

Internet Hate-Speech Rules Harm Mainstream, Normal Speakers

Democrats in Congress have been [pressuring social media companies like Facebook, Twitter, and Google](#) to crack down on hate speech. This may sound harmless, but it isn't. "Hate speech" is a misleading phrase, and it's no longer just about hate. Even things like [expert medical opinions](#) about transsexualism and gender identity have been labeled as "hateful" speech.

"Hate speech" is now broadly "defined" by many to include "offensive words, about or directed towards historically victimized groups," according to the [Cato Institute](#). The concept of hate speech has [expanded](#) to include [commonplace views](#) about racial or sexual subjects. That includes criticizing feminism, [affirmative action](#), homosexuality, or gay marriage, or opinions about how to address [sexual harassment](#) or allegations of racism in [the criminal justice system](#).

These broad definitions of hate speech aren't based on the First Amendment. In the past, the Supreme Court has ruled that there is [no "hate speech" exception](#) to the First Amendment, which [protects](#) speech [that](#) offends [minority groups](#). But foreign countries are [banning](#) hate speech on social media, and many legal scholars and civil-rights activists are now calling for America to follow their example and [ban hate speech](#) by limiting the First Amendment.

That's a bad idea, because both normal people, and even experts, run the risk of running afoul of broad bans on "hate speech." For example, Twitter recently applied its "rules against hateful conduct" to briefly [ban](#) an expert on sexuality

for stating in passing that transsexualism is a mental disorder. That was true even though the “[bible of psychiatry](#),” the DSM-5, indicates that transsexualism is a disorder, and the expert chaired the group that worked on that section of the DSM-5. Sharing his expertise was deemed hate speech.

As Ben Bowles [notes](#), Ray Blanchard is known for “his scholarly writing on gender confusion.” He also was “chairman of the working group on paraphilia” for the fifth edition of the “Diagnostic and Statistical Manual of Mental Disorders” (DSM-5), in which the classification of transgenderism was changed from a serious disorder to a milder one, “gender dysphoria.” As Bowles observes, “Paraphilia is a condition characterized by abnormal sexual desires, typically involving extreme or dangerous activities.”

On May 11, Blanchard tweeted a thread in which he acknowledged among other things that “transsexualism and milder forms of gender dysphoria are mental disorders.”

– Ray Blanchard (@BlanchardPhD) [May 11, 2019](#)

For that, his account was locked, along with the explanation that he had violated the social media site’s “rules against hateful conduct.”



After a public outcry, Twitter changed position and [reinstated](#) Blanchard’s account.

But social media companies are less likely to rethink a ban on speech if government officials are pressuring them to ban it. In other countries, social media companies have been threatened with [massive fines](#) worth millions of dollars over hate speech by their users. Given a choice between massive government fines and offending some users by banning their speech, they will choose to ban the speech, even if the speech

is expressed in a civil and non-threatening way, and contains true rather than false facts. Even a small chance that a government official will deem a user's comment to be hate speech may lead to a social media company banning the user.

Social media companies are not constrained by the First Amendment, because they aren't part of the government. So they can voluntarily restrict hate speech among users. But the government is not supposed to pressure companies to restrict speech, as judges ruled in [Rattner v. Netburn](#) (1991).

Banning what government officials consider "hate speech" would be dangerous. Government officials can be very determined to censor speech that conflicts with progressive dogma or left-wing ideology, by labeling it hateful or dangerous. A judge in Canada ordered a father to use the gender pronoun preferred by his child, rather than the pronoun of the child's biological sex, or face jail. The judge ruled that it was hateful emotional "violence" for the child's loving father to keep using the pronoun he had been using since the child's birth. As Tyler O'Neil [notes at PJ Media](#),

Last month, the Supreme Court of British Columbia issued an order that a father (referred to by the pseudonym 'Clark') may not refer to his 14-year-old daughter (pseudonym 'Maxine') as a girl or by her original name, whether in public or in private. Doing so has been ruled to constitute 'family violence' because Maxine identifies as a boy. According to a separate protection order, police may immediately arrest Clark if they suspect he violated this Orwellian order.

Justice [Francesca Marzari ruled](#) that any attempt to persuade Maxine that she is a girl constitutes 'family violence' because it would cause her 'psychological abuse in the form of harassment or coercion.' Since she is receiving 'treatment' for gender dysphoria (the persistent identification with the gender opposite her biological sex),

any encouragement to reconsider that ‘treatment’ is considered violence.

Clark ‘shall be restrained from: attempting to persuade [Maxine] to abandon treatment for gender dysphoria; addressing [Maxine] by his birth name; and referring to [Maxine] as a girl or with female pronouns whether to [Maxine] directly or to third parties.’ The order will last for one year.

In addition to these gag provisions, the order prohibits Clark from ‘directly, or indirectly through an agent or third party, publish or share information or documentation relating to [Maxine]’s sex, gender identity, sexual orientation, mental or physical health, medical status or therapies,’ besides the Court, legal counsel, medical professionals, or any person authorized by Maxine or the Court.

‘This Court has already determined that it is a form of family violence to [Maxine] for any of his family members to address him by his birth name, refer to him as a girl or with female pronouns (whether to him directly or to third parties), or to attempt to persuade him to abandon treatment for gender dysphoria.’

Treating “misgendering” as hate speech is dangerous, because government officials sometimes get individuals’ gender completely wrong, as those individuals themselves later acknowledge. Judges and other government officials have made mistakes that harmed individuals, their family members, and other people.

Jamie Shupe gives one example in “I was America’s first ‘nonbinary person.’ It was all a sham.” Jamie Shupe is, in fact, male, as he notes in the *Daily Signal*. But he wanted in vain to be a woman, due to a condition known as “autogynephilia.” When his therapist expressed skepticism about whether he would actually benefit from trying to change

his sex, he [filed a “formal complaint”](#) against her, and found a new therapist, who readily affirmed his new “identity as a woman.” But eventually he changed his mind and [decided](#) he was nonbinary, not female:

When the fantasy of being a woman came to an end, I asked two of my doctors to allow me to become nonbinary instead of female to bail me out. Both readily agreed...To escape the delusion of having become a woman, I did something completely unprecedented in American history. In 2016, I convinced an Oregon judge to declare my sex to be nonbinary—neither male nor female.

As a result of this ruling, a “nonbinary option” now “exists in 11 states,” even though Shupe’s “sex change to nonbinary was a medical and scientific fraud.” The judge’s ruling did not reflect even rudimentary consideration of the evidence. As Shupe [observes](#):

the judge didn’t ask me a single question. Nor did this officer of the court demand to see any medical evidence alleging that I was born something magical. Within minutes, the judge just signed off on the court order.

I do not have any disorders of sexual development. All of my sexual confusion was in my head. I should have been treated. Instead, at every step, doctors, judges, and advocacy groups indulged my fiction.

The carnage that came from my court victory is just as precedent-setting as the decision itself. The judge’s order led to millions of taxpayer dollars being spent to put an X marker on driver’s licenses in 11 states so far. You can now become male, female, or nonbinary in all of them.

A sensible magistrate would have politely told me no and refused to sign such an outlandish legal request. ‘Gender is just a concept. Biological sex defines all of us,’ that

person would have said...In January 2019, unable to advance the fraud for another single day, I reclaimed my male birth sex.

Judges' erroneous rulings in his favor harmed other people. Back when he identified as a woman, before being declared "nonbinary," a Pennsylvania judge allowed him to change his name and thus evade thousands of dollars in debts to his creditors:

Wanting to help a transgender person, she had not only changed my name, but at my request she also sealed the court order, allowing me to skip out on a ton of debt I owed because of a failed home purchase and begin my new life as a woman. Instead of merging my file, two of the three credit bureaus issued me a brand new line of credit.

Facebook recently called for [government regulation of speech](#) on social media, on a global basis. It probably thinks that its decisions to censor speech would result in less backlash from users, if it could say the government is making it do so, or if its decisions to censor receive a seal of approval from the government. But such regulation would be bad news for users. That's because government officials tend to be very biased in how they target speech for censorship, allowing truly odious speech even as they seek to ban speech by relatively harmless cranks.

Facebook itself has occasionally shown an ideological bias, [banning people like conservative activist Laura Loomer](#) even while allowing people to promote communist ideologies that led to the deaths of tens of millions of people. As [law professor Ilya Somin notes](#), communist regimes have killed from 80 million to 100 million people, even more than the Nazis did, and the largest mass murder in the history of the world was carried out by Chinese communist dictator Mao Zedong. But defenders of murderous Communist regimes remain on Facebook,

even as it [bans a few powerless right-wing cranks](#) as “dangerous” or hateful. And no government official anywhere seems to be pressuring Facebook to restrict communist speech.

As three scholars at the Competitive Enterprise Institute noted on May 3, Facebook’s call for government regulation of speech on social media was misguided, and such regulation would only [make things worse](#):

We [believe](#) that as well as violating the First Amendment in the United States, this effort would effectively lead to the global certification of leftist and socialist ideologies by governments and the official sidelining of dissident free market liberal voices that challenge the so-called progressive, pro-government consensus. That suppression of speech is tyranny. It is exactly what led to the ratification of the First Amendment.

‘There are many controversial and extreme voices in the world, not just the ones singled out yesterday by Facebook. People on social media regularly endorse the communist philosophies that killed millions in the last century. But the answer to such objectionable speech is more speech, not less.

—

This [article](#) has been republished with permission from Liberty Unyielding.

[Image Credit: Flickr-Andy Rennie [CC BY-SA 2.0](#)]