

YouTube takes down debate on vaccinations

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By ALAN DERSHOWITZ APRIL 19, 2021 16:29



RESIDENTS OF Inglewood, California, receive COVID-19 vaccinations at a temporary vaccine station last month. (photo credit: MIKE BLAKE/ REUTERS)

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Last summer Bobby Kennedy, the distinguished environmental lawyer, and I had a thoughtful and substantive debate about the constitutionality of compelling people to be [vaccinated](#) against COVID.

Many people watched the debate on YouTube and commented on its educational value. Both sides were presented fairly and effectively, and viewers were able to decide for themselves who got the better of the argument. But that will no longer be possible, because YouTube has emailed the following to Children's Health Defense: "Our team has reviewed your content and unfortunately we think it violates our medical misinformation policy. We have removed the following content from YouTube: Kennedy and Dershowitz debate."

YouTube did not disclose the reason why they believed the debate violated their medical misinformation policy. Nor did they specify what was "misinformation." Surely the debate over the constitutionality of mandatory vaccination did not contain medical misinformation. In my portion of the debate, I provided no medical information, so I could not have provided "misinformation."

If YouTube believes that Kennedy's part of the debate contained medical misinformation, they should specify precisely what constitutes such misinformation, so that Kennedy can either provide documentation or remove the offending material. Instead, they simply took down the entire debate, thus denying their viewers the opportunity to participate in the open marketplace of ideas regarding the important issue of compelled vaccination.

I oppose all censorship of ideas by YouTube, but I oppose even more strongly the censoring of debates that present all sides of an issue. Such debates are the heart and soul of American democracy. If YouTube had been in existence at the time of the Lincoln-Douglas debates, would they have taken them down because they contained some offensive racial references? Would they have taken down the debates over the ratification of the Constitution because they contained justifications of slavery? Are they going to take down other current debates about the source of the virus, about mask mandates or the opening of businesses? Where will it stop?

By taking down our debate while leaving up many false statements – medical, historical and scientific – YouTube conveys the impression that they somehow validate the truth of everything they don't take down. By thus implicitly attesting to the truth of these many falsehoods, YouTube itself would seem to be violating its own policies. That is part of the problem with censorship: Either it censors selectively, thus validating what it doesn't censor, or it censors pervasively, thus keeping much valid information from the public.

CONSIDER FOR example recent social media postings that compare certificates showing that a person has been vaccinated – so called "vaccination passports" – to the yellow Star of David that Jews were required to wear in areas under Nazi control during the Second World War.

Among the people making this bizarre, bigoted and ahistorical comparison are Congressional Rep. Madison Cawthorn, a freshman Republican from North Carolina. He has said, "Proposals like these smack of 1940's Nazi Germany." The Libertarian party of Kentucky has asked the following rhetorical question: "Are the vaccine passports going to be yellow shaped like a star and sewn on our clothes?" Ambassador Richard Grenell, former president Trump's ambassador to Germany, who is now a member of the US Holocaust Memorial Council, tweeted a meme that showed a Nazi soldier accusing someone of "hiding vaccinated people under your floor boards." This was based on a quote from the film Inglourious Basterds.

In Great Britain, a right-wing writer named James Delingpole published the following tweet: "Wouldn't it be better to just cut to the chase and give unvaccinated people yellow stars to sew prominently on to their clothes?"

These ignorant and bigoted comparisons are not-so- subtle forms of Holocaust-denial: They imply that the Holocaust was nothing worse than allowing vaccinated people to have a certificate, or even denying unvaccinated people the right to infect others. Compelling Jews to wear the yellow star was designed to identify them for transport to death camps where they, their children and parents were forced into gas chambers and murdered. A vaccine certificate is a symbol of life not death.

Whether one agrees or disagrees with vaccination certificate or passports, no analogy should ever be made between such public health documents and symbols of death during the Holocaust. Yet, despite my outrage over this analogy, I would not ask YouTube to take down these hateful posts.

In America we debate, we disagree, we argue. We tolerate bigoted rap songs, hate speech, even Holocaust-denial. We don't censor.

Social media are private businesses not governed by the First Amendment. They have the right to do the wrong thing, including to censor. We have the

right to object to their doing the wrong thing by speaking out against them. I am exercising that right in this column.

*The writer is the Felix Frankfurter professor of law, emeritus at Harvard Law School and author of *Guilt by Accusation: The Challenge of Proving Innocence in the Age of #MeToo*, Skyhorse Publishing, 2019.*

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