Proposed Law – Amarah Friedman

Framework for Proposed United States Federal Law

The following law seeks to broaden the legal definition of "injury" and "harm" as it pertains to results of hate speech stemming from misinformation. In this digital era, where the spread of misinformation has become simple while the power of words and perception remain the same, there need not be a "clear and present danger," as the US Supreme court ruled in *Terminiello v. Chicago (1949)*, to cause harm. The test of "clear and present danger" has outlived its usefulness. Harm may not be immediately perceptible, but subtle and exposed over time. Misinformation related to bigotry and false historical narratives, in particular, contributes extended injury to minority communities over time. It can be inconspicuous, subtle, and lead to the clear and present danger the justices of the Vinson court egregiously overlooked in their 5-4 decision against the respondent.

All that said, this law is not intended to limit free speech. It is expected that free speech may create discomfort. In fact, that discomfort should be embraced as an opportunity to extend one's own perception; however, the spread of misinformation itself constitutes harm and, as defined by *Chaplinsky v. New Hampshire* in 1942, "fighting words." This law seeks to close that gap.

The following questions remain: who defines misinformation? Who determines what is true and "the truth"? These questions demand answers and integration of this law would not be immediate. Such a shift is cultural and may take decades to implement, allowing ample time for the institution and its people to create a viable structure.

The Law – The "You can be hateful, but you can't be wrong" Law

(a) In General—
    (1) Willful distribution of gross misinformation or false narratives regarding the history or behavior of any groups of people constitutes in themselves harm and is punishable up to the maximum sentence for hate crimes.
        (A) Groups include associations based on race, color, religion, national origin, gender, sexual orientation, and/or disability. Neither groups nor associations are limited to the above list.
        (B) Distribution includes any verbal, written, typed, or published narrative or information.
        (C) Punishment is subject to judicial discretion given the severity and egregious nature of the crime.

Need definitions for: gross misinformation & false narratives