

# The Coup We Are Not Talking About

We can have democracy, or we can have a surveillance society, but we cannot have both.

**By Shoshana Zuboff**

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Two decades ago, the American government left democracy’s front door open to California’s fledgling internet companies, a cozy fire lit in welcome. In the years that followed, a surveillance society flourished in those rooms, a social vision born in the distinct but reciprocal needs of public intelligence agencies and private internet companies, both spellbound by a

dream of total information awareness. Twenty years later, the fire has jumped the screen, and on Jan. 6, it threatened to burn down democracy's house.

I have spent exactly 42 years studying the rise of the digital as an economic force driving our transformation into an information civilization. Over the last two decades, I've observed the consequences of this surprising political-economic fraternity as those young companies morphed into surveillance empires powered by global architectures of behavioral monitoring, analysis, targeting and prediction that I have called surveillance capitalism. On the strength of their surveillance capabilities and for the sake of their surveillance profits, the new empires engineered a fundamentally anti-democratic epistemic coup marked by unprecedented concentrations of knowledge about us and the unaccountable power that accrues to such knowledge.

In an information civilization, societies are defined by questions of knowledge — how it is distributed, the authority that governs its distribution and the power that protects that authority. Who knows? Who

decides who knows? Who decides who decides who knows? Surveillance capitalists now hold the answers to each question, though we never elected them to govern. This is the essence of the epistemic coup. They claim the authority to decide who knows by asserting ownership rights over our personal information and defend that authority with the power to control critical information systems and infrastructures.

The horrific depths of Donald Trump's attempted political coup ride the wave of this shadow coup, prosecuted over the last two decades by the antisocial media we once welcomed as agents of liberation. On Inauguration Day, President Biden said that "democracy has prevailed" and promised to restore the value of truth to its rightful place in democratic society. Nevertheless, democracy and truth remain under the highest level of threat until we defeat surveillance capitalism's other coup.

The epistemic coup proceeds in four stages.

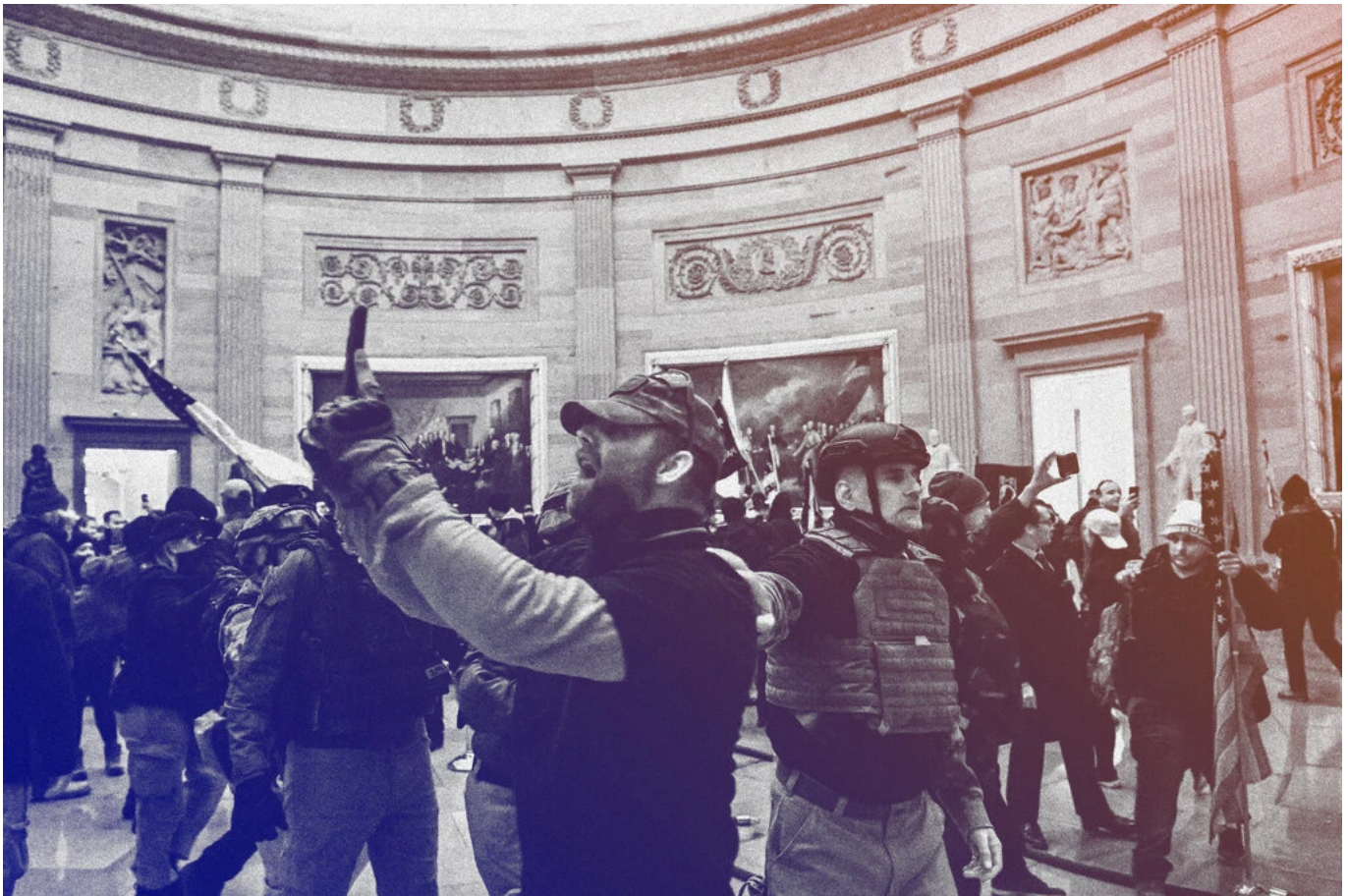
The first is the appropriation of epistemic rights, which lays the foundation for all that follows.

Surveillance capitalism originates in the discovery that companies can stake a claim to people's lives as free raw material for the extraction of behavioral data, which they then declare their private property.

The second stage is marked by a sharp rise in epistemic inequality, defined as the difference between what I can know and what can be known about me. The third stage, which we are living through now, introduces epistemic chaos caused by the profit-driven algorithmic amplification, dissemination and microtargeting of corrupt information, much of it produced by coordinated schemes of disinformation. Its effects are felt in the real world, where they splinter shared reality, poison social discourse, paralyze democratic politics and sometimes instigate violence and death.

In the fourth stage, epistemic dominance is institutionalized, overriding democratic governance with computational governance by private surveillance capital. The machines know, and the

systems decide, directed and sustained by the illegitimate authority and anti-democratic power of private surveillance capital. Each stage builds on the last. Epistemic chaos prepares the ground for epistemic dominance by weakening democratic society — all too plain in the insurrection at the U.S. Capitol.



Saul Loeb/Agence France-Presse — Getty Images

We live in the digital century during the formative years of information civilization. Our time is comparable to the early era of industrialization, when owners had all the power, their property rights privileged above all other considerations. The intolerable truth of our current condition is that America and most other liberal democracies have, so far, ceded the ownership and operation of all things digital to the political economics of private surveillance capital, which now vies with democracy over the fundamental rights and principles that will define our social order in this century.

This past year of pandemic misery and Trumpist autocracy magnified the effects of the epistemic coup, revealing the murderous potential of antisocial media long before Jan. 6. Will the growing recognition of this other coup and its threats to democratic societies finally force us to reckon with the inconvenient truth that has loomed over the last two decades? We may have democracy, or we may have surveillance society, but we cannot have both. A democratic surveillance

society is an existential and political impossibility. Make no mistake: This is the fight for the soul of our information civilization.

Welcome to the third decade.

## The Surveillance Exception

The public tragedy of Sept. 11 dramatically shifted the focus in Washington from debates over federal privacy legislation to a mania for total information awareness, turning Silicon Valley's innovative surveillance practices into objects of intense interest. As Jack Balkin, a professor at Yale Law School, observed, the intelligence community would have to "rely on private enterprise to collect and generate information for it," in order to reach beyond constitutional, legal, or regulatory constraints, controversies that are central today. By 2013, the CIA's chief technology officer outlined the agency's mission "to collect everything and hang on to it forever," acknowledging the internet companies, including Google, Facebook, YouTube, Twitter, and Fitbit and telecom companies, for making it possible.



The revolutionary roots of surveillance capitalism are planted in this unwritten political doctrine of surveillance exceptionalism, bypassing democratic oversight, and essentially granting the new internet companies a license to steal human experience and render it as proprietary data.

Young entrepreneurs without any democratic mandate landed a windfall of infinite information and unaccountable power. Google's founders, Larry Page and Sergey Brin, exercised absolute control over the production, organization and presentation of the world's information. Facebook's Mark Zuckerberg has had absolute control over what would become a primary means of global communication and news consumption, along with all the information concealed in its networks. The group's membership grew, and a swelling population of global users proceeded unaware of what just happened.

The license to steal came with a price, binding the executives to the continued patronage of elected officials and regulators as well as the sustained ignorance, or at least learned resignation, of users.



The doctrine was, after all, a political doctrine, and its defense would require a future of political maneuvering, appeasement, engagement and investment.

Google led the way with what would become one of the world's richest lobbying machines. In 2018 nearly half the Senate received contributions from Facebook, Google and Amazon, and the companies continue to set spending records.

Most significant, surveillance exceptionalism has meant that the United States and many other liberal democracies chose surveillance over democracy as the guiding principle of social order. With this forfeit, democratic governments crippled their ability to sustain the trust of their people, intensifying the rationale for surveillance.

## The Economics and Politics of Epistemic Chaos

To understand the economics of epistemic chaos, it's important to know that surveillance capitalism's operations have no formal interest in facts. All data is welcomed as equivalent, though not all of it is equal. Extraction operations proceed with the discipline of the Cyclops, voraciously consuming everything it can see and radically indifferent to meaning, facts and truth.

In a leaked memo, a Facebook executive, Andrew Bosworth, describes this willful disregard for truth and meaning: "We connect people. That can be good if they make it positive. Maybe someone finds love. ... That can be bad if they make it negative. ... Maybe someone dies in a terrorist attack. ... The ugly truth is ... anything that allows us to connect more people more often is *\*de facto\** good."

In other words, asking a surveillance extractor to reject content is like asking a coal-mining operation to discard containers of coal because it's too dirty. This is why content moderation is a last resort, a public-relations operation in the spirit of ExxonMobil's social responsibility messaging. In Facebook's case, data

triage is undertaken either to minimize the risk of user withdrawal or to avoid political sanctions. Both aim to increase rather than diminish data flows. The extraction imperative combined with radical indifference to produce systems that ceaselessly escalate the scale of engagement but don't care what engages you.

I'm homing in now on Facebook not because it's the only perpetrator of epistemic chaos but because it's the largest social media company and its consequences reach farthest.

The economics of surveillance capitalism begot the extractive Cyclops, turning Facebook into an advertising juggernaut and a killing field for truth. Then an amoral Mr. Trump became president, demanding the right to lie at scale. Destructive economics merged with political appeasement, and everything became infinitely worse.

Key to this story is that the politics of appeasement required little more than a refusal to mitigate, modify or eliminate the ugly truth of surveillance economics.

Surveillance capitalism's economic imperatives turned Facebook into a societal tinderbox. Mr. Zuckerberg merely had to stand down and commit himself to the bystander role.

Internal research presented in 2016 and 2017 demonstrated causal links between Facebook's algorithmic targeting mechanisms and epistemic chaos. One researcher concluded that the algorithms were responsible for the viral spread of divisive content that helped fuel the growth of German extremist groups. Recommendation tools accounted for 64 percent of "extremist group joins," she found — dynamics not unique to Germany.

The Cambridge Analytica scandal in March 2018 riveted the world's attention on Facebook in a new way, offering a window for bold change. The public began to grasp that Facebook's political advertising business is a way to rent the company's suite of capabilities to microtarget users, manipulate them and sow epistemic chaos, pivoting the whole machine just a few degrees from commercial to political objectives.

Pool photo by Graeme Jennings/EPA, via Shutterstock

The company launched some modest initiatives, promising more transparency, a more robust system of third-party fact checkers and a policy to limit “coordinated inauthentic behavior,” but through it all, Mr. Zuckerberg conceded the field to Mr. Trump’s demands for unfettered access to the global information bloodstream.

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Mr. Zuckerberg rejected internal proposals for operational changes that would reduce epistemic chaos. A political whitelist identified over 100,000 officials and candidates whose accounts were exempted from fact-checking, despite internal research showing that users tend to believe false information shared by politicians. In September 2019 the company said that political advertising would not be subject to fact-checking.

To placate his critics in 2018, Mr. Zuckerberg commissioned a civil rights audit led by Laura Murphy, a former director of the ACLU's Washington legislative office. The report published in 2020 is a cri de coeur expressed in a river of words that bear witness to dashed hopes — “disheartened,” “frustrated,” “angry,” “dismayed,” “fearful,” “heartbreaking.”

The report is consistent with a nearly complete rupture of the American public's faith in Big Tech. When asked how Facebook would adjust to a political shift toward a possible Biden administration, a company spokesman, Nick Clegg, responded, "We'll adapt to the environment in which we're operating." And so it did. On Jan. 7, the day after it became clear that Democrats would control the Senate, Facebook announced that it would indefinitely block Mr. Trump's account.

We are meant to believe that the destructive effects of epistemic chaos are the inevitable cost of cherished rights to freedom of speech. No. Just as catastrophic levels of carbon dioxide in the earth's atmosphere are the consequence of burning fossil fuels, epistemic chaos is a consequence of surveillance capitalism's bedrock commercial operations, aggravated by political obligations and set into motion by a 20-year-old dream of total information that slid into nightmare. Then a plague came to America, turning the antisocial media conflagration into a wildfire.



# Epistemic Chaos Meets a Mysterious Microorganism

As early as February 2020, the World Health Organization reported a Covid-19 “infodemic,” with myths and rumors spreading on social media. By March, researchers at the University of Texas M.D. Anderson Cancer Center concluded that medical misinformation related to the coronavirus was “being propagated at an alarming rate on social media,” endangering public safety.

The Washington Post reported in late March that with nearly 50 percent of the content on Facebook’s news feed related to Covid-19, a very small number of “influential users” were driving the reading habits and feeds of a vast number of users. A study released in April by the Reuters Institute confirmed that high-level politicians, celebrities and other prominent public figures produced 20 percent of the misinformation in their sample, but attracted 69 percent of social media engagements in their sample.

A study released in May by Britain's Institute for Strategic Dialogue identified a core group of 34 extremist right-wing websites disseminating Covid disinformation or linked to established health misinformation hubs now focused on Covid-19. From January to April of 2020, public Facebook posts linking to these websites garnered 80 million interactions, while posts linking to the W.H.O.'s website received 6.2 million interactions, and the Centers for Disease Control and Prevention received 6.4 million.

An Avaaz study released in August exposed 82 websites spreading Covid misinformation reaching a peak of nearly half a billion Facebook views in April. Content from the 10 most popular websites drew about 300 million Facebook views, compared with 70 million for 10 leading health institutions. Facebook's modest content moderation efforts were no match for its own machine systems engineered for epistemic chaos.

In October a report from the National Center for Disaster Preparedness at Columbia University estimated the number of avoidable Covid-19 deaths. More than 217,000 Americans had died. Tragically, the analysis concluded that at least 130,000 of those deaths could have been avoided. Of the four key reasons cited, details of each one, including the “lack of mask mandate” and “misleading the public,” reflect the orgy of epistemic chaos loosed upon America’s daughters and sons.

This is the world in which a deadly mysterious microorganism flourished. We turned to Facebook in search of information. Instead we found lethal strategies of epistemic chaos for profit.

## Epistemic Terrorism

In 1966, Peter Berger and Thomas Luckmann wrote a short book of seminal importance, “The Social Construction of Reality.” Its central observation is that the “everyday life” we experience as “reality” is actively and perpetually constructed by us. This ongoing miracle of social order rests on “common

sense knowledge,” which is “the knowledge we share with others in the normal self-evident routines of everyday life.”

Think about traffic: There are not enough police officers in the world to ensure that every car stops at every red light, yet not every intersection triggers a negotiation or a fight. That’s because in orderly societies we all know that red lights have the authority to make us stop and green lights are authorized to let us go. This common sense means that we each act on what we all know, while trusting that others will too. We’re not just obeying laws; we are creating order together. Our reward is to live in a world where we mostly get where we are going and home again safely because we can trust one another’s common sense. No society is viable without it.

“*All* societies are constructions in the face of chaos,” write Berger and Luckmann. Because norms are summaries of our common sense, norm violation is the essence of terrorism — terrifying because it repudiates the most taken-for-granted social certainties. “Norm violation creates an attentive

audience beyond the target of terror,” write Alex P. Schmid and Albert J. Jongman in “Political Terrorism,” a widely cited text on the subject. Everyone experiences the shock, disorientation, and fear. The legitimacy and continuity of our institutions are essential because they buffer us from chaos by formalizing our common sense.

Deaths of kings and peaceful transfers of power in democracies are critical moments that heighten society’s vulnerability. The norms and laws that guide these junctures are rightly treated with maximum gravity. Mr. Trump and his allies prosecuted an election-fraud disinformation campaign that ultimately translated into violence. It took direct aim at American democracy’s point of maximum institutional vulnerability and its most fundamental norms. As such, it qualifies as a form of epistemic terrorism, an extreme expression of epistemic chaos. Mr. Zuckerberg’s determination to lend his economic machine to the cause makes him an accessory to this assault.

Jeff Chiu/Associated Press

Like baseball, everyday reality is an adventure that begins and ends at home base, where we are safe. No society can police everything all the time, least of all a democratic society. A healthy society rests on a consensus about what is a deviation and what is normal. We venture out from the norm, but we know the difference between the outfield and home, the reality of everyday life. Without that, as we have now experienced, things fall apart. Democrats drinking

blood? Sure, why not? Hydroxychloroquine for Covid-19? Right this way! Storm the Capitol and make Mr. Trump dictator? Yeah, we've got that!

Society renews itself as common sense evolves. This requires trustworthy, transparent, respectful institutions of social discourse, especially when we disagree. Instead we are saddled with the opposite, nearly 20 years into a world dominated by a political-economic institution that operates as a chaos machine for hire, in which norm violation is key to revenue.

Social media's no-longer-young men defend their chaos machines with a twisted rendition of First Amendment rights. Social media is not a public square but a private one governed by machine operations and their economic imperatives, incapable of, and uninterested in, distinguishing truth from lies or renewal from destruction.

For many who hold freedom of speech as a sacred right, Justice Oliver Wendell Holmes's 1919 dissenting opinion in *Abrams v. United States* is a touchstone. "The ultimate good desired is better reached by free



trade in ideas,” he wrote. “The best test of truth is the power of the thought to get itself accepted in the competition of the market.” The corrupt information that dominates the private square does not rise to the top of a free and fair competition of ideas. It wins in a rigged game. No democracy can survive this game.

Our susceptibility to the destruction of common sense reflects a young information civilization that has not yet found its footing in democracy. Unless we interrupt surveillance economics and revoke the license to steal that legitimates its antisocial operations, the other coup will continue to strengthen and produce fresh crises. What must be done now?

## Three Principles for the Third Decade

Let’s begin with a thought experiment: Imagine a 20th century with no federal laws to regulate child labor or assert standards for workers’ wages, hours and safety; no workers’ rights to join a union, strike or bargain collectively; no consumer rights; and no governmental institutions to oversee laws and policies intended to make the industrial century safe

for democracy. Instead, each company was left to decide for itself what rights it would recognize, what policies and practices it would employ and how its profits would be distributed. Fortunately, those rights, laws and institutions did exist, invented by people over decades across the world's democracies. As important as those extraordinary inventions remain, they do not protect us from the epistemic coup and its anti-democratic effects.

The deficit reflects a larger pattern: The United States and the world's other liberal democracies have thus far failed to construct a coherent political vision of a digital century that advances democratic values, principles and government. While the Chinese have designed and deployed digital technologies to advance their system of authoritarian rule, the West has remained compromised and ambivalent.

This failure has left a void where democracy should be, and the dangerous result has been a two-decade drift toward private systems of surveillance and behavioral control outside the constraints of democratic governance. This is the road to the final

stage of the epistemic coup. The result is that our democracies march naked into the third decade without the new charters of rights, legal frameworks and institutional forms necessary to ensure a digital future that is compatible with the aspirations of a democratic society.

We are still in the early days of an information civilization. The third decade is our opportunity to match the ingenuity and determination of our 20th-century forebears by building the foundations for a democratic digital century.

Democracy is under the kind of siege that only democracy can end. If we are to defeat the epistemic coup, then democracy must be the protagonist.

I offer three principles that can help guide these beginnings:

### **The democratic rule of law**

The digital must live in democracy's house, not as an arsonist but as a member of the family, subject to and thriving on its laws and values. The sleeping giant of

democracy finally stirs, with important legislative and legal initiatives underway in America and Europe. In the United States, five comprehensive bills, 15 related bills, and one important legislative proposal, each with material significance for surveillance capitalism, were introduced in Congress from 2019 to mid-2020. Californians welcomed landmark privacy legislation. In 2020 the Congressional Subcommittee on Antitrust, Commercial and Administrative Law issued a far-reaching analysis of the antitrust case against the tech giants. In October the Department of Justice, joined by 11 states, initiated a federal antitrust suit against Google for abuse of its online search monopoly. By December the Federal Trade Commission filed a landmark lawsuit against Facebook for anticompetitive actions, joined by a suit from 48 attorneys general. Those were swiftly followed by a suit launched by 38 attorneys general challenging Google's core search engine as an anticompetitive means of blocking rivals and privileging its own services.

Antitrust arguments are important for two reasons: They signal that democracy is once again on the move, and they legitimate more regulatory attention to companies designated as market dominant. But when it comes to defeating the epistemic coup, the antitrust paradigm falls short. Here's why.

The turn to antitrust recalls the anticompetitive practices and concentrations of economic power in the Gilded Age monopolies. As Tim Wu, an antitrust champion, explained in *The Times*, "Facebook's strategy was similar to John D. Rockefeller's at Standard Oil during the 1880s. Both companies scanned the horizon of the marketplace, searching for potential competitors, and then bought them or buried them." He added that "it was precisely this business model that Congress banned in 1890" with the Sherman Antitrust Act.

It's true that Facebook, Google and Amazon, among others, are ruthless capitalists as well as ruthless surveillance capitalists, but exclusive focus on their Standard Oil-style monopoly power raises two problems. First, antitrust did not succeed that well,

even on the terms of its late-19th- and early-20th-century prosecutors and their aim of ending unfair concentrations of economic power in the oil industry. In 1911 a Supreme Court decision broke up Standard Oil into 34 fossil fuel industry companies. The combined value of the companies proved greater than the original. The largest of the 34 had all the advantages of Standard Oil's infrastructure and scale and quickly moved toward mergers and acquisitions, becoming fossil fuel empires in their own right, including Exxon and Mobil (which became ExxonMobil), Amoco and Chevron.

A second and far more significant problem with antitrust is that while it may be important to address anticompetitive practices in ruthless companies, it is not sufficient to address the harms of surveillance capitalism, any more than the 1911 decision addressed the harms of fossil fuel production and consumption. Rather than assess Facebook, Amazon or Google through a 19th-century lens, we should reinterpret the case of Standard Oil from the perspective of our century.

Another thought experiment: Imagine that the America of 1911 understood the science of climate change. The court's breakup decision would have addressed Standard Oil's anticompetitive practices while ignoring the far more consequential case — that the extraction, refining, sale and use of fossil fuels would destroy the planet. If the jurists and lawmakers of that era had ignored these facts, we would have looked on their actions as a stain on American history.

Indeed, the court's decision did ignore the far more pressing threats to American workers and consumers. A historian of American law, Lawrence Friedman, describes the Sherman Antitrust Act as “something of a fraud” that accomplished little but to satisfy “political needs.” He explains that Congress “had to answer the call for action — some action, any action — against the trusts” and the act was their answer. Then as now, people wanted a giant killer.

They turned to law as the only force that could right the balance of power. But it took decades for lawmakers to finally address the real sources of harm by codifying new rights for workers and consumers.



The National Labor Relations Act, which guaranteed the right to unionize while regulating the actions of employers, wasn't enacted until 1935, 45 years after the Sherman Antitrust Act. We do not have 45 years — or 20 or 10 — to linger before we address the real harms of the epistemic coup and their causes.

There may be sound antitrust reasons to break up the big tech empires, but carving up Facebook or any of the others into the surveillance capitalist equivalents of Exxon, Chevron and Mobil would not shield us from the clear and present dangers of surveillance capitalism. Our time demands more.

## **New conditions summon new rights**

New legal rights are crystallized in response to the changing conditions of life. Justice Louis Brandeis's commitment to privacy rights, for example, was stimulated by the spread of photography and its ability to invade and steal what was regarded as private.

A democratic information civilization cannot progress without new charters of epistemic rights that protect citizens from the massive-scale invasion and theft compelled by surveillance economics. During most of the modern age, citizens of democratic societies have regarded a person's experience as inseparable from the individual — inalienable. It follows that the right to know about one's experience has been considered elemental, bonded to each of us like a shadow. We each decide if and how our experience is shared, with whom and for what purpose.

Writing in 1967, Justice William Douglas argued that the authors of the Bill of Rights believed “the individual should have the freedom to select for himself the time and circumstances when he will share his secrets with others and decide the extent of that sharing.” That “freedom to select” is the elemental epistemic right to know ourselves, the cause from which all privacy flows.

For example, as the natural bearer of such rights, I do not give Amazon's facial recognition the right to know and exploit my fear for targeting and behavioral

predictions that benefit others' commercial aims. It's not simply that my feelings are not for sale, it's that my feelings are unsale-able because they are inalienable. I do not give Amazon my fear, but they take it from me anyway, just another data point in the trillions fed to the machines that day.

Our elemental epistemic rights are not codified in law because they had never come under systematic threat, any more than we have laws to protect our rights to stand up or sit down or yawn.

But the surveillance capitalists have declared their right to know our lives. Thus dawns a new age, founded on and shielded by the unwritten doctrine of surveillance exceptionalism. Now the once taken-for-granted right to know and to decide who knows about us must be codified in law and protected by democratic institutions, if it is to exist at all.

**Unprecedented harms demand unprecedented solutions**

Just as new conditions of life reveal the need for new rights, the harms of the epistemic coup require purpose-built solutions. This is how law evolves, growing and adapting from one era to the next.

When it comes to the new conditions imposed by surveillance capitalism, most discussions about law and regulation focus downstream on arguments about data, including its privacy, accessibility, transparency and portability, or on schemes to buy our acquiescence with (minimal) payments for data. Downstream is where we argue about content moderation and filter bubbles, where lawmakers and citizens stamp their feet at recalcitrant executives.

Downstream is where the companies want us to be, so consumed in the details of the property contract that we forget the real issue, which is that their property claim itself is illegitimate.

What unprecedented solutions can address the unprecedented harms of the epistemic coup? First, we go upstream to supply, and we end the data collection operations of commercial surveillance.

Upstream, the license to steal works its relentless miracles, employing surveillance strategies to spin the straw of human experience — my fear, their breakfast conversation, your walk in the park — into the gold of proprietary data supplies. We need legal frameworks that interrupt and outlaw the massive-scale extraction of human experience. Laws that stop data collection would end surveillance capitalism's illegitimate supply chains. The algorithms that recommend, microtarget and manipulate, and the millions of behavioral predictions pushed out by the second cannot exist without the trillions of data points fed to them each day.

Next, we need laws that tie data collection to fundamental rights and data use to public service, addressing the genuine needs of people and communities. Data is no longer the means of information warfare waged on the innocent.

Third, we disrupt the financial incentives that reward surveillance economics. We can prohibit commercial practices that exert demand for rapacious data collection. Democratic societies have outlawed

markets that trade in human organs and babies. Markets that trade in human beings were outlawed, even when they supported whole economies.

These principles are already shaping democratic action. The Federal Trade Commission initiated a study of social media and video-streaming companies less than a week after filing its case against Facebook and said it intended to “lift the hood” of internal operations “to carefully study their engines.” A statement by three commissioners took aim at tech companies “capable of surveilling and monetizing ... our personal lives,” adding that “too much about the industry remains dangerously opaque.”

Groundbreaking legislative proposals in the European Union and Britain will, if passed, begin to institutionalize the three principles. The E.U. framework would assert democratic governance over the largest platforms’ black boxes of internal operations, including comprehensive audit and enforcement authority. Fundamental rights and the rule of law would no longer vaporize at the cyberborder, as lawmakers insist on “a safe,

predictable, and trusted online environment.” In Britain the Online Harms Bill would establish a legal “duty of care” that would hold the tech companies responsible for public harms and include broad new authorities and enforcement powers.

Two sentences often attributed to Justice Brandeis feature in the congressional subcommittee’s impressive antitrust report. “We must make our choice. We may have democracy, or we may have wealth concentrated in the hands of a few, but we cannot have both.” The statement so relevant to Brandeis’s time remains a pungent commentary on the old capitalism we know, but it ignores the new capitalism that knows us. Unless democracy revokes the license to steal and challenges the fundamental economics and operations of commercial surveillance, the epistemic coup will weaken and eventually transform democracy itself. We must make our choice. We may have democracy, or we may have surveillance society, but we cannot have both. We have a democratic information civilization to build, and there is no time to waste.



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