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SPEAKERS

Tricia Johnson, Jeffrey Rosen, Nate Persily

- T** Tricia Johnson 00:03
It's Aspen Ideas to go from the Aspen Institute. I'm Tricia Johnson. The bomb attack of the US Capitol building in January wasn't the country's first deadly rebellion. In 1787, a group of farmers and veterans angry over economic policies marched on a federal building in Massachusetts. The skirmish known as Shay's rebellion, made the country's founders question the strength of democracy. Today the power of the internet is raising similar questions. So Stanford law professor Nate personally
- N** Nate Persily 00:34
While, you know, the the image of the mob that the framers had in mind was torches and pitchforks, now it's clicks and screens.
- T** Tricia Johnson 00:42
Can democracy survive an online era where conspiracy theories and disinformation breed emotional outrage personally speaks with National Constitution Center president and CEO Jeffrey Rosen. Aspen Ideas To Go brings you compelling conversations from the Aspen Institute. today's conversation is from Aspen Ideas now. The insurrection at the Capitol on January 6 was mobilized on the internet. Many of the activist groups involved in the march had been building enthusiasm online for years reports box, they plan the

attack on social media and live stream the destruction. It's a scenario America's founders never imagined. They created a democracy with protective barriers they thought would inhibit the ascendancy of mobs, but in an online environment can reason Eclipse passion. Nate personalized legal scholarship focuses on American election law or what sometimes called the law of democracy. Jeffrey Rosen is a legal commentator and professor at the George Washington University Law School. Here's Rosen



Jeffrey Rosen 01:45

It is so great to have the chance to talk with you about the founders, the mob and the internet. We've seen a remarkable spectacle for the second time in American history that capital has been attacked and this time the attack was organized online. I want to begin with the founders fear of mobs. As we both know that the framers came to Philadelphia in 1787. Because they had a particular mob in mind, Shay's rebellion the farmers in western Massachusetts who were mopping the courthouses because they didn't want to pay their debts. And James Madison, inflamed by that vision, and by two trunks of books that Jefferson sent him from Paris about the failed democracies of east of Greece and Rome, said in federalist 55, in all large assemblies of any character composed passion never fails to rest the scepter from reason, even if every Athenian had been Socrates, Athens would still have been a mob. So the founders designed the constitution to slow down deliberation, so that mobs or factions, if they defined as any group animated by passion, rather than reason, devoted to self interest, rather than the common good, it could be a majority or a minority, it would be hard for them to organize if deliberation was slow, and by the time they found each other, they get tired and go home. Obviously, the internet has challenged Madison's faith, that the large size of America would make it hard for mobs to organize, and to Reek their passionate will. And it's also undermined his faith that the principle of representation would filter popular passions into sober deliberation. You've studied both the founding and constitutional history and you're so such a deep scholar of the behavior of online mobs was the mob on January 6, to the degree that it organized and crystallized online, a vision of the founders nightmare.



Nate Persily 03:49

Well, thank you for having me. It's wonderful to be with you. Again. I do think that what we are witnessing here is sort of us concerns about democracy coming full circle. While you know the the image of the mob that the framers had in mind was sort of torches and pitchforks. Now, it's clicks and screens. And we're noticing, as you said, that the loss of any kind of intermediation between private sentiment and then sort of potentially public violence and an organization as you're saying, absent any filters, is having it sort of modern form now, we are seeing both sort of offline activity that is generating You know,

this incitement it's no accident that the insurrection happened as it was it was mobilized online, but then, of course, the the final sort of spark where were actual live, you know, speech that was done adjacent to the Capitol. Nevertheless, I think that the the basic gist of your point is right Which is that we have lost all of those kind of protective barriers that the founders thought would inhibit ascendancy of mobs in our democracy and, you know, even additional guardrails that succeeded the framers time such as the emergence of political parties, right? we're noticing that the party institutions are also not able to control some of this mob outrage. And it's particularly very violent online where anonymity is privileged. And the speed at which people can communicate allows the possibility for, you know, rapid disinformation and coalition building of the type that you're talking about.



Jeffrey Rosen 05:45

Fascinating and disturbing. The founders had confidence that education and virtue would help citizens cultivate their faculties of reasons so they can be guided by reason rather than passion. But we're seeing online that the most highly educated people are among those falling prey to disinformation and conspiracy theories. The New York Times recently ran a piece about a woman who went down the rabbit hole and became a conspiracy theorist. Remarkably, she was a high school and college classmate of mine at a, you know, fancy new york private school and, and, and at Harvard, and she became a Jew anon person, and she was radicalized online. And what's so interesting about the piece is that that her radicalization seemed to have been stemmed by a combination of the validation that she got from all the Facebook likes, whenever she posted more and more extreme posts, the platform architecture, she was initially led to Q and on from a yoga video, which recommended some more extreme stuff and the algorithms first of YouTube, and then a Facebook kept recommending more and more extreme, ethereal, which sent her down the rabbit hole, and also the platform architecture, which put it in her newsfeeds and put it top of mind. Again, you've studied this. so deeply, I'd love you to describe this process of radical volken that can lead even the most educated people down this rabbit hole. And then begin to talk about what what the platforms are doing to try to combat this problem of algorithmic radicalization, including Facebook's decision most recently to really D prioritize political content on people's.



Nate Persily 07:41

So I think one of the things you're highlighting here is that there are what we call sort of affordances of the platforms and the internet, which interact with both modern and classic psychological phenomenon to then produce sort of new forms of psychopathology and political pathology, right, so that you have, there are certain things that the platform's

do, like algorithms that recommend certain types of content versus others. And there are certain things about the internet such as the privileging of viral transfer of information and the speed at which information will travel again on unmediated by sort of elite filters. And so the first thing is to say, well, even apart from the algorithms, what kinds of information online are able to get traction? And this would be in one way we know this is that that even outside of the platforms that that use algorithms, something like WhatsApp, particularly in the developing world or in outside the United States, we see some of the similar prep platforms now the move to these encrypted communities. Right, that's a that's an important test case to see, you know, how much is the algorithms versus how much is the architecture of the internet, where it's peer to peer communication, I make that point just to say that, you know, we see, you know, in viral communication in the the types of messages and content that goes viral, a privileging of certain types of emotional appeals, particularly outrage, but also the kind of conspiracy theories and the the types of things that you were referencing, whether it's q anon or others, then really are able to take hold in the online environment in ways that if it were face to face communication, it would be less likely to take hold. Some of that is because of anonymity and the fact that some kinds of communication are facilitated by the distance that our computers and our phones and technology provide. Some of it is about the kind of unique organizing potential particularly that these conspiracy groups and others and I shouldn't say just conspiracy groups, those who prey on emotion right. Those who are Not necessarily engaging in the kind of rational discourse that you're talking about. But But part of it is also, that we do not have the kind of signals in the online world that we have in the offline world, related to things like credibility and the progeny of information and the like. And so we mix entertainment on the one hand with information and news and the like, in a way that then allows someone who, as you were saying, starts with a yoga video and then ends up in a q&a chakra, right. And so that's the kind of thing that would be much less likely to happen in the offline world because of, you know, physical barriers in life. So now let's talk about the platforms themselves and the ways that they lead toward radicalization. And then what they've done, you know, each platform that is of concern that people point to our you know, when you talk about algorithms, you have the, the recommendation system of YouTube, you have the news feed hierarchy in both Facebook and Twitter. And the question is, is fate are Facebook, Twitter and YouTube feeding you the kind of material that then is going to, for one reason or another, radicalize you or push you toward toward extremes? And so as Zeynep tufekci, at UNC sometimes describes it? Well, you start with vegetarianism. As a video, you end up in veganism, you start with conservatism and you end up with the alt right, echo chamber, or, you know, in these cases, you'll get a coupon or something like that. And so the, there's definitely evidence that sometimes this happens, one of the problems is we don't really know, particularly on YouTube, YouTube, which is in many ways, the most opaque platform. We don't, we don't really know, the the pathway, the radicalization and how often it happens. We know it

does happen. But one thing you know, as we think about reforms that would be really critical here is to open up the YouTube algorithm and the recommendation system so that outside researchers can figure out how ubiquitous it is, I will tell you that the people that YouTube say that they have, you know, at least in the political arena tried to reduce radicalization, there's a whole project that at jigsaw, which is sort of the think tank related to Google, where they have tried to do something called Project redirect. But that's particularly with respect to terrorism content to try to redirect people away from the kind of sewers of the internet. Nevertheless, they exist out there. And one of the real challenges here, is to think about... ..both amplification on the one hand, and radicalization on the other. All right, so so your friend who is looking at a yoga video is not otherwise going to stumble on cue and on videos in her life, right. And so one of the real worries about, I think the major platforms, Facebook, YouTube, Twitter and the like, is that they they do provide a pathway toward amplification of those messages that are particularly dangerous, whether they're from conspiracy sites or otherwise, then you have the radicalizing potential which could happen, you know, in Facebook groups in, in YouTube and the like. But it also now is happening on these less famous pack platforms, whether they were parlour whether you go to 4chan and like were these then become closed communities. And once you're in one of those communities, you're pretty much gone, right? That's not an area where any of the major platforms are going to be able to sort of bring you back. But they've they've ceded the pathway to some of those more extreme environments. And and that's where we see the kind of planning for offline violence at the radicalization that we saw at the Capitol, in the like.



Jeffrey Rosen 13:59

All of that is deeply interesting, and also deeply disturbing, because it does not seem Of course, like there's a simple technological or algorithmic fix to this deeply challenging problem. I love you to say one more beat about what you mentioned, modern psychology and also, I wonder what moral philosophy can teach us about this problem? The founders are centrally concerned with the question of human understanding. And when Jefferson wrote about the pursuit of happiness in the Declaration of Independence, he had in mind not feeling good, but being good, namely, virtue, which the founders defined following the ancient model as efforts to use our powers of reason to master our unreasonable or selfish passions like hatred, anger, jealousy, ambition, avarice, and Fear. There was a lively debate among the Enlightenment philosophers who inspired the framers about whether or not our reason could tame our passions. The standard position from Locke and Francis, Hutcheson was was yes, if we just have enough time to deliberate, then we can take a deep breath and not be guided by our immediate unreasonable emotions or desires. Then David Hume comes along and says, in fact, reason is the slave of passion, we're driven by our feelings that with that affects our reality, our internal world. And our reason may

affect the way we think about our feelings, and may allow us to experience them in a different light, but that we're not able, using abstract ideas of truth or falsehood, to identify the truth, because ultimately, that's a matter of sensation and experience. I found that so resonant and I just wondered if that set off any thoughts based on your extensive research about the difficult task of human beings agreeing on a common conception of the truth when our notion of the truth is so affected by our external sensations and emotions? And whether that framework in any way points away toward any solutions?

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Nate Persily 16:24

Well, I agree with that. And I think that just to bring the history up a little bit that, you know, I think that the framers in many ways, had insights that we have ignored for some time while ignored because we disagreed with them. And assumed we assumed I think that reason at a kind of mass scale would ultimately went out. And and that is because we believe in the marketplace of ideas metaphor, which postdates right the these the framers and so in many ways, we are children of Oliver Wendell Holmes, right more than we are of Jefferson and Madison. And I think that, you know, it is still the case, and this is certainly the ideology of Silicon Valley, that thought is, well, hey, if we just have more speakers, then it's more likely that the truth will win out where I think the evidence in the last few years, if not longer, is suggesting, particularly in the online environment, but maybe not only that, that, that appeals to passion appeals to these other more basic psychological impulses, actually can be more important, and that you are in a competition between reason on the one hand and passion on the other, that you're going to end up with passion, often winning for a lot of people, and it can have a pretty big impact. And related to that, the thing I want to emphasize here is that because one of the things that the that the online environment does, again, is it merges all communication together there, the framers and and others that were just discussing, sort of assume that there is a forum for reasoned deliberation about particular types of issues. Whereas, you know, the internet is not like one forum, it is just this, you know, huge brawl in which, whether it's, you know, on Facebook, you're seeing, you know, videos of your son's graduation, or you're going to see an ad for a particular product, or an op ed in the New York Times, or a Breitbart article or a queue and on sort of conspiracy theory, they're all pretty much packaged the same and coming at you. At the same time, it's a very different kind of information environment than the kind of curated view that whether it's the, you know, 18th century or late 19th century that we had. One thing I didn't I didn't address before, which was just you sort of asked before, what what can we do about it? What are the platforms doing about it? And, you know, the answer is that, you know, it requires that the algorithms be tweaked to to try to take account in particularly in the election situation, for what how these kind of passionate and, you know, base motivations, how prominent they are in people's newsfeeds and the like. I think, unfortunately, one thing

that we're seeing is that is the most heavy handed approaches by the platform's whether it's deep platforming on the one hand or shadow banning on the others, which do have the biggest impact, I sort of wish that weren't the case, but they do have, you know, quite a big impact in terms of people's receptivity to those to those messages. It doesn't stop the heart the true believers because the true believers will always find a place on the internet to have these kinds of chats and and to become further radicalized, but it can downplay the amplification of those messages to people who otherwise might be on the fence.



Jeffrey Rosen 19:53

Absolutely fascinating. You mentioned deplatforming. Let's talk about the deplatforming and banned from Twitter, of President Trump. Here, I'll say what I think about this very difficult question. My instinct as long been that although the platforms are not government actors and therefore are not formally bound by the First Amendment, they should broadly accept the principles and values of the First Amendment, which as we know, are extraordinarily rigorous. And the Supreme Court has said that if you're a government actor, you can't ban speech unless it's directed to and likely to incite imminent lawless action or violence. Now, I'm going to venture that it's it's a it's a difficult legal case about whether President Trump's single statements on the Washington mall can meet the legal test for incitement. there's a there's a case on both sides, but it's a very high standard, and you could argue it both ways. On one hand, he said, we got to go fight. On the other hand, he said, Let's be peaceful and so forth. So but the platforms haven't come close to adopting an incitement standard. They allow the banning of speakers who engage in hate speech, which includes speech, meaning people on the basis of race, ethnicity, religion, and other protected characteristics. Now, just to flag the fact that the Facebook, the new Supreme Court, or, as it's called, The New advisory board that that Facebook has created, is about to review Facebook's decision to ban President Trump. And my understanding and helping out with case is that Facebook has initially made a decision permanently to ban President Trump and one of the questions that the board will decide is whether a permanent ban is appropriate. Of course, it's generally not a good idea to form an opinion before you've looked at the arguments on both sides and look carefully at the facts. And this is an instinct, not a hard and fast view. But my instinct is that lifetime bans of anyone let alone public figures from any of these major platforms are disproportionate in the in the old world when Eugene v Debs stood on a soapbox, and denounced World War One and was wrongly jailed for criticizing the war, because the court hadn't yet adopted the incitement standard, and actually ran for president from a jail cell on the socialist ticket in 1920. Nevertheless, he eventually got out of jail, thank goodness, and he was able to speak again, by contrast, a permanent ban essentially denies you access to the ability to speak forever. It seems like there's a decent argument

anyway, for this review board, that even if a temporary ban was necessary, because there actually was an imminent threat, given the totality of reactions to President Trump's tweets or posts, that a lifetime ban would be too much. Your thoughts on this very complicated and difficult question.

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Nate Persily 23:13

So let me talk about the the causes of the deplatforming. And then what might have been the Oversight Board and the like, and start with your ID seven point, which is the the First Amendment and community standards. So all of the community standards of the major platforms if they were legislated by government would violate the First Amendment? That's true with hate speech. That's true with the obscenity. That's true with incitement to with bullying, and the like. And so, so there and for that matter, their advertising policies, right would would also violate if they were issued by government. And so there is a very, you know, we've had this discussion before, that I think that when we when we say that first amendment values should influence platform policies we got to be specific with we can't say the First Amendment, we have to say, Well, what is it about sort of the either the jurisprudence circuit that kind of assaulted the first amendment that should influence platforms? And so for example, one of those things would be political neutrality, viewpoint neutrality. We have to be very specific there about what we mean about viewpoint neutrality, you know, does it apply to ISIS? does it apply to Q anon and the like. But it's maybe some at least if we're talking about non partisanship, particularly in the electoral context, that that might be an important value, particularly given the fact that these are speech monopolies. Right. So that that for Facebook, there will be different rules that we apply to Facebook, Google and Twitter that we might apply to gab that we applied to, you know... ...a given website and like, so just putting that in front I do think these are very complicated questions as to which types of First Amendment values you would have invalid. But But we share kind of, I think where the end point might be on that, on incitement. Now, this is a really difficult problem. And and one of the things that's interesting in the most recent decisions that have come down from the Facebook oversight board is they actually dealt with what is kind of their incitement rule. And that has that came up in the context of COVID disinformation, where they asked the question, whether this French post that dealt with hydroxychloroquine, whether that could be taken off because of leading to offline harm. That's the same policy by the way that they would you I mean, that that's among the other reasons that they would deal with, say insurrection type activity as well as terrorist groups and the like. They also have a kind of dangerous individuals and groups policy that might lead to the takedown. Let me start with the Twitter and Facebook actually had different ways of approaching this problem. I don't want to get into the weeds. But just to add support to your general point about how the how distant, the causes of the takedown were from what would be protected under

the First Amendment, let me just refer to what the Twitter explanation for the for the D platforming was, the straw that broke the camel's back for Twitter were two tweets, one of which was 75 million Great American patriots who voted for me America first and make America great again, we'll have a giant voice long into the future, they will not be disrespected or treated unfairly in any way, shape, or form. That tweet plus a second one to all those who have asked, I will not be going to the inauguration on January 20. Right, those two tweets that I just mentioned, are not even close to incitement, right by any definition. What Twitter then says is that the way that these were perceived by the user community, actually, is what leads led to the D platforming, because as they say, to quote, their their statement, the fact that he says he's not going to attend the inauguration, the inauguration is being received by a number of his supporters as further confirmation that the election was not legitimate, and that there won't be an orderly transition of power. Now that analysis is so far removed, not just from us jurisprudence on this, frankly. But even if you look the incitement jurisprudence that even in more restrictive countries, like in Europe and elsewhere. And so you really do think there is a set of rules that are applying to Donald Trump given the, you know, years of tweeting and Facebook posts, and they're trying to grasp for what is it that ultimately made the difference? And as you say, it was the fact that it led to offline violence that then, you know, in some ways, it's not that it was a clear and present, that it's now a clear and present danger. It's that they missed the opportunity when it was a clear and present danger right before the insurrection. And so they're kind of playing mop up afterwards, it may be that that the you know that the continuing voicing of some of the conspiracy theories and election fraud, and like also would lead to continued violence. But you know, it is very hard to square with that way we think about this under the First Amendment. All right. So now, so then what, what do we think about the lifetime ban? And what do I think the Oversight Board is going to do? So in four of the five most recent cases, of the appeals to the Facebook oversight board, they overturned Facebook and thought that it was wrong to take down the content. We you know, it's it's a small sample, we don't want to read too much into it. But I think that they are going in a somewhat more libertarian direction than a lot of people may have thought. I would not be surprised if they follow the position that you articulated, which is not allowing for a lifetime ban, but coming up with some kind of compromise position that would allow for Trump to be put back on the platform in certain circumstances. The really difficult problem for the oversight board and that for that matter, conceptually, for all of us, is what are the right rules for these big American platforms to take when it comes to the speech of world leaders because the precedent the precedent that they've now set with President Trump is going to be one that they're going to have to apply to bolsonaro and to Modi and to do tear day. And, you know, it's what it's as bad as it may be, seem to, you know, a liberal Silicon Valley, a somewhat liberal Silicon Valley company, censoring the president united states, to have American companies start doing that for the leaders of other countries and seemingly the tip there

are elections that's going to raise even more and greater concerns.

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Jeffrey Rosen 29:58

Wow. Very difficult, as you say, important to come up with neutral principles, of course and precedents that can be applied globally, and that don't seem to be singling out certain leaders in a content based way. Next, I must ask more broadly, what you think of the idea of supreme courts for the platform's natural impulse to create independent bodies to review speech decisions, there's also a desire to avoid total responsibility for these decisions. You know, it was the advisory board that made me do it if they have to let them back on. And no doubt the board was assembled in good faith and has distinguished people on it. I must say that, although it's certainly a worthwhile experiment to a extraordinarily challenging speech problem that has no clear answer, I'm not confident that the Oversight Board model will check the overwhelming pressure that we're seeing from governments, consumers, and indeed employees of the platforms around the globe, that are increasingly favoring the restriction of speech, I began writing about this subject more than a decade ago, and the kind of libertarian speech must be free. Today, I would say that they're they're not shying from the call by many consumers and world leaders, that they do more speech regulation. And I am concerned as an advocate of the classical liberal position on the First Amendment embraced by the framers that the bowing to this pressure, the net may increasingly become like an anodyne shopping mall where the platform's are taking it upon themselves to review and restrict more and more content, even if they're not forced to do so by the reform of 230. immunity and alike, your thoughts?

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Nate Persily 32:07

So I think that that is generally right that in the last year, we've seen a move toward greater regulation of content on the platform. I have a theory about why that is. And it's not merely one driven by President Trump. I think that the the COVID environment actually led to experimentation with certain types of interventions that previously might have been seen as out of balance, and so that when the issue was public health, then, you know, disinformation. and protecting people from offline harm, then became areas where the platform's felt, well, it's not as partisan, it doesn't raise the same kind of hackles. And so therefore, we will do all kinds of takedowns, we will do all kinds of labeling and the like, once that precedent was set, then they were put in the position, if you can do it in that context, why can't you do it for politics? Why can't you do it in elections? And and I think in the end, they're like, Well, yeah, I guess, you know, we should do to know, they were going to do a lot more this year anyway, because of the experience with the 2016 election. And so whether it was on advertising, or more fact checking, there was going to be more I think

that it that the COVID environment though turbocharged things so that they were that the constituencies in the firm that were pushing this direction did went out. You do see a shift in Mark Zuckerberg thinking, in particular, from his speech that he gave at Georgetown University, which was sort of, you know, singing New York Times versus Sullivan and, and, and other classic first amendment precedents, to what then seemed to be an evolution as we are, whether it was on Holocaust denial, or on on on D platforming of Trump. So I do think there's there's that story there. That with respect to the oversight board and Supreme Courts and the like, we need many different experiments like this happening right now. No one knows what the right answer is to both have some outside source of accountability for these multibillion profit making, you know, American corporations and to make sure that that you know, there is democratic legitimacy and protection for free expression. Right. And so you are right that the the firm's I think are going to be responsive to these market pressures, market pressures writ large, which is to say the European Commission, the Singapore enforcement authority, and their employees and and users, most of whom are pushing for greater regulation, but the end and so they're grasping about now, part of the story here though, is the complete abdication of responsibility by governments because they, they, when they actually put pen to paper, they realize how difficult it is to come up with a speech control regime that will deal with everything from COVID, misinformation to election manipulation to, you know, obscenity and the rest. And so therefore, the politicians in general are more likely to just blame the platform's and tell them, you know, to, you have to deal with this. And maybe you will be liable if you don't deal with it in the right way, whatever the right way is, instead of actually making the hard choices. So my view is that that the Facebook oversight board is an absolutely critical experiment, that will be a that we should look to more as a kind of signaling function as to what is possible in this area, because the Facebook Oversight Board has just issued decisions and five cases, it's got about eight cases on its docket that's out of 150,000 appeals that were lodged in the last month, right. So it like pales in comparison, even to the you know what the like the Supreme Court looks like a sort of minor league team, as compared to what the Facebook Oversight Board potentially has within its jurisdiction. And so we have no idea where this institution is going to go, how significant it's going to be for Facebook, whether it's going to make a big difference how libertarian versus regulatory, it's going to be whether it'll be captured by Facebook in the light. But I at least in one who wants to put wind behind the sails of institutions like this, because we are grasping about four models as to how we're going to protect speech online.



Jeffrey Rosen 36:39

That's it. I keep saying fascinating, not just to affirm your points, but because it is, and I'm learning so much, as I always do. I think this is the time as we begin to wrap up to talk

about solutions, which are always the most difficult. We've identified a few already National Constitution Center has started up a guardrails of democracy initiative, where we're convening thought leaders like you and others to identify technological, constitutional legal ways of resurrecting the madisonian deliberation that the framers thought would avoid passionate mob rule. So among the things we've talked about are relatively modest interventions like not putting political content high on news feeds, or tweaking the algorithms, so they don't recommend the most extreme content. Larry Kramer from the Hewlett Foundation, in a recent NCC discussion, talked about ways of just making it harder to reach the extreme links, rather than linking to it, you'd have to cut and paste them rather than clicking immediately. So forms of stickiness in the algorithmic referrals. But But these seem like modest interventions, indeed, you've been thinking very deeply about possible interventions along these lines. Please tell me because I'm so eager to hear them. If you had to list I don't know, top four or five interventions that would resurrect the guardrails and resurrect madisonian deliberation on the net? What would what would some ideas be?

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Nate Persily 38:21

So there is I think, a distinction between content moderation on the one hand and necessary and trying to further democratic deliberation on the other. I have a report I wrote for the Kofi Annan foundation on the former. One of the things on content moderation, I like to talk about the eight DS, unfortunately, it's eight, which too much, but it's, it's a deletion of content, right? takedowns like what we've seen, disclosure, right, where you give information about the source and the like, delay of content, we put trip wires on the internet so that that stuff doesn't achieve virality as quickly the dilution of content by making sure that people are are inundated with good information, right? That part if you believe in the marketplace of ideas, you try to make sure that there's better information and you saw this with with the platform's when they tried to put facts about voting, next to stuff that was seen as as disinformation. In addition, demotion, of course, the algorithms are quite critical here. And so how you decide what goes at the top of a newsfeed. And what goes at the bottom is really quite critical. And then as I said before diversion of people's attention away from the more problematic content. This is something that that YouTube has done with terrorist content and the like. And then just classic modes of deterrence. Going after the real bad actors on the internet. I am of the view that most of the problem is caused by less than 5% of viewers views of users and finding out who those people are And then addressing their speech, some of which is for profit making reasons is is something that can be done and that the platform's are aware of Finally, is, is digital literacy. And you know, we all turn to education to try to solve all of our problems. But I think we all know that this has to be a kind of permanent part of the curriculum for kids growing up. Now. Now, all of that a lot of some of that can be done by

governments, the stuff that I was talking about, some of that can be done by platforms to address content online. Now, the problems in terms of democratic deliberation, though, extend beyond the internet, right. And there are American institutions, whether it's the legacy media or the new media has failed to produce democratic deliberation and other institutions like political parties. And so in my other life as an election administration and election reform person, I'm really thinking about institutional reform that might be able to embolden moderates to try to foster reasoned decision making in ways that we haven't seen in the last few years.



Jeffrey Rosen 41:09

Superb, well, for both of those reasons. Your thoughtful interventions about content, moderation, which include, as you say, education as a central component, as well as democratic deliberation, which can include electoral reform, we'd love to get you involved in this National Constitution Center guardrails of democracy initiative. I believe that the kind of conversation that we are having is a central part of the solution. We're both modeling, civil dialogue and deliberation. Of course, the folks who are taking the time to listen to us are educating themselves about these complicated issues. We're exploring the arguments on both sides. We are teaching people to separate their policy views from their constitutional views constitutional in the sense of constituting the rules of discussion, regardless of what policy outcome they favor. And that's why we are thinking up the founders charge, that democracy cannot survive ignorant and free as Jefferson so memorably said, and without, without virtue, defined as self, government, government of the self, government of our selfish passions, hatreds, jealousies, and anger so that we can achieve self less service compassion, empathy, concern for others and devotion to the public good. The experiment won't work. I'm so I'm so grateful to you, Nate. I always learned so much more conversations. I'm grateful to the Aspen Institute for convening us Aspen's commitment to exploring important questions of democracy and society is invaluable. And I know, we're both very grateful to have been given the chance to have the conversation. So thanks so much.



Nate Persily 43:02

Thank you and thank you to the Aspen Institute.



Tricia Johnson 43:07

Law professor Nate Persily helped craft legislative districting plans for several states as a court appointed expert. He also served as a senior research director for the Presidential Commission on Election Administration. Jeffrey Rosen is the author of half a dozen books.

His most recent is "Conversations with RBG: Justice Ruth Bader Ginsburg on Life, Love, Liberty and Law. Rosen's and Persily's conversation was held in late January 2021. Make sure to subscribe to Aspen Ideas to go wherever you listen to podcasts. Follow us on social media at Aspen Ideas. Find more conversations on our website [aspenideas.org](https://www.aspenideas.org). Today's show was produced by Marci Krivonen. Our music is by Wonderly I'm Tricia Johnson. Thanks for joining me.