

Jacob Mchangama

In conversation with Andrew Kelly

Andrew Kelly: Hello, and welcome to Bristol Ideas. I'm Andrew Kelly, and I'm hosting today's event. Freedom of thought and freedom of speech are at the heart of our work. But there's no question that freedom of speech, even in mature democracies, faces criticism, is under attack, is sometimes compromised, and advances made by one generation can be reversed by another.

There's no one better to discuss this with than Jacob Mchangama. Jacob is a lawyer, human rights advocate and former external lecturer of human rights at the University of Copenhagen. He is the founder and director of Justitia, a Copenhagen-based think tank focusing on human rights, freedom of speech and the rule of law. His writings have appeared in many newspapers and journals around the world, including *The Economist*, *Foreign Policy* and *The Washington Post*.

His new book is *Free Speech: A Global History from Socrates to Social Media*. The book builds on his podcast, *Clear and Present Danger: A History of Free Speech*, which has reached an audience of many hundreds of thousands of people in more than 120 countries across the world. This event is part of our series on the future of democracy. Jacob, thank you for joining us.

Jacob Mchangama: Thank you so much, Andrew.

Andrew: You cover in this book – this excellent book – the long road, the people involved, the writings and speeches, the laws made and the campaigns for freedom of speech. I took many things away from reading this book, much of which was new to me. What struck me most of all is how much we build on the past with this – the many centuries of work, the many setbacks that have been faced – and there's a need for us to be vigilant to protect what we have, as well as extend it.

Jacob: I certainly agree, at least if you think free speech is a good idea, which is not a given, of course. I very much agree that it's a long history. I traced the origins of free speech back some 2,500 years ago to the Athenian democracy. There might have been earlier cultures where free speech was a crucial component, but if so, history hasn't left us any records, at least not ones that I have uncovered.

I don't think it's a coincidence that the Athenian democracy was the originator of free speech, because democracy and free speech go hand in hand. Since then, free speech has been lost, has been rediscovered, has been lost again, and built upon. Many of the same arguments that we fight over today are arguments that have been made before, from to what degree we can allow ordinary people direct access to the public sphere, to what we should do about new communications technology, what about lies and propaganda, what about hateful speech, and so on. All of these arguments and discussions have been advanced before. We actually have some historical experience with what happens if you try to limit free speech. So I'm happy that you took away those lessons from the book – that was certainly intended.

Andrew: Now there are some people who don't believe free speech is important. We see examples of that around the world. I'm glad you mentioned that in your introductory comments. But why is it important? There are many instrumental reasons why it's important, there are many moral reasons why it's important.

Jacob: Sure. I don't subscribe to one overarching justification to the exclusion of all others. I tend to think there are many good arguments in favour of free speech that are mutually supportive rather than mutually exclusive. One is, how can you have a democracy where people ultimately have the power to decide on issues? We have a representative democracy, whereas the Greeks had a direct democracy, but still, how could you meaningfully vote for

politicians in a representative democracy if you don't know what ideas they subscribe to, what political philosophies they have, and if you can't follow debates in Parliament? And, of course, you want to be able to criticise them, or you want to give them feedback, you want to be able to petition them, and you want civil society and the media to keep a vigilant eye on what politicians and governments get up to. In your country, that has led [recently] to the resignation of your Prime Minister, Boris Johnson.

Without free speech, certain parties might not have come to the attention of the public and your Prime Minister might still be in office. Whether you're in favour of him remaining or not, I think that shows the strength of free speech: you can actually hold the powerful accountable.

But of course, one of my favourite memes of free speech is that it's the bulwark of liberty. It's a meme that is advanced by these radical British Whigs who write these pamphlets called the *Cato's Letters* in the early eighteenth century, and there they advanced this idea that free speech is really the bulwark of individual liberties. I think that's true.

Whether you are concerned about social justice, racial justice, torture or privacy or climate change, whatever, your most important weapon is going to be the ability to mobilise others, to create attention for your cause, to criticise those who you believe impede whatever position you want to advance, and you want to be able to persuade your co-citizens, to rally them into action. In that sense, free speech is also essential for all other liberties, and, of course, I would also say the inherent dignity of every individual. You have certain ideas that are unique to you, but if you can't express them because someone forces you into silence that is also something that violates your inherent dignity as a human being. Of course, scientific progress would be very difficult if you didn't have a culture of free speech at the universities and so on. So I think there are many benefits.

And I would even say in many ways free speech is the antithesis of violence, in the sense that it is really the only way that people of very different philosophical, political, religious ideas can live together and compromise and come to solutions in peace, rather than try to coerce or use force against one another. So I think you need radical free speech to have a pragmatic society where people can compromise and live in peace despite their differences.

One more aspect of it is, I would say, that in many ways, free speech is the most powerful engine of human equality that human beings have ever stumbled upon. Every marginalised, oppressed group, from racial, sexual or religious minorities to women, has relied on the practice and/or principle of free speech to advance their cause, to stake a claim for tolerance and acceptance. I think the American abolitionist Frederick Douglass said it best. He said the right of speech is a very precious one, especially to the oppressed. So, that was a non-exhaustive list of what I find to be really important justifications for free speech.

Andrew: And I think if you look at questions, say the question of the matter of race and racial justice, you look at what Martin Luther King said, you look at what Nelson Mandela said – both prime advocates for freedom of speech.

Jacob: Yes, exactly. You can go all the way back to the whole battle over slavery in the US. I mentioned Frederick Douglass, and he was someone who was heckled at an abolitionist meeting in Boston in 1860. White Bostonians would not give him a platform because they feared their commercial interests in the south. A lot of southern states in the US had really, really draconian punishments for advancing abolitionist ideas – some of them had the death penalty. And when it comes to British colonialism, Gandhi advanced a pretty radical conception of free speech, saying that you should be able to criticise any person or system as long as you didn't advocate violence. He said that when he gave a very famous speech when he was actually sentenced by a British judge to six years in prison for sedition for peaceful resistance to British colonialism.

I think it's quite sad to see that in a number of former British colonies, colonial-era restrictions on free speech and on sedition and so on are still on the books and are now being used by – whether it's in Hong Kong, whether it's in India, a number of African states – to silence the very people who were supposed to benefit from decolonisation. And, as you mentioned, South African apartheid relied heavily on censorship. Nelson Mandela, just before he became President, gave a really, I thought, eloquent speech about the merits of free speech and why the new South African democracy should build on the fundamental value of free speech.

So that, I think, is a common thread throughout history, but maybe... I think newer generations don't seem to make that connection to the same degree as those who witnessed the big cultural changes. Those in the US, for instance, who still remember the dark days of racial segregation in the south – they, I think, connect and see that free speech was crucial to the cultural changes that brought about a higher degree of tolerance and racial justice. Whereas today, younger generations, who to a much larger degree take those values for granted, see that free speech can amplify hatred and extremism on social media. And so they, to a certain extent, equate free speech with racism and see it as a threat to minorities, whereas the history of free speech, I think, shows the opposite – that free speech tends to be on the side of the oppressed and minorities.

Andrew: I want to come back to that point particularly, but I wanted to first of all talk about what are the conditions that make successful change happen? What makes free speech happen? As I was reading your book, I kept a list of the things that came to me in what creates successful free speech, and I couldn't work out in the end which ones were cause and which ones were effect. But you talk about a cultural revolution as well as a political revolution. I want to come back to revolution later on, but that's a key point, I think.

Jacob: Yes, I think that's a really good question. I don't know that I have a persuasive answer. Maybe political scientists and sociologists and anthropologists have better answers than I do. You can make some obvious observations, in that mature democracies are much better at respecting free speech, but that sort of goes hand in hand, because what made them mature democracies in the first place? What I would say is I think that a culture of free speech and a culture of tolerance of social dissent is probably more important than how you formulate legal rules, or to the extent that if you have legal rules, if you have strong legal protections for free speech, for instance, they will not necessarily be enforced or understood in a speech protected manner if you have an intolerant underlying culture. In the UK until, I guess, the Human Rights Act, there was no specific protection of free speech, no constitutional protection. But still, compared to many other places in Europe, there was a larger degree of press freedom in the UK due to a culture of free speech. So that is important.

And how does that culture of free speech come about? I think the Dutch Republic is a really interesting example. Even before press freedom becomes a thing in the UK, where pre-publication censorship is finally abolished in 1695, in the Dutch Republic of the seventeenth century, you have a comparatively high degree of religious tolerance and press freedom. There's no legal or constitutional protection of press freedom as such, but you have a decentralised authority. So the provinces have a high degree of autonomy, you have a very weak central authority. If someone is censored in one province, you can skip lines and settle in another province. And also the Dutch were mixed along religious lines, they intermarried and they were quite open to commercialism, had a comparatively cosmopolitan culture in cities like Amsterdam. All these things came together to create a more vibrant public sphere that I think is instrumental to creating the conditions for free speech.

But of course, very often something very dark has to come before. People also have to realise that, OK, either we fight to the death and one branch of

religion or political ideology gets to win everything and persecute the other, or we accept, perhaps initially grudgingly, that we have to tolerate living with people who have different ideas about religion or politics. That's another way that can prepare the ground for larger tolerance and ultimately free speech.

Andrew: There are a few other things – just to pursue this a little while – and the Dutch example is a good one. I also took growing levels of literacy as important, a diverse range of publishers, and printers in fact, which are needed to print the material to publish it. And in the UK, predominantly around London, I guess, the growing use of coffeehouse culture and debates there. Now, as I said, these might be that you've got free speech and you can do these things, or they contribute to a better atmosphere for developing more freedom of speech in the future. But I think these are important too, aren't they?

Jacob: Yes, definitely. I think it's a bit like today. Social media and the internet are still comparatively new. There's this elite panic about, you know, things are extremely dangerous about what people are saying on social media. That's something that we see again and again throughout history. We certainly saw that with the pamphlets and radical newspapers and so on, even into the nineteenth century in the UK where you could go to jail for long stretches of time if you opposed the official religion or advocated universal suffrage.

And so this idea of providing the 'unwashed mob' with an equal voice in public affairs was certainly not something that was acceptable in the early nineteenth century UK. But what you see is that when you have high degrees of literacy, when, gradually, people are being accustomed to being confronted with viewpoints that were previously seen as so dangerous that no state could exist if those viewpoints were given publicity, you see suddenly, well, the world will not fall apart if, you know, we allow Catholics to worship publicly, if we allow radicals to voice their ideas and so on. When you actually live side by side with people with ideas that you loathe, you get

a public sphere that becomes gradually more accustomed to new ideas and you don't see such new ideas as posing an existential danger and threat to your values or the social cohesion of the state as you did previously. So that's another thing.

And of course, literacy plays a huge part, because when you have a higher degree of literacy, ordinary people can start reading and writing for themselves, and if you allow ordinary people access to the Bible, for instance, they're not going to have the exact same ideas, and you have a whole alphabet soup of various sects sprouting up with the Reformation. Initially, that does not lead to happiness and coexistence – it leads to dreadful persecution. But over time, you see you can actually have a functioning state, even if you have Anabaptists and Collegiants and Unitarians and whatnot living side by side. Not everyone has to subscribe to religious orthodoxy. It's the same thing in politics – you can actually have working-class people advocating for social change and that will not make the state collapse.

Andrew: The other point on this that I would point to is about the growing urbanisation of some of these countries, and how nowadays we see cities – not all cities, and they're not perfect by any means – but cities as places where you can come to, you can meet other people, you can join debates, you can find a perhaps more tolerant area than you've come from. And I was very much taken by, again, the example you give of the great French *Encyclopédie*, Diderot's *Encyclopédie*, where it was the French cities with the most subscribers to that who were the most innovative and prosperous 100 years after the publication.

Jacob: I think that's still the big draw of cities like New York and London and Paris today – you go there to meet fascinating people, to be at the cutting edge of ideas and lifestyle and creativity. That was also the case early on, and that expands your horizon, it gives you new perspectives on life, and that in turn creates a positive feedback loop that opens you to a higher degree of

tolerance, and you can take those ideas, those new perspectives, and with greater mobilisation. When you suddenly have the telegraph, you have trains, you have steamboats and so on, ideas move across borders and that tends to, in a lot of instances, expand tolerance.

Of course, it's not a one-way direction. We've certainly also seen in modern times, it's not that once you have a critical mass that accept free speech that it's certain to hold, because in many ways free speech is a counterintuitive principle to human beings who are perhaps quite tribalist by nature. When we sense that our way of life, our ideas, social cohesion, our communities are under pressure, are threatened by the others, then we can revert to pretty draconian conceptions of intolerance, and that can change rapidly. So in that sense it's not, you know, once we've reached free speech at a certain level, then we can just take it for granted. I think that's what we're seeing right now, where for more than a decade free speech has been in a recession, I'd say, even in democratic states. Democratic governments are pushing all kinds of laws to rein in free speech.

Andrew: Let's look at a few of the examples you give through time, because I think it shows both why free speech developed during these periods, but also some of the limits that were put on free speech. And I think we should remember that there are always limits. There's always a 'but' on this, isn't there? So you talk, for example, about the English revolution and the role of the Levellers there – talk us through that one.

Jacob: Well, the 1640s is, of course, a very tumultuous time. John Milton is the one who is being identified with free speech, or at least press freedom. He's the one who's famous for the *Areopagitica* of 1644, which was an unlicensed pamphlet arguing against the reintroduction of pre-publication censorship by Parliament in 1643. But if you read Milton more carefully, you see that he's not in favour of free speech for Catholics or atheists – he's more or less in favour of free speech for mainline Protestants who are at each other's throats. Certainly not for more radical ideas. He's perfectly fine with

book burnings. He's perfectly fine with blasphemy bans. He ends up serving as a censor under Cromwell.

The Levellers are, I think, much more deserving of the free speech mantle during these years. They have pretty radical ideas about universal male suffrage, about universal freedom of conscience and also oppose both pre-publication and post-publication censorship. There are a few ifs and buts, but on the whole it's a very radical argument in favour of free speech advanced by the Levellers, but one that I think, at least outside the UK, has been forgotten by history. But it's interesting to see that there's a lot of commonalities between Leveller ideas about free speech and democracy and the ideas that some of the American founding fathers would revive more than a century later that become instrumental in the American Revolution and the Constitution, even though that heritage is mostly unacknowledged. So people like John Lilburne, William Walwyn and Richard Overton, Levellers who wrote more than 100 tracts, many of them touching on free speech, but who suffered pretty sad fates and were censored and imprisoned and persecuted and therefore their ideas perhaps did not gain the traction that they might have deserved, at least from a modern point of view.

Andrew: I wanted to come on to the American Revolution next, the bulwark of liberty that you talked about earlier. What were the strengths and the limits of that when it came to free speech?

Jacob: The ideas that motivated them certainly came from England, from the UK, especially *Cato's Letters* and Cato's Letter Number 15 on free speech, which created this meme that free speech is the bulwark of liberty. That sort of went viral in the colonies – it was shared in taverns, it was reprinted endlessly in colonial newspapers and it created a resistance to seditious libel prosecutions by colonial governors. There was a famous case in 1735, I think, where a jury refused to convict a printer for seditious libel. After that case, it became virtually impossible for governments to convict American colonists in jury trials for seditious libel. That, in turn, made it much easier for colonial

dissent, anti-British sentiment, to rise up because it could no longer be contained by legal measures. So that created a culture of free speech that was instrumental in rousing colonists against the British, sort of starting in the 1760s in earnest and, of course, culminating with the American Revolution and the successful – depending on your perspective – Revolutionary War.

It's interesting that free speech does not play much of a role in the Constitution. Madison comes up with a draft of what would become the first amendment as the Bill of Rights, just sort of an appendix to the original Constitution, which doesn't contain a Bill of Rights, but still, in his original draft, he mentions the bulwark of liberty, and the bulwark of liberty is mentioned explicitly in the Virginia Bill of Rights. You quite clearly see that these radical Whig ideas were instrumental in shaping American thinking about freedoms. But on the other hand, it was also quite clear that their ideas about free speech were much more radical and egalitarian than the British conception of free speech. The British conception of free speech was a very elitist one, where you distinguish between liberty and licentiousness, and licentiousness almost always meant what elitists found distasteful or dangerous to the class-based structure of British society, and so it was not to provide a voice to the 'unwashed mob', the commoners, or religious minorities that were deemed beyond the pale, whereas in America free speech was seen as instrumental – power originated in the people and so the people should be free to chastise those who ruled in their names.

Andrew: Just on the Constitution then. Of course, the Constitution ignored the free speech of some people – slaves – but it's still seen as one of the most important founding documents, isn't it?

Jacob: Yes, definitely. But the First Amendment was for a long period – I don't know if it's still the case in the US today, I think there's some degree of free speech scepticism in the US now – but it's maybe the closest thing to a secular article of faith in the US, the belief in the First Amendment. But

however radical the First Amendment is on paper, which basically says that Congress shall pass no law that limits, among other things, press freedom and freedom of speech, and it's sort of written in absolutist language, it was not understood to be absolute absolute, but it was written in absolute language. I think Madison's ideas were pretty radical, but you really have to get into the twentieth century before it gets real teeth, the First Amendment. For a long time, it didn't apply to the states, it only applied to the federal government, so, as you rightly said, southern states could adopt all the laws they wanted to limit free speech not only of slaves but also those who opposed slavery, and the First Amendment had nothing to say about that because it didn't apply to the states, it only applied to the federal government.

Even in the early twentieth century, you had a number of red scares, you had people put in prison for 10, 20 years for opposing American involvement in World War One. But then you also see a counter reaction to that. And then gradually, the First Amendment starts getting more teeth and become quite speech protective, culminating sort of late 50s, 60s and 70s, and especially with the civil rights movement – that wins a number of landmark cases that dramatically expands the protection of the First Amendment. So it's certainly an important document, though for a long time it was a paper barrier, as Madison might have called it.

Andrew: Not so far away from the American Revolution and the War of Independence was the French Revolution, which started with strong advocacy of free speech, but that declined rather rapidly, didn't it?

Jacob: Yes. And I think this goes back to my point about a culture of free speech. As I mentioned, there was a long time in colonial America where de facto there was free speech, because these ideas had migrated from the UK, and it was no longer possible to convict people for seditious libel. So people had been accustomed to exercising free speech and saw that as a right. And also there was decentralised authority in the various colonies. France, of

course, was a much more centralised state, with a union between throne and altar, so Catholicism and absolutist rule. Of course, that softened a bit in the eighteenth century, under the impression of the philosophes and the Enlightenment, and censorship became less strict, but nonetheless in the 1760s you still had people being executed for blasphemy and the like. So outside smaller circles of philosophes, who had a right to publish learned ideas, there was no culture of free speech in France, comparable to America. I think that contributed to why the French Revolution and the revolutionaries could not agree to live and let live, and where, ultimately, the principle of free speech and its limits became a question of life and death. There was a time when in France you'd be executed for religious heresy, but as the revolutions sort of spiralled out of control, and with the terror, then political heresy became akin to a death sentence, and you'd be executed. I think a huge part of the reason for that was the lack of a culture of free speech. So suddenly the floodgates were open, and people just disagreed about where the limits should be because they were not accustomed to it.

Andrew: Let's move into the twentieth century and just two examples I wanted to talk about, because we've covered things like civil rights in other questions. The first is about the Weimar Republic, and how the rise of Nazism tried to be avoided. You're absolutely right in the book to say you shouldn't see German collapse and the rise of Nazism solely through a free speech lens. But nonetheless there are important lessons, I think, to learn from this, aren't there?

Jacob: Yes. I think one of the most used and frequent arguments in favour of limits on extreme speech in contemporary democracies is the rise of Nazism and the collapse of the Weimar Republic. The intuitively appealing and logical idea is if you want to keep a democracy, you have to limit the free speech of the enemies of democracies, because if you allow them the democratic means to get into power, they will do away with democracy, and we saw in Germany what that can lead to.

The problem with that argument is that the Weimar Republic, even though compared to what went before it, it had constitutional protection of press freedom and so on, but there were also a number of quite strict limits on free speech in the Weimar Republic. There was pretty strict censorship of the radio – Nazis and communists could certainly not get on. As political violence spiralled, emergency laws were adopted. In some German states, the governments could administratively suspend newspapers for a couple of months if they spread fake news or attacked government officials, and that happened to a lot of Nazi newspapers. Even Hitler himself was banned from speaking in a number of German states.

And what happened was that the Nazis used this cleverly to paint themselves as martyrs, as being persecuted by the degenerate liberal democracy run by Jews. Someone like Julius Streicher, who was the editor of the sickening antisemitic *Der Stürmer*, was sentenced to prison on a number of occasions. That was in Nuremberg, and he was sentenced to prison for these antisemitic blood libels that he published in *Der Stürmer*. And in less than a year after that the Nazis dramatically increased their share of votes in Nuremberg.

So that also raises questions about how effective censorship in democracies is. If you really want to crush the political dissent, you have to be almost willing to go to Chinese or Soviet lengths to do so, and then you lose the democratic and open nature of your society.

I think one more indictment against the idea that democracy should fight appalling ideas or extreme ideas is that the laws adopted by the Weimar Republic were used by the Nazis when they came into power by democratic means. Even though they never obtained an outright majority, they came into power through democratic means and some machinations, then they used these emergency laws and even the emergency provision in the Weimar Constitution to suspend free speech, to adopt laws against fake news and ultimately completely do away with all civil liberties. And so in that sense, is that a good precedent to adopt? I'm not convinced. I think if you argue in

democracies, at least if you're committed broadly to liberal ideas that underpin democracy, then I think if you want to limit free speech then at the very least you should have the burden of proof when it comes to arguing that this will be a necessary and effective means of achieving a goal. And to me, the history of the Weimar Republic doesn't lift that burden of proof.

Andrew: Moving almost to the end of the century, and the Velvet Revolution and the collapse of communism, and here you had, in many cases, a bloodless revolution, you had democracies created, but it built upon a lot of work, didn't it, going right back to the Helsinki Accords through to creation of Charter 77, the Samizdat material, and the growth of informal civil society within those countries prior to the revolution itself?

Jacob: Sure. And this is a very optimistic phase in history, as opposed to today, where we tend to think of liberal democracy in crisis and recession...Today, democracies are on the defensive, they're willing to compromise free speech, but at that time, they were much more optimistic, they saw the potential of free speech to undermine totalitarian states from within. So the Helsinki Accords advanced the idea of human rights. Western states get the Soviet bloc to accept human rights ideas, and that is used by dissidents behind the Iron Curtain to try to hold their governments accountable, and it gives human rights groups – new human rights groups like Amnesty, groups like what will become Human Rights Watch – something to hold on to, to say, listen, you're violating these rights of your citizens. It also provided Western democratic governments something to beat the Soviet bloc with, and so in that sense, it created momentum for groups of dissidents within the Soviet bloc. It gave them legitimacy, it gave them a voice. It made the Soviet bloc sort of hesitant about the degree to which they could crack down on them because it would show that they violated the Accords that they just signed, and it would show them as hypocrites.

Of course, they ultimately ended up violating them, but it put them on the spot, and I think contributed significantly to the fall of communism. Again, it would be irresponsible to try and explain the collapse of communism through the lens of free speech – many other factors contributed – but I think it certainly played a part and you see that in speeches by Václav Havel and Lech Wałęsa, who were instrumental in Czechoslovakia, as it was called at the time, and Poland in the overthrow of communism, and both of whom became presidents of their respective countries after being imprisoned as dangerous dissidents.

Andrew: And I suppose it builds on what had taken place some decades before with the Universal Declaration of Human Rights.

Jacob: It builds on the ideals of international human rights. The Helsinki Accords refers to what is called the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, so these attempts to draft legally binding human rights treaties for all states, at least all states that ratify them, to observe and respect. So, again, this was a very optimistic time in sort of the third wave of democracy, where democracy expanded and authoritarian states collapsed. And you thought that this was the ultimate triumph of democracy that would conquer all before it, and free speech would be extended to all corners of the world. And then we woke up to a different reality that we're still living through.

Andrew: And one of the sadnesses, of course, of the Velvet Revolution is where countries like Hungary and Poland are now.

Jacob: Yes, definitely. Of course, this is another constant through history – people and movements that argue for free speech at a certain moment are very rarely principled and very often more than willing to compromise free speech. They use it as sort of a rhetorical strategic tool for mobilisations when they're under pressure and the minority, and then when they get into

power, they're willing to sacrifice free speech and deny it to their own opponents. Viktor Orbán, who was an anticommunist liberal at one point, is a very good example of someone who has, in a very clever way, I think... In Hungary, you don't see people being yanked from the streets and put into prison the way that they were during communism. He's much more clever in the sense that he has his cronies owning private media and creates these rules that make it difficult for an alternative media, a government-critical media, to have a voice in public affairs. It's not the old-school censorship of the Soviet bloc, which gives it a veneer of legitimacy. But it's quite clear, I think, that dissent is being suffocated in a country like Hungary, and Poland as well.

Andrew: Let's bring it right up to date, which is the social media and the digital revolution. There was this great burst of optimism when this started, or around that time with the Arab Spring particularly, the idea that we could all communicate with each other freely and easily, and that there would be all sorts of good results coming from this. But this is a major problem, isn't it, now?

Jacob: Yes, you know, I think if you go back to 1996, John Perry Barlow wrote this often-quoted Declaration of the Independence of Cyberspace. It was a vision of a completely limitless, borderless, cyberspace internet where governments had no power. There were no limits. It was a radically decentralised space. Of course, when he wrote that there were maybe 30, 40 million people online and the internet really was a decentralised space. Today, the internet is a much more centralised space. You have huge mega-platforms, some of them with billions of users, that act as choke points. It's a much more vertical and centralised online space than the decentralised and horizontal space of earlier internet.

You know, if you thought that the internet and social media would basically consign censorship to the ash heap of history, because it would be impossible to stop information flows, then governments, especially

authoritarian ones, have reverse-engineered that process and come up with very sophisticated methods of blocking content, of internet blackouts, of mass surveillance and so on. But even in democratic governments – you have the Online Safety Bill in the UK which is, I think, a pretty dreadful attempt of reimposing top-down control of the internet, you have the Digital Services Act in the European Union. Even though these are not comparable with what's going on in Russia or China, it's still, I think, compromising the ideals of the internet.

Of course, it should be admitted that free speech comes with costs and harms, and those harms and costs are amplified and more visible when billions of people have instant access to share information online. And sometimes those harms can be serious. Radicalised people storming the American Congress on January 6 probably would not have happened without social media and the Internet to radicalise people with crazy conspiracy theories. You can even use the internet to contribute to genocide, as has happened in a number of countries in Asia. But of course, you could use the radio and pamphlet for the same thing – radio was used in Rwanda, so that's not such a new thing.

I still think that the benefits of the internet and social media vastly outweigh the harms and costs. But I think those of us who are in favour of free speech have to acknowledge that there are harms and costs, and also that even if you did a cost-benefit analysis and you were able to show that the benefits outweigh the harm somehow, you have to acknowledge that to some people, those harms are very real and very concerning. And so you have to come up with compelling nonrestrictive ways to address those harms. To be fair, I think much progress has been made.

I think it was a terrible mistake by the European Union, for instance, to ban state-sponsored Russian media outlets, because I think there are already various open-source intelligence reporters, digitally forensic reporters, doing a fantastic job in real time exposing and debunking Russian propaganda,

showing war crimes and stuff. That, to me, shows that free speech in many ways is a competitive advantage for democracies when fighting authoritarian states, and we shouldn't be so scared of Russian propaganda and disinformation because we've become much wiser to how it operates and much better at countering it. I don't think that just because they don't have the same degree of input, probably, in Russia, they're not as good at the game as an open society that is able to collaborate and use all available information.

More things in that space will need to be done. I also think that we need to have a more decentralised social media ecosystem, where users have more control over content, rather than big tech corporations calling the shots under pressure from governments and other special interest groups. So there's lots of work to be done, but I think free speech is part of the solution. And if we discard it, I think we'll find ourselves living in a much less democratic, much less accountable, less just and much darker place.

Andrew: And Bellingcat, who you mentioned in the book, is one of those organisations.

Jacob: Yes, I think they're doing really good work. It's maybe a couple of hundred people, freelancers included, and they've already done a lot to expose the crimes – war crimes, human rights abuses, corruption – of the Russian regime. I think that's much more effective and persuasive than banning Russian propaganda. And also because what we see is that the Russian government and other authoritarian states gleefully point to censorship and repression in democratic states: 'Oh, you censor Russian media outlets? Well, we're going to do the same with Western media outlets.' They're probably going to do it all the same, but it provides a veneer of legitimacy, and it blurs what I think should be a very sharp dividing line between open democracies on the one hand and authoritarian states on the other.

I can understand why Ukraine will use censorship, because it's actually in a war fighting for its survival. Even though I think some of the censorship may have gone too far, you can understand why the Ukrainian government would say, 'Well, you can't communicate about troop movements or the like because we're actually fighting for our survival.' But people in Denmark are certainly not threatened by Russian propaganda the same way that Ukrainians are. So I think there are limits to free speech, but we have to really be careful about them and not use them willy-nilly and open the floodgates for scope creep that will then be used for new emergencies, real and imagined, and really insist on only very, very special cases where, for instance, the life of a nation is genuinely at risk.

Andrew: Just on a couple of these points, and then I'll conclude. The first is, do you think Trump should still be banned from some of the social media platforms?

Jacob: I thought at the time it was the right call and justifiable because the Capitol was being attacked and he was a president who refused to call his supporters back. And I think the hearings have confirmed that he really had a very irresponsible role to play. But an indefinite suspension, I thought, was the wrong move. Especially when you consider that government officials and heads of states from brutally authoritarian states are on Twitter and Facebook and are able to communicate. Whatever you might think of Trump, he's pretty liberal compared to the mullahs and the ayatollahs in Iran. So if Trump should be purged from Twitter, what about the ayatollahs and so on and so forth? So I thought initially it could be justified, but not in the long run.

Andrew: And the second area is higher education, where some of these battles seem to be being fought at the moment. There was a very interesting case under lockdown in December 2020 at Cambridge University, where they voted against introducing a guideline that would have required students and

staff to be 'respectful' of other people's opinions, and they favoured 'tolerant' instead. That's something you'd support, I guess?

Jacob: I don't know the specifics of the case, but I think that's right. You know, I think if you're at a university it's a good thing to have a respectful tone if you discuss things, but you don't necessarily have to be. If you start writing it down in guidelines, that you have to be respectful of ideas that you find are wrong, then to me it seems like tolerance is a better idea. Yes, you have a right to advance certain ideas, but I don't have to respect them. I'll tolerate them. But I might write a scathing criticism opposing them because I think they're fraudulent or wrong or incomplete or whatever. So I think that tolerance is a better idea than being respectful.

Andrew: And just the final point is about what more can we do? One of the things we've discussed with a number of people, going back to when we did an event with Francis Fukuyama, is how sometimes we've been complacent about defending liberal democracy, and that we need to up our game a bit. What are the things we can do? You talk, for example, in the book about not responding to everything online, avoiding all the noise, being a robust defender of free speech.

Jacob: I think, funnily enough, stoicism maybe has some good lessons about developing a detached attitude to insults and so on, that's one part of it. But then also if democratically elected governments are being rewarded by limiting free speech slice by slice then they're likely to continue that erosion, so if those citizens affected by it don't protest, then the development might continue.

I'm appalled that across the European Union no one really protested against these decisions, for instance, to use censorship even if it was against Russian media. I think most people probably don't even know about it. So not just taking free speech for granted is important. But then also, I think those who care about free speech, who are activists, have to be very careful about not

being sucked into taking up partisan and selective hypocritical positions on free speech. If you're concerned about free speech in universities – if your whole free speech campaign is about opposing the woke and the snowflakes, social justice warriors, but you have nothing to say about conservatives or attempts to free speech by the right – then you're not a very persuasive free speech campaigner, and you're likely to contribute to the views among liberal progressives that free speech has become a thin veneer for right-wing activists. I think being principled is key to persuasive free speech activism. In democracies where you do have a high degree of free speech, that very often means having to hold your nose and defend viewpoints that you abhor. But that's the litmus test.

Andrew: Well, one project we're involved in at the moment is trying to have better conversations where we do disagree but still make progress as well.

Jacob: Yes, and I think that's really important. I think it's important that younger generations, instead of shielding them from ideas that make them uncomfortable, they should be immersed in them and be accustomed to them to see that as something to be embraced.

Andrew: Well, one thing we can all do is read *Free Speech: A Global History from Socrates to Social Media*. It's out now from Basic Books. We do urge you to read this and to act on it. Thank you, Jacob, for joining us today.

Jacob: Thank you, Andrew. It was a pleasure.

This interview has been lightly edited for length and clarity. The full version of the interview is in the recording.