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By NADINE STROSSEN
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Don't make him a martyr. (Tamir Kalifa/AP)

In banning Alex Jones from their platforms this week on the basis of “hate speech,” the big tech giants Facebook, Apple and YouTube have done what few others could: They’ve turned Jones into a free speech martyr.

Jones, the repellent conspiracy theorist who is currently being sued for defamation by grieving Sandy Hook parents for claiming that the massacre of 20 schoolchildren in Newtown was a hoax, is crying “censorship.”

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Those are crocodile tears: The day after he was banned, his Infowars iOS news app soared to fourth place in the news section from 33rd (Apple banned him on its podcast platform, not in its App Store), and he’s getting plenty of ink in the “mainstream media” he deplors.

Conspiracy theories are Jones’ product, so the blocking plays right into his hands.

To be clear, Jones’ constitutional rights are not at issue: The First Amendment’s free-speech protections do not apply to the private sector, and private companies have their own First Amendment rights to decide what they publish.

But if you’ve been rejoicing in Jones and his ilk being taken down, you’re giving yourself false comfort. The very same discretionary power used to censor Jones is being used to single out ideas

that you may like as well. It's inevitable, given that "hate speech" is an entirely subjective term with no legal definition.

Case in point: A 2017 [ProPublica](#) analysis of Facebook's internal documents found that "at least in some instances, the company's hate-speech rules tend to favor elites and governments over grassroots activists and racial minorities." In 2017, for instance, Facebook censored self-described "queer rights activists" for using words such as "dyke" and "fag." Boston poet and Black Lives Matter activist Didi Delgado deplored "the increasingly common Facebook censorship of black activists," some of whom use the nickname "[Racebook](#)."

Or look at Jones himself. He's been fomenting his particular brand of online vitriol for over a decade. Just last month, Facebook [defended](#) his free speech rights on Twitter. Today he's *persona non grata*.

The very vagueness of these "hate speech" policies — each one of them worded differently — allows social media companies to act arbitrarily, sometimes in rash response to public pressure.

Entrusting these powerful private-sector companies to decide what we can see, hear and discuss online is, simply put, a very bad idea.



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So what is to be done? The solution implicates both the creators and the users of social media.

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Big tech needs to get out of the business of policing speech and institute policies that adhere to the bedrock principle underlying the First Amendment as declared by the Supreme Court: “Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.”

Both Congress and the courts have paved the way for this option. In its first law regulating the Internet, the Communications Decency Act of 1996, Congress essentially immunized online platforms for anything posted by a third party. And in an important ruling last year, the Supreme Court lauded social media as a “quintessential forum for the exercise of First Amendment rights” and the most important space for the exchange of views — even those we loathe.

A 2016 [report](#) about counterspeech on Twitter concluded that hateful and other “extremist” speech was most effectively undermined by counterspeech rather than by censoring, in part because of the futility of trying to remove anything once it's been posted.

By allowing social media companies to outlaw certain types of speech, we're denying ourselves the opportunity to take a stand.

Strossen, the John Marshall Harlan II Professor of Law at New York Law School, is author of “Hate: Why we Should Resist It With Free Speech, Not Censorship.”