

Top Biden Transition Team Member Wrote Widely Criticized Op-Ed Advocating First Amendment Crackdown

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Richard Stengel, the Biden transition team's "Team Lead" for the U.S. Agency for Global Media, wrote a widely criticized op-ed last year in The Washington Post advocating for a crackdown on the First Amendment, specifically criminalizing hate speech.

The U.S. Agency for Global Media is America's "government media empire that includes Voice of America, the Middle East Broadcasting Networks and Radio Free Europe/Radio Liberty," the New York Post reported.

Stengel wrote the controversial op-ed, titled, "Why America needs a hate speech law," late last year. In the op-ed, Stengel argued that Russia allegedly interfering in the 2016 presidential election and the burning of a Quran were examples of how the First Amendment protected speech too much.

"All speech is not equal," Stengel claimed. "And where truth cannot drive out lies, we must add new guardrails. I'm all for protecting 'thought that we hate,' but not speech that incites hate. It undermines the very values of a fair marketplace of ideas that the First Amendment is designed to protect."

Stengel said that when he was a journalist that he loved the idea of free speech, but when he became a diplomat his views changed.

"But as a government official traveling around the world championing the virtues of free speech, I came to see how our First Amendment standard is an outlier. Even the most sophisticated Arab diplomats that I dealt with did not understand why the First Amendment allows someone to burn a Koran. Why, they asked me, would you ever want to protect that?" he wrote. "It's a fair question. Yes, the First Amendment protects the 'thought that we hate,' but it should not protect hateful speech that can cause violence by one group against another. In an age when everyone has a megaphone, that seems like a design flaw."

Stengel suggested that the problem with the Constitution was that it was "engineered for a simpler era."

He claimed:

The amendment rests on the notion that the truth will win out in what Supreme Court Justice William O. Douglas called "the marketplace of ideas." This "marketplace" model has a long history going back to 17th-century English intellectual John Milton, but in all that time, no one ever quite explained how good ideas drive out bad ones, how truth triumphs over falsehood.

Milton, an early opponent of censorship, said truth would prevail in a “free and open encounter.” A century later, the framers believed that this marketplace was necessary for people to make informed choices in a democracy. Somehow, magically, truth would emerge. The presumption has always been that the marketplace would offer a level playing field. But in the age of social media, that landscape is neither level nor fair.

On the Internet, truth is not optimized. On the Web, it’s not enough to battle falsehood with truth; the truth doesn’t always win. In the age of social media, the marketplace model doesn’t work. A 2016 Stanford study showed that 82 percent of middle schoolers couldn’t distinguish between an ad labeled “sponsored content” and an actual news story. Only a quarter of high school students could tell the difference between an actual verified news site and one from a deceptive account designed to look like a real one.

The op-ed was slammed across the political spectrum by notable political figures, left-wing journalists, conservatives, and others.

Responses included:

- David Harsanyi, National Review Senior Writer: “In the paper that warns us ‘democracy dies in darkness,’ Richard Stengel says we should trust Middle East fascists over the Founders when it come to free expression.”
- Walter Olson, CATO Institute Senior Fellow: “When Establishment figures declare that they’ve changed their mind on free speech and now think there should be less of it, know that they expect the speech that gets throttled to be yours, not theirs.”
- Sam Harris, left-wing atheist: “Not sure if I’ve read anything this misguided in my life... ‘Why America needs a hate speech law.’”
- Jesse Singal, journalist: “For the newsletter I am close-reading this WaPo column and WOW does it not make sense. This..... isn’t true at all! Not even close!!!! THE FIRST AMENDMENT DOES NOT SAY RUSSIAN TROLLS HAVE A RIGHT TO TWITTER AND FACEBOOK EXPRESSION, RICHARD!!!!!!”
- Eric Schmitt, Missouri Attorney General: “The #1A protects fundamental expression. What’s the best answer to offensive speech? Not censorship, not violence-more speech, better arguments. Simply put, empowering government to pick & choose what’s acceptable speech is a cure worse than the disease.”
- T. Christian Miller, Propublica senior investigative reporter: “We’re in trouble when a former top diplomat and journalist cites the confusion of Arab diplomats – all of whom represent totalitarian regimes – as an argument for restricted speech.”
- Suzanne Nossel, CEO PEN America: “Surprised the brilliant @stengel wants to see states experiment with hate speech laws. US and global experience shows that such laws are used to target minorities, dissenters and speech that is threatening to authorities.”
- Ben Schreckinger, Politico reporter: “This trend of journalists calling on the state to pass laws curtailing speech is really quite something. Today it’s a former journalist who also worked in government — claiming that the First Amendment only worked ‘in simpler times.’”

- David S. D'Amato, CATO Institute: “Really scary stuff from @stengel — giving him the benefit of the doubt here, I’d say that he doesn’t know what he’s actually asking for or how dangerous this is.”
- Jeb Bush, former Florida governor: “Who decides what is hate speech? The party in power? Banana Republic talk.”
- Brendan Carr, FCC Commissioner: “This op-ed gets the First Amendment backwards. It would give the government and politicians license to shut down ideas and silence groups they don’t like. Indeed, speech seeking political, social, or economic change is often labeled as ‘hateful’ by those in power.”