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# Advancing Technology and the Changing Conception of Human Rights

Olympia Duhart

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ADVANCING TECHNOLOGY AND  
THE CHANGING CONCEPTION OF HUMAN RIGHTS<sup>+</sup>

Olympia Duhart\* and Steven I. Friedland\*\*

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<sup>+</sup> This article was edited by the staff of *Gonzaga Law Review*.

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## I. INTRODUCTION

Advances in technology have significantly impacted what it means to be human, including our conception of human rights. The impact has been both positive and negative, expanding and contracting protections. The positive effects include political and practical breakthroughs. These breakthroughs can be observed in amplification, globalization, and the opportunity to align with others with similar perspectives. On the other hand, negative effects have proliferated as well—including some of the very same characteristics of technologies, such as amplification through speed and repetition, and easy access and alignment with like-minded extremist thinkers. In addition, there have been other negative independent consequences, including stealthy invasiveness, massive gathering of personal information, a lack of ready verifiability, the flattening of complexity, and of particular note for human rights—a Petri dish for conspiracy theories.

What technology has done, for better or worse, is blur boundaries, genres, and categories. Science is blurred with politics and mythology. Law is blurred with power and ideology. It is not as clear to many people today as to what the truth actually is,<sup>1</sup> what is exaggeration, or what is simply falsehood. It is not as

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1. The American story is much more complicated than it seems, from the declaration of Independence’s assertion, “all men are created equal,” to the veiled inclusion of slavery in the American Constitution in three different places and the right to vote being given to only about 6% of the population in the early years of the country—to white male landowners. See Jill Lepore, *Rock, Paper, Scissors*, NEW YORKER (Oct. 6, 2008), <https://www.newyorker.com/>

easy to identify the bad actors, those trying to do good, and those in between. The Internet has allowed people to add their voices, so that there is much greater representation than before; yet the number of voices often rise to a cacophony, where they are all drowning each other out.

Underlying all of this technological change is the democratic process and human rights. The impact is significant, and likely will continue to be in important, albeit unpredictable, ways. This paper will focus on two major impacts—one involving an expansion of human rights and one a contraction. The expansion will involve how the students responding to a school shooting at a high school in Parkland, Florida, were able to utilize technologies to advance their cause about the proliferation of gun violence. The contraction will focus on how technology has aided the proliferation of conspiracy theories.<sup>2</sup>

The paper then argues that to minimize contractions and promote expansions, the people of each nation must hold government accountable for ensuring the dignity of all persons as a foundation for human rights. While there are compelling reasons to ensure open access to technology and to democratize activism, governments may explore some regulation to protect its citizens.

This article has five parts. Following this Introduction is important context about the development of technologies and how they work, as well as what we mean when we discuss “human rights.” Then we delve into the granular impacts of those technologies on human rights, using the contexts of the technology-fueled success of the Parkland Activists, and the persistence of conspiracy theories as both examples and cautionary tales about the impact of technology on human rights. The paper ends with a Conclusion summarizing our analysis.

## II. BACKGROUND ON TECHNOLOGY AND HUMAN RIGHTS

To better understand the significance of the intersection between technological advances and human rights, some context is helpful. It is critical to have a common understanding of what is meant by “human rights.”

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magazine/2008/10/13/rock-paper-scissors. *See generally* U.S. CONST. art. I, § 2, cl. 3; *id.* art. I, § 9, cl. 1; *id.* art. IV, § 2, cl. 3.

2. Numerous focuses for contractions exist. One such contraction involves the replacement of workers by Artificial Intelligence (AI). *See, e.g.,* Osonde A. Osoba & William Welser IV, *The Risks of Artificial Intelligence to Security and the Future of Work*, RAND CORP. (2017).

### A. *Human Rights*

Human rights define core relationships—between individuals, and between governments and individuals. At the most basic level, “human rights” means that all humans have a fundamental dignity regardless of status and beliefs. This includes autonomous choices about how to live. Human rights are governed by norms and embodied in law. The norms are often universal. According to the United Nations:

Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination.<sup>3</sup>

International human rights laws regulate governments and their interface with human rights. The Universal Declaration of Human Rights, adopted in 1948, was widely seen as the seminal law in the area. International treaties create obligations for nations to uphold and respect human rights.<sup>4</sup>

### B. *Technology*

Prior to the digital age taking over in the 21<sup>st</sup> Century, the pre-digital age was characterized by media “objectivity,” cheap human labor, weak and costly interconnectivity world-wide, and centralized broadcasting. Waves of advancing technology in the digital age have largely disrupted this orthodoxy. The new digitation includes automation, amplification, lack of verification, fragmentation and invasiveness. The enormity of the changes in the 21<sup>st</sup> Century led physicist Stephen Hawking to predict that artificial intelligence “will be a new form of life that will outperform humans.”<sup>5</sup>

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3. *Human Rights*, UNITED NATIONS, <https://www.un.org/en/sections/issues-depth/human-rights> (last visited Feb. 6, 2020).

4. There are multiple core human rights instruments. Each has monitoring bodies to ensure that the rights are upheld. See, e.g., *The Core International Human Rights Instruments and Their Monitoring Bodies*, THE UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx> (last visited Jan. 6, 2020).

5. João Medeiros, *Stephen Hawking: ‘I fear AI may replace humans altogether’*, WIRED (Nov. 28, 2017), <https://www.wired.co.uk/article/stephen-hawking-interview-alien-life-climate-change-donald-trump>.

The sweeping nature of the digital era changes is evident in many ways. Blogs, YouTube Channels, Facebook, microbroadcasters,<sup>6</sup> and diffuse subscription services have upended the centralized dissemination of news and created connections around the globe, with amazing speed. All kinds of data are available at people's fingertips, including law, science, and politics. "Big Data" analyzes trillions of bits of information in a second.<sup>7</sup> Through the Internet of Things, "smart" devices are attached to pedestrian products, such as doorbells, clothing, cars, T.V.s, and more.<sup>8</sup> The smart devices can be operated remotely, allowing people to unlock doors to their home, turn off kitchen appliances, and even check tire pressure in cars miles away.<sup>9</sup> Embedded transmitters will be able to automatically collect self-generated information, store it, and analyze it.<sup>10</sup>

In effect, society has created massive self-surveillance, with data streams flowing to third-parties around the clock. The prevalence of mass surveillance in the digital age, especially compared to security interests,<sup>11</sup> can be illustrated by various types of technology advances. One such illustration is Intrado's "Beware" software program.

Intrado is a company that manufactures commercial software. The Beware program is designed to assign "threat scores" to local residents.<sup>12</sup> According to

6. See, e.g., *Stealing Back the Airwaves*, WIRED (July 5, 2004), <https://www.wired.com/2004/05/stealing-back-the-airwaves/>.

7. See, e.g., Bernard Marr, *How Much Data Do We Create Everyday? The Mind-Blowing Stats Everyone Should Read*, FORBES (May 21, 2018), <https://www.forbes.com/sites/bernardmarr/2018/05/21/how-much-data-do-we-create-every-day-the-mind-blowing-stats-everyone-should-read/#20192a4960ba> ("On average, Google now processes more than 40,000 searches EVERY second (3.5 billion searches per day)!").

8. See Andrew Weinreich, *The Future of the Smart Home: Smart Homes & IoT: A Century in the Making*, FORBES (Dec. 18, 2017, 11:46 AM), <https://www.forbes.com/sites/andrewweinreich/2017/12/18/the-future-of-the-smart-home-smart-homes-iot-a-century-in-the-making/#52a78e7e57ac>.

9. Julianne Pepitone, *Google House: Tech Giant Spends Billions to Get Inside Your Home*, CNBC (Jan. 15, 2014, 06:11 AM), <https://www.cnn.com/2014/01/15/google-house-tech-giant-spends-billions-to-get-inside-your-home.html#>.

10. The Internet of Things creates paths for data flowing mostly voluntarily from the subject to be surveilled. In this way, it is a "bottom-up" system. The information flows do not stop with the subject, however, but continue flowing to manufacturers of the devices and often to other third parties, either through trade, sale, barter, or hacking.

11. See, e.g., Hayley Tsukayama, *Amazon CEO Jeffrey Bezos: Debate Between Privacy and Security is 'Issue of Our Age'*, WASH. POST (May 18, 2016), [https://www.washingtonpost.com/news/the-switch/wp/2016/05/18/amazon-ceo-jeffrey-bezos-debate-between-privacy-and-security-is-issue-of-our-age/?utm\\_term=.e6c91353869c](https://www.washingtonpost.com/news/the-switch/wp/2016/05/18/amazon-ceo-jeffrey-bezos-debate-between-privacy-and-security-is-issue-of-our-age/?utm_term=.e6c91353869c).

12. Alicia Marie Tan, *A California Police Department Decides How Dangerous You Are Using This Software*, MASHABLE (Jan. 15, 2016), [http://mashable.com/2016/01/15/fresno-police-beware/#VqU4VPo\\_jZqb](http://mashable.com/2016/01/15/fresno-police-beware/#VqU4VPo_jZqb).

the company's product brochure: Beware uses a patent-pending, web-search algorithm to scan massive amounts of commercial data and presents it as actionable intelligence, complete with threat scores in an easy-to-read headline format—all within seconds of an initial query.<sup>13</sup>

The scores created by its proprietary software are coded as red, yellow, or green, depending on the algorithm's conclusions.<sup>14</sup> The software sifts information from commercial data brokers, using publicly available records—such as arrests and conviction records, health history, property and commercial databases, and social media postings—among other sources. Like other advanced data programs, the software can sort billions of data points in seconds.<sup>15</sup> The tool currently is being used by the Fresno, California, Police Department,<sup>16</sup> with more departments assured to follow if the program is successful. The company that makes Beware claims the tool is designed to help public safety agencies inform first responders about the environment they may encounter when responding to a 9-1-1 call.<sup>17</sup>

### III. ADVANCING TECHNOLOGIES AND OUR CONCEPTION OF HUMAN RIGHTS: EXPANSIONS

Despite the numerous threats to human rights facilitated by technology,<sup>18</sup> the field of technology-fueled activism also has ushered in significant positive impacts. Simply put, not all of the news about the intersection of human rights and technology is bad. Yet, even the impetus for positive change can begin in a tragedy.

The remarkable story of the Parkland Activists illustrates the impact that technology can have on activism.<sup>19</sup> New technologies have allowed political and

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13. Intrado, *Beware Incident Intelligence 7* (Beware Brochure), <http://www.guidestartech.com/products/downloads/government/Beware%20Brochure.pdf>.

14. See Ms. Smith, *Beware: Surveillance Software Police are Using to Score Citizens' Threat Level*, CSO (Jan. 11, 2016, 10:37 AM), <https://www.csoonline.com/article/3020669/beware-surveillance-software-police-are-using-to-score-citizens-threat-level.html>.

15. Intrado, *supra* note 13, at 7.

16. Tan, *supra* note 12.

17. Intrado, *supra* note 13, at 7.

18. See discussion *infra* Section IV and accompanying notes.

19. While the focus of this article is on the work of the student survivors, it is not meant to minimize the work or loss the parents and spouses who have taken up gun reform activism in the wake of the shooting. Adult survivors and families of loved ones killed at the school shooting have lobbied Tallahassee, pushed politicians in Washington, emerged as politicians themselves, supported other shooting survivors, advanced gun reform legislation and used art to keep the focus on meaningful change. See, e.g., Johnny Diaz, *Father of*



practical breakthroughs through amplification, easy access, and alignment of like-minds. Indeed, every revolution has benefited from technological advances. The work of the Parkland Activists in 2018 was amplified by the innovative use of technology among the primary drivers of the gun reform movement—who are all digital natives themselves. The work of the Activists—fueled by expert use of technological platforms—disrupted the gun reform movement in positive ways. An examination of the Parkland Activists with special attention to their ability to leverage technology provides an effective case study on how technology can be used to bolster human rights.

### A. *The Parkland Shooting*

On Valentine's Day 2018, a lone gunman killed 17 people at Marjory Stoneman Douglas High School in Parkland, Florida. The victims included students—some as young as 14 years old—teachers, and coaches.<sup>20</sup> Several others escaped the massacre with their lives, but were severely injured.<sup>21</sup> The shooter, a former student at Stoneman Douglas, was armed with a semi-automatic AR-15 assault rifle in the rampage.<sup>22</sup> The gunman had been expelled

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*Parkland Shooting Victim Joaquin Oliver Launches One Man Show*, S. FLA. SUN SENTINEL (Sept. 20, 2019), <https://www.sun-sentinel.com/local/broward/parkland/florida-school-shooting/fl-fea-parkland-father-manuel-oliver-one-man-show-20190812-2kk2kjknvcszdg2csoykg3hki-story.html>; see also Tessa Stuart, *Parkland, One Year Later: Fred Guttenberg, a Father-Turned-Activist*, ROLLING STONE (Feb. 11, 2019), <https://www.rollingstone.com/politics/politics-features/parkland-florida-shooting-anniversary-fred-guttenberg-791076/> (profile of Fred Guttenberg, a businessman turned activists who lost his 14-year-old daughter Jamie in the Parkland shooting).

20. Eric Levenson & Joe Sterling, *These are the Victims of the Florida School Shooting*, CNN, <http://www.cnn.com/2018/02/15/us/florida-shooting-victims-school/index.html> (last updated Feb. 21, 2018).

21. More than a dozen others were seriously injured in the shooting. See Elizabeth Chuck et al., *17 Killed in Mass Shooting in Parkland, Florida*, NBC UNIVERSAL (Feb. 14, 2018), <https://www.nbcnews.com/news/us-news/police-respond-shooting-parkland-florida-high-school-n848101>.

22. Audra D. S. Burch & Patricia Mazzei, *Horror at Florida School; Ex-Student Held*, N.Y. TIMES (Feb. 15, 2018), <https://www.nytimes.com/2018/02/14/us/parkland-school-shooting.html>.

from the school for fighting.<sup>23</sup> He was 19 years old,<sup>24</sup> and he bought the semi-automatic rifle lawfully.<sup>25</sup>

The Florida school shooting brought to a head the growing concern over school shootings that have long crippled America. One group has actually tracked the number of people killed or injured in school shootings since the 2012 massacre at Sandy Hook Elementary School, where a gunman killed 20 first graders and six adults with an assault rifle.<sup>26</sup> Between Sandy Hook and Stoneman Douglas, there were “at least 239 school shootings nationwide.”<sup>27</sup>

The shootings also sparked a world-wide political movement on gun reform. The work of the Parkland Activists was fueled in large part by their ability to leverage technology. This work of the Parkland Activists, student survivors of the school shooting,<sup>28</sup> can be examined as case study on the remarkable ways in which technology can expand the protection of human rights. The Activists have given dozens of interviews, amassed an enormous following on social media, challenged congressional leaders on live television, and “gone viral in videos of their pleas to prevent another slaughter.”<sup>29</sup> Specifically, technological advances aided the Parkland Activists in following arenas: mobilization, amplification, globalization, and sustainability. Each of these important areas for activism will be discussed in turn.

### 1. Mobilization

In an era not too long ago, the work of the local activist—especially one with limited financial resources and little experience—was based on a paper trail. The

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23. Bart Jansen, *Florida Shooting Suspect Bought Gun Legally, Authorities Say*, USA TODAY, <http://www.usatoday.com/story/news/2018/02/15/florida-shooting-suspect-bought-gun-legally-authorities-say/340606002/> (last updated Feb. 15, 2018, 6:08 PM).

24. Burch & Mazzei, *supra* note 22.

25. Jansen, *supra* note 23.

26. Jugal K. Patel, *After Sandy Hook More Than 400 People Have Been Shot in Over 200 School Shootings*, N.Y. TIMES (Feb. 15, 2018), <http://www.nytimes.com/interactive/2018/02/15/us/school-shootings-sandy-hook-parkland.html>.

27. *Id.* More than 400 people were shot during school shootings. *Id.* Of those, 138 people were killed. *Id.* “The nonprofit defines a school shooting as an episode on the property of an elementary school, secondary school or college campus. Another defining characteristic is timing—shootings must occur during school hours or during extracurricular activities.” *Id.* The data has been tracked by the Gun Violence Archive, a nonprofit. *Id.*

28. Jaweed Kaleem & Nina Agrawal, *These are the Florida Students Behind the Movement to End Gun Violence*, L.A. TIMES (Feb. 23, 2018, 9:37 AM), <https://www.latimes.com/nation/la-na-parkland-student-activists-20180223-htmlstory.html>.

29. *Id.*

new activist often generated a flyer to highlight an injustice or organize a protest. The flyer was distributed on the ground—on public sidewalks or parking lots. Sometimes, there were mailers. And for those with more resources, an advertisement would run in a newspaper. These methods were effective at times, but severely limited the reach of the message. When announcements for rallies moved to the airwaves—such as radio or television—the potential targets were expanded, but there were still limitations. Did the editor or producer believe the coverage was warranted? Were viewers and listeners “tuning in” at the right time?

Now, the transformative power of technology gives the power of coverage to the speaker. He or she can elect to post to personal social media accounts and drive the narrative themselves.<sup>30</sup> There is no delay or derailment based on the decisions of an editor or producer. Even a single speaker can mobilize a following in a transformative, powerful manner. For example, Emma González, one of the Parkland Activists, demonstrates how fast social media can increase the velocity of spreading a message. The use of social media kept the message of the Parkland Activists front and center. As one journalist explains:

When they began to speak out after the shooting at their school, Parkland students wanted to make sure that their murdered friends were not forgotten in the endless series of American school shootings, that the news cycle did not simply move on after the latest series of ‘thoughts and prayers.’<sup>31</sup>

González, who became one of the most well-known activists of the Parkland survivors,<sup>32</sup> is illustrative of the ability of the activists to command their own story through the use of the social media tools on their cellphones.<sup>33</sup> It is true that

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30. For a fascinating discussion of the intersection of social media campaigns and social justice movements, see Stacey B. Steinberg, *#Advocacy: Social Media's Activism Power to Transform Law*, 105 KY. L. J. 413, 413–14 (2016) (addressing the ways in which social media can be used to achieve legal change, and what lawyers can learn from online advocacy).

31. Lois Beckett, *'We Can't Let Fear Consume Us': Why Parkland Activists Won't Give Up*, *GUARDIAN* (Feb. 11, 2019, 1:00 AM), <https://www.theguardian.com/us-news/2019/feb/11/parkland-student-activists-march-for-our-lives-year-later-2019>.

32. Jonah Engel Bromwich, *How the Parkland Students Got So Good at Social Media*, *N.Y. TIMES* (Mar. 11, 2018), <https://www.nytimes.com/2018/03/07/us/parkland-students-social-media.html>; Emily Witt, *How the Survivors of Parkland Began the Never Again Movement*, *NEW YORKER* (Feb. 19, 2018), <https://www.newyorker.com/news/news-desk/how-the-survivors-of-parkland-began-the-never-again-movement> (Emma González's “We call B.S.” speech “became the defining moment of gun-control rally in Fort Lauderdale . . .”).

33. Bromwich, *supra* note 32.

most of the Parkland activists—who were born at the turn of the 21<sup>st</sup> century—have only known a world populated with cellphones<sup>34</sup> and social media.<sup>35</sup> These students, known collectively as Generation Z or centennials,<sup>36</sup> were “raised on the internet and social media.”<sup>37</sup> “To Generation Z, social media and technology are tools to get things accomplished.”<sup>38</sup> And while most of the Generation Z students are skilled at using social media, not all of them have the experience. Most possess, however, the real-time networks to make the most of their forays into social media.

Emma González, for instance, did not have a Twitter account before the Parkland shooting at her high school.<sup>39</sup> She opened an account a few days after the shooting.<sup>40</sup> In less than a month, she had more than 1.15 million followers.<sup>41</sup> She commented that despite her age and association with social media-savvy Gen Z peers,<sup>42</sup> she had very limited proficiency with Twitter.<sup>43</sup> Her classmates gave her a crash course:

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34. For context, the first iPhone was introduced in 2007, when the average Parkland Activist was ten years old. See Charlee Dyroff, *Here's How Much Cellphones Have Actually Changed Over the Years*, INSIDER (July 25, 2018, 9:42 AM), <https://www.insider.com/the-history-of-the-cellphone-2018-7>.

35. Alex Williams, *Move Over, Millennials, Here Comes Generation Z*, N.Y. TIMES (Nov. 3, 2016), <https://blogs.vsb.bc.ca/sjames/files/2012/10/Move-Over-Millennials-Here-Comes-Generation-Z-The-New-York-Times.pdf>. Even “newer” social media platforms such as Instagram and Twitter coincided with the formative teenage years of the activists.

36. *Generation Z, Latest Characteristics, Research and Facts*, BUS. INSIDER, <http://www.businessinsider.com/generation-z> (last visited Oct. 6, 2019) (Generation Z was born between 1996–2010).

37. *Id.*

38. COREY SEEMILLER & MEGHAN GRACE, *GENERATION Z GOES TO COLLEGE* 222 (2016).

39. Charlotte Alter, *The School Shooting Generation Has Had Enough*, TIME (Mar. 22, 2018), <https://time.com/longform/never-again-movement/>.

40. See Mary Bowerman, *Parkland Student Emma Gonzalez Has More Followers Than NRA After Joining Twitter*, USA TODAY (Feb. 26, 2018, 11:23 AM), <https://www.usatoday.com/story/news/nation-now/2018/02/26/parkland-student-emma-gonzalez-has-more-followers-than-nra-days/372757002/>.

41. Valerie Strauss, *This Parkland Student Quickly Amassed More Twitter Followers Than the NRA. Here's What She's Been Writing*, WASH. POST (Mar. 1, 2018, 11:17 PM), <http://www.washingtonpost.com/news/answer-sheet/wp/2018/03/01/this-parkland-student-quickly-amassed-more-twitter-followers-than-the-nra-heres-what-shes-been-writing/>.

42. SEEMILLER & GRACE, *supra* note 38, at 222 (“Generation Z students are knowledgeable, skilled and reliant on technology.”).

43. Bromwich, *supra* note 32.

Ms. González was surrounded by classmates who were familiar with Twitter's ever-evolving dialect of memes, wisecracks and news stories. Within a week, she said, they had taught her the basics. How to make a thread. How to follow a thread. And, perhaps most importantly, the difference between a retweet, which reposts someone else's tweet, and a quote tweet, which allows a user to retweet with a comment above the original. The Parkland students' use of quote tweets is one of their most effective tools.<sup>44</sup>

The instruction was effective. By early March 2018, the 18-year-old González had amassed more Twitter followers than the National Rifle Association, which had joined Twitter in 2009 and only had 606,000 followers at the time.<sup>45</sup> As of January 2020, the NRA Twitter account boasted 804,000 followers.<sup>46</sup> At the same time, González had a staggering 1.61 million followers at her profile @Emma4Change.<sup>47</sup> The reach of González's Twitter account allowed her to amplify her call for gun control, and propel the movement to the national spotlight. She wasn't alone.

## 2. Amplification

Other Parkland Activists, all survivors of the high school shooting, deployed their own social media accounts to raise the visibility of the gun reform movement. David Hogg, a Co-Founder of the March for Our Lives movement and Parkland shooting survivor, has nearly 1 million Twitter followers himself.<sup>48</sup> Like González, he has combined his natural eloquence and hard-earned passion with the expansive power of technology to amplify his voice.

Similarly to many of his other Activist colleagues, Hogg is able to offer unfiltered commentary on the movement. In sharp contrast to the measured, often

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44. *Id.*

45. Strauss, *supra* note 41. The National Rifle Association had also cemented itself as one of the Activists' primary opponents in the battle for meaningful gun reform. See Mike Wright et. al., *Parkland students vs the NRA: Has the powerful US gun lobby met its match in Generation Snapchat?*, TELEGRAPH (Feb. 26, 2018, 5:37 PM), <https://www.telegraph.co.uk/news/2018/02/26/parkland-students-vs-nra-has-powerful-us-gun-lobby-met-match/>.

46. NRA (@NRA), TWITTER, [http://www.twitter.com/NRA?ref\\_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor](http://www.twitter.com/NRA?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor) (last visited Jan. 20, 2020).

47. Emma González (@Emma4Change), TWITTER, [http://www.twitter.com/Emma4Change?ref\\_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor](http://www.twitter.com/Emma4Change?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor) (last visited Jan. 20, 2020).

48. David Hogg (@davidhogg111), TWITTER, [https://www.twitter.com/davidhogg111?ref\\_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor](https://www.twitter.com/davidhogg111?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor) (last visited Jan. 20, 2020).

self-censored response of older activists, the Parkland Activist can make their cases plain on their own Twitter accounts. The results can be bold and brash. Recently, for instance, Hogg posted an 11-second video clip of a recent Congressional hearing on gun violence. His commentary on this hearing did not mince words: “At a hearing on gun violence/NOT EVEN ONE Republican showed up/For being pro-life Republicans and the NRA sure do not give a fuck about dead children.”<sup>49</sup>

Such bare expressions of frustrations are common among the Activists. And the technological platforms—Twitter, Facebook, Instagram, and their own website—that allowed them to mobilize their movement in record time also allowed them to push their own narrative. Their raw stories of grief and pain were impossible to ignore.

Some commentators have questioned what distinguished the Parkland Activists from the survivors of other notorious school shootings. Like Stoneman Douglas in Parkland, Columbine High School in Littleton, Colorado, was in an affluent neighborhood with resources when it became the site of a school shooting on April 20, 1999.<sup>50</sup> But it was 1999 and social media had not yet transformed activism and communication. Sandy Hook, an elementary school in Newton, Connecticut, was the site of a school massacre that left 26 people dead in 2012.<sup>51</sup> While the student survivors of Sandy Hook were too young to act, the parents of Sandy Hook were able to use the Internet and social media. Indeed, some parents have been notably dedicated to the work of school safety.<sup>52</sup> But

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49. David Hogg (@davidhogg111), TWITTER (Sept. 26, 2019, 7:50 AM), <http://www.twitter.com/davidhogg111/status/1177234019618082821>.

50. See History.com Editors, *Columbine Shooting*, HISTORY (May 8, 2019), <https://www.history.com/topics/1990s/columbine-high-school-shootings> (Two teenagers at the Columbine High School went on a shooting spree and killed 13 people before killing themselves); see also Sara Rimer, *TERROR IN LITTLETON: THE SCHOOL; Good Grades, Good Teams and Some Bad Feelings*, N.Y. TIMES (Apr. 22, 1999), <https://www.nytimes.com/1999/04/22/us/terror-in-littleton-the-school-good-grades-good-teams-and-some-bad-feelings.html>.

51. James Barron, *Nation Reels After Gunman Massacres 20 Children at School in Connecticut*, N.Y. TIMES (Dec. 14, 2012), <https://www.nytimes.com/2012/12/15/nyregion/shooting-reported-at-connecticut-elementary-school.html>.

52. See *About Us*, SANDY HOOK PROMISE, <https://www.sandyhookpromise.org/about/#mission> (last visited Jan. 5, 2020). The Sandy Hook Promise, an important school safety advocacy group, is led by several people whose children were killed at Sandy Hook Elementary School in 2012. *Id.* Millions of people have been trained on its programs and practices, which are designed to address the “human side” of gun violence. *Id.* There was also a jump in the states requiring universal or expanded background checks following the shooting in Sandy Hook. See Nora Biette-Timmons & James Burnett, *The Parkland Kids’ Gun Reform Platform, Explained*, TRACE (Apr. 8, 2018, 3:59 PM), <https://www.thetrace.org/rounds/the-parkland-kids-gun-reform-platform-explained/>.

many were understandably too upset to mobilize at the same level. The Parkland Activists were old enough to organize themselves, emboldened by their school shooting, resourced in the affluent Parkland community, and bolstered by the wide amplification of technology. They were also laser-focused on gun control. They are part of a long line of young activists determined to make a difference.<sup>53</sup>

Timing, location, and technology combined to amplify the awful, powerful stories of the Parkland Activists. The stories harnessed the power of narrative and gave the Parkland Activists better tools to fight back. Importantly, technological advances allowed them to share their stories in real time. Within four days of the school shooting at Douglas High School, the survivors had a theme—Never Again—and a plan for a nationwide protest: March for Our Lives on March 24.<sup>54</sup> Even as funerals were being planned in the community for the students and teachers killed on Valentine's Day, the Parkland Activists were opening social media accounts and posting furiously.<sup>55</sup> Before midnight on February 15, 2018—one day after the shooting—the group had launched their new Facebook page.<sup>56</sup> Cameron Kasky, one of the founders of the movement, actually started posting on his own Facebook page in the car after he and his brother were picked up by his father right after the shooting.<sup>57</sup> He wrote about hiding in a classroom, he wrote about missing friends, and he wrote about his growing anger:

“Can’t sleep. Thinking about so many things. So angry that I’m not scared or nervous anymore . . . I’m just angry,” he wrote. “I just want people to understand what happened and understand that doing nothing will lead to nothing. Who’d have thought that concept was so difficult to grasp?”<sup>58</sup>

He also was part of a group chat right after the shooting merely for friends to support each other and talk about a way to address the growing gun violence in

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53. See Peniel Joseph, *We Wouldn't Be America Without Student Activists*, CNN: OPINION (Feb. 22, 2018, 9:07 AM), <http://www.cnn.com/2018/02/21/opinions/florida-students-long-activist-tradition-joseph-opinion/index.html>. For example, young people were central in both the Civil Rights movement and the Vietnam War protest. *Id.* The Greensboro Four, for instance, who staged the first sit-in at Greensboro, were college students from North Carolina Agricultural and Technical College. Faith James, *Leadership and Social Justice Lawyering*, 52 SANTA CLARA L. REV. 971, 990 (2012).

54. Witt, *supra* note 32.

55. *See id.*

56. *Id.*

57. *Id.*

58. *Id.*

their community.<sup>59</sup> Those friends went on to start the “Never Again” movement.<sup>60</sup> In addition, Kasky started a GoFundMe page that raised \$2 million in under 10 days to support the March for Our Lives rally in Washington, D.C. and the sister rallies held around the world.<sup>61</sup>

One of Kasky’s most notable moves was getting into an intense exchange on live television with Florida Senator Marco Rubio at a CNN Town Hall.<sup>62</sup> During the heated discussion, Kasky pressed the Republican senator on whether he would refuse donations from the National Rifle Association.<sup>63</sup> The brutally honest exchange elevated the typical ho-hum atmosphere of a legislative town hall to a compelling portrait of the combustion between business-as-usual politicians and give-it-to-us now Generation Z activists. Kasky, who was 17-years-old at the time, put Rubio on the spot and highlighted the ongoing problem of politics, guns, and big money in America.<sup>64</sup>

The Internet activity of Kasky and his fellow classmates helped amplify the message on gun reform. What the Parkland Activists lacked in experience, they had in raw emotions. From a place of authenticity and shared life experiences, they leveraged the power of narrative to sway public opinion. The postings, video logs, and interviews were often visceral. Many often became viral, as well. The emotions and stories tapped into the power of narrative. While Americans may be getting numb to the constant reports of gun violence, the Facebook postings of the young student survivors speaking out through their tears is compelling. The powerful messages are critical to swaying public opinion on gun reform.

Narrative is much more effective in shifting perspectives than data.<sup>65</sup> “Persuasive narratives are those that can direct cognitive resources toward processing the narrative elements and away from resistance.”<sup>66</sup> Indeed, cognitive scientists have discovered that narrative is “intrinsically persuasive” and can be

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59. See Kaleem & Agrawal, *supra* note 28.

60. *Id.*

61. *Id.*

62. *Id.*

63. *Id.*

64. See Evans Osnos, *CNN’s Townhall on Guns and the Unmaking of Marco Rubio*, NEW YORKER (Feb. 22, 2018), <http://www.newyorker.com/news/news-desk/cnns-town-hall-on-guns-and-the-unmaking-of-marco-rubio>.

65. See Terrence Flynn, *How Narratives Can Reduce Resistance and Change Attitudes: Insights from Behavioral Science Can Enhance Public Relations Research and Practice*, in 2 RES. J. INST. FOR PUB. REL., no. 2, 2015, at 1, 10 (2015), <https://instituteforpr.org/narratives-can-reduce-resistance-change-attitudes-insights-behavioral-science-can-enhance-public-relations-research-practice/>.

66. *Id.* at 7.



effective in pushing data to non-expert audiences.<sup>67</sup> Another reason narrative is so persuasive is that it gives us a framework to understand the world and ourselves:

Stories laced with important life messages played a significant role in communities of the past, where they were passed on from generation to generation, and they continue to be ingrained in the fabric of our society. They are a vehicle through which we, as human beings, make sense of ourselves and our lived experiences. Narratives help to shape our identities, our relationships, and our behaviors . . . .<sup>68</sup>

Through their own, compelling stories of survival and loss, the Parkland Activists were able to impact public opinion on gun reform—an issue that has seemed intractable for so long. The Parkland Activists also recognized their privilege and used their platform to shine a light on classmates in other parts of the country—students of color in places such as Chicago and Los Angeles who dealt with school violence every day.<sup>69</sup> Through technology, the young activists could amplify their stories far beyond the reach of their own school grounds.

### 3. Globalization

The global reach of the student movement certainly would not have been possible without the use of technology. The City of Parkland, a suburb of Ft. Lauderdale,<sup>70</sup> is a small bedroom community of about 25,000 people.<sup>71</sup> It is in a

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67. Michael F. Dahlstrom, *Using Narratives and Storytelling to Communicate Science to Nonexpert Audiences*, 111 PROC. OF NAT'L ACAD. OF SCI. OF U.S. 13614, 13616 (Supp. 2014), [https://www.pnas.org/content/pnas/111/Supplement\\_4/13614.full.pdf](https://www.pnas.org/content/pnas/111/Supplement_4/13614.full.pdf).

68. Dawn Watkins & Laura Guihen, *Using Narrative and Metaphor in Formative Feedback: Exploring Students' Responses*, 68 J. LEGAL EDUC. 154, 156 (2018).

69. See Desire Thompson, *Parkland Students Check their White Privilege By Acknowledging Black Activists Battling Gun Violence*, VIBE (Mar. 26, 2018), <https://www.vibe.com/2018/03/parkland-students-check-white-privilege-black-activists> (addressing the ways in which the Parkland activists deliberately incorporated the struggles of students of color in urban areas in the gun reform movement).

70. Joel Rose & Brakkton Booker, *Parkland Shooting Suspect: A Story of Red Flags, Ignored*, NAT'L PUB. RADIO (Mar. 1, 2018, 7:03 AM), <https://www.npr.org/2018/02/28/589502906/a-clearer-picture-of-parkland-shooting-suspect-comes-into-focus>.

71. *About Us*, CITY OF PARKLAND, <http://www.cityofparkland.org/59/About-Us> (last visited Jan. 5, 2020).

quiet, wooded area of Northwest Broward County.<sup>72</sup> While a few areas are zoned for commercial development, the majority of the city is residential.<sup>73</sup>

After the shooting, the area outside of the school was converted into a makeshift memorial of sorts with flowers, gifts, candles, messages, and markers for the dead. And several vigils were planned throughout Parkland. But the political drive to move the needle on gun reform led to Washington, D.C. and the world stage. The Parkland Activists built a website and organized March for Our Lives, a national demonstration on gun reform planned for March 24, 2018, in the nation's capital.<sup>74</sup> But the website also offered a tool kit so others could organize "sister marches" on the same day.<sup>75</sup> The website democratized access to activism and facilitated a grassroots movement that allowed people from all over the world to participate in the gun reform movement.

The March for Our Lives rally in Washington, D.C. drew hundreds of thousands of protestors demanding gun control.<sup>76</sup> The size of the march—which drew students and allies from around the world—generated comparisons to the Vietnam protests.<sup>77</sup> The "highly choreographed" event was organized in just five weeks, and its \$5 million cost was raised through crowdfunding and celebrity donations.<sup>78</sup>

Furthermore, the organizers also used their website platform to encourage the creation of "sister marches" around the world. The interactive website connected people to marches in their communities. All anyone needed to do was

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72. *Id.*

73. *Id.*

74. See MARCH FOR OUR LIVES, <https://marchforourlives.com/> (last visited Jan. 20, 2020); see also Sarah Gray, *The March for Our Lives Protest is Saturday. Here's Everything to Know*, TIME (Mar. 23, 2018 2:53 PM), <https://time.com/5167102/march-for-our-lives-parkland-school-shooting-protest/>.

75. *March for Our Lives Highlights: Students Protesting Guns Say "Enough is Enough,"* N.Y. TIMES (Mar. 24, 2018), <https://www.nytimes.com/2018/03/24/us/march-for-our-lives.html>.

76. German Lopez, *It's Official: March for Our Lives Was One of the Biggest Youth Protests Since the Vietnam War*, VOX (Mar. 26, 2018, 10:10 AM), <https://www.vox.com/policy-and-politics/2018/3/26/17160646/march-for-our-lives-crowd-size-count> (The estimates for the DC march ranged from 200,000 to 800,000 people).

77. *Id.*

78. Sam Hoisington, *'March for Our Lives' Cost \$5 Million; 'Several Million' Left for Lobbying*, NAT'L PUB. RADIO (Mar. 26, 2018, 4:37 PM), <https://www.npr.org/2018/03/26/596973924/-march-for-our-lives-cost-5-million-several-million-left-for-lobbying>. More than 40,000 donations were made and were intended to support the demonstrations in Washington, to support the victims and families of the Parkland shooting, and to support lobbying efforts. *Id.*

plug in a zip code, and he or she could find a march nearby.<sup>79</sup> The results were outstanding: All told, more than 800 protests were planned throughout the world.<sup>80</sup> The D.C. march and sister marches drew more than 1 million people.<sup>81</sup> The protests were planned for every state in America.<sup>82</sup> They were also being held in gun-friendly communities across the country.<sup>83</sup> Additionally, organizers said the marches were planned for every continent except Antarctica.<sup>84</sup> Sister marches took place, for instance, in Rome, Berlin, and Tokyo.<sup>85</sup>

Through a website and the long arm of the Internet, the work of a tiny community in Parkland was able to cover the globe.

#### 4. Sustainability

Another advantage of the expansive integration of technology and the gun reform movement is the ability to respond to developing issues impacting the long-range work of the activists. In addition to mobilizing at rapid speed to launch the movement, the integration of technology supports sustainability. The work and efforts continue beyond a few news cycles. The focus can also evolve. More than a year after the shooting, some of the activists are weighing in on some of the more controversial responses to the school shooting. In an October 2019 interview with journalist Anderson Cooper, for example, Kasky criticized a new Florida rule that allow teachers to be armed. Kasky was as blunt as possible: “Well, that’s asinine,” he said.<sup>86</sup>

Further, the Parkland Activists have expanded their focus to respond to emerging issues connected to the problem of gun violence in schools. The ability to be responsive to new concerns is also boosted by the use of technology. The medium itself—unlike a written book or handout—is fluid and easy to reconfigure. Though the student activists are still primarily focused on gun reform, they are now able to use their websites, social media platforms, and

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79. See MARCH FOR OUR LIVES, <https://marchforourlives.com/> (last visited Jan. 20, 2020).

80. *March for Our Lives Highlights: Students Protesting Guns Say ‘Enough is Enough’*, N.Y. TIMES (Mar. 24, 2018), <https://www.nytimes.com/2018/03/24/us/march-for-our-lives.html>.

81. Beckett, *supra* note 31.

82. *March for Our Lives Highlights*, *supra* note 80.

83. *Id.*

84. *Id.*

85. *Id.*

86. *Anderson Cooper Full Circle: Parkland Activist on Controversial New Gun Law*, CNN (Oct. 1, 2019), <https://www.cnn.com/videos/us/2019/10/01/acfc-full-parkland-activist-calem-kasky.cnn>.

visibility to highlight other, related issues. Recent efforts have focused on suicide prevention, mental health, and voter registration.

A year after the shooting, suicides rocked the Stoneman Douglas community.<sup>87</sup> There were two suicides in a single week involving student survivors of the shooting.<sup>88</sup> Following the school massacre on Valentine's Day, the tumultuous year was often too much for many survivors to process. Serious depression and anxiety understandably crippled many in this community. A year after the shooting, a local newspaper detailed the ongoing trauma at the school: "Since the Valentine's Day shooting traumatized an entire student body, students at Marjory Stoneman Douglas High School regularly report to trauma counselors after breaking down in tears. They panic when fire alarms drag on even moments too long. Reports of widespread absences are common."<sup>89</sup> Experts were particularly worried because contagion in high school suicide is common.<sup>90</sup>

The student activists demanded help to deal with the newest crisis. And once again they turned to their social media platforms to do so. "How many kids have to be taken from us as a result of suicide for the government/school district to do anything? Rip 17+2" wrote activist David Hogg in a Tweet.<sup>91</sup> Other activists have sought to normalize mental health awareness through their accessible, confessional postings. For the student survivor struggling with mental health illness, this type of near-peer support may be critical. Kasky, for instance, has more than 400,000 followers on Twitter and his messaging on mental health can reach his followers in a language they may understand. In May 2019, he wrote about mental health support in a natural tone that was probably much more accessible to his peers than anything "experts" could have advanced: "Yo sorry I know I'm perseverating but therapy is seriously lit as hell even if you don't think you're going through anything. I was so against it for so long until I found somebody I'm comfortable with who doesn't let me get away with typical BS. Highly recommended 10/10."<sup>92</sup> Throughout his Twitter feed, Kasky consistently

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87. Patricia Mazzei, *After 2 Apparent Suicides, Parkland Grieves Again*, N.Y. TIMES (Mar. 24, 2019), <https://www.nytimes.com/2019/03/24/us/parkland-suicide-marjory-stone-man-douglas.html>; see also Monique O. Madan, *Leaders React and Take Steps After Second Tragedy at Parkland*, MIAMI HERALD (Mar. 24, 2019), <https://www.miamiherald.com/news/local/community/broward/article228350134.html>.

88. Mazzei, *supra* note 87.

89. Madan, *supra* note 87.

90. *Id.*

91. See *id.*

92. Cameron Kasky (@cameron\_kasky), TWITTER (May 28, 2019, 4:55 PM), [https://twitter.com/cameron\\_kasky/status/1133523607466807296](https://twitter.com/cameron_kasky/status/1133523607466807296).

serves as an advocate for mental health, and uses his platform to highlight mental health treatment.

The March for Our Lives website also is a repository for mental health resources.<sup>93</sup> This permanent fixture on the website directs visitors to numerous hyperlinks and online guides to “begin to cope with loss.”<sup>94</sup> It includes phone numbers for the several suicide prevention lines, a crisis text line for those who are more comfortable texting, and a disaster distress helpline.<sup>95</sup> The site also includes Five Steps from the National Institute of Mental Health to “support someone in emotional pain.”<sup>96</sup> These website aids offer immediate, accessible and valuable assistance to people who may not have the resources to seek treatment or may be reluctant to do so.

Other survivors have gone even further to advance mental health support for young adults. Stoneman Douglas survivor Eden Hebron, who hid under a table in classroom 1216 and watched in terror as her friends were shot and killed, is determined to do her part to help other struggling teens.<sup>97</sup> Hebron created a mobile app designed to help students process the trauma they experience in the aftermath of a shooting.<sup>98</sup> To combat the stigma that many young people associate with therapy, the app matches symptoms of stress, anxiety, and depression with methods to address those issues.<sup>99</sup>

And, of course, the issue of political accountability is inextricably tied to the gun reform legislation efforts. To that end, voter registration has been a constant emphasis for the Parkland Activists. At the very start of the movement, the “student activists emphasized they would soon have access to the ballot box” as they turned up the heat on politicians and candidates.<sup>100</sup> More than 18 months after the transformative March for Our Lives rallies, the official website provides a direct, easy path to voter registration with a conspicuous tab at the top of its

93. *Mental Health Resources*, MARCH FOR OUR LIVES, <https://marchforourlives.com/mental-health-resources/> (last visited Jan. 1, 2020).

94. *Id.*

95. *Id.*

96. *Id.*

97. Eden Hebron, *Flashback: Here's What It Was Like to Watch My Friends Die in Room 1216*, USA TODAY (Apr. 5, 2018, 7:00 AM), <https://www.usatoday.com/story/opinion/2018/04/05/parkland-school-shooting-survivor-watched-friends-die-column/487169002/>.

98. Greg Hanlon & Elaine Aradillas, *Parkland Survivor's Mental Health App Gives Teens 'Tools to Help Themselves'*, PEOPLE (Apr. 29, 2019, 12:00 PM), <https://people.com/crime/parkland-survivor-eden-hebron-mental-health-app/>.

99. *Id.*

100. *March for Our Lives Highlights*, *supra* note 80.

homepage for voter registration.<sup>101</sup> From there, the visitor can quickly gain access to online voter registration or enter an email and zip code to get to the next steps.<sup>102</sup> There is no need to stand out on street corners anymore; the Internet brings the call for registration to anyone with a cellphone.

### B. *Legislative Reform*

Exactly one week after they were cowering in a classroom—afraid for their lives as a gunman roamed their school—many of the same teenagers were on stage in front of thousands of people going toe-to-toe with a United States Senator.<sup>103</sup> Their eloquence and anger combined to make them a serious force. Aided by technology, they mobilized at lightning speed and made it clear that they would not stop until their demands were met.

Even in the earliest days of their grief, the activists turned their attention to legislative reform. Their efforts here also emerged on social media. The morning after the shooting, Jaclyn Corin, who was 17-years-old at the time and the Junior class President, woke up and received confirmation that her friend Joaquin Oliver had been killed. As she processed her overwhelming grief, she also started posting on social media:

“PLEASE contact your local and state representatives, as we must have stricter gun laws IMMEDIATELY,” she wrote on Instagram. It was after she went to grief counselling, and after the candlelight vigil that evening, that Corin first talked to the Democratic Florida congresswoman Debbie Wasserman Schultz. Conversations with state representatives followed, and preliminary arrangements were made to bus a hundred Douglas students and fifteen chaperones to Tallahassee to address the state legislature.<sup>104</sup>

The demand for gun reform was not new. But the work of the Parkland Activists disrupted the typical power dynamic between activists and politicians. Parkland Activists began their work to “rewrite the entire national dialogue about school shootings.”<sup>105</sup> Politicians could not delay or derail the student efforts. The

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101. *Vote for Our Lives*, MARCH FOR OUR LIVES, <https://marchforourlives.com/vote-for-our-lives/> (last visited Jan. 20, 2020).

102. *Id.*

103. See discussion *infra* notes 102–03 and accompanying text.

104. Witt, *supra* note 32.

105. Kelli Kennedy, *Parkland Siblings Detail #NeverAgain Inception in New Book*, SEATTLE TIMES (last updated June 20, 2018, 8:09 AM), <https://www.seattletimes.com/nation-world/apxparkland-siblings-detail-neveragain-inception-in-new-book/>.

immediacy of new platforms such as Twitter and Facebook, and the accessibility of television, forced a conversation. It also spurred some action.

Despite America's long-standing concern about gun violence, particularly in schools, historically, there has not been significant movement on gun reform efforts. Analysts point to the distinction between preference ("I agree with stricter gun laws") and intensity ("This issue must be addressed now").<sup>106</sup> The March for Our Lives movement excelled at "issue intensity"—through various channels fueled by technology, it kept the gun reform debate at the top of the priority list over an extended time.<sup>107</sup> "For once, we are seeing a mass movement that is extremely dedicated to gun control. And by attracting so much national attention, the movement may inspire other Americans to follow suit, making gun control an issue that can *actually* sway votes."<sup>108</sup>

Historically, gun owners were almost twice as likely as their non-gun owner counterparts to contact a public official "to express an opinion on gun control policy."<sup>109</sup> Gun owners have also been more likely to donate money to an organization based on shared gun-control policies.<sup>110</sup> For instance, in 2017, 28 percent of U.S. gun owners had given money to an organization based on gun policy.<sup>111</sup> In contrast, only ten percent of non-gun owners had donated to an organization with a position on gun policy.<sup>112</sup> Such trends often signaled the willingness of politicians to tackle gun reform measures.

The results of the March for Our Lives and the continued pressure for gun reform has led to some measurable—if nascent—change in legislation. One of the group's first priorities was more background checks for gun owners. The confessed gunman at Stoneman Douglas in Parkland was reported to local police dozens of times for escalating violent conduct and postings; he was also the subject of two separate tips to the FBI.<sup>113</sup> Yet he legally purchased an AR-15.<sup>114</sup>

106. Lopez, *supra* note 76.

107. *Id.*

108. *Id.* (emphasis added).

109. *Id.* According to one study conducted by the Pew Research Center, gun owners are more politically engaged than non-gun owners. J. Baxter Oliphant & John Gramlich, *Supporters of Stricter Gun Laws Are Less Likely to Contact Elected Officials*, PEW RES. CTR. (Oct. 12, 2017), <https://www.pewresearch.org/fact-tank/2017/10/12/supporters-of-stricter-gun-laws-are-less-likely-to-contact-elected-officials/> (Political engagement is analyzed by examining contact with public officials regarding opinions on gun policy and contributing to groups with positions on gun policy).

110. Oliphant & Gramlich, *supra* note 109.

111. *Id.*

112. *Id.*

113. Rose & Booker, *supra* note 70.

114. Jansen, *supra* note 23.

Alfonso Calderon, one of the Activists and a co-founder of the Never Again movement, said: “We have to vote people out who have been paid for by the N.R.A. They’re allowing this to happen. They’re making it easier for people . . . to acquire an AR-15.”<sup>115</sup> In addition to universal background checks, the students pushed for a renewed ban on assault rifles and digitized gun-ownership records.<sup>116</sup> The students wanted change to prevent similar tragedies from happening elsewhere.

The results of the ongoing work yielded success on the gun reform legislation efforts. Since the shooting, 26 states and the District of Columbia passed 67 new laws aimed at curbing gun violence.<sup>117</sup> An expansive array of gun control measures were implemented in 2018, including bans on bump-stocks, more stringent concealed carry laws, and legislation designed to keep guns out of the hands of domestic abusers.<sup>118</sup> The gun control measures passed among state legislatures in 2018 was “more than three times the number passed in 2017.”<sup>119</sup>

Gun control advocates point to the movement in both Democrat and Republican states as evidence that this was, indeed, a “watershed moment.”<sup>120</sup> Within a month of the Parkland shooting, for example, the Marjory Stoneman Douglas High School Public Safety Act was passed by Florida’s Republican legislature and signed by then-Gov. Rick Scott, also a Republican.<sup>121</sup> The law was the “first sweeping legislative action in the state specifically meant to prevent more public mass shootings.”<sup>122</sup> The law banned the sale of firearms to anyone under age 21, restricted anyone committed to a mental institution or adjudicated mentally unsound from owning or buying firearms, banned accessories to convert semi-automatic weapons into fully automatic weapons,

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115. Witt, *supra* note 32.

116. Alter, *supra* note 39.

117. Dakin Andone, *Parkland Survivors Turned into Activists and Inspired a Wave of New Gun Safety Laws*, CNN (Feb. 11, 2019, 4:08 AM), <https://www.cnn.com/2019/02/11/us/parkland-change-gun-control-legislation/index.html>.

118. *Id.*

119. Maggie Astor & Karl Russell, *After Parkland, a New Surge in State Gun Control Laws*, N.Y. TIMES (Dec. 14, 2018), <https://www.nytimes.com/interactive/2018/12/14/us/politics/gun-control-laws.html>.

120. Andone, *supra* note 117.

121. *Id.*; see also Marjory Stoneman Douglas High School Public Safety Act, ch. 2018-03, 2018 Fla. Laws 6.

122. Emilee Speck, *How the Marjory Stoneman Douglas Act Was Designed to Protect Florida Students*, CLICKORLANDO (Feb. 11, 2019, 11:50 AM), <https://www.clickorlando.com/news/gun-violence/how-the-marjory-stoneman-douglas-act-was-designed-to-protect-florida-students>.



empowered law enforcement with the ability to temporarily take guns from mentally ill people, increased the security measures at public schools, increased funding for mental health and threat assessment at school, and created the Office of Safe Schools within Florida's Department of Education.<sup>123</sup> The law also gave Florida school districts the option of participating in a guardian program.<sup>124</sup> Proponents of the legislation pushed specifically for comprehensive reform efforts that tackled the problem of school shootings on various fronts.<sup>125</sup>

A review of the legislation that *did not pass* is also worth noting. In the year following the Parkland shooting, legislators "rejected about 90 percent of state-level bills backed by the National Rifle Association."<sup>126</sup> While much of the movement is properly credited to the Parkland Activists, experts say the students have also been able to take advantage of the infrastructure put in place by advocacy groups established after Sandy Hook.<sup>127</sup> Despite these important gains, however, there is still much work to be done. Specifically, there are conspicuous gaps in the federal arena.<sup>128</sup>

Through pressure on politicians and the constant reminder of youth voter turn-out,<sup>129</sup> activists are committed to creating real change. More than 18 months after the shooting, the Activists unveiled their gun control plan.<sup>130</sup> The ambitious plan—known as the "Peace Plan for a Safer America"—is wide-sweeping.<sup>131</sup> It calls for cutting the rate of gun deaths in half by the next 10 years through various legislation.<sup>132</sup> Among the measures it calls for are: mandatory universal background checks, banning high-capacity ammunition magazines, banning

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123. *See id.*

124. *See id.*

125. *See Andone, supra* note 117.

126. Astor & Russell, *supra* note 119 (referencing research conducted by Everytown for Gun Safety, a gun control group created by former New York mayor Michael R. Bloomberg).

127. Everytown for Gun Safety and Giffords, specifically, are credited for much of this work. *See id.* Moms Demand Action, the grass-roots arms of Everytown, also mobilized. *Id.*

128. *Id.* ("After the mass shooting in Parkland, Florida, Congress did not act.").

129. *See Beckett, supra* note 31 (stating youth voter turnout jumped ten percentage points in 2018).

130. Nicholas Wu, *Parkland Students Announce Gun Control Plan, Aim to Halve Gun Violence Rate in 10 Years*, USA TODAY (Aug. 21, 2019, 11:22 AM), <https://www.usatoday.com/story/news/politics/2019/08/21/parkland-student-movement-march-our-lives-reveals-gun-control-plan/2069980001/>.

131. *See id.*

132. *See id.*

assault-style weapons, funding federal gun violence research,<sup>133</sup> and digitizing gun purchase records.<sup>134</sup> The plan also contemplates greater political involvement by young voters; it calls for automatically registering and mailing voter registration cards to all 18-year-old Americans.<sup>135</sup> Hogg wrote on Twitter: “Policymakers have failed, so survivors are stepping up.”<sup>136</sup>

### C. *Costs of Technology-Based Activism*

For all of the hard and important work that the Parkland Activists have taken up, and continue to pursue, there are many costs associated with their efforts. For the students on a mission, it is no doubt a sacrifice they are willing to make. But no discussion of the ways in which the Activists have leveraged technology could be complete without some attention to the challenges and burdens technology creates for these change agents.

Just as social media has been able to propel the work of the Activists and amplify their message for positive change, it has also been a platform deployed by detractors. Even as they worked through their grief by mobilizing the world on gun reform, the students had to deal with Internet trolls who spread conspiracy theories about them.

David Hogg, Cameron Kasky, Alex Wind, Jaclyn Corin, and Emma González are “accidental activists” of sorts, who have been thrust into the world stage by a tragedy.<sup>137</sup> Now, however, they are also internationally recognized as gun violence prevention activists.<sup>138</sup> Their notoriety has attracted its fair share of critics and harassment.<sup>139</sup> Some of the students have been accused of being “crisis actors”<sup>140</sup> and have been targeted by other conspiracy theories.<sup>141</sup> Others

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133. According to a study by Dr. David Stark, gun violence research is underfunded by more than \$1 billion. Janine Weisman, *A Young Scientist Compared Gun Deaths to Other Leading Causes, and Found a Billion Dollar Research Deficit*, TRACE (Jan. 11, 2017), <https://www.thetrace.org/2017/01/young-scientist-compared-gun-deaths-to-other-leading-causes-found-billion-dollar-research-deficit/>. The CDC leaders “have authorized almost no studies of gun violence at all” in the past 22 years. Biette-Timmons & Burnett, *supra* note 52.

134. Biette-Timmons & Burnett, *supra* note 52. Gun control activists argue that digitizing control purchases will make gun crimes easier to trace. *Id.*

135. Wu, *supra* note 130.

136. *Id.*

137. See generally Alter, *supra* note 39.

138. See Beckett, *supra* note 31.

139. *Id.*

140. *Id.*

141. *Id.* Another conspiracy theory is that some of the student activists are actually FBI plants. See Michael M. Grynbaum, *Right-Wing Media Uses Parkland Shooting as Conspiracy*

have to confront head-on the gun rights activists who often show up at rallies fully armed.<sup>142</sup> And even though they are teenagers forced into action because their friends were murdered in school, some of them have been bullied online by adult “right-wing pundits.”<sup>143</sup> David Hogg, for instance, has been mocked for his grades and SAT scores.<sup>144</sup> Emma González was targeted by the alt-right on social media with a “doctored animation of González in which she falsely appeared to be tearing up the U.S. Constitution.”<sup>145</sup> Nothing is below the belt.

There are human costs that the Parkland Activists must absorb; some of these threats are exacerbated by the same platforms that facilitated the success of their movement. Nevertheless, the students’ ongoing work demonstrates their commitment to the mission in the face of these challenges.

#### IV. ADVANCING TECHNOLOGIES AND THE CONCEPTION OF HUMAN RIGHTS: CONTRACTIONS

Although advances in technology present powerful opportunities to expand human rights protections, there are numerous threats to human rights that are facilitated by the technology as well. The technology allows “bad people” to have similar advantages in terms of reach and influence over others, sometimes on different continents, all with very few transaction costs. Further, there is no counterbalancing through a “marketplace of ideas” or a process that fact-checks assertions or presents alternatives to the one-side offered. The lack of verification and the presence of anonymization promote distortion and misleading “alternate facts.”

##### A. *Flourishing Conspiracy Theories*

Conspiracy theories have flourished in the digital age. These theories create real dangers for both the targets of the conspiracy theories and the consumers of

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Fodder, N.Y. TIMES (Feb. 20, 2018), <https://www.nytimes.com/2018/02/20/business/media/parkland-shooting-media-conspiracy.html>.

142. See Beckett, *supra* note 31.

143. See *id.*

144. *Id.* After being teased by conservative commentator Laura Ingraham over college rejections, Hogg was admitted to Harvard. Cleve R. Wootson Jr., *Laura Ingraham Taunted David Hogg Over College Rejections. He Just Said He Got into Harvard*, WASH. POST (Dec. 23, 2018, 5:55 AM), <https://www.washingtonpost.com/education/2018/12/22/laura-ingraham-taunted-david-hogg-over-college-rejections-he-just-said-he-got-into-harvard/>.

145. Jason Wilson, *How Rightwingers Have Attacked Parkland Students With Lies, Hoaxes and Smears*, GUARDIAN (Mar. 26, 2018, 3:54 PM), <https://www.theguardian.com/us-news/2018/mar/26/emma-gonzalez-david-hogg-attacks-rightwing-constitutions-hoaxes>.

the theories. The use of technology to promote conspiracy theories exploits and weakens the brain's ability to sort more complex information and deal with more nuanced analyses.

The confluence of Internet-spurred issues has led conspiracy theories to flourish. For example, the "Flat Earth Society" remains alive and well.<sup>146</sup> Kyrie Irving, the all-star NBA basketball player, said in a 2017 broadcast on social media that he thought the world was flat.<sup>147</sup> This caused such a stir that he ended up apologizing, explaining, "I was huge into conspiracies."<sup>148</sup> Regardless, he caused many people to start believing a long-ago debunked belief. Indeed, some conspiracy theories are even offered by national politicians, such as the claim that President Barak Obama was not born in the United States,<sup>149</sup> or that interference in the 2016 presidential election originated in the Ukraine, not Russia.<sup>150</sup>

These theories often are not based on scientific truth and may even push back on science, such as the "world is flat" movement showed. The conspiracies often relate to secret actions, usually by a government or governmental entity and have a particular goal in mind, whether it involves not paying taxes, living in an all-white America, or advancing a vortex issue, such as immigration, abortion, or same-sex marriage. Conspiracies provide a cover for virulent racism,<sup>151</sup> bias against some religions,<sup>152</sup> and hatred of individuals and ideas. The conspiracy

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146. Natalie Wolchover, *Flat Earth Society Says Evidence of Round Planet Part of Vast Conspiracy Theory*, HUFFPOST (Oct. 29, 2012, 9:15 AM), [https://www.huffpost.com/entry/flat-earth-society-psychology\\_n\\_2038198](https://www.huffpost.com/entry/flat-earth-society-psychology_n_2038198).

147. Andrew Joseph, *Kyrie Irving Apologized for Saying the Earth Was Flat: 'I Was Huge Into Conspiracies'*, USA TODAY SPORTS (Oct. 1, 2018, 5:47 PM), <https://ftw.usatoday.com/2018/10/kyrie-irving-under-30-summit-flat-earth-apologized-comments-conspiracy-theories-nba-celtics>.

148. *Id.* Mr. Irving further explained: "At the time, you're like innocent in it, but you realize the effect of the power of voice. Even if you believe in that, just don't come out and say that stuff." *Id.*

149. *See, e.g.*, Chuck Todd et al., *Conspiracy Theories Go Mainstream Inside the GOP*, NBC (Oct. 7, 2019, 5:52 AM), <https://www.nbcnews.com/politics/meet-the-press/conspiracy-theories-go-mainstream-inside-gop-n1063171>.

150. *Id.*

151. *See, e.g.*, David C. Adams, *The Racist Conspiracy Behind the El Paso Shooting*, UNIVISION (Aug. 11, 2019, 11:06 AM), <https://www.univision.com/univision-news/immigration/the-racist-conspiracy-theory-behind-the-el-paso-shooting>. The author notes, "Experts believe that the 'Great Replacement' theory is one of the fastest growing far-right beliefs. It began in Europe, but echoes of it can be heard in the current conservative political discourse in the United States . . . ." *Id.*

152. *See, e.g.*, Emma Green, *Why the Charlottesville Marchers Were Obsessed With Jews*, ATLANTIC (Aug. 15, 2017), <https://www.theatlantic.com/politics/archive/2017/08/nazis-racism-charlottesville/536928/>. In the now infamous Charlottesville, Virginia march, in 2017,

also is a vessel for providing alternate explanations of science, such as climate change, rampant American gun violence, and other societal ills. Conspiracies may place the blame on political opponents, vulnerable groups, and demonized persons, often in a manner consistent with the believers' world-view.

There are many reasons for the apparent growth of conspiracy supporters in the digital age. Some of the growth can be attributed to the advancing waves of technology. These rationales are explained in greater detail below.

### 1. Rationales for Conspiracies—A Look at Brain Science

One reason the convenience and short-cuts provided by digital devices have promoted conspiracy theories is likely attributable in part to the thinking process itself. In short, it is easier to find that something is due to a conspiracy than to engage in “slow thinking” about nuanced influences—a demanding exercise that is equivalent to vigorous cardio exercise for the body. This critical thinking takes time and effort to sift through facts, data, and proof to yield shades of gray in the outcome—not a clear bright line of duality—yes or no. As cognitive scientist Daniel Willingham has noted, “Compared to your ability to see and move, thinking is slow, effortful and uncertain.”<sup>153</sup>

Critical analysis—intentional thinking about problems or ideas for long-term learning does not respond well to superficial evaluations, like a Google search.<sup>154</sup> The reflection required for a person to consciously gather, store, and retrieve information for the long-term essentially is not easy.<sup>155</sup> Instead, the converse, instinctual action appears to many people to provide a short-cut. As one commentator noted, however, the shorter method has its costs: “the specialized, optimized circuitry of instinct confers all the benefits of speed and energy efficiency, but at the cost of being further away from the reach of conscious

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White supremacists chanted, “Jews will not replace us,” a reference to a debunked conspiracy theory. *Id.*

153. DANIEL T. WILLINGHAM, WHY DON'T STUDENTS LIKE SCHOOL? A COGNITIVE SCIENTIST ANSWERS QUESTIONS ABOUT HOW THE MIND WORKS AND WHAT IT MEANS FOR THE CLASSROOM 4 (2009).

154. *Id.* at 21–22.

155. See generally DANIEL KAHNEMAN, THINKING, FAST AND SLOW 20–25 (2011). According to Nobel prize-winning economist Daniel Kahneman, there are essentially two systems within human brains, what he calls system 1 and system 2. *Id.* System 1 comprises multiple operations of the body that are fast and sometimes automatic or semi-automatic. *Id.* These include responses to threats and other external stimuli, as well as the bulk of the body's internal operations. *Id.* Conscious thought is a part of system 2, the conscious mind. *Id.* System 2 components include encoding, chunking, storing, and retrieval of information. *Id.* These operations are generally much slower than those of System 1. *Id.*

access.”<sup>156</sup> Described in a different way, the subconscious brain takes short cuts by using generalizations.<sup>157</sup> One such generalization is familiar to many people: seeing a snake in nature means one should back up and get out of its way.

Further, even if we spend the time and effort to learn something in a slow and structured fashion, much of what we learn is quickly lost. The storage of information in the brain is subject to a forgetting curve—people rapidly forget what they store in short-term memory, and even long-term.<sup>158</sup>

In today’s digital age there are convenient solutions to this problem—Google or Alexa can answer a question in seconds; a global positioning system can easily provide directions to the driver; or a website can comparison shop for the lowest price.<sup>159</sup> It allows the systems in the part of the brain that are more reflexive to provide most of the thinking. Unfortunately, this kind of “fast” thinking is often based on generalized and unconscious biases and is often wrong. The unconscious biases seeps into algorithms and “smart” machines, since they are programmed by humans who have their own biases.<sup>160</sup>

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156. DAVID EAGLEMAN, *INCognito: THE SECRET LIVES OF THE BRAIN* 88 (2011).

157. KAHNEMAN, *supra* note 155, at 21, 24.

158. See Art Kohn, *Brain Science: The Forgetting Curve – the Dirty Secret of Corporate Training*, LEARNING SOLUTIONS (Mar. 13, 2014), <https://www.learningsolutionsmag.com/articles/1379/brain-science-the-forgetting-curve-the-dirty-secret-of-corporate-training>; see also HERMANN EBBINGHAUS, *MEMORY: A CONTRIBUTION TO EXPERIMENTAL PSYCHOLOGY* 4 (Henry A. Ruger & Clara E. Bussenius trans., 1913) (1885) (“Left to itself every mental content gradually loses its capacity for being revived, or at least suffers loss in this regard under the influence of time. Facts crammed at examination time soon vanish, if they were not sufficiently grounded by other study and later subjected to a sufficient review. But even a thing so early and deeply founded as one’s mother tongue is noticeably impaired if not used for several years.”).

159. Many technology issues arise from the Internet of Things, which refers to networks of devices that communicate with each other or the Internet. These devices can be “smart,” with connections to the Internet, and remote. The Internet of Things, however, creates considerable data flows of personal information and raises big questions about security and privacy. See, e.g., Marie-Helen Maras, *Internet of Things: Security and Privacy*, 5 INT’L DATA PRIVACY L. 99 (2015).

160. See, e.g., Julia Angwin et al., *Machine Bias*, PROPUBLICA (May 23, 2016) (arguing that “There’s software used across the country to predict future criminals. And it’s biased against Blacks.”). See also Batya Friedman & Helen Nissenbaum, *Bias in Computer Systems*, 14 ACM TRANSACTIONS ON INFO. SYS. 330–347 (1996); Christian Sandvig et al., *Auditing Algorithms: Research Methods for Detecting Discrimination on Internet Platforms*, Paper Presented at Data and Discrimination: Converting Critical Concerns into Productive Inquiry, Seattle (May 22, 2014), <http://www-personal.umich.edu/~csandvig/research/Auditing%20Algorithms%20--%20Sandvig%20--%20ICA%202014%20Data%20and%20Discrimination%20Preconference.pdf>.

The Nobel prize-winning economist, Daniel Kahneman, illustrated this issue with the following problem.<sup>161</sup> Students were told that a bat and ball cost \$1.10 and that the bat cost \$1 more than the ball. The students then were asked how much the ball cost. Many got the answer wrong, saying \$0.10, because they used their fast thinking and did not do the equation of subtracting the cost of the ball from the bat to check if their answer was correct.<sup>162</sup> While slow thinking is harder, it is also often more accurate.

## 2. Flattening Complexity

One of the reasons conspiracy theories are thriving involve the way technologies flatten complexity. The era of nuanced and deliberative or reflective thinking has been overcome by the lightning speed of the Internet and the compact limitations of social media sites, such as Twitter. If there is a point to be made, it often is made quickly, boldly, and appealingly. In an increasingly rushed world, it seems that people only have time to read the headlines.<sup>163</sup> The days of long-term investigative stories, folding in nuance and complexity, have been replaced by “Breaking News” banners and the next controversial or salacious revelation. Verification, proof, or evidentiary support are neither required nor sought.

The popular communication tool, Twitter, provides but one apt illustration. In 2017, Twitter expanded its limit of characters in a response from 140 to 280, doubling in size.<sup>164</sup> One would expect that the length of communications would increase as well, but that was not so: “The most common length of a tweet back when Twitter only allowed 140 characters was 34 characters. Now that the limit

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161. See KAHNEMAN, *supra* note 155, at 44–46.

162. *Id.* at 44 (explaining the correct answer is \$.05, because if the bat is \$1.05, then the bat is \$1 more than the ball).

163. Because of the proliferation of news stations, some networks have taken to leading each show with the heading, “Breaking News.” See, e.g., Adam Buckman, *The Two Most Overused Words in TV News: ‘Breaking News’*, MEDIAPOST (June 29, 2018), <https://www.mediapost.com/publications/article/321239/the-two-most-overused-words-in-tv-news-breaking.html>. This kind of proclamation piques the curiosity of the listener. See Chris Cillizza, *Americans Read Headlines. And Not Much Else.*, WASH. POST (Mar. 19, 2014, 9:32 AM), <https://www.washingtonpost.com/news/the-fix/wp/2014/03/19/americans-read-headlines-and-not-much-else/>; see also *How Americans Get Their News*, AM. PRESS INST. (Mar. 17, 2014), <https://www.americanpressinstitute.org/publications/reports/survey-research/how-americans-get-news/>.

164. See, e.g., Sarah Perez, *Twitter’s Doubling of Size of Character Count Had Little Impact On Length of Tweets*, TECHCRUNCH (Oct. 30, 2018), <https://techcrunch.com/2018/10/30/twitters-doubling-of-character-count-from-140-to-280-had-little-impact-on-length-of-tweets/>.

is 280 characters, the most common length of a tweet is 33 characters. Historically, only 9% of tweets hit Twitter's 140-character limit, now it's 1%."<sup>165</sup> Many inferences can be drawn from this data, and one such inference could be that superficiality reigns. In-depth analysis, or critical thinking in the social media realm may yield to truncated and incomplete conclusions.

Controversial topics such as climate change, immigration, the criminalization of poverty and much more are filled with nuance, layers, and complexity—worthy of much thought, consideration and, especially, an open mind. Yet, the attitude of curiosity has been sacrificed for being right and quick judgment, as characterized by conspiracies—vague allegations built upon vague or unstated arguments. In a sea of ambiguity, people may not recognize shades of gray—just black or white.

### 3. "Pay to Play" and the Data Marketplace

Ironically, the proliferation of conspiracy theories can be attributed as much to economics as to ideology. While the Internet appears to be free to users, a fundamental flaw exists. The Internet really has a price of entry, that of the personal information of the user. Users are tracked and their preferences mined by business and government alike. The information is sorted and used for predictive purposes through complex data algorithms. Much of the flow of information is invisible, although laws in the European Union and other places are starting to require at least the notice that "cookies" are used to track users, and require user consent to have such tracking.

Advertising on the Internet often is based on the quantity of traffic a website has—how many users click on that site each day. Prominent intentionally-false stories abound, simply to generate money for the site's proprietor. For example, a student named Beqa Latsabidze, living in Tbilisi, Georgia, who was just trying to make some money, posted articles about Hillary Clinton and Donald Trump.<sup>166</sup> The most lucrative stories were fake ones bashing Hillary Clinton and promoting Donald Trump.<sup>167</sup> In fact, Latsabidze made thousands of dollars from one entirely made-up story—that the Mexican government said they would close the border if Donald Trump was elected president.<sup>168</sup>

Americans also saw they could make money from intentionally deceptive, albeit appealing, "news" posts on the Internet. Mr. Cameron Harris, a graduate of Davidson College and a supporter of Donald Trump, posted a story about

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165. *Id.*

166. LEE MCINTYRE, POST-TRUTH 105–06 (2018).

167. *Id.* at 106.

168. *Id.*



Hillary Clinton in the run-up to the 2016 presidential election. The story was headlined, “Tens of Thousands of Fraudulent Clinton Votes Found in Warehouse in Ohio.”<sup>169</sup> The story went viral and was seen by six million people.<sup>170</sup>

There was no evidence supporting the claim.<sup>171</sup> The motive for posting this story was not ideology but money—Mr. Harris made \$5,000 from the story in several days through advertisements posted on the site.<sup>172</sup>

#### 4. Fake News

Fake news is the dissemination of deliberately false information.<sup>173</sup> As several commentators describe it, the false stories are “distorted signals uncorrelated with the truth.”<sup>174</sup> A problem with this information is its lack of vetting—“no significant third party filtering, fact-checking, or editorial judgment.”<sup>175</sup> A considerable amount of false information was disseminated during the American presidential election of 2016 emanated from the Balkans and Russia, much of it online. The ease by which false information can be spread online has allowed it to become a pandemic, conflating intentional deception with truthful stories researched and posted in good faith. Without the elements of truth-finding, such as that required in the adversary system—specifically the oath, observation of demeanor, and cross-examination—the anonymity and lack of verification creates a very potent cocktail for the adoption of false narratives.

The power of falsehood can be seen in an exercise offered by the New York Times, when it posted several intentionally deceptive websites along with several real ones, and asked the readers to distinguish between them.<sup>176</sup> The difficulty in distinguishing the sites was enhanced by the fact that readers had no training or tools through which to utilize criteria, other than common experience, to separate the two.

The use of conspiracy theories in politics has become common, particularly in an era where being on a “team” is valued over determining the truth about

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169. *Id.* at 107.

170. *Id.*

171. *Id.*

172. MCINTYRE, *supra* note 166, at 107.

173. *See, e.g., id.* at 105.

174. Hunt Allcott & Matthew Gentzkow, *Social Media and Fake News in the 2016 Election*, 31 J. OF ECON. PERSP. no. 2, 2017, at 211, 212.

175. *Id.* at 211.

176. Keith Collins & Sheera Frankel, *Can You Spot the Deceptive Facebook Post?*, N.Y. TIMES (Sept. 4, 2018), <https://www.nytimes.com/interactive/2018/09/04/technology/facebook-influence-campaigns-quiz.html>.

individual issues. Advanced technology has promoted “team” over individual fact—the implicit or unconscious bias of belonging to a winning “team” is valued more than individual determinations of fact, truth, or proof. The “post-truth” era coincides with “team” alignment over individual freedom to decide, critique, and reflect on issues one by one.

### B. *To Regulate or Not?*

Especially in light of the contractions and their ability to overshadow the expansions resulting from advancing technologies, some kind of government regulations may help to ensure that human rights norms are used to protect both human dignity and consent. The regulations could be process oriented and would strictly adhere to the First Amendment but limit the excessive reach and influence of technology. One example is AI, which one commentator has noted “has the power to destroy or save democracy.”<sup>177</sup> While the commentator observed that the use of AI supports politicians and engineers, the same may not be so for the truth and democracy. As the commentator asserted, “Pro-Trump bots regularly infiltrated the online spaces used by pro-Clinton campaigners to spread highly automated content, generating one quarter of Twitter traffic about the 2016 election.”<sup>178</sup> These regulations would first call people’s attention to dignity and consent with personal and consumer data, facts and proof, not conspiracies based on innuendo and speculation. We can learn from the adversary system, one that produces a surrogate for the truth, by embedding our laws about advancing technologies with assurances that at least some assertions are reviewable, replicable, and reliable. Truth can still win out—but in the digital age, as the prevalence of conspiracy theories have shown, it has become that much more difficult to distinguish truth from falsehoods and their purveyors.

## V. CONCLUSION

Advances in technology have significantly impacted our ways of being human, especially our conception of human rights. New technologies have allowed political and practical breakthroughs through micro-broadcasting, amplification (speed and repetition), easy access, and alignment of like-minds.

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177. Vyacheslav Polonski, *Artificial Intelligence Has the Power to Destroy or Save Democracy*, COUNCIL ON FOREIGN REL. (Aug. 7, 2017), <https://www.cfr.org/blog/artificial-intelligence-has-power-destroy-or-save-democracy>; see also Dirk Helbing et al., *Will Democracy Survive Big Data and Artificial Intelligence?*, SCI. AM. (Feb. 25, 2017), <https://www.scientificamerican.com/article/will-democracy-survive-big-data-and-artificial-intelligence/>.

178. See Polonski, *supra* note 177.

On the other hand, the same technologies have facilitated a lack of verification, massive surveillance systems, amplification of vicious and subtle falsehoods and the flattening of complexity. Safeguards from abuse are especially important in the digital age and must be built-in to safeguard human rights. Given that human rights constitute an externality, providing governments with little incentive to protect it, there must be widespread support for governments to ensure dignity and consent with legal regulations of both large technology companies and individual persons.

The work of the Parkland Activists is illustrative of the powerful way that technology can expand human rights protections. For most of the Generation Z activists, the use of technology was second-nature. Specifically, the use of social media platforms allowed the activists to mobilize at a greater velocity, amplify their voices through the power of narrative, and ultimately reach the world. Technology facilitated fund-raising, demonstrations, replications, and continued pressure on lawmakers. The young activists were no longer dependent on the media to broadcast their demands, instead, they could reach millions of people through a single tweet. Their expert use of technology—coupled with their raw, unfiltered grief and frustration—helped propel legislative change. Narrative is more persuasive than data, which may explain why their ability to tell their own stories has started a small but important wave of meaningful gun reform. Moreover, the work of the Parkland Activists highlights the immediacy and responsiveness that technology supports. Though the students are still focused on gun reform, they are now able to use their websites, social media platforms, and visibility to high-light other important, related issues. Most recently, they have also advocated for suicide prevention, mental health, and voter registration. Though the technology-fueled activism comes at some personal costs for the Parkland Activists, they clearly believe it is worth the price.

Although they represent opposite ends of the spectrum, the persistence of conspiracy theories and the Parkland Activists offer important lessons on the impact of technology on human rights; importantly, we have learned that both expansion and contraction are possible with rapid speed.<sup>179</sup> No doubt future technological advances will create their own set of challenges and opportunities, and their own way to alter our conception of human rights that are protected or threatened.

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179. Melissa Murray, *Consequential Sex: #MeToo, Masterpiece Cakeshop, and Private Sexual Regulation*, 113 NW. U. L. REV. 825, 883 (2019) (“Technological innovations, like the development of social media, a proliferating meme culture, and the widespread availability of the Internet, have allowed individuals and organizations alike to quickly galvanize support and advocate for new normative agendas.”).

