: should they refer to her as Stormy Daniels or Stephanie Clifford?<sup>155</sup> Is she a porn star

144 Maureen O'Connor, 'Addicted to likes: how social media feeds our neediness' (*The Cut*, 20 February 2014) <[www.thecut.com/2014/02/addicted-to-likes-social-media-makes-us-needier.html](http://www.thecut.com/2014/02/addicted-to-likes-social-media-makes-us-needier.html)>.

145 Anna Johansson, 'Your social media apps are as addictive as slot machines – should they be similarly regulated?' (*The Next Web*, 25 March 2018) <<https://thenextweb.com/contributors/2018/03/25/social-media-apps-addictive-slot-machines-similarly-regulated>>.

146 Eli Stokols, 'Trump's Twitter addiction could reshape the presidency' (*Politico*, 29 November 2016) <[www.politico.com/story/2016/11/donald-trump-twitter-231959](http://www.politico.com/story/2016/11/donald-trump-twitter-231959)>.

147 Ibid.

148 Zachary Shucklin, 'A chronological list of Trump's 8 known mistresses' (*Advocate*, 24 May 2018) <[www.advocate.com/politicians/2018/5/24/chronological-list-trumps-8-known-mistresses](http://www.advocate.com/politicians/2018/5/24/chronological-list-trumps-8-known-mistresses)>.

149 Mark Seal, 'The temptation of Tiger Woods' *Vanity Fair* (30 April 2010) <[www.vanityfair.com/culture/2010/05/tiger-woods-article-full-201005](http://www.vanityfair.com/culture/2010/05/tiger-woods-article-full-201005)>.

150 Phillip Inman, 'Wall Street bonuses under fire' *The Guardian* (London, 30 July 2009) <[www.theguardian.com/business/2009/jul/31/wall-street-bonuses-bailout](http://www.theguardian.com/business/2009/jul/31/wall-street-bonuses-bailout)>.

151 'What's different about this wave of teacher strikes' (*PBS*, 13 April 2018) <[www.pbs.org/newshour/show/whats-different-about-this-wave-of-teacher-strikes](http://www.pbs.org/newshour/show/whats-different-about-this-wave-of-teacher-strikes)>.

152 'Tools of Trump's fixer: payouts, intimidation and the tabloids' *New York Times* (New York, 18 February 2018) <[www.nytimes.com/2018/02/18/us/politics/michael-cohen-trump.html](http://www.nytimes.com/2018/02/18/us/politics/michael-cohen-trump.html)>.

153 'Stormy Daniels' lawyer: 10 people offered to pay for her story' (CNN Interview, 10 March 2018) <<https://edition.cnn.com/videos/tv/2018/03/10/stormy-daniels-lawyer-she-will-discuss-whats-happened.cnn>>.

154 Amana Fontanella-Khan and Lauren Gambino, 'Bernie Sanders: Russia and Stormy Daniels distract us from real problem of inequality' *The Guardian* (London, 20 March 2018) <[www.theguardian.com/us-news/2018/mar/20/bernie-sanders-russia-and-stormy-daniels-distract-us-from-real-problem-of-inequality](http://www.theguardian.com/us-news/2018/mar/20/bernie-sanders-russia-and-stormy-daniels-distract-us-from-real-problem-of-inequality)>.

155 Martha Ross, 'Stormy Daniels reveals why Donald Trump should be worried: "My name is Stormy for a reason"' (*Mercury News*, 7 March 2018) <[www.mercurynews.com/2018/03/07/stormy-daniels-reveals-why-donald-trump-should-be-worried-my-name-is-stormy-for-a-reason](http://www.mercurynews.com/2018/03/07/stormy-daniels-reveals-why-donald-trump-should-be-worried-my-name-is-stormy-for-a-reason)>.

or adult film actress?<sup>156</sup> Which part of the story is most believable, that Trump remarked that she resembles his daughter or that he chased her around the hotel room in white cotton briefs before she spanked him with a magazine? Lie detector? Check.<sup>157</sup> Condom? Sorry. Then just as reports surfaced of a house-keeper love-child from the 1980s, White House staffers were aghast to see tweets that the US would soon bomb Syria.<sup>158</sup> Recent speculation suggests that another long-time mistress received more than \$1.6 million for silence about her recent abortion.<sup>159</sup> Michael Avenati, the star attorney who challenged the Trump cabal around hush money paid to secure his election, claims to have been contacted by three other women.<sup>160</sup> These are among the few stories known to temporarily shift focus away from the ordained narrative of Russian meddling.<sup>161</sup> Similar to late 2008 to early 2009, as the media directs the public toward salacious details surrounding Playboy models, hookers and pee tapes, bankers have once again been walking away with the store.<sup>162</sup>

156 Danielle Kurtzleben, 'Get caught up: Trump's alleged affair with adult film star Stormy Daniels' (NPR, 19 January 2018) <[www.npr.org/2018/01/19/579195588/get-caught-up-trumps-alleged-affair-with-adult-film-star-stormy-daniels](http://www.npr.org/2018/01/19/579195588/get-caught-up-trumps-alleged-affair-with-adult-film-star-stormy-daniels)>.

157 Mandy Mayfield, 'Stormy Daniels passed a lie detector test about her affair with Trump' *Washington Examiner* (Washington, 20 March 2018) <[www.washingtonexaminer.com/news/stormy-daniel-passed-a-lie-detector-test-about-her-affair-with-trump-report](http://www.washingtonexaminer.com/news/stormy-daniel-passed-a-lie-detector-test-about-her-affair-with-trump-report)>.

158 David K Li, 'Doorman who sold Trump "love child" story now says he's free to talk' *New York Post* (New York, 25 August 2018) <<https://nypost.com/2018/08/25/doorman-who-sold-story-of-alleged-trump-love-child-to-ami-says-hes-free-to-talk-now>>; rumours of the shelved story surfaced on 12 April 2018, in a report by investigative journalist Ronan Farrow, just one day following the Trump Syria warning. Ronan Farrow, 'The National Enquirer, a Trump rumor, and another secret payment to buy silence' *New Yorker* (New York, 12 April 2018) <[www.newyorker.com/news/news-desk/the-national-enquirer-a-donald-trump-rumor-and-another-secret-payment-to-buy-silence-dino-sajudin-david-pecker](http://www.newyorker.com/news/news-desk/the-national-enquirer-a-donald-trump-rumor-and-another-secret-payment-to-buy-silence-dino-sajudin-david-pecker)>; Kevin Liptak and Kaitlan Collins, 'A Syria decision hadn't been made when Trump tweeted missiles "will be coming"' CNN (11 April 2018) <[www.cnn.com/2018/04/11/politics/donald-trump-syria-tweets](http://www.cnn.com/2018/04/11/politics/donald-trump-syria-tweets)>.

159 Paul Campos, 'Here's a theory about that \$1.6 million payout from a GOP official to a playboy model' *New York Magazine* (New York, 8 May 2018) <<http://nymag.com/daily/intelligencer/2018/05/theory-playboy-model-had-affair-with-trump-not-broidy.html>>.

160 Michael Balsamo and Michael Sisak, '3 women paid "hush money" for Trump relationships, Avenatti says' *Boston Globe* (Boston, 27 July 2018) <[www.bostonglobe.com/news/politics/2018/07/27/women-paid-hush-money-for-trump-relationships-avenatti-says/i0wbN773TU2OKMD4GCPQOM/story.html](http://www.bostonglobe.com/news/politics/2018/07/27/women-paid-hush-money-for-trump-relationships-avenatti-says/i0wbN773TU2OKMD4GCPQOM/story.html)>.

161 Joe Concha, 'Michael Moore: Russia, Stormy Daniels stories are "shiny keys to distract us"' *The Hill*, 20 March 2018) <<http://thehill.com/homenews/media/379278-michael-moore-russia-stormy-daniels-stories-are-shiny-keys-to-distract-us>>.

162 Victoria Guida, 'Trump's regulators deliver new victory for banks' *Politico*, 30 May 2018) <[www.politico.com/story/2018/05/30/trump-bank-regulations-volcker-rule-577718](http://www.politico.com/story/2018/05/30/trump-bank-regulations-volcker-rule-577718)>; Robert Reich, 'The critical lessons we didn't learn from the financial crisis' *Newsweek* (17 September 2018) <[www.newsweek.com/robert-reich-critical-lessons-we-didnt-learn-financial-crisis-opinion-1123466](http://www.newsweek.com/robert-reich-critical-lessons-we-didnt-learn-financial-crisis-opinion-1123466)>.

### 2.3 TRUTH, RACE-BAITING AND MEDIA WATCHDOGS

The search for truth, as the cornerstone of a free press, has been altogether abandoned in the public sphere.<sup>163</sup> Award-winning journalists,<sup>164</sup> writers, scholars and cultural anthropologists have warned us for years about the growing concentration of media empires.<sup>165</sup> If we reached the point of ‘crisis’ in the 1950s when it comes to mainstream news media, today might be viewed as a full-blown catastrophe: non-stop continuation of business as usual. Professor Jerry Kroth has demonstrated the evolving state of public delusion compounded by mainstream media.<sup>166</sup> Corporations, politicians and states all strategically use media for their dis/mis-information campaigns,<sup>167</sup> thus deploying techniques to divert attention is prerequisite when deception is the end-goal.<sup>168</sup>

Disconnection from the truth culminates on the Left, according to journalist McKay Coppins, with an underexamined phenomenon in American politics, where ‘polemicists, conspiracists, and outright fabulists’ feed an alternative media landscape where the implausibility of a claim is no bar to its acceptance.<sup>169</sup> He notes that since the mid-1990s discussion has boiled over about increasing levels of toxicity in conservative media: ‘While serious Republicans in the political class spent years scoffing at the “entertainers” and “provocateurs” on the supposedly powerless fringe, the denizens of the fever swamp were busy taking over the party.’ Coppins sees a growing counter-trend, posing the question: could the same thing happen on the Left?

During the 2016 presidential election, liberal media outlets gave Donald John Trump nearly \$5-billion-worth of free air time.<sup>170</sup> Psychologists have been quicker to offer assessments of Trump’s mental state<sup>171</sup> than that of an electorate with heightened

163 See, Michiko Kakutani, *The Death of Truth: How We Gave up on Facts and Ended Up with Trump* (Penguin 2018); Alissa Wilkinson, ‘2017’s best documentaries found new ways to engage reality in a post-truth world’ (*Vox*, 27 December 2017) <[www.vox.com/2017-in-review/2017/12/27/16808872/best-documentaries-2017-post-truth-fiction-jane-jonbenet-ex-libris-inconvenient-sequel](http://www.vox.com/2017-in-review/2017/12/27/16808872/best-documentaries-2017-post-truth-fiction-jane-jonbenet-ex-libris-inconvenient-sequel)>; Peter Coe, ‘(Re)embracing social responsibility theory as a basis for media speech: shifting the normative paradigm for a modern media’ (2018) 69(4) *Northern Ireland Legal Quarterly* (this issue), Section 3.1: The argument from truth, 408: ‘[T]ruth is most likely to emerge from totally uninhibited freedom of thought, and almost absolute freedom of expression. Consequently, thought and discussion protects individual liberty from its predominant threat, which is not “political oppression”, but “social tyranny”.’

164 See generally, Kristina Borjesson (ed), *Into the Buzzsaw Myth of a Free Press* (Prometheus Books 2004).

165 Helen Lewis, ‘The echo chamber of social media is luring the left into cosy delusion and dangerous insularity’ *New Statesman* (London, 27 July 2015) <[www.newstatesman.com/helen-lewis/2015/07/echo-chamber-social-media-luring-left-cosy-delusion-and-dangerous-insularity](http://www.newstatesman.com/helen-lewis/2015/07/echo-chamber-social-media-luring-left-cosy-delusion-and-dangerous-insularity)>.

166 See generally, Jerry Kroth, *Implosion: Delusion, Denial, and the Prospect of Collapse* (Genotype 2016)

167 Steven Livingston, ‘Disinformation campaigns target tech-enabled citizen journalists’ (Brookings Institute, 2 March 2017) <[www.brookings.edu/blog/techtank/2017/03/02/disinformation-campaigns-target-tech-enabled-citizen-journalists](http://www.brookings.edu/blog/techtank/2017/03/02/disinformation-campaigns-target-tech-enabled-citizen-journalists)>.

168 Max Boot, ‘Donald Trump’s biggest disinformation campaign yet’ (*Foreign Policy*, 31 October 2017) <<http://foreignpolicy.com/2017/10/31/donald-trumps-biggest-disinformation-campaign-yet>>.

169 McKay Coppins, ‘How the left lost its mind’ (*The Atlantic*, 2 July 2017) <[www.theatlantic.com/politics/archive/2017/07/liberal-fever-swamps/530736](http://www.theatlantic.com/politics/archive/2017/07/liberal-fever-swamps/530736)>.

170 Jennifer Saba, ‘Breaking views: Trump’s \$4.6 billion in free media’ CNBC (30 September 2016) <[www.cnbc.com/2016/09/30/breakingviews-trump-cold-shoulder-for-tv-ads-may-set-the-trend.html](http://www.cnbc.com/2016/09/30/breakingviews-trump-cold-shoulder-for-tv-ads-may-set-the-trend.html)>.

171 Elaine Godfrey, ‘Psychiatrist telling Congress Trump could be involuntarily committed’ (*The Atlantic*, 12 January 2018) <[www.theatlantic.com/politics/archive/2018/01/bandy-lee/550193](http://www.theatlantic.com/politics/archive/2018/01/bandy-lee/550193)>.

exposure to a single personality in such a concentrated time-frame.<sup>172</sup> A few days after the election, Oxford Dictionaries announced that ‘post-truth’ had been chosen as the 2016 word of the year: defined as a condition ‘in which objective facts are less influential in shaping public opinion than appeals to emotion and personal belief’.<sup>173</sup> Points of saturation are easily established,<sup>174</sup> it’s the question of when it morphed into paralysis, a collective brainwave-styled entrainment that has yet to be explained. ‘Vote Democrat!’ is the new psalm. Two self-styled centrist news corporations (CNN and MSNBC) have so hyped the 2018 special and mid-term elections and the prospects of running conservatives from office with a pitch-fork that they have failed to hone their message about what is truly at stake for the future of our nation.<sup>175</sup> Even worse, they have neglected a much-needed proportionate follow-up of the candidates that they have paraded into office over the past 12 months. The one thing we know for sure is that Vladimir Vladimirovich Putin and his cronies have been added to the narrative, and now Russia shares in that bounty of non-stop coverage.<sup>176</sup>

According to journalist Sarah Jones, creation of outlets like Trump TV, produced by his daughter-in-law, broadcast live from his private building in New York and distributed via Facebook, is propaganda stripped even of the veneer of professional journalism.<sup>177</sup> Right-wing cable news outlets have been walking a fine line since the end of the Fairness Doctrine in 1987, paving the way for a ‘constellation of right-wing websites – Breitbart, The Federalist, The Daily Caller, Townhall – that traffic in xenophobia, homophobia, racism, and social Darwinism’.<sup>178</sup> Traditional mechanisms for media accountability, according to a 2017 study, such as fact-checking sites, media watchdog groups and cross-media criticism, have little influence on the insular conservative media sphere.<sup>179</sup> Messages designed for ‘internal’ consumption get everyone on the same page within the

172 Diane Herbst, ‘Top psychiatrists gather to warn that Donald Trump “represents a danger to public health”’ (*People*, 1 May 2018) <<https://people.com/politics/psychiatrists-warn-donald-trump-danger-public-health>>; Gail Sheehy, ‘America’s therapists are worried about Trump’s effect on your mental health’ (*Politico*, 10 October 2016). ‘His candidacy is sowing fear, distress and anger across the country’, they say. ‘Here’s what one psychologist is doing to try to stop it.’ <[www.politico.com/magazine/story/2016/10/donald-trump-2016-therapists-214333](http://www.politico.com/magazine/story/2016/10/donald-trump-2016-therapists-214333)>.

173 Susan Glasser, ‘Covering politics in a post-truth America’ (Brookings Institute, 2 December 2016) <[www.brookings.edu/essay/covering-politics-in-a-post-truth-america](http://www.brookings.edu/essay/covering-politics-in-a-post-truth-america)>; Michiko Kakutani, ‘“How propaganda works” is a timely reminder for a post-truth age’ *New York Times* (New York, 26 December 2016) <[www.nytimes.com/2016/12/26/books/how-propaganda-works-is-a-timely-reminder-for-a-post-truth-age.html](http://www.nytimes.com/2016/12/26/books/how-propaganda-works-is-a-timely-reminder-for-a-post-truth-age.html)>.

174 Adrienne LaFrance, ‘Trump’s media saturation quantified’ (*The Atlantic*, 1 September 2016) <[www.theatlantic.com/technology/archive/2016/09/trumps-media-saturation-quantified/498389](http://www.theatlantic.com/technology/archive/2016/09/trumps-media-saturation-quantified/498389)>.

175 Not much has changed since the Clinton White House, See, Jeff Faux, ‘The myth of the New Democrats’ (1993) (Fall) *Prospect* <<http://prospect.org/article/myth-new-democrats>>.

176 Simon Dumenco, ‘Vladimir Trump (or Donald Putin?) lands the cover of Time’ (*Adage*, 19 July 2018) <<http://adage.com/article/media/vladimir-trump-donald-putin-lands-cover-time/314273>>.

177 Sara Jones, ‘How Trump is creating a propaganda state’ (*The New Republic*, 30 August 2017) <<https://newrepublic.com/article/144592/trump-creating-propaganda-state>>. Federal law specifically mandates that any advertisement appearing in the format of a news item must state that the item is in fact a paid advertisement. The Bush Administration has come under fire for allegedly producing and disseminating covert propaganda in the form of television programmes, aired in the USA, which appeared to be legitimate news broadcasts and did not include any information signifying that the programmes were not generated by a private-sector news source.

178 Ibid.

179 Ibid.

right-wing echo-chamber. Messaging tends toward the extreme, lacks internal coherence and embraces 'paranoia'.<sup>180</sup>

Edward Bernays is credited with the discovery of the legitimating precursor, the field of public relations. Easily manipulated narratives now dominate the social media environment, and persistent publication of false and misleading stories presented as fact has been seized upon by a large cast of individuals creating their own content. To maintain control of these narratives, large organisations deploy bot farms,<sup>181</sup> opinion surveys<sup>182</sup> and AI<sup>183</sup> to sway those who might stray from the official storyline. Digital media analyst Alicia Wanless notes that 77 per cent of alt-right Facebook pages in support of Trump during the 2016 election allowed users to comment and post: 'inserting highly controversial content into echo chambers, and promoting engagement with it, creates a massive amount of activity and begins to game current media algorithms'.<sup>184</sup> Conservative political architects have long stopped offering weak denials of these and similar tactics.<sup>185</sup> Steven Bannon, the poster-boy of the supposed right-wing revolution,<sup>186</sup> has special knowledge of what gets attention.<sup>187</sup> He designs his speeches to ensure maximum exposure in the press. Like Pavlov's dogs his 'Let Them Call You Racist, Wear it as a Badge of Honor' refrain appeared in print and video across the globe in record time.<sup>188</sup> The leader of France's National Front Party and base of neo-Nazi supporters cheered in response and the right-wing freak flag was raised to new heights all over Europe just in time for spring elections.<sup>189</sup> A few months later, Ivanka Trump posted photos cuddling her two year-old son<sup>190</sup> in the midst of a media frenzy showing little brown Spanish-speaking girls hysterical for their own mothers. Shortly thereafter,

180 Rob Faris, Hal Roberts, Bruce Etling, Nikki Bourassa, Ethan Zuckerman and Yochai Benkler, 'Partisanship, propaganda, and disinformation: online media and the 2016 US presidential election' (Berkman Klein Center, Harvard University, 16 August 2017) <<https://cyber.harvard.edu/publications/2017/08/mediacloud>>; Jones (n 177).

181 Confessore et al (n 119).

182 Bary S R Pradelski and Bernhard Clemm von Hohenberg, 'Online polls are everywhere: here's why we should be wary before trusting them' (*The Conversation*, 8 February 2018) <<http://theconversation.com/online-polls-are-everywhere-heres-why-we-should-be-wary-before-trusting-them-88964>>.

183 Darrell M West and John R Allen, 'How artificial intelligence is transforming the world' (Brookings Institute, 24 April 2018) <[www.brookings.edu/research/how-artificial-intelligence-is-transforming-the-world](http://www.brookings.edu/research/how-artificial-intelligence-is-transforming-the-world)>.

184 Wanless and Berk (n 29).

185 Mathew Sweezey, 'President Trump and the rise of a new public relations model' (*Forbes*, 30 November 2017) <[www.forbes.com/sites/forbescommunicationscouncil/2017/11/30/president-trump-and-the-rise-of-a-new-public-relations-model/#29092b7451c8](http://www.forbes.com/sites/forbescommunicationscouncil/2017/11/30/president-trump-and-the-rise-of-a-new-public-relations-model/#29092b7451c8)>.

186 Sam Petulla, 'Steve Bannon's target list' CNN (11 October 2017) <[www.cnn.com/2017/10/11/politics/bannon-taking-on-republicans-regardless-of-conservatism-or-voting-history](http://www.cnn.com/2017/10/11/politics/bannon-taking-on-republicans-regardless-of-conservatism-or-voting-history)>.

187 Robin Stern, 'The gaslight effect: the history of gaslighting and its destructive power' (*Signature Magazine*, 8 January 2018) <[www.signature-reads.com/2018/01/the-history-of-gaslighting-and-the-gaslight-effect](http://www.signature-reads.com/2018/01/the-history-of-gaslighting-and-the-gaslight-effect)>. A gaslighter insists on his own assertions of reality as the truth, spinning facts in such a way that the audience doubts her perception and sense of reality.

188 Amy Held, 'Steve Bannon takes anti-establishment message overseas: "Let them call you racists"' (NPR, 11 March 2018) <[www.npr.org/sections/thetwo-way/2018/03/11/592702598/steve-bannon-takes-anti-establishment-message-overseas-let-them-call-you-racists](http://www.npr.org/sections/thetwo-way/2018/03/11/592702598/steve-bannon-takes-anti-establishment-message-overseas-let-them-call-you-racists)>.

189 Natalie Nougayrède, 'Steve Bannon is on a far-right mission to radicalise Europe' *The Guardian* (London, 6 June 18) <[www.theguardian.com/commentisfree/2018/jun/06/steve-bannon-far-right-radicalise-europe-trump](http://www.theguardian.com/commentisfree/2018/jun/06/steve-bannon-far-right-radicalise-europe-trump)>.

190 Tom McCarthy, 'Ivanka Trump photo with son sparks backlash over border separations' *The Guardian* (London, 28 May 2018) <[www.theguardian.com/us-news/2018/may/27/ivanka-trump-tweets-photo-backlash-border-separation-policy](http://www.theguardian.com/us-news/2018/may/27/ivanka-trump-tweets-photo-backlash-border-separation-policy)>.

Melania Trump arrived at the US border wearing a jacket that read: 'I really don't care, do u?'<sup>191</sup> Distracting national headlines gave the conservative majority in Congress an opening to press for an end to the Russia inquiry,<sup>192</sup> as the bright orange Donald Trump Baby Blimp travelled across Europe accompanied by audio of crying babies seized by border patrol.

Cast as Bully-in-Chief, Trump repeatedly called for imminent violence on the campaign trail, while stoking contempt for immigrants and minorities.<sup>193</sup> Right-wing militias took note as he bragged that he could 'shoot somebody in midtown Manhattan and not lose any political support'.<sup>194</sup> He surpassed Hillary Clinton's infamous super-predator dog whistle where she promised supporters that black males would be 'brought to heel'.<sup>195</sup> Trump's first month in office saw the highest number of citizens killed by police in the USA since 2015.<sup>196</sup> Officers reluctant to merely gun a man down and more prone to enforcing the law while observing due process were admonished to 'be sure to bang their head against the door frame when you shove them into the cop car'.<sup>197</sup> He rallied an entire nation to violence,<sup>198</sup> more than one, in fact. He startled allies and friends in the UK when he tweeted videos glorifying British militants in the lead up to Christmas.<sup>199</sup> David Lammy, the Member of Parliament for Tottenham, said Trump had gone 'beyond the pale . . . promoting a fascist, racist, extremist hate group'. Rejecting him as neither friend nor ally, Lammy proclaimed: 'You are not welcome in my country or my city.'<sup>200</sup> After a planned State visit had been downgraded because of widespread anti-Trump protests, disseminating the videos and then cancelling the trip altogether were

191 Jaclyn Reiss, 'On her way to border, Melania Trump wore jacket that said: "I really don't care, do u?"' *Boston Globe* (Boston, 21 June 2018) <[www.bostonglobe.com/news/politics/2018/06/21/her-way-border-melania-trump-wore-jacket-that-said-really-don-care/cupbCpsEgxcSzyrSZEH75O/story.html](http://www.bostonglobe.com/news/politics/2018/06/21/her-way-border-melania-trump-wore-jacket-that-said-really-don-care/cupbCpsEgxcSzyrSZEH75O/story.html)>.

192 Kevin Breuninger, 'Rod Rosenstein rejects GOP lawmaker's call to "finish" Russia investigation, saying it should end "appropriately"' *CNBC* (28 June 2018) <[www.cnn.com/2018/06/28/rod-rosenstein-and-fbi-director-wray-to-testify-on-watchdogs-report.html](http://www.cnn.com/2018/06/28/rod-rosenstein-and-fbi-director-wray-to-testify-on-watchdogs-report.html)>.

193 Nicole Hemmer, 'Cruelty is the policy' (*US News*, 6 February 2018) <[www.usnews.com/opinion/thomas-jefferson-street/articles/2018-02-06/donald-trump-is-making-cruelty-toward-immigrants-official-government-policy](http://www.usnews.com/opinion/thomas-jefferson-street/articles/2018-02-06/donald-trump-is-making-cruelty-toward-immigrants-official-government-policy)>.

194 'Trump: "I could stand in the middle of Fifth Avenue and shoot somebody and I wouldn't lose any voters"', *Real Clear Politics* Video (23 January 2016) <[www.realclearpolitics.com/video/2016/01/23/trump\\_i\\_could\\_stand\\_in\\_the\\_middle\\_of\\_fifth\\_avenue\\_and\\_shoot\\_somebody\\_and\\_i\\_wouldnt Lose\\_any\\_voters.html](http://www.realclearpolitics.com/video/2016/01/23/trump_i_could_stand_in_the_middle_of_fifth_avenue_and_shoot_somebody_and_i_wouldnt Lose_any_voters.html)>.

195 Heidi Gillstrom, 'Clinton's "superpredators" comment most damaging by either candidate' (*The Hill*, 30 September 2016) <<http://thehill.com/blogs/pundits-blog/crime/298693-hillary-clintons-superpredators-still-the-most-damaging-insult-by>>.

196 Shaun King, 'Donald Trump's first month in office sees most people killed by police since 2015' *New York Daily News* (New York, 2 February 2017) <[www.nydailynews.com/news/national/king-trump-1st-month-deadliest-2015-killing-article-1.2966610](http://www.nydailynews.com/news/national/king-trump-1st-month-deadliest-2015-killing-article-1.2966610)>.

197 'Trump's call for police brutality is no joke' (3 Truth Dig, 3 August 2017) <[www.truthdig.com/articles/trumps-call-for-police-brutality-is-no-joke](http://www.truthdig.com/articles/trumps-call-for-police-brutality-is-no-joke)>.

198 Julia Conley, 'Study details link between Trump's aggressive rhetoric at campaign rallies and increased violence' (*Common Dreams*, 16 March 2018) <[www.commondreams.org/news/2018/03/16/study-details-link-between-trumps-aggressive-rhetoric-campaign-rallies-and-increased](http://www.commondreams.org/news/2018/03/16/study-details-link-between-trumps-aggressive-rhetoric-campaign-rallies-and-increased)>.

199 Natasha Lomas, 'Twitter finally boots hate group that Trump retweeted off its platform' (*Tech Crunch*, 19 December 2017) <<https://techcrunch.com/2017/12/19/twitter-finally-boots-hate-group-that-trump-retweeted-off-its-platform>>.

200 Lizzie Dearden, 'Donald Trump retweets Britain First deputy leader's Islamophobic posts' *The Independent* (London, 29 November 2017) <[www.independent.co.uk/news/world/americas/us-politics/donald-trump-britain-first-retweet-muslim-migrants-jayda-fransen-deputy-leader-a8082001.html](http://www.independent.co.uk/news/world/americas/us-politics/donald-trump-britain-first-retweet-muslim-migrants-jayda-fransen-deputy-leader-a8082001.html)>.



presumed to be acts of retaliation.<sup>201</sup> The need to exert authoritarian control, fear of protests and obvious lack of empathy converge in a typical early morning tweet storm.<sup>202</sup> Trump took to Twitter to criticise the mayor of London just hours after seven people were killed and 48 injured in a terror attack in the centre of the city.<sup>203</sup>

During his bid for office, Trump rallied crowds in friendly precincts with angry demands that they kick, punch and arrest those who came to protest his candidacy.<sup>204</sup> He promised an Iowa crowd that he would pay their legal fees if they would just 'knock the crap out' of protesters.<sup>205</sup> As one man was being removed from a town hall, the crowd cheered as he shrieked that he'd like to punch him in the face.<sup>206</sup> Supporters began to follow his lead. The arrest of one facing hefty legal fees after he was caught on video attacking a protester led the man to speculate that the speech at a rally in Louisville, Kentucky, was calculated to incite violence as early as November 2015.

His candidacy is marked by eagerness to foment racial violence and on full display in President Barack Obama's old stomping grounds.<sup>207</sup> Faculty and staff at the University of Illinois, Chicago, petitioned administrators to cancel a planned campaign rally because of its potentially dangerous environment for students.<sup>208</sup> There were simply not enough answers to the one question posed even by his supporters. Why that location? Following months of continuous vilification of minorities, why rally at a school known as an organising hub for civil and immigrant rights with a large minority student population? Trump then cancelled at the very last minute, leaving thousands of supporters and detractors agitated beyond reason in the same locale.<sup>209</sup>

A March 2018 study by Common Dreams correlates the violent rhetoric spewed by Trump during his campaign rallies and the increase in violent attacks during the summer of 2016, ultimately provoking the murder of Heather Heyer by neo-Nazis in the summer

201 Zoe Drewett, 'Donald Trump confirms visit to UK is cancelled amid fears of protests' *Metro* (London 12 January 2018) <<https://metro.co.uk/2018/01/12/donald-trump-confirms-visit-uk-cancelled-amid-fears-protests-7223298>>.

202 Amanda Wills and Alysha Love, 'All the President's tweets' CNN (4 September 2018) <[www.cnn.com/interactive/2017/politics/trump-tweets](http://www.cnn.com/interactive/2017/politics/trump-tweets)>.

203 Martin Pengelly, 'Donald Trump berates London mayor over response to terror attacks' *The Guardian* (London, 4 June 2017) <[www.theguardian.com/uk-news/2017/jun/04/trump-berates-london-mayor-sadiq-khan-terror-attacks](http://www.theguardian.com/uk-news/2017/jun/04/trump-berates-london-mayor-sadiq-khan-terror-attacks)>.

204 Justin Wise, "'Morning Joe' plays montage of the many times Trump encouraged violence' (*The Hill*, 26 June 2018) <<http://thehill.com/homenews/media/394128-morning-joe-plays-montage-of-the-many-times-trump-encouraged-violence>>.

205 Michael Finnegan and Noah Bierman, 'Trump's endorsement of violence reaches new level: he may pay legal fees for assault suspect' *Los Angeles Times* (Los Angeles, 13 March 2016) <[www.latimes.com/politics/la-na-trump-campaign-protests-20160313-story.html#](http://www.latimes.com/politics/la-na-trump-campaign-protests-20160313-story.html#)>.

206 Ben Schreckinger, 'Trump on protester: "I'd like to punch him in the face"' (*Politico*, 23 February 2016) <[www.politico.com/story/2016/02/donald-trump-punch-protester-219655](http://www.politico.com/story/2016/02/donald-trump-punch-protester-219655)>.

207 Fresh off his inauguration, Trump targeted Chicago relentlessly, threatening to send in federal troops to stop the violence. Julie Bosman and Monica Davey, 'Trump's raves about Chicago have become rants' *New York Times* (New York, 29 March 2017) <[www.nytimes.com/2017/03/29/us/donald-trump-chicago-rahman-violence.html](http://www.nytimes.com/2017/03/29/us/donald-trump-chicago-rahman-violence.html)>.

208 Katie Lobosco, 'College community wants Trump rally booted from campus' (*Money*, 10 March 2018) <<http://money.cnn.com/2016/03/10/pf/college/donald-trump-uic-rally-protest>>.

209 Alexandra Sims, 'Donald Trump: Chicago police deny advising republican to cancel violent campaign rally' *The Independent* (London, 12 March 2016) <[www.independent.co.uk/news/world/americas/us-elections/donald-trump-chicago-police-deny-advising-republican-to-cancel-violent-campaign-rally-a6927336.html](http://www.independent.co.uk/news/world/americas/us-elections/donald-trump-chicago-police-deny-advising-republican-to-cancel-violent-campaign-rally-a6927336.html)>.

of 2017.<sup>210</sup> After days of silence following her death, he summarily announced that there were good people on both sides of the protest.<sup>211</sup> In the style of an old gang leader he provoked clashes at events by stoking aggression, scapegoating discontent and spreading violence like a 'social contagion'.<sup>212</sup> 'Let Them Call You Racist', indeed. One Texas woman displayed a bumper sticker on her truck that read 'Fuck Trump and fuck you for voting for him'.<sup>213</sup> When the sheriff posted a photo of her vehicle on Facebook and threatened to arrest her for disorderly conduct, she added a second bumper sticker with 'Fuck Troy Nehls and all who voted for [the Sheriff] too'.<sup>214</sup> The incident brought the reality of First Amendment freedoms back into plain view. A billboard posted along a roadside in Maryland reads: 'Hey liberals, Better get your guns if you try to impeach President Trump. From all of your deplorables in Calvert County.'<sup>215</sup> No profanity, but rather a literal call to arms, and *disorderly* indeed.

According to Susan Glasser, media matters in 2016 were not just another skirmish in the 'eternal politicians versus the press tug of war, [they all] have the same tools to create, produce, distribute, amplify, or distort news as the news industry itself'.<sup>216</sup> This evaluation is significant in so far as it acknowledges coercive tendencies from all directions. The flip side is that creative design elements are also being deployed as a counter-balance. The American public has received assurances, largely from comedic platforms, that they can believe what they see and reject media bullshit; as defined by Professor Paul Bernal, although inspired by Harry Frankfurt.<sup>217</sup> The production team of talk show host Conan O'Brien compiled video footage of right-wing broadcasters simultaneously repeating phrases verbatim in dozens of local TV markets to highlight the prevalence of uniform repetition.<sup>218</sup>

210 Harriet Sinclair, 'Trump told white supremacists to attack protesters, so they did' *Newsweek* (Atlanta, 14 August 2017) <[www.newsweek.com/trump-told-white-supremacists-attack-protesters-so-they-did-650622](http://www.newsweek.com/trump-told-white-supremacists-attack-protesters-so-they-did-650622)>; Lauren Gill, 'Charlottesville: Heather Heyer's Mom says Trump to blame for her daughter's death' *Newsweek* (Atlanta, 14 December 2017) <[www.newsweek.com/charlottesville-heather-heyers-mom-says-trump-blame-her-daughters-death-748090](http://www.newsweek.com/charlottesville-heather-heyers-mom-says-trump-blame-her-daughters-death-748090)>. Cheri Jacobus writes: 'Typically, the easily triggered leader of the free world, his finger seemingly perpetually poised in hover position over the nuclear button, uses a cannon when a BB gun will do. But, curiously, he seems to lose his voice and his nerve when it comes to taking on Russian President Vladimir Putin for intervening in US elections, or the white nationalists and Nazis – domestic terrorists – who marched with torches in Charlottesville, VA.' 'Trump's Charlottesville disgrace white nationalists are not just another side' (*USA Today*, 13 August 2017) <[www.usatoday.com/story/opinion/2017/08/13/trump-charlottesville-disgrace-white-nationalists-not-another-side-cheri-jacobus-column/562740001](http://www.usatoday.com/story/opinion/2017/08/13/trump-charlottesville-disgrace-white-nationalists-not-another-side-cheri-jacobus-column/562740001)>.

211 Ellis Cose, 'One year after Charlottesville, Trump has normalized racism in America' (*USA Today*, 10 August 2018) <[www.usatoday.com/story/opinion/2018/08/10/white-supremacists-neo-nazis-charlottesville-unite-right-rally-trump-column/935708002](http://www.usatoday.com/story/opinion/2018/08/10/white-supremacists-neo-nazis-charlottesville-unite-right-rally-trump-column/935708002)>.

212 Conley (n 198).

213 Brianna Sacks, 'Texas woman might sue the sheriff who went after her "fuck Trump" truck sticker' (*Buzzfeed*, 20 November 2017) <[www.buzzfeed.com/briannasacks/a-texas-woman-is-in-jail-after-a-sheriff-called-out-her?utm\\_term=.xk0ykXxoy#.ytYM7zK8M](http://www.buzzfeed.com/briannasacks/a-texas-woman-is-in-jail-after-a-sheriff-called-out-her?utm_term=.xk0ykXxoy#.ytYM7zK8M)>.

214 'A person uses abusive, indecent, profane, or vulgar language in a public place, and the language by its very utterance tends to incite an immediate breach of the peace.' Texas Penal Code 42.01 (enacted 9 February 2015) <<https://statutes.capitol.texas.gov/Docs/PE/htm/PE.42.htm>>.

215 Amanda Watts, 'A sign in Maryland tells Liberals to get their guns if they try to impeach Trump' CNN (10 May 2018) <[www.cnn.com/2018/05/10/us/maryland-controversial-sign-trnd](http://www.cnn.com/2018/05/10/us/maryland-controversial-sign-trnd)>.

216 Glasser (n 173).

217 Jack Mirkinson, 'Jon Stewart is a more trusted news source than MSNBC, study says' (*Huffington Post*, 6 December 2017) <[www.huffingtonpost.com/2014/06/10/jon-stewart-more-trusted-msnbc-poll\\_n\\_5479859.html](http://www.huffingtonpost.com/2014/06/10/jon-stewart-more-trusted-msnbc-poll_n_5479859.html)>; see Bernal (n 89) 5.

218 Adam Hochberg, 'Conan's comedy bit hints at serious issues for local TV news' (*Poynter*, 1 January 2014) <[www.poynter.org/news/conans-comedy-bit-hints-serious-issues-local-tv-news](http://www.poynter.org/news/conans-comedy-bit-hints-serious-issues-local-tv-news)>.

### 3 Trumpocracy, privatisation and Russia-gate

A troupe of characters from journalists to co-authors,<sup>219</sup> to friends, critics and allies with long-standing relationships with Trump largely agree that we live in a Trumpocracy,<sup>220</sup> a blend of Trump and Kakistocracy.<sup>221</sup> As analysts attempt to discover an overarching political strategy amid the chaos, they report that those closest to Trump see a man determined to bend the presidency to his will.<sup>222</sup> After stumbling into the White House ill-prepared for the new role,<sup>223</sup> lacking knowledge of routine protocol, he relies upon Rupert Murdoch's news personalities and a small group of associates who frequent his golf resorts for perspective on domestic policy.<sup>224</sup> He is most often portrayed as a callous, child-like narcissist,<sup>225</sup> surrounded by white supremacists<sup>226</sup> who are eager to dismantle democratic institutions,<sup>227</sup> quash dissent, and fast-track corporate takeover of traditional public functions.<sup>228</sup>

#### 3.1 DEREGULATION AND DEMOCRATIC INSTITUTIONS

US regulatory agencies have begun a marked 180-degree shift away from their original objectives under the current administration.<sup>229</sup> Wealthy men with long records of opposition to each agency's goals have been placed at their helms in record numbers.<sup>230</sup>

Proposals to privatise the Bureau of Veterans Affairs and to merge the Departments of Labour and Education received the lion's share of reporting while the others run

219 Tony Schwartz, 'The truth about Trump' (Address to Oxford Union Society, 4 November 2016) <[www.youtube.com/watch?v=qxF\\_CDDJ0YI](http://www.youtube.com/watch?v=qxF_CDDJ0YI)>. Schwartz was the ghostwriter for Trump's bestseller *The Art of the Deal*.

220 Deep criticism from high-profile conservatives. See David Frum, *Trumpocracy: The Corruption of the American Republic* (Harper Collins 2018).

221 Kakistocracy was government by the unskilled, unknowledgeable and unvirtuous; André Spicer, 'Donald Trump's "kakistocracy" is not the first, but it's revived an old word' *The Guardian* (London, 8 April 2018) <[www.theguardian.com/commentisfree/2018/apr/18/donald-trump-kakistocracy-john-brennan-us-twitter](http://www.theguardian.com/commentisfree/2018/apr/18/donald-trump-kakistocracy-john-brennan-us-twitter)>.

222 See Frum (n 220); Haberman (n 64)

223 See Goldsmith (n 65); David Smith, "'He is failing": Trump strikes out solo as friends worry and enemies circle' *The Guardian* (London, 15 October 2017) <[www.theguardian.com/us-news/2017/oct/14/donald-trump-iran-healthcare-white-house-corker](http://www.theguardian.com/us-news/2017/oct/14/donald-trump-iran-healthcare-white-house-corker)>; Harriet Sinclair, 'Six best quotes from Bob Woodward's new book on Trump's White House' *Newsweek* (Atlanta, 5 September 2018) <[www.newsweek.com/six-best-quotes-bob-woodwards-new-book-trumps-white-house-1106869](http://www.newsweek.com/six-best-quotes-bob-woodwards-new-book-trumps-white-house-1106869)>.

224 Mirkinson (n 217).

225 Schwartz (n 219).

226 Ameer Hasan Loggins, 'Is it wrong to call Trump a white supremacist?' *The Guardian* (London, 16 September 2017) <[www.theguardian.com/commentisfree/2017/sep/16/donald-trump-jemele-hill-espn-white-supremacist](http://www.theguardian.com/commentisfree/2017/sep/16/donald-trump-jemele-hill-espn-white-supremacist)>.

227 David Morris, 'Steve Bannon says Trump's Cabinet picks are intended to "deconstruct" regulation and agencies' *Fortune*, 25 February 2017 <<http://fortune.com/2017/02/25/bannon-trump-cabinet-cpac>>.

228 Ben Tarnoff, 'How privatization could spell the end of democracy' *The Guardian* (London, 21 June 2017) <[www.theguardian.com/technology/2017/jun/21/privatizing-public-services-trump-democracy](http://www.theguardian.com/technology/2017/jun/21/privatizing-public-services-trump-democracy)>.

229 Gregory Korte, 'The 62 agencies and programs Trump wants to eliminate' *USA Today*, 16 March 2017 <[www.usatoday.com/story/news/politics/2017/03/16/what-does-trump-budget-eliminate/99223182](http://www.usatoday.com/story/news/politics/2017/03/16/what-does-trump-budget-eliminate/99223182)>. David Cay Johnston, *It's Even Worse than You Think: What the Trump Administration is doing to America* (Simon & Schuster 2018) <[www.simonandschuster.com/books/Its-Even-Worse-Than-You-Think/David-Cay-Johnston/9781501174162](http://www.simonandschuster.com/books/Its-Even-Worse-Than-You-Think/David-Cay-Johnston/9781501174162)>.

230 Meg Jacobs, 'Trump is appointing people who hate the agencies they will lead' CNN (12 December 2016) <[www.cnn.com/2016/12/10/opinions/government-is-the-problem-jacobs](http://www.cnn.com/2016/12/10/opinions/government-is-the-problem-jacobs)>.

quietly in the background.<sup>231</sup> Outside of the details surrounding their lavish spending, ethical violations and conflicting interests there are virtually no details around distinctions between Trump appointees and their predecessors or parade of successors relative to departmental objectives.<sup>232</sup> Cited among the worst, Director Scott Pruitt promulgated disastrous policies at the Environmental Protection Agency while failing to enforce existing regulations. Prior to his forced resignation, media covered his pay-for-play corruption (i.e. one disgrace after another),<sup>233</sup> with little or no reporting on the known or projected effects upon citizens directly impacted by the influx of toxins.<sup>234</sup> Pruitt endured, according to the *New York Times*, because he delivered on the agenda.<sup>235</sup> It is also worth noting that ethics rules were the very first target of the conservative congress once Trump assumed office.<sup>236</sup> Moreover, Pruitt's persona of indifference ensured a temporary shift of national headlines.

Current levels of concern about the effects of global warming alongside brewing conflicts over development and regulation of nuclear power are skyrocketing.<sup>237</sup> Tasked with distinguishing the critical from the irrelevant, journalists routinely fail to identify the costs in terms of individual rights coupled with injury to the public overall. We lack meaningful discourse and 360-degree analysis of the public harms flowing from unregulated carbon emissions, fracking, industrial farm waste, shale oil extraction and radioactive leaks from nuclear waste sites. Add to that anxiety over the sanctions, embargoes, proxy wars and regime change flowing from rejection of the petro-dollar and the largest hazard remains hidden in plain sight: potential global fallout when unprecedented climate events meet flawed infrastructure that result in nuclear explosions like Fukushima, whose reactors are still leaking as of this publication.<sup>238</sup> Hurricane

231 Mel Leonor, 'The two-in-one cabinet agency' (*Politico*, 22 June 2018) <[www.politico.com/newsletters/morning-education/2018/06/22/the-two-in-one-cabinet-agency-261569](http://www.politico.com/newsletters/morning-education/2018/06/22/the-two-in-one-cabinet-agency-261569)>.

232 Many articles about Trump appointees lack substance and are instead filled with gossipy details about personalities. Readers are left to wonder about the state of the agency in relation to public welfare. See e.g. Kevin Breuninger, 'Trump replaced 3 top advisors this month: here's how his new hires compare to their predecessors' CNBC (24 March 2018) <[www.cnbc.com/2018/03/23/heres-how-trumps-new-hires-compare-to-their-predecessors.html](http://www.cnbc.com/2018/03/23/heres-how-trumps-new-hires-compare-to-their-predecessors.html)>.

233 Sam Morris and Francisco Navas, 'The firings and fury, the biggest Trump resignations and firings so far' *The Guardian* (London, 29 August 2018) <[www.theguardian.com/us-news/ng-interactive/2018/jul/05/donald-trump-firings-resignations-white-house-full-list-latest](http://www.theguardian.com/us-news/ng-interactive/2018/jul/05/donald-trump-firings-resignations-white-house-full-list-latest)>; Coral Davenport, Lisa Friedman and Maggie Haberman, 'EPA chief Scott Pruitt resigns under a cloud of ethics scandals' *New York Times* (New York, 5 July 2018) <[www.nytimes.com/2018/07/05/climate/scott-pruitt-epa-trump.html](http://www.nytimes.com/2018/07/05/climate/scott-pruitt-epa-trump.html)>.

234 Aubrey Menarndt and Luke Menard, 'Evaluating the environmental impacts of trump's presidency' (*Pacific Standard*, 6 February 2018) <<https://psmag.com/environment/trumps-impact-on-the-environment>>; Joe Romm, 'The EPA scandal that could kill 100,000 Americans: the media ignore Scott Pruitt's real crime: his immoral policies to poison our air and water' (*Think Progress*, 10 April 2018), <<https://thinkprogress.org/pruitt-dangerous-policies-are-the-real-crime-f45c3208a226>>.

235 Justin Worland, 'Scott delivered: EPA head Scott Pruitt has been embroiled in scandals. Here's how he's survived' *Time* (New York, 26 April 2018) <<http://time.com/5251206/scott-pruitt-scandals-epa-survived>>.

236 Amy Davidson Sorkin, 'Trump and the case of congressional ethics' *New Yorker* (New York, 3 January 2017) <[www.newyorker.com/news/amy-davidson/trump-and-the-case-of-congressional-ethics](http://www.newyorker.com/news/amy-davidson/trump-and-the-case-of-congressional-ethics)>.

237 Garrett Graff, 'Closer to midnight: the Doomsday clock and the threat of nuclear war' (*Wired*, 25 January 2018) <[www.wired.com/story/doomsday-clock-nuclear-war](http://www.wired.com/story/doomsday-clock-nuclear-war)>.

238 Jeff Farrell, 'Fukushima nuclear disaster: lethal levels of radiation detected in leak seven years after plant meltdown in Japan, expert warns of "global" consequences unless the plant is treated properly' *The Independent* (London, 2 February 2018) <[www.independent.co.uk/news/world/asia/fukushima-nuclear-disaster-radiation-lethal-levels-leak-japan-tsunami-tokyo-electric-power-company-a8190981.html](http://www.independent.co.uk/news/world/asia/fukushima-nuclear-disaster-radiation-lethal-levels-leak-japan-tsunami-tokyo-electric-power-company-a8190981.html)>. The impact of Hurricane Florence which made landfall in the USA in mid-September 2018 flooded half of the state of North Carolina and damaged a nuclear waste facility at Duke Brunswick. E A Crunden, 'Nuclear plant declares emergency: second breach reported at Coal Ash Site amid Florence's rains' (*Think Progress*, 17 September 2018) <<https://thinkprogress.org/florence-coal-ash-nuclear-plant-emergency-92a71c9eaa89>>.

Florence made landfall in the USA on 14 September 2018, then flooded nearly half of the state of North Carolina causing a state of emergency at a nuclear waste facility. Why are *peaceful* nuclear power plants still in existence with the technological advances that have been made with renewable energy sources?<sup>239</sup> Domestically, environmental protection measures have been rolled back. Wildfires rage coast to coast; a toxic algae bloom has overtaken Florida beaches;<sup>240</sup> sink-holes have increased due to fracking;<sup>241</sup> and substantial flooding of interior waterways accompanies coastal erosion.<sup>242</sup> An emerging disaster with potable water throughout the USA relates to deteriorating infrastructure and industrial chemical discharge into rivers, lakes and streams.<sup>243</sup> The scarce public debate on these topics is filled with partisan brinksmanship.<sup>244</sup> News anchors in general have less credibility than late-night comedians.<sup>245</sup> When truth emerges from the shadows, the offering lacks context and structured time for follow-up questions and is simply taken as one more opportunity to fabricate consensus.<sup>246</sup>

### 3.2 QUASHING POLITICAL DISSENT

A sense of urgency surrounds declining protection for whistle-blowers, investigative journalists and their confidential sources of information.<sup>247</sup> Organisers of mass protests (around the globe) are as likely to become targets of the interests they oppose or suffer real-world consequences as to effect tangible change.<sup>248</sup> Data protection and similar

239 Akshat Rathi, 'Europe keeps setting clean-energy records' (*Quartz*, 14 July 2018) <<https://qz.com/1328344/renewable-energy-europe-keeps-setting-new-records-and-killing-off-coal/>>.

240 Mallory Pickett, 'Toxic "red tide" algae bloom is killing Florida wildlife and menacing tourism' *The Guardian* (London, 14 August 2018) <[www.theguardian.com/us-news/2018/aug/13/florida-gulf-coast-red-tide-toxic-algae-bloom-killing-florida-wildlife](http://www.theguardian.com/us-news/2018/aug/13/florida-gulf-coast-red-tide-toxic-algae-bloom-killing-florida-wildlife)>.

241 Josh Gabbatiss, 'Oil and gas drilling blamed for sinkholes threatening to swallow parts of Texas' *The Independent* (London, 30 March 2018) <[www.independent.co.uk/environment/fracking-oil-gas-drilling-blamed-sinkholes-threatening-swallow-texas-earthquakes-a8281281.html](http://www.independent.co.uk/environment/fracking-oil-gas-drilling-blamed-sinkholes-threatening-swallow-texas-earthquakes-a8281281.html)>.

242 John Vidal, 'World's beaches being washed away due to coastal development' *The Guardian* (London, 15 December 2014) <[www.theguardian.com/environment/2014/dec/15/worlds-beaches-being-washed-away-coastal-development](http://www.theguardian.com/environment/2014/dec/15/worlds-beaches-being-washed-away-coastal-development)>.

243 'Researchers to study chemical contamination of US waters' (*VOA*, 15 August 2017) <[www.voanews.com/a/researchers-to-study-chemical-contamination-of-us-waters/3986542.html](http://www.voanews.com/a/researchers-to-study-chemical-contamination-of-us-waters/3986542.html)>.

244 Dana Nuccitelli, 'Let's be honest – the global warming debate isn't about science' *The Guardian* (London, 4 October 2013) <[www.theguardian.com/environment/climate-consensus-97-per-cent/2013/oct/04/global-warming-debate-not-about-science](http://www.theguardian.com/environment/climate-consensus-97-per-cent/2013/oct/04/global-warming-debate-not-about-science)>.

245 Nicholas Ferroni, 'We take our comedians more seriously than our news anchors' (*Huffington Post*, 19 September 2012) <[www.huffingtonpost.com/nicholas-ferroni/why-we-take-our-comedians\\_b\\_1672758.html](http://www.huffingtonpost.com/nicholas-ferroni/why-we-take-our-comedians_b_1672758.html)>.

246 This sophisticated type of diversion utilises the appearance of lively debate within what is actually a carefully focused spectrum to generate and justify deliberately conceived assumptions. This technique avoids the distinctively biased appearance of one-sided rhetoric and works by presenting a contrived premise for an argument as if it were a universally accepted and obvious truth, so that the audience naturally assumes it to be correct. By maintaining the range of debate in such a way that it appears inclusive of differing points of view, so as to suggest fairness and balance, the suppositions suggested become accepted as fact.

247 Jason Zuckerman and Tom Devine, 'Draining the swamp requires robust whistleblower protections and incentives' (2017) 4 Emory Corporate Governance and Accountability Review <<http://law.emory.edu/ecgar/content/volume-4/issue-special/essays-interviews/draining-swamp-whistleblower-protections-incentives.html>>.

248 See story of Jeremy Hammond and Kevin Poulsen, 'Anonymous hactivist sentenced to ten years' (*Wired*, November 2013) <[www.wired.com/2013/11/hammond-sentence](http://www.wired.com/2013/11/hammond-sentence)>.

regulations<sup>249</sup> might be ill-equipped to mitigate the risk identified in *The Circle*: the willingness to give over personal power, to be controlled and manipulated into believing that human value is linked to digital visibility, while ignoring exposure to harm or personal chaos.<sup>250</sup> The forces of restraint are vast.<sup>251</sup>

Pundits who are ardent in their defence of free speech principles are lacklustre in their response to large-scale public injury. State and federal governments are dismantling agencies,<sup>252</sup> stripping resources for reproductive freedom<sup>253</sup> and impeding the work of long-established democratic institutions.<sup>254</sup> The US president declares enemies,<sup>255</sup> imposes austerity,<sup>256</sup> disseminates neo-Nazi propaganda to millions around the world,<sup>257</sup> levels tariffs and sanctions,<sup>258</sup> and hints at the nuclear option and Libyan model during tweet storms.<sup>259</sup> Activists have been arrested<sup>260</sup> and bombed,<sup>261</sup> and organise in a sea of

249 'GDPR: US news sites unavailable to EU users under new rules' (*BBC News*, 25 May 2018) <[www.bbc.com/news/world-europe-44248448](http://www.bbc.com/news/world-europe-44248448)>. All EU citizens now have the right to see what information companies have about them, and to have that information deleted. Companies must be more active in gaining consent to collect and use data too, in theory spelling an end to simple 'I agree with terms and conditions' tick boxes. Companies must also tell all affected users about any data breach, and tell the overseeing authority within 72 hours. Each EU member state must set up a supervisory authority, and these authorities will work together across borders to ensure companies comply. Misusing or carelessly handling personal information will bring fines of up to €20 million (\$23.4 million; £17.5 million), or 4 per cent of a company's global turnover.

250 Eggers (n 1) 190–205. Employees of US-based Three Square Market had microchips injected into their hands for convenience, following a trend that has taken off in Sweden. Rachel Metz, 'This company embeds microchips in its employees, and they love it' *MIT Technology Review* (17 August 2018) <[www.technologyreview.com/s/611884/this-company-embeds-microchips-in-its-employees-and-they-love-it](http://www.technologyreview.com/s/611884/this-company-embeds-microchips-in-its-employees-and-they-love-it)>.

251 See Jacobs (n 230).

252 Korte (n 229).

253 Anna North, 'How Trump helped inspire a wave of strict new abortion laws' (*Vox*, 4 May 2018) <[www.vox.com/2018/3/22/17143454/trump-iowa-heartbeat-bill-abortion-ban-mississippi-roe-v-wade](http://www.vox.com/2018/3/22/17143454/trump-iowa-heartbeat-bill-abortion-ban-mississippi-roe-v-wade)>; Anna North 'The Trump administration is quietly helping states defund planned parenthood' (*Vox*, 20 February 2018) <[www.vox.com/identities/2018/2/20/17008402/trump-planned-parenthood-abortion-birth-control-alliance-defending-freedom](http://www.vox.com/identities/2018/2/20/17008402/trump-planned-parenthood-abortion-birth-control-alliance-defending-freedom)>.

254 Tucker Higgins, 'White House announces plan to merge Education and Labor Departments' *CNBC* (21 June 2018) <[www.cnn.com/2018/06/21/white-house-announces-plan-to-merge-departments-of-education-and-labor.html](http://www.cnn.com/2018/06/21/white-house-announces-plan-to-merge-departments-of-education-and-labor.html)>.

255 Daniel Lavelle, 'From "Slimeball Comey" to "Crooked Hillary", why Trump loves to brand his enemies' *The Guardian* (London, 17 April 2018) <[www.theguardian.com/us-news/shortcuts/2018/apr/17/presidents-nicknames-slimeball-comey-former-fbi-director](http://www.theguardian.com/us-news/shortcuts/2018/apr/17/presidents-nicknames-slimeball-comey-former-fbi-director)>.

256 Richard A Greenwald, 'Austerity rules as Trump claims "success" in war on poverty' (*Daily Beast*, 13 July 2018) <[www.thedailybeast.com/austerity-rules-as-trump-claims-success-in-war-on-poverty](http://www.thedailybeast.com/austerity-rules-as-trump-claims-success-in-war-on-poverty)>; see also, Mark Blyth, *Austerity: The History of a Dangerous Idea* (Oxford University Press 2013).

257 Eric Levitz, 'Trump echoes neo-Nazi propaganda about South Africa (that he heard on Fox News)' *New York Magazine* (New York, 23 August 2018) <<http://nymag.com/daily/intelligencer/2018/08/south-african-farmers-land-trump-tweet-white-genocide.html>>.

258 Nick Wadhams, 'Trump wields a tariffs-and-sanctions hammer in risky strategy' (*Bloomberg*, 13 August 2018) <[www.bloomberg.com/news/articles/2018-08-13/trump-wields-a-tariffs-and-sanctions-hammer-in-risky-strategy](http://www.bloomberg.com/news/articles/2018-08-13/trump-wields-a-tariffs-and-sanctions-hammer-in-risky-strategy)>.

259 Ryan Bort, 'Trump threatens use of nukes while cancelling North Korean nuke summit' *Rolling Stone* (24 May 2018) <[www.rollingstone.com/politics/politics-news/trump-threatens-use-of-nukes-while-canceling-north-korean-nuke-summit-629390](http://www.rollingstone.com/politics/politics-news/trump-threatens-use-of-nukes-while-canceling-north-korean-nuke-summit-629390)>.

260 Tania Unzueta Carrasco, 'Trump is going after immigration activists like me. Will you be next?' (*USA Today*, 7 February 2018) <[www.usatoday.com/story/opinion/2018/02/07/trumps-ice-going-after-immigration-activists-like-me-whos-next-tania-unzueta-carrasco-column/1080396001](http://www.usatoday.com/story/opinion/2018/02/07/trumps-ice-going-after-immigration-activists-like-me-whos-next-tania-unzueta-carrasco-column/1080396001)>.

261 Max Blau, 'Dakota access pipeline: protester nearly loses arm after explosion' *CNN* (23 November, 2016) <[www.cnn.com/2016/11/23/us/north-dakota-pipeline-conflict](http://www.cnn.com/2016/11/23/us/north-dakota-pipeline-conflict)>.

conflict.<sup>262</sup> Individuals are being detained and imprisoned in democratic countries without regard to their rights under habeas corpus, human rights conventions or international treaties.<sup>263</sup>

In the past 18 months, 58 Bills in 31 states have been enacted to punish protesters since an activist's arm was nearly blown off with a hand grenade during a *peaceful* protest at Standing Rock.<sup>264</sup> Private military contractors – Tiger Swan, formerly known as Black Water – hired by a private corporation, caused the incident which the international media allowed to quietly pass without an arrest.<sup>265</sup> In the past, Blackwater mercenaries fought alongside the US military without regard for conventions, treaties or official rules of engagement.<sup>266</sup> Through several incarnations, originally Black Water, then Academi and now Tiger Swan, they remain close allies of the Trump administration and available for hire around the world.<sup>267</sup> They first wreaked havoc in Iraq,<sup>268</sup> before they were called in to deal with a couple of dozen residents seeking to protect an aquifer that irrigates much of the nation's fruits and vegetables from oil pipeline contamination.<sup>269</sup>

In contrast, at the time of the expulsion of Russian diplomats from the UK over the Skripal poisoning case,<sup>270</sup> a prominent Member of Parliament spoke of the harsh trends of exaggerated responses: invoking the wisdom of refrain in getting too far out ahead of an ongoing inquiry, while pushing phrases like 'military-grade chemicals encourage hysteria'.<sup>271</sup> So, in the UK there was a televised parliamentary discussion about exaggerated use of militarised language, while the US government has no official inquiry into the use of military-style weapons against peaceful protesters on US soil, and the media has barely noticed.

### 3.3 CORPORATE COLONIALISM

Tropical hurricanes were devastating in 2017, particularly for the US island of Puerto Rico where millions were stranded without food, water, power and medical care for months on end. During a long weekend at his New Jersey golf course, Trump responded

262 Sophia Sadinsky, 'At resistance school, Trump-era activists learn to get down to the root of things' (*The Nation*, 18 April 2017) <[www.thenation.com/article/at-the-resistance-school-trump-era-activists-learn-to-get-down-to-the-roots-of-things](http://www.thenation.com/article/at-the-resistance-school-trump-era-activists-learn-to-get-down-to-the-roots-of-things)>.

263 Esther Addley, Owen Bowcott, Jessica Elgot, Paul Farrell and David Crouch, 'Julian Assange is in arbitrary detention, UN panel finds' *The Guardian* (London, 4 February 2016) <[www.theguardian.com/media/2016/feb/04/julian-assange-wikileaks-arrest-friday-un-investigation](http://www.theguardian.com/media/2016/feb/04/julian-assange-wikileaks-arrest-friday-un-investigation)>.

264 Traci Yoder, 'Conservative-led anti-protest legislation already doubled since last year' (National Lawyers Guild, 15 February 2018) <[www.nlg.org/conservative-led-anti-protest-legislation-already-doubled-since-last-year](http://www.nlg.org/conservative-led-anti-protest-legislation-already-doubled-since-last-year)>.

265 John Hageman, 'Dakota Access security firm operated in ND without license, board says' *Bismarck Tribune* (Bismarck, 27 June 2017) <[https://bismarcktribune.com/news/state-and-regional/dakota-access-security-firm-operated-in-nd-without-license-board/article\\_71b32e07-0b58-54f6-a6e1-e60c085051db.html](https://bismarcktribune.com/news/state-and-regional/dakota-access-security-firm-operated-in-nd-without-license-board/article_71b32e07-0b58-54f6-a6e1-e60c085051db.html)>.

266 Blau (n 261)

267 Nick Visser, 'Here's what you should know about that secret Seychelles meeting' (*Huffington Post*, 8 March 2018) <[www.huffingtonpost.com/entry/erik-prince-seychelles-meeting\\_us\\_5aa0be4ae4b0d4f5b66d566d](http://www.huffingtonpost.com/entry/erik-prince-seychelles-meeting_us_5aa0be4ae4b0d4f5b66d566d)>.

268 A massacre in Nisour Square Baghdad killed 17 civilians and injured 20 more. Peter W Singer, 'The dark truth about Blackwater' (Brookings Institute, 2 October 2007) <[www.brookings.edu/articles/the-dark-truth-about-blackwater](http://www.brookings.edu/articles/the-dark-truth-about-blackwater)>.

269 Jenni Monet, 'What Standing Rock gave the world' (*EcoWatch*, 19 March 2018) <[www.ecowatch.com/what-standing-rock-gave-world-2549906333.html](http://www.ecowatch.com/what-standing-rock-gave-world-2549906333.html)>.

270 'Spy poisoning is latest in string of suspicious cases in UK' NBC (10 March 2018) <[www.nbcnews.com/news/world/spy-poisoning-latest-string-suspicious-cases-u-k-n855441](http://www.nbcnews.com/news/world/spy-poisoning-latest-string-suspicious-cases-u-k-n855441)>.

271 Salisbury Incident, HC Deb 14 March 2018, vol 637 <<https://hansard.parliament.uk/commons/2018-03-14/debates/071C37BB-DF8F-4836-88CA-66AB74369BC1/SalisburyIncidentFurtherUpdate>>.

to media-led complaints by attacking Puerto Ricans: calling them lazy and ungrateful.<sup>272</sup> The bids for privatisation swiftly followed. Small mid-West firms with little or no expertise were awarded multimillion-dollar contracts to rebuild the power grid.<sup>273</sup> Thereafter, a weakened Puerto Rico Energy Commission, crony governing board and secrecy around budgetary appropriations spelled disaster for the commonwealth.<sup>274</sup> Simultaneously, there was a notable influx of Bitcoin rich kids who envision Puerto Rico as the new crypto-utopia. Others saw 'behaviour that reeked of disaster capitalism – the use of a natural or economic calamity to reshape and mould a society into one which entrenches a libertarian, hypercapitalistic worldview'.<sup>275</sup>

In 2018, Nation reporter John Washington notes that US immigration officials are sending a message to the world's asylum seekers: 'The US is no place of refuge', citing family separations, excessively long detention, and 'other ways the immigration bureaucracy is making life impossible for asylum seekers'.<sup>276</sup> In early June 2018, a seemingly coordinated assault on migrants washed over the US and EU like a tidal wave.<sup>277</sup> The national and international news alternated between discussions about the plain cruelty of luring children away from their parents at the border, placing their physical and mental health in jeopardy by inhumane separations,<sup>278</sup> and leading European countries denying docking privileges to boats carrying migrants rescued off the Italian coast.<sup>279</sup> Drowning asylum seekers and toddlers being thrust into cages, or transported to strange new environments and denied physical contact with any caregiver, created a chilling spectre of toxic disruption of civil society and the end of decency full-stop.<sup>280</sup>

272 Dee Parvaz, 'Trump attacks hurricane-ravaged Puerto Ricans as lazy and ungrateful' (*Think Progress*, 30 September 2017) <<https://thinkprogress.org/trump-attacks-puerto-rico-lazy-49cff500c154>>.

273 Clark Mindock, 'Tiny Energy firm awarded \$300m Puerto Rico electricity contract bars government from auditing agreement' *The Independent* (London, 27 October 2017) <[www.independent.co.uk/news/world/americas/us-politics/puerto-rico-whitefish-electricity-contract-deal-audit-fema-a8023956.html](http://www.independent.co.uk/news/world/americas/us-politics/puerto-rico-whitefish-electricity-contract-deal-audit-fema-a8023956.html)>.

274 Javier Balmaceda, 'Puerto Rico's PREPA privatization: a sale too private' (*Forbes*, 3 April 2018) <[www.forbes.com/sites/debtwire/2018/04/03/puerto-ricos-prepa-privatization-a-sale-too-private/#29784b667490](http://www.forbes.com/sites/debtwire/2018/04/03/puerto-ricos-prepa-privatization-a-sale-too-private/#29784b667490)>.

275 Naomi Klein, 'How power profits from disaster' *The Guardian* (London, 6 July 2017) <[www.theguardian.com/us-news/2017/jul/06/naomi-klein-how-power-profits-from-disaster](http://www.theguardian.com/us-news/2017/jul/06/naomi-klein-how-power-profits-from-disaster)>.

276 John Washington, 'ICE is sending a message to the world's asylum seekers: the US is no place of refuge' (*The Nation*, 29 May 2018) <[www.thenation.com/article/ice-is-sending-a-message-to-the-worlds-asylum-seekers-the-us-is-no-place-of-refuge](http://www.thenation.com/article/ice-is-sending-a-message-to-the-worlds-asylum-seekers-the-us-is-no-place-of-refuge)>.

277 Caitlin Dickerson, 'Hundreds of immigrant children have been taken from parents at US Border' *New York Times* (New York, 20 April 2018) <[www.nytimes.com/2018/04/20/us/immigrant-children-separation-ice.html](http://www.nytimes.com/2018/04/20/us/immigrant-children-separation-ice.html)>; Bethany Carson and Eleana Diaz, 'Payoff: how Congress ensures private prison profit with an immigrant detention quota' (*Grassroots*, April 2015) <<https://grassrootsleadership.org/reports/payoff-how-congress-ensures-private-prison-profit-immigrant-detention-quota>>.

278 Chas Danner, 'Separating families at the border was always part of the plan' *New York Magazine* (New York, 17 June 2018) <<http://nymag.com/daily/intelligencer/2018/06/separating-families-at-border-was-always-part-of-the-plan.html>>; the policy has long been in effect in China separating Muslim children from their parents. Sigal Samuel, 'China's jaw-dropping family separation policy' (*The Atlantic*, 4 September 2018) <[www.theatlantic.com/international/archive/2018/09/china-internment-camps-uighur-muslim-children/569062/](http://www.theatlantic.com/international/archive/2018/09/china-internment-camps-uighur-muslim-children/569062/)><<https://www.theatlantic.com/international/archive/2018/09/china-internment-camps-uighur-muslim-children/569062>>.

279 Matteo Cividini, 'EU paid Italy at least €200,000 for migrant stunt' (*EU Observer*, 22 August 2018) <<https://euobserver.com/migration/14264>>.

280 Dominique Mosbergen, 'Trump administration holding babies and toddlers in multiple "tender age" shelters' (*Huffington Post*, 20 June 2018) <[www.huffingtonpost.com/entry/tender-age-shelters-trump-border-family-separations\\_us\\_5b29d2d0e4b05d6c16c8c122](http://www.huffingtonpost.com/entry/tender-age-shelters-trump-border-family-separations_us_5b29d2d0e4b05d6c16c8c122)>. There are three shelters running in South Texas, with a fourth one planned for Houston, the report said.



One obvious flaw in ceding key public functions to private control is the expansion of unfettered decision-making by corporate elites, where citizens could get their arm blown off for holding a sign. 'The relationship between US Immigration policies and private contractors has been disastrous for immigrants,<sup>281</sup> as well as for American taxpayers, who pay more than \$2 billion each year to maintain the detention system.' The Detention Watch Network summarised a recently released report: 'Although a lack of due process, inhumane and sometimes fatally inadequate conditions,<sup>282</sup> and a woeful lack of both oversight and transparency are endemic to the entire system, privatization has exacerbated each of these problems.'<sup>283</sup>

As private contractors build cages for pre-schoolers,<sup>284</sup> we endure endless academic debates about whether adjustments in our regulatory apparatus would be sufficient to curb abuses, as if enforcement is anything less than a matter of willpower. In the meantime, activists and journalists have been threatened,<sup>285</sup> censored and detained in record numbers. Whistle-blowers are targeted for retribution, and even imprisoned without charge as public figures openly call for their assassination.<sup>286</sup> Without sufficient public oversight and safeguards for those who take great risks to uncover corruption, we would be forced to rely upon politicians, tainted commissions<sup>287</sup> and oligarch-owned news agencies<sup>288</sup> for the preservation of democracy.

### 3.4 ALL RUSSIA, ALL-THE-TIME!

It is much more difficult to see a propaganda system at work where the media is private and formal censorship is absent. This is especially true where media outlets actively compete, periodically attack and expose corporate and governmental malfeasance, and aggressively portray themselves as spokespersons for free speech and the general community interest:

281 'The real alternatives to detention' (*Justice For Immigrants*, 27 June 2017) <<https://justiceforimmigrants.org/what-we-are-working-on/immigrant-detention/real-alternatives-detention>>.

282 Critics often contend private companies make their services more attractive by cutting corners on essentials, like qualified staff, quality food, or care for mental health and physical health. Blake Ellis, Melanie Hicken and Bob Ortega, 'Handcuffs, assaults, and drugs called "vitamins": children allege grave abuse at migrant detention facilities' *CNN Investigates* (21 June 2018) <[www.cnn.com/2018/06/21/us/undocumented-migrant-children-detention-facilities-abuse-invs](http://www.cnn.com/2018/06/21/us/undocumented-migrant-children-detention-facilities-abuse-invs)>.

283 Elise Foley and Roque Planas, 'Homeland Security panel wants to quit for-profit immigrant detention' (*Huffington Post*, 1 December 2016) <[www.huffingtonpost.com/entry/homeland-security-immigration-detention-for-profit\\_us\\_58406afce4b09e21702d587c](http://www.huffingtonpost.com/entry/homeland-security-immigration-detention-for-profit_us_58406afce4b09e21702d587c)>.

284 'Senator turned away at facility holding immigrant children', *New York Post* (New York, 5 June 2018) <<https://nypost.com/2018/06/05/senator-turned-away-at-facility-holding-immigrant-children>>.

285 Davis Richardson, 'Milo Yiannopoulos encourages vigilantes to start gunning journalists down' *The Observer* (London, 26 June 201) <<https://observer.com/2018/06/milo-yiannopoulos-encourages-vigilantes-start-gunning-journalists-down>>; Zeeshan Aleem, 'A Russian journalist faked his own death to track down his would-be assassins' (*Vox*, 30 May 2018) <[www.vox.com/world/2018/5/30/17408960/arkady-babchenko-russian-journalist-kiev-ukraine-putin](http://www.vox.com/world/2018/5/30/17408960/arkady-babchenko-russian-journalist-kiev-ukraine-putin)>.

286 'Assange lawyer condemns calls for assassination of WikiLeaks' founder' NBC (28 June 2013) <[www.nbcnews.com/id/40467957/ns/us\\_news-wikileaks\\_in\\_security/t/assange-lawyer-condemns-calls-assassination-wikileaks-founder/#.W4\\_20tjZRjp](http://www.nbcnews.com/id/40467957/ns/us_news-wikileaks_in_security/t/assange-lawyer-condemns-calls-assassination-wikileaks-founder/#.W4_20tjZRjp)>.

287 See e.g. Professor Jerry Kroth, *Coup d'etat: The Assassination of President John F Kennedy* (Genotype 2013).

288 John Pilger, 'Murdoch is but one player in the media junta' ABC News (2 July 2012) <[www.abc.net.au/news/2012-07-02/pilger-media-junta/4105038](http://www.abc.net.au/news/2012-07-02/pilger-media-junta/4105038)>.

What is not evident (and remains undiscussed in the media) is the limited nature of such critiques, as well as the huge inequality in command of resources . . . [which impedes] access . . . and [ability to influence] its behaviour and performance.<sup>289</sup> (Professor Noam Chomsky)

Potential for proving that Vladimir Putin rigged the 2016 presidential election, with the knowledge and cooperation of Trump and his campaign aides, continues to dominate the news cycle.<sup>290</sup> The saga of Russian culpability for cyber-hacking farms that disrupt global electoral politics, target critical infrastructure, and the poisoning of its declared enemies knows no bounds.<sup>291</sup> A student-organised protest, March for Our Lives, was held in the wake of the 17th school shooting across the US in the first quarter of 2018 alone. Most shootings were targeted hits on one or more individuals, and while there have been one to two school shootings every week this year, it takes a mass shooting to garner national media attention.<sup>292</sup> Students in Parkland, Florida, were featured on the news after a neo-Nazi-identified former student went on a shooting rampage in March 2018, making it the 56th mass shooting this calendar year.<sup>293</sup> To report it in the context of school shootings missed the larger significance.<sup>294</sup> Surviving students organised multiple national days of protest and were roundly praised for their vigilance and courage while analysts conveniently ignored how little they received in return for their monumental efforts.<sup>295</sup> This shooting became the touchstone that sparked nationwide protests leading to a new Bill in the state of Florida with reports that more states are slated to follow suit.<sup>296</sup> Legislation was long overdue and painfully strained against a backdrop of politicians cowering at the prospect of challenging the pro-gun political super-pac known as the National Rifle Association (NRA).

Fox News show host Laura Ingraham labelled student protest leader David Hogg a loser, accusing him of whining after failing to enter university.<sup>297</sup> Seventeen-year-old

289 Edward Herman and Noam Chomsky, 'A propaganda model' excerpted from *Manufacturing Consent: The Political Economy of the Mass Media* (Pantheon 1988) < <https://chomsky.info/consent01> >.

290 'Noam Chomsky on mass media obsession with Russia and the stories not being covered in the Trump era' (*Democracy Now*, 27 July 2018), interview with Noam Chomsky <[www.democracynow.org/2018/7/27/noam\\_chomsky\\_on\\_mass\\_media\\_obsession](http://www.democracynow.org/2018/7/27/noam_chomsky_on_mass_media_obsession)>.

291 Fontanella-Khan and Gambino (n 154); Ewen MacAskill, 'Former Bush press secretary claims Iraq War fuelled by propaganda' *The Guardian* (London, 28 May 2008) <[www.theguardian.com/world/2008/may/28/georgebush.usa](http://www.theguardian.com/world/2008/may/28/georgebush.usa)>.

292 Saeed Ahmed and Christina Walker, 'There has been, on average, 1 school shooting every week this year' CNN (25 May 2018) <[www.cnn.com/2018/03/02/us/school-shootings-2018-list-trnd](http://www.cnn.com/2018/03/02/us/school-shootings-2018-list-trnd)>

293 Melia Robinson, Skye Gould and Samantha Lee, 'There have been 154 mass shootings in the US so far in 2018 – here's the full list' (*Business Insider*, 28 June 2018) <[www.businessinsider.es/how-many-mass-shootings-in-america-this-year-2018-2?r=US&IR=T](http://www.businessinsider.es/how-many-mass-shootings-in-america-this-year-2018-2?r=US&IR=T)>.

294 Courtland Jeffrey, 'Mass shootings in the US: when, where they have occurred in 2018' ABC News (27 August 2018) <[www.abc15.com/news/data/mass-shootings-in-the-us-when-where-they-have-occurred-in-2018](http://www.abc15.com/news/data/mass-shootings-in-the-us-when-where-they-have-occurred-in-2018)>.

295 Rick Hampson, 'Can March for our Lives rally avoid the fate of the Million Mom March?' (*USA Today*, 22 March 2018) <[www.usatoday.com/story/news/2018/03/22/millions-moms-never-again-different-effect-march-our-lives/440961002](http://www.usatoday.com/story/news/2018/03/22/millions-moms-never-again-different-effect-march-our-lives/440961002)>.

296 Jenny Jarvie, 'Bucking the NRA, Florida governor signs landmark gun control legislation' *Los Angeles Times* (Los Angeles, 9 March 2018) <[www.latimes.com/nation/la-na-florida-gun-law-20180309-story.html](http://www.latimes.com/nation/la-na-florida-gun-law-20180309-story.html)>. Matt Vasilogambros, 'After Parkland, states pass 50 new gun-control laws' (*Huffington Post*, 2 August 2018) <[www.huffingtonpost.com/entry/parkland-shooting-gun-control-laws\\_us\\_5b630dd8e4b0eb29100e59d1](http://www.huffingtonpost.com/entry/parkland-shooting-gun-control-laws_us_5b630dd8e4b0eb29100e59d1)>. The Marjory Stoneman Douglas High School Public Safety Act raises the minimum age to purchase a firearm from 18 to 21, imposes a three-day waiting period for most gun purchases, and bans the sale or possession of 'bump e.stocks', which allow semi-automatic rifles to mimic machine guns.

297 Bryan Logan, 'Fox News host mocked a Parkland shooting survivor – now he's going after her advertisers' (*Business Insider*, 29 March 2018) <<http://uk.businessinsider.com/laura-ingraham-david-hogg-college-rejection-letters-2018-3>>.

Hogg immediately tweeted a list of a dozen companies that sponsored her show and urged his supporters to demand that they cancel their ads.<sup>298</sup> And they did. Ingraham tweeted an apology – ‘sorry for any hurt or upset caused Hogg or any of the “brave victims” of Parkland’. The departures continued.<sup>299</sup> The story within the story, vividly demonstrated by a 17-year-old, is that boycotts work. Legendary boycotts led by students, ministers, celebrities and musicians have been a time-honoured means of hitting tone-deaf political figures where it hurts.<sup>300</sup> When the protests subsided, we witnessed a return to Russia-gate.

In the rush to curtail fake news, outlets critical of US policy are now required to register as foreign agents,<sup>301</sup> without qualitative analysis of how they are much different from US nationals famous for highlighting our hypocrisy.<sup>302</sup> Russia Today (RT) was sanctioned by media watchdogs for ‘misleading’ coverage, even as it gathered five Emmy nominations for its investigative reporting.<sup>303</sup> Excess focus upon critics’ flawed analysis lulls the electorate into believing that waving the flag with the nation’s anthem quietly playing in the background translates into news it can use.<sup>304</sup> Conscious devotees of nightly news coverage have witnessed ever-thickening plots where implausibility competes with irrelevancy for those seeking serious explanations for what is actually happening in what are proudly hailed as First-World governments.<sup>305</sup> One could hardly discern if or how the much-touted justifications for press freedom on behalf of the public interest is being served by the onslaught of nightly *Breaking News*. Star journalists may be hindered from production and delivery of the news they believe to be most relevant and steered toward buzzwords: *you heard it here first*.<sup>306</sup> Reflective programming is

298 Natasha Bach, ‘Why Fox News’s Laura Ingraham is facing an advertiser boycott - again’ (*Fortune*, 22 June 2018) <<http://fortune.com/2018/06/22/laura-ingraham-david-hogg-advertising-boycott-migrant-families>>.

299 Tom Kludt, ‘Laura Ingraham’s apology to David Hogg has not stemmed the advertiser exodus’ (*Money*, 30 March 2018) <<https://money.cnn.com/2018/03/29/media/laura-ingraham-apologizes-david-hogg>>.

300 Adam Behr, ‘Boycotts by celebrities and musicians hit Trump where it hurts’ (*The Conversation*, 23 January 2017) <<https://theconversation.com/boycotts-by-celebrities-and-musicians-hit-trump-where-it-hurts-71743>>.

301 Josh Gerstein, ‘Lawmakers push for Al Jazeera to register as foreign agent’ (*Politico*, 5 March 2018) <[www.politico.com/story/2018/03/05/al-jazeera-press-foreign-agent-437072](http://www.politico.com/story/2018/03/05/al-jazeera-press-foreign-agent-437072)>.

302 The tone is much different in the UK. One MP addressing a statement from Teresa May read: ‘I would like to draw her attention to something she said in her statement that I would not want to get lost, which is that although our response must be robust it must also remain true to our values. As such, will she say, as I think she has already, not that we will ban Russia Today, which is a strong point to make, but that this country believes in a free media, that we are not frightened of it, even though we hear opinions that are against us, and that we also believe in the rule of law and democracy? See Salisbury Incident (n 271).

303 Precious N Chatterje-Doody, ‘“Post-truth” media really is shifting the news agenda – and more subtly than it seems’ (*The Conversation*, 1 September 2017) <<https://theconversation.com/post-truth-media-really-is-shifting-the-news-agenda-and-more-subtly-than-it-seems-82349>>.

304 Aleks Krotoski, ‘What effect has the internet had on journalism?’ *The Guardian* (London, 19 February 2011) <[www.theguardian.com/technology/2011/feb/20/what-effect-internet-on-journalism](http://www.theguardian.com/technology/2011/feb/20/what-effect-internet-on-journalism)>.

305 Jon Michaels, ‘How Trump is dismantling a pillar of the American state’ *The Guardian* (London, 7 November 2017) <[www.theguardian.com/commentisfree/2017/nov/07/donald-trump-dismantling-american-administrative-state](http://www.theguardian.com/commentisfree/2017/nov/07/donald-trump-dismantling-american-administrative-state)>: ‘Donald Trump is presiding over the most withering, devastating, and trenchant attack on the American administrative state this nation has ever known.’

306 Megan Garber, ‘Stop calling everything “breaking news,” please (Part 5,264): ‘Important tweet from the Associated Press: a plane landed safely this morning’ *The Atlantic* (23 July 2014) <[www.theatlantic.com/technology/archive/2014/07/the-tweet-that-should/374903](http://www.theatlantic.com/technology/archive/2014/07/the-tweet-that-should/374903)>.

commandeered by reports from three major newspapers which routinely time the posting of their Russian collusion-related articles to coincide with the start of key broadcasts.<sup>307</sup> Cable news journalists are thereby discouraged from developing higher levels of interaction with their viewers, staff and even experts who may wish to influence topics of coverage.<sup>308</sup>

What is immediately lost in the shuffle in this chain of custody in the presentation of the news itself? Reuters declares what is important, then the *New York Times* and *Washington Post* engage in some mixture of reporting on the top stories (according to Reuters or the Associated Press) in the rush to deliver some new detail.<sup>309</sup> The articles are time-released for maximum effect.<sup>310</sup> Planning and preparation for one line of inquiry and reporting is often, on MSNBC for example, shelved for an emerging system of chat and interruption: 'wait this just in from . . . the \_\_\_\_\_ has just reported that . . .'. It resounds like a ride on a merry-go-round with that godawful music from which there is no escape. Never mind rumours of government intelligence *insider influence* on the national papers that shape nightly news content with well-timed commotion.<sup>311</sup> One media watchdog alleges that dozens of democratic candidates for the 2018 mid-term elections, whom media personalities eagerly imply would oust corrupt politicians (i.e. impeach Trump), have backgrounds working in and around US intelligence.<sup>312</sup>

As Russia-gate spreads like a contagion across public discourse on both sides of the Atlantic, diligence is required for inspecting the integrity of electoral processes and evaluating the nature and viability of government responses to threats. Former UK Prime Minister David Cameron established a Behavioural Insights Team, or 'nudge unit' during his premiership in order to better influence society's behaviour. Seen as a low-cost and simple tool that has the potential to positively alter the behaviours and decisions of millions, the 'nudge' has been presented as a benign and effective tool for future governments.<sup>313</sup> Yet it has deep roots, reminiscent of theories developed in the 1920s by organisations such as the Tavistock Institute, a centre for the study of human behaviour, mind control, propaganda and social manipulation.<sup>314</sup> Created in London, it spread overseas with the financial help of the Rockefeller Foundation. Its influence increased

307 Darren Samuelsohn and Jason Schwartz, 'Meet the Mueller pundits' (*Politico*, 2 July 2018) <[www.politico.com/story/2018/07/02/robert-mueller-cable-news-pundits-686877](http://www.politico.com/story/2018/07/02/robert-mueller-cable-news-pundits-686877)>: 'Former federal prosecutors are collecting five- or even six-figure salaries as cable news networks clamor to find talking heads who can opine on every aspect of special counsel Robert Mueller's investigation.'

308 Lisa Wade, 'How our media bubble protects our ideologies' (*Society Pages*, 12 September 2016) <<https://thesocietypages.org/socimages/2016/09/12/blue-feed-red-feed-how-our-media-bubble-protects-our-ideologies>>.

309 Amar Too, 'Reuters built an algorithm to flag and verify breaking news on Twitter' (*Verge*, 1 December 2016) <[www.theverge.com/2016/12/1/13804542/reuters-algorithm-breaking-news-twitter](http://www.theverge.com/2016/12/1/13804542/reuters-algorithm-breaking-news-twitter)>.

310 Ashley Muddiman and Natalie (Talia) Jomini Stroud, '10 things we learned by analyzing 9 million comments from the New York Times' (University of Texas Center for Media Engagement, 21 June 2016) <<https://mediaengagement.org/research/10-things-we-learned-by-analyzing-9-million-comments-from-the-new-york-times>>.

311 Carl Bernstein, 'How America's most powerful news media worked hand in glove with the Central Intelligence Agency and why the Church Committee covered it up' <[http://www.carlbernstein.com/magazine\\_cia\\_and\\_media.php](http://www.carlbernstein.com/magazine_cia_and_media.php)>.

312 Tim Hains, 'Jimmy Dore Show: dozens of CIA agents running as Democrats in 2018 elections' (*Real Clear Politics*, 15 March 2018) <[www.realclearpolitics.com/video/2018/03/15/jimmy\\_dore\\_show\\_dozens\\_of\\_cia\\_agents\\_running\\_as\\_democrats\\_in\\_2018\\_elections.html](http://www.realclearpolitics.com/video/2018/03/15/jimmy_dore_show_dozens_of_cia_agents_running_as_democrats_in_2018_elections.html)>.

313 Smith (n 10).

314 Daniel Estulin, *Tavistock Institute: Social Engineering the Masses* (Trine Day 2015).

when it combined the study of anthropology, economy, organisations, politics, psychology, psychoanalysis, psychiatry and sociology. Professor Jerry Kroth continues to issue prescient warnings<sup>315</sup> about the potential for being duped. Claims that the electorate may be engulfed in a series of false ideas has been dismissed as alarmist and typically ignored.<sup>316</sup> At this point in time, careless speculation over our collective mental instability is unproductive for the masses subject to the current state of affairs.<sup>317</sup> Trumpocracy coupled with our collective delusions and denials, supported by misuse of personal data surreptitiously gathered through mass surveillance, monitors, tracking and profiles have risen like a giant Pillsbury Dough Boy seeking to devour national resources.<sup>318</sup>

#### 4 Conclusion: the beating drum

According to most dictionaries, the phrase ‘wag the dog’ denotes a strategy to divert attention away from political scandal through use of military action.<sup>319</sup> A Forbes foreign affairs correspondent offers a detailed description of the phenomena in an article titled ‘Iran to ditch the dollar in wake of Trump’s “Muslim ban”’.<sup>320</sup> The US Supreme Court has upheld the ban, disrupting numerous lower court rulings outlining its constitutional violations, while the global community must brace for extended military actions and an even larger influx of refugees across Europe.<sup>321</sup>

As these events unfold, the future role of media will come under greater scrutiny.<sup>322</sup> A case study of Australia has led to its designation as the world’s first Murdochcracy: ‘a dominant force online, in pay-TV and publishing, Rupert controls seventy per cent of Australia’s metropolitan press.’<sup>323</sup> With monopolies in state capitals and provincial centres, he owns the country’s only national newspaper.’ Media monopoly is described here as propagating a brand of political extremism. It has nothing to do with facism per se, but thrives on the continuing concentration of the world’s wealth in a few hands coupled with accelerating impoverishment of the majority.<sup>324</sup> Their ideological message is a ‘drumbeat of global and domestic economic piracy and the cult of perpetual war’.<sup>325</sup> All of this was

315 Jerry Kroth, ‘Implosion: delusion, denial, and the prospect of collapse’ (NOOK 2017).

316 See, Naomi Wolf, *The End of America: Letter of Warning to a Young Patriot* (Chelsea Greene 2007).

317 See William W Bostock, ‘Collective mental state and individual agency: qualitative factors in social science explanation’ (2002) 3(3) Forum: Qualitative Social Research, Article 1 <[www.qualitative-research.net/index.php/fqs/article/view/835/1814](http://www.qualitative-research.net/index.php/fqs/article/view/835/1814)>.

318 Tracking these trails is behavioural advertisers’ bread and butter. The type of information tracked and collected can include IP addresses, pages visited (on a single site or across sites), length of time spent on pages, advertisements viewed, articles read, purchases made, search terms used, user preferences such as language and web browser type, operating system and geographical location.

319 <[www.dictionary.com/e/slang/wag-the-dog](http://www.dictionary.com/e/slang/wag-the-dog)>

320 Dominic Dudley, ‘Iran to ditch the dollar in wake of Trump’s “Muslim ban”’ (*Forbes*, 30 January 2017) <[www.forbes.com/sites/dominicdudley/2017/01/30/iran-to-ditch-dollar/#6362872c6715](http://www.forbes.com/sites/dominicdudley/2017/01/30/iran-to-ditch-dollar/#6362872c6715)>.

321 Trita Parsi, ‘In Europe, fears loom that the US is seeking regime collapse in Iran’ (*Axios*, 20 August 2018) <[www.axios.com/in-europe-fears-loom-that-the-us-is-seeking-regime-collapse-in-iran-72071dd4-ad88-451a-9dcf-cff44b9602f3.html](http://www.axios.com/in-europe-fears-loom-that-the-us-is-seeking-regime-collapse-in-iran-72071dd4-ad88-451a-9dcf-cff44b9602f3.html)>.

322 ‘He said, she said journalism: lame formula in the land of the active user’ (*Press Think*, 12 Apr 2009) <[http://archive.pressthink.org/2009/04/12/hesaid\\_shesaid.html](http://archive.pressthink.org/2009/04/12/hesaid_shesaid.html)>.

323 Pilger (288).

324 Kate Vinton, ‘These 15 billionaires own America’s news media companies’ (*Forbes*, 1 June 2016) <[www.forbes.com/sites/katevinton/2016/06/01/these-15-billionaires-own-americas-news-media-companies/#778dbed4660a](http://www.forbes.com/sites/katevinton/2016/06/01/these-15-billionaires-own-americas-news-media-companies/#778dbed4660a)>.

325 Pilger (n 288); the US-backed Saudi invasion of Yemen has produced an epidemic that threatens the Middle East. Pallab Ghosh, ‘Yemen cholera epidemic “controlled” by computer predictions’ (*BBC News*, 27 August 2018) <[www.bbc.com/news/health-45259922](http://www.bbc.com/news/health-45259922)>.

made possible through the transformation of Western societies by the ‘invisible’ power of public relations and lobbying.<sup>326</sup>

The wasteland that divides the public interest from the role of broadcast media as a Fourth Estate – justified from a constitutional perspective for service as watchdogs over governments, big business and transactions between them – has rarely been more vast. Many factors contribute to declining public confidence in the news media. Hyper-focus upon minutia, vitriolic debates and prurient distractions present greater risks than currently acknowledged. Nightly news delivered as propaganda leaves the core of the public’s interest in an ill-defined space with a proliferation of journalists who lack the capacity to structure intelligent public debate. Leeds University professor Paul Wragg delivered closing remarks at the end of a day-long conference which featured the papers that form this special edition. Thanks to his insightful observation, it has become difficult to enjoy a full night’s sleep. He politely informed the participants that ‘democracy may be coming to an end and there’s nothing we can do about it’.<sup>327</sup> Jack Goldsmith, senior fellow at the Hoover Institution, and former assistant attorney general in the George W Bush administration has made a similar suggestion.<sup>328</sup> However, the former Finance Minister of Greece, Yanis Varoufakis, holds a different vision of future prospects. Rejecting feckless capitulation, he is currently organising for a more democratic Europe under DiEM25 (Democracy in Europe Movement 2025).<sup>329</sup> Varoufakis has teamed up with US Senator Bernie Sanders in calling on progressives worldwide to unite around a vision of shared prosperity, security and dignity. Unsurprising, details of their plan have been essentially ignored by both academics and mainstream media.<sup>330</sup>

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326 Pilger (n 288).

327 See Grayling (n 28). I have since joined the chorus of support for a Human Knowledge Project, establishing a 50-year goal to create a global digital library and information resource that every child anywhere in the world can tap into. The technology exists, but not the political will. Siva Vaidhyanathan asks: ‘Do we have to wait for the world to be civilised enough for a Human Knowledge Project to become feasible, or would it only become civilised enough if such a project existed? I suspect the latter: and therefore think that all those who are interested should put their shoulders to the wheel and create it. That would be a true search for knowledge, and the most liberating thing we could ever do.’

328 Goldsmith (n 64).

329 <<https://diem25.org>>

330 Atossa Araxia Abrahamian, ‘Saving the sacred cow, Yanis Varoufakis’s *Vision for a More Democratic Europe*’ (*Nation*, 28 May 2018). See also, Paul O’Connell, ‘Human rights: contesting the displacement thesis’ (2018) 69(1) Northern Ireland Legal Quarterly 19–35. Offering a re-joiner to the left-progressive critique of human rights discourse as embracing rights language with moderating influence at a time when injustice spawned by global capitalism and hyper-imperialism seem all-pervasive. A similar linguistic critique was under taken by Marian Duggan in a section titled ‘Homophobic victimization from rhetoric to reality’. Language around sexual orientation determines whether it can merge with other driving factors ‘underpinning a move towards a “post-conflict” society’. Duggan queries heteronormative cultural dynamics that exacerbate homophobic victimisation despite the discourse of cohesion, inclusion and integration. Marian, Duggan, ‘Lost in transition? Sexuality and justice in post-conflict Northern Ireland’ (2017) 68(2) Northern Ireland Legal Quarterly 159–80.