

OPINIONS

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DISCONNECTED

When restricting free speech backfires

It took over two years, but YouTube has finally learned a crucial lesson about the dangers of restricting political speech.

This month, the online video giant announced important changes to its policy of removing videos that include election-related "misinformation."

YouTube began the policy in an effort to stop particular categories of



TOM GARRETT

misinformation that the company claims cause real-world harm, including assertions that previous elections hadn't been fairly decided. The site removed thousands of videos under these rules, many of which allegedly included unsubstantiated claims about the 2020 presidential election.

The rules ban "content advancing false claims that widespread fraud, errors, or glitches occurred in certain past elections to determine heads of government. Or, content that claims that the certified results of those elections were false." The policy revisions adopted in early June mean that these rules no longer apply to content related to the 2020 U.S. election and earlier American elections.

To be clear, I do not support election denialism or attempts to mislead the public with knowingly false claims. However, I'm also deeply concerned about the fact that policies limiting political speech inevitably punish innocent speakers and damage online discourse.

YouTube's policy highlighted the intrinsic problem with attempts to stop "harmful" political speech. The company now admits that its election misinformation policy failed to achieve its ostensible goal, noting in the statement announcing the policy shift, "In the current environment, we find that while removing this content does curb some misinformation, it could also have the unintended effect of curtailing political speech without meaningfully reducing the risk of violence or other real-world harm."

Put more simply, YouTube acknowledged that the former policy failed to eliminate harm and resulted in the removal of vast amounts of political speech that wasn't "misinformation."

Although it took longer than it should have, YouTube ultimately recognized this reality — and the folly of policing speech in this way.

The rule's defects included

the fact that YouTube often treated mere reporting on election fraud claims as misinformation. These removals sometimes deleted content from journalists or news outlets, and even one video released by the Jan. 6 committee itself couldn't escape YouTube's guidelines. Because the committee included footage of President Trump making unverified claims about 2020 election irregularities, YouTube censored the video.

Within a few weeks following the 2020 election, YouTube removed over 8,000 channels for violating this rule. The policy ultimately resulted in the removal of tens of thousands of videos.

YouTube's course correction is a welcome one. It's the latest high-profile example illustrating that attempts to fight "bad" political speech — even if executed by private entities — will inevitably result in the removal or suppression of useful political speech.

As YouTube discovered, such practices invariably lead to the rule-makers sanctioning speakers who aren't even promoting or participating in the conduct that the rule-makers are trying to address. In the case of the policy in question, that meant punishing a wide swath of users, including journalists acting in good faith.

Instead of these restrictive, anti-speech policies, the antidote for "bad" speech is more speech.

A platform that embraces free political speech will necessarily permit some content that others might find harmful. This is the nature of the venerable "marketplace of ideas," in which the public is free to evaluate — and push back against — speech of all types, including political speech they might view as wrong or deeply offensive.

YouTube's modification to its rules will make the platform more friendly to political speech generally. It will also allow YouTube to err on the side of allowing speech, not prohibiting it. This move toward permitting more speech, not less, will be especially important as the run-up to the 2024 election begins in earnest.

While YouTube is far from perfect, its recent shift signals that the company can learn from its mistakes and recognize the inherent peril created by targeting specific categories of political speech.

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BOB BROWN, TIMES-DISPATCH

Chief Anne Richardson of the Rappahannock Indian Tribe, right, addresses a gathering at Mantle on the grounds of the Virginia State Capitol in March 2022. The spiral walkway, commemorating the contributions of Virginia Indians, is built into a hillside near the Bell Tower on the southwest corner of the grounds.

RECLAIMING HISTORY

Fight to honor Indigenous people has only just begun

An idea initially discussed at a United Nations conference in 1977 became reality on Oct. 10, 1992, 500 years after the "discovery" of America by Christopher Columbus in 1492. It was the first Indigenous Peoples' Day celebration held in the United States as an alternative to the Columbus Day holiday.



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Thirty years later, that monumental break from tradition has become a movement of sorts, albeit a rudderless one, as a growing number of cities (130-plus), states (19) and the District of Columbia have embraced the celebration of Indigenous Peoples' Day on the second Monday in October.

In recent years, America's natural social progression of change from Columbus Day to Indigenous Peoples' Day has been stalled by partisan politics, turning a national holiday that is supposed to be a celebration into an annual confrontation. For the 2022 holiday, The Pocahontas Project successfully navigated the choppy political waters and held an educational public event in Richmond celebrating Indigenous Peoples' Day at Mantle, the Virginia Indian tribute on the grounds of the Virginia State Capitol.

The Pocahontas Project is inspired by America's growing acceptance for the reorientation of this national, state and local holiday to Indigenous Peoples' Day. Further, TPP is confident a vast majority of Americans agree that the reorientation is both appropriate and uplifting.

There are many social, cultural and historical reasons why

Indigenous Peoples' Day should be immediately considered. As one of only 11 federal holidays, Columbus Day has never served its purpose as a national commemoration or celebration and has been in a significant negative spiral for three decades. Columbus Day is not and never has been a source of pride for most states, cities, counties, towns and villages across America that simply follow the national holiday schedule. Columbus Day is by far America's least-celebrated national holiday, with most Americans unsure of what is being commemorated or why, but happy to get a day off from work or school, or score a good deal at a Columbus Day sale.

Culturally, TPP believes the atrocities directly associated with Christopher Columbus should disqualify his name from being associated with any commemoration, let alone a national holiday. Until the reorientation is complete, a holiday associated with Columbus will continue to be emotionally, intellectually and spiritually painful for a growing number of Americans.

Historically, we have learned the "discovery" of America, the only reason for the origin of the Columbus Day holiday in 1934, is a gross misrepresentation of the initial interaction between the Europeans and the Indigenous peoples of the Americas.

The Pocahontas Project views the reorientation to Indigenous Peoples' Day as a positive look forward for our country and believes it will be meaningful for Americans of all ages and backgrounds, wherever they may live. The reoriented holiday will encourage Americans to celebrate the history and culture of America's Indigenous peoples in the name of remembrance, recognition, reconciliation and respect.

It can honor the resilience of America's Indigenous citizens, as well as the ancient wisdom of native, Indigenous and First Nations peoples around the world.

The United States and its territories represent a diverse and complex collection of Indigenous cultures: America's Indian tribes, the Kanaka Maoli of Hawaii and the Alaska Natives, as well as the Indigenous peoples of Puerto Rico, American Samoa, Guam and the U.S. Virgin Islands.

TPP believes this is a Kairos moment — the right and opportune time to call the question in every American community and every official U.S. jurisdiction. Toward this end, TPP created the Indigenous Peoples' Day Initiative and is recruiting supporters to collectively influence every municipality in all 50 states and the District of Columbia, as well as the six U.S. territories and Congress to pass legislation celebrating the second Monday of October as Indigenous Peoples' Day.

Many jurisdictions have made this formal change, and I am proud my hometown of Richmond joined that list when the mayor and City Council issued a joint resolution last year. Richmond followed its words with action by declaring Richmond Indigenous Peoples' Day as a paid holiday for city employees, which had not been the case with Columbus Day. The Pocahontas Project's strategic plan positions RVA as a leader of this national movement. We're now asking the rest of Virginia to join us.

Rick Tatnall is executive director of The Pocahontas Project. Contact him at rick@pocahontasproject.org.

HUMAN IDENTITY

The complex science of gender and sex

AMY B. MCEUEN

Conservative state legislatures continue to attack transgender rights: Texas has banned transgender care for youth; Kansas passed a law erroneously defining gender as sex assigned at birth; Montana's House of Representatives banned Rep. Zooey Zephyr, the first trans legislator in the state, from the legislative chamber.

These are only a few examples of a larger pattern in which states like Florida, Iowa, Kentucky, Tennessee, Oklahoma and Missouri have passed increasingly intrusive restrictions on gender expression. In response, some people are leaving these states to protect themselves and their families.

These laws are highly discriminatory. They also display a shocking lack of awareness of the complex science of gender and sex.

As an associate professor of biology, I know that sex and gender are intertwined, complicated, fascinating and nonbinary. The more scientists study gender/sex, the more nuanced and myriad variation we find. For sex assigned at birth, there are at least three categories — female, male, intersex — and they still greatly simplify true variation in hormone levels, genetics and anatomy.

But now, according to many red-state legislatures, sex and

gender are the same, binary and life-long. Scientists, on the other hand, have long accepted that biological sex is not the same as gender. The American Medical Women's Association defines gender as "socially constructed and enacted roles and behaviors which occur in a historical and cultural context and vary across societies and over time."

To treat gender and sex as synonyms is a grave error. In addition to sex assigned at birth, people have gender identity, gender expression and sexual orientation. Each of these are different aspects of a person. Biological sex is also not binary due to the spectrum of outcomes that can be produced by biological processes.

As wide as the variation in biological sex is, so too is variation in gender. Scientific fields from neuroscience to psychology challenge a gender binary. For centuries and across cultures, people have expressed gender identities that differ from their assigned birth sex. Many Native American cultures recognize multiple gender identities. The Navajo (Nadleehi and Dilbass), Lakota (Winkte) and Mohave (Alyha and Hwame) celebrate members who would now be called transgender. Such people are, in fact, considered gifted and are widely called "Two-Spirit" people.

To be sure, science only takes us part of the way in understanding the true complexity of sex and gender. However, laws and policies, whether they address climate change or health care, should not be based in science denial. Such laws are harmful to the health of transgender individuals and ignore the facts of science. Rather than more anti-science legislation, we need better public education so that voters, and our politicians, understand the differences between sex, gender and sexuality.

Science denial continues to play a strong role in American politics. But the world works the way the world works, and no amount of legislation can change that. Our educational system should teach the complexity of human bodies and identity.

I challenge fellow scientists, psychologists, biologists, neuroscientists, medical doctors and nurses to join me in raising their voices against these harmful laws. We need to embrace the true complexity of human identity, not deny it or attempt to limit it.

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SHUTTERSTOCK

In early June, YouTube reversed its policy of removing videos that promote election-related misinformation.