

Steve McGuire:

Jay, thanks for joining us on Higher Ed Now.

Jay Bhattacharya:

Thank you for having me, Steve. Really nice to be here.

Steve McGuire:

Yeah, it's a real honor to have you with us. So I think a number of our listeners will be familiar with you and your work, but for those that aren't, I just wanted to start out by asking you if you could tell us a little bit about your areas of academic expertise, and then about the work that you were doing during the COVID-19 pandemic that led to some of the issues that you ran into with academic freedom and even free speech off campus as well.

Jay Bhattacharya:

Sure. So I have an MD and a PhD in economics. It's a long, boring story how I ended up with both, but it turned out to be quite constructive because I spent my career thinking about medicine from the point of view of trade-offs, which is what economics is really about. And in the areas of medicine I applied, it was infectious disease, epidemiology, obesity policy, population aging, and chronic health, a whole range of topics that, weirdly, turns out that economics and the idea that there are trade-offs fundamental to basically everything we do in medicine and in public health turns out to be really productive. So that was my career before. I mean, Steve, I'd never written an op-ed before 2020. I had just published peer-reviewed papers, and I was really happy when the seven or eight people that read them wrote to me and argued with me about them. That was great fun.

Steve McGuire:

Right. Yeah. But then in 2020, October 4th, I think it was, you and a couple of your colleagues wrote the now infamous Great Barrington Declaration.

Jay Bhattacharya:

Famous. Famous, Steve. Yeah, so the Great Barrington Declaration. So very early in the pandemic I did a study asking how many people had already had COVID. In April of 2020, I did the study in Santa Clara County, and then later in LA County, and we found that a lot of people already had COVID. And I noticed that there was a huge age gradient in the mortality rate. Older people had a very, very high risk of dying from COVID, maybe five, six, 7% depending on if you're among the very oldest people, whereas young people had a very, very low rate. Especially children had a vanishingly low rate on the order of one in 1,000 or one in 300,000. I mean, you can argue exactly the number, but it was a very, very low rate relative to other risks they face in their lives. So that age gradient was in my head.

The Great Barrington Declaration, actually we signed it on October 4th, 2020. It was written by me and Martin Kulldorff of Harvard University and Sunetra Gupta of Oxford University. So Harvard, Stanford, Oxford. And we basically noticed that this age gradient was there. We noticed that the lockdowns and the school closures were hurting children all over the world, wherever they happened. They were hurting young adults again. The CDC had reported a one in four rate of suicidal ideation in young people in July 2020.

And so we argued that we should lift the lockdowns and instead redouble our efforts and think more creatively about how to better protect older people who really were at high risk from this disease. And it

was amazing. Almost a million people signed, eventually. Tens of thousands of doctors signed, including a Nobel Prize winner. A very, very prominent scientist signed it. It basically shattered the illusion that there was a consensus in favor of lockdowns.

Steve McGuire:

Right. But not everybody appreciated it. You ended up getting quite a bit of blowback, including government officials who said that something needed to be done about this, and censorship on social media. Of course, there's the case, Missouri v. Biden, which has been making the news recently, all comes out of this. I want to get to what your experiences were like on campus especially, but before we do that, the censorship went well beyond anything that happened to you on campus. What was happening and what was that like from your perspective?

Jay Bhattacharya:

Yeah, so a lot of this I learned after the fact. I didn't know about it at the time. At the time, what it felt like was, A, that there was a huge amount of people coming out of the woodwork saying, "Let's not lock down again. Let's have a more balanced approach to the pandemic; focused protection of vulnerable older people." But at the same time, there were hit pieces on me done in the National Press. Every time it was like, "Jay wants to let the virus rip," and that was a lie. What we wanted to do was better protect older people. And we had already seen the lockdowns had not protected older people; that the virus spread in the spring of 2020, despite the lockdowns, and with good reason. Most of the population is not in an economic position where they can reasonably lock down. Lockdowns are a very, very classist policy.

It was actually really quite hard. We were getting mischaracterized in the press. I was starting to get death threats, weird racist attacks. I'm of Indian extraction. I came to the US when I was four. I'm a naturalized citizen, and I started getting these emails saying, "Go back to your home country." I mean, the whole thing was just... I'd never experienced anything quite like it before. It was really nasty.

And I learned later, about, I think, nine months later, from someone who had done a FOIA, that the head of the National Institute of Health, Francis Collins, had written an email to Tony Fauci four days after we wrote the declaration, on October 8th, 2020. He called me and Martin Kulldorff, a professor of statistics and epidemiology at Harvard, and Sunetra Gupta, the professor of theoretical epidemiology at Oxford. He called the three of us "fringe epidemiologist," fringe. And then he called for a devastating takedown of the premise of the declaration, to which Tony Fauci answered with a wired magazine article with the words, "Let it rip," basically all over it, accusing us of wanting to make people die.

I mean, it was really just a huge abuse of power by the top government officials who were in charge of doling out tens of billions of dollars of funding to every biomedical scientists of note in the country and saying, "Look, these guys are beyond the pale. They should be excommunicated." We were not calling for letting the virus rip. We were calling for focused protection of vulnerable older people, and we were calling for letting children have something close to normal lives, which is basically the approach that Sweden and a few other places were doing. I mean, the evidence was really clear at the time. We were responding to the scientific evidence.

A lot of people, I think, they treated it as if it was some weird political statement when in fact it was just a... I mean, I actually say it's the least original thing I ever wrote. What we were talking about with that Great Barrington Declaration was the strategy that we have followed for a century of respiratory virus pandemics, Steve. Wasn't anything really all that radical; it was just radical in that context.

Steve McGuire:

Right, right. So I'd like to get back eventually to some questions about academic freedom, public policy, that sort of thing that I think will bring us back to some of these things that you've mentioned. But in terms of your experience on campus now, you've been at Stanford for, I think, over three decades. All your degrees, I think, are from Stanford, and then you eventually became a professor there where you've been working for quite some time. And it sounds like you led a pretty regular academic life and then this starts to blow up. When did you start to notice that something was off on campus, or when did you start to get a blowback on campus, and what did that look like?

Jay Bhattacharya:

So I've been at Stanford for 37 years, first as a student and 20 some years as a professor. It started really almost immediately. It started right around the time of the lockdowns, March of 2020. I wrote an op-ed, my very first op-ed I ever published in My Life, in the Wall Street Journal, and it argued that we did not know what the actual death rate was from COVID. And it argued for conducting a study to find it out.

The key issue was the denominator. How many people had already been infected with COVID? The headlines emphasized the people that were really, really sick that show up in the hospital, but there were likely many people that got it that didn't get sick enough to end up at the hospital; that didn't come to the attention of public health. And depending on how many of those there were, the death rate could be as high as 3, 4, 5, 6%, which is what the World Health Organization was saying, is 3.5%, or as low as one in a hundred thousand. I mean, you just don't know until you've done the study.

I wrote that op-ed calling for a study, because it was right after the lockdowns already happened. We really needed to know that number. And on campus, it was really strange reaction to that op-ed. There were a few people who actually reached out to me and that were glad I'd written it. There were others that were giving constructive criticism about it, and constructive suggestions for how to run such a study, organize a study like this, wanting to help. But a lot of people thought I had basically done something very, very irresponsible; told people not to take the virus seriously. And it was a very strange thing, because I started getting, again, death threats, and the death threats weren't coming from campus, were coming off campus.

But on campus, some colleagues of mine, one of them de-friended me on Facebook, and I'm like, "What is this odd thing?" I write an op-ed. All of a sudden they think I'm... And because I have this economics background, they were accusing me of wanting to value money over lives when, in fact, it was really clear to me that the trade-off wasn't money versus lives. The trade-off was always lives versus lives. When you lock down, you're going to end up with people dying as a result of it that otherwise wouldn't be dead because you locked down. That actually happened. That plus the epidemiological inside I just said was the basis of it, and it made my life on campus very, very difficult.

Steve McGuire:

Would you say that this was sort of revealing to you in the sense that you'd always been able to proceed with your research, and be friends with everybody, and it was all fine, but then suddenly you discovered that you had stepped outside the "Overton Window," or there was a range of what was allowed to be said or asked on campus and you discovered that you found yourself outside of that?

Jay Bhattacharya:

I mean, I was really surprised by that, Steve, because it's not like campus life is where we all just hold hands, say kumbaya and agree. I mean, it is normal to disagree. In seminars, it can get heated

occasionally because we were just disagreeing on some topic, but we're friends, right? We're colleagues, at least, even if we're not close friends, where we're trying to understand the world better, and we sharpen each other by our disagreements in our conversations.

Here, it was a completely different kind of thing, because it felt almost like an excommunication. And actually, when we ran that study in early April 2020 of measuring the antibody levels in the population, the university responded in an incredibly uncharacteristic way that made my life a living hell. They basically convened a panel, an ad hoc panel, that tried to get me to change how we ran the study, tried very, very hard to essentially impugn my motives. And it was the top of the university that did this.

It was really, really difficult, and it was a direct violation of academic freedom. Essentially what academic freedom means, if it means anything, is that researchers should be allowed to ask the questions they want to ask without interference from the administration. Now the administration has an obligation and a right to tell researchers, "Okay, the things you're doing should not harm human subjects," so you have to go through Human Subjects, which we did. All of the studies we did, we went to the Human Subjects Committee, worked with them closely to make sure we were protecting human subjects. But apart from that completely reasonable regulation, the university can't say, "Oh, Jay, you found this result. It's bad for public health. You should not say it." They're just not allowed to do that. But they were telling us to change how we did the study. They just didn't like the answer for whatever reason and completely went out of line to try to get us to stop speaking, basically. And this was in the summer of 2020.

Steve McGuire:

So you said it was organized by people at the top of the university organization, but was it like a faculty panel? These were other faculty members and they were trying to raise ethical or methodological objections? Obviously-

Jay Bhattacharya:

Yeah, it was [inaudible 00:13:39]

Steve McGuire:

... you didn't view them as legitimate, but-

Jay Bhattacharya:

Yeah. I mean, it was couched as methodological objections. In fact, they were organized by the Dean of the medical school, and from I understood, people above him even in the hierarchy basically signed off on this whole... At the time, it was like gallows humor, I was calling it a Star Chamber. It included some faculty members, again, who were not involved with the study, and they just made demands on us. In fact, they forced us to change the protocols for the study after the Human Subjects Committee already approved the protocols. When the changed protocols resulted in confirmation of what we were saying, they told us to be quiet about that.

In fact, the study then was published eventually in the International Journal of Epidemiology. In Science, the way you tell if the scientific result is right or not is you get replication, and a hundred other independent research teams around the world found basically the same result. The result was that there were 40 or 50 times more infections than cases in early April 2020 in Santa Clara County, and that the death rate in the overall population, leaving aside the nursing homes, we weren't allowed to go into nursing homes in early 2020 during lockdown, was somewhere between 0.2 and 0.4%, depending on

exactly how you calculated the statistics. Meaning 99.8% survival. That result was replicated over and over and over and over again.

In places that had an older population, you had a higher rate. I think in New York City they'd had a study that had a slightly higher infection fatality rate than that, maybe 0.8%, 0.9%. In places that had younger populations, like in Africa, you had much lower rates. And we were right in the middle of what the scientific literature found on this subject. And so Stanford basically tried to interfere at a really critical time with my academic freedom with that study.

Steve McGuire:

Okay. So that was months before you had published the Great Barrington Declaration, that you were already running into these problems with your colleagues, with the Stanford administration. And then I imagine things got worse after you published the Great Barrington Declaration.

Jay Bhattacharya:

Well, I mean, the declaration is not strictly speaking of scientific statement. It's a policy statement, right? It's based on good science. Two basic facts, and everyone agrees: this age gradient that I mentioned over and over again, and the fact that lockdowns are really, really harmful, especially to the poor, especially the vulnerable, especially the working class. Everyone agrees on that. Both of those facts, those are scientific facts-

Steve McGuire:

Okay. Then I guess I should say too, this goes back to what you were saying earlier about your expertise, researching trade-offs, and that sort of thing.

Jay Bhattacharya:

Exactly. I mean, this was squarely in my lane, Steve. If I don't speak up now, well, what was the purpose of my career? I mean, that was the calculation I made when I wrote the Great Barrington Declaration and signed it. On campus, it was actually interesting. A lot of people wrote to me, thanking me for writing it. A few people on campus actually signed it publicly, which was really gratifying. But on the other hand, there was a lot of people quite upset with me. I mean, it's just hard to fathom. I mean, it felt like an excommunication starting to happen.

It got worse later, because I got invited by the governor of Florida... Actually, I should go back a little bit. In August of 2020, the Department of Education in Florida asked if I would serve as an expert witness in a case for school opening. Governor DeSantis had decided that he was going to basically require every single county in Florida, every single school district in Florida to have an in-person option for children in fall of 2020. And that was consistent with what the Swedes had done in the spring of 2020, and they'd had excellent results published in the scientific literature.

And so they asked me if I'd be an expert, and all I did was I cited the Swedish experience and some of the other European experience with school openings and said that it was vital, it was good epidemiological practice to do it, that the school closures hadn't really helped protect grandma, and that the closures had hurt kids. So I served as an expert in that case.

Later, in March of 2021, the governor asked me to be on this round table where the discussion was about child masking. And I had looked up this literature. There's no randomized evidence, even today, that child masking does anything to stop disease spread. And you could reason why it wouldn't, especially small children wearing masks. Even adults don't wear masks very well. And Steve, I know this

is radio, but I'm looking at you with a beard. If you have a beard and you wear a mask, it's going to be hard to get a tight fit, as I'm sure you know. And I have glasses. Every time I wear a mask, my glasses fog up. Unless I'm going to be sitting in front of a patient in a patient office or something, it won't have a tight fit. Your glasses fogging up is evidence that the mask's leaking, leaking air, leaking aerosols, spreading, potentially, COVID, if you had COVID. So I told the governor this.

A hundred of my colleagues on campus in response organized a secret petition. Well, it was a couple of my colleagues, I think, I'm not sure exactly who organized it. But the chair of epidemiology sent the secret petition around, because they basically weren't telling anyone else, just this group of people will get to see it. They signed it. A couple of my friends leaked it to me and told me about it. It essentially asked the president of the university to censor me, saying what I told the governor, essentially, was too dangerous for public health. I mean, I was very, very careful in my statement, because I knew the governor was going to ask me this, to stay consistent with exactly what the scientific evidence was saying. No high quality evidence to date has any indication, by "high quality" I mean randomized studies, that masking children has any good benefit. And for adults, basically there'd been a dozen randomized studies that fail to find a real substantial benefit from masking. Most of them find no effect.

So I said this to the governor based on my reading of scientific data. My colleagues, a hundred of my colleagues signed this letter asking the president of the university to silence me. And right around that summer there was a poster campaign all over campus accusing me of killing people in Florida. I was actually scared at one point to go onto campus, because they put posters on places where I very often frequent. There's this coffee shop, which I like.

I was actually shook up, and I asked the department chair if they had some policy about this. I mean, I'm a very strong believer in free speech, so I didn't take the posters down, but basically it created a hostile work environment on campus. And eventually I was like, "Okay, I've been here longer than they have." I'm very old, Steve, so I figured I'm just going to go back into campus anyways, but it was really shocking. I mean, this is my home. I've been here for a very long time. And because of my ideas on the scientific evidence on COVID and because of my ideas about policy, it became an incredibly inhospitable place for me.

Steve McGuire:

Mm-hmm. Did anybody ever claim responsibility for those posters?

Jay Bhattacharya:

No.

Steve McGuire:

So these were posters that had your picture on it and maybe a quote from you, and then this claim that you were responsible for deaths?

Jay Bhattacharya:

Yeah. It's funny. So first, the poster was a picture of me that Ron DeSantis had tweeted and it was from that March round table, and what I had said in that was a provax statement. I said, "By vaccinating the old, we've protected the vulnerable," which I still believe is true. The vaccine reduces the mortality risk from COVID, especially for older people as we reduce the mortalities from COVID. I thought it was a really good idea in early 2021 to prioritize vaccinating older populations. I'd said that in that, and it's

funny that that's the quote they used. Remember in late summer 2021, there was this big wave of cases throughout the south, this Delta wave of cases?

Steve McGuire:

Mm-hmm. I remember, yeah.

Jay Bhattacharya:

And they had just a picture of the wave of cases in Florida from COVID, and the implication was, "Jay caused this by saying the vaccine protected the old." It was incredibly unfair, especially since it is an absolute fact that Florida has lower all cause excess deaths since the beginning of the pandemic than California does, despite the lockdowns in California, despite the school closures. Florida protected life better than California did. That is a fact. And so it's one of these things where there's no reason here. There's just this appeal to emotion. And this is a fairly left-wing campus. You put Governor Ron DeSantis up and people were automatically going to go, "Boo." They were essentially trying to tug at emotions to try to create this sense that I was acting irresponsibly, that I was some evil guy wanting to let the virus rip. What I've been calling for all along was the Great Barrington Declaration, better protection of vulnerable older people and normal lives for children, because disrupting their lives hurts them and doesn't really protect older people.

Steve McGuire:

So in terms of the experience on campus, you wrote an article for Tablet, and in there you drew an interesting distinction between negative rights and positive rights. And you say you weren't fired. I mean, this is interesting about this panel that they convened to try and redirect your research and that sort of thing, but they weren't trying to necessarily fire you, but they didn't really support you, and they didn't really do something to promote an atmosphere that would be more conducive to science, exchange of ideas, that sort of thing. I mean, you mentioned in that article some opportunities that people in your position might've normally been afforded to, say, speak on campus. At one point the former president tried to organize, I think, a debate between you and someone else and that couldn't go forward. So what were some of the missed opportunities by the Stanford administration or others at Stanford to sort of approach this in a more scholarly way?

Jay Bhattacharya:

Yeah, so I just imagine an alternate world, Steve. So on Stanford campus there were a number of senior scientists who disagreed with the lockdowns. It's not like we agreed about everything. There's lots of stuff we disagreed on. But that had fundamental problems with the lockdowns. And people like John Loannidis, the most highly cited living scientist in the world, I think, or certainly among them, one of the most famous people on Stanford campus. People like Mike Levitt, a Nobel Prize winner in chemistry. People like Scott Atlas, who was the former chair of neuroradiology at Stanford for a decade and then advisor to presidential candidates on health policy, and in fact advisor to President Trump on colored policy. A very large number. That's a significant coalition of people who disagreed with the lockdowns on Stanford campus, with long Stanford ties, tenured positions, distinguished scientific careers.

Now, of course, also on campus you had a number of people that were very strongly in favor of lockdown in 2020. So what you had then is an absolute amazing golden opportunity for Stanford to contribute to the public discussion in this nation and also worldwide on COVID. What they could've done is they could have organized a panel where people who were on one side of the issue and the other side of the issue would both have their say and be in conversation with each other. We would've modeled an

honest, cordial discussion on the most vital topic that was at the center of policy decision making throughout the entire world. Just imagine the world in July 2020, if they convened such a panel. It would've been tremendously important in the history of Stanford, and the history of the United States, and the history of the world to do that. It would've shown what the purpose of the university actually is.

That's what I mean by positive rights, positive academic freedom. Positive academic freedom leans into that kind of disagreement and it empowers reasonable people to have these kinds of conversations. It would've set a model for the entire world. In the medical school, for instance, there's a speech called the Grand Rounds that happened every week. Basically, one prominent person gives a talk to the entire medical school, or the entire department of medicine, at least. The Medicine Grand Rounds basically is a way to highlight what Stanford thinks is worth thinking about. They're not saying, "We believe this," we're just saying, "This is a prominent person saying this thing, that this is worth thinking about."

There've been almost 200 Grand Rounds and I haven't been invited. John Loannidis had not been invited, Michael Levitt has not been invited to give the Grand Rounds. I asked the current dean of the medical school, I asked him in April 2022 why that was the case, why there had not been any grand rounds with this alternate view. And he told me that people in the medical school, especially people who treat patients in the hospital, were still so scarred from their experience in March 2020, that two years later, in April 2022, it was still too early for a dispassionate academic discussion on these topics.

But if that kind of dispassionate academic discussion cannot happen at Stanford, where can it happen? Our job as a university, the whole purpose of the university is to foster those kinds of challenging, dispassionate academic discussions on the most important topics of the day, especially when there's scientific disagreement. Stanford didn't fire me, although it made my life very difficult. The Stanford leadership, they made my life difficult. It made a very hostile work environment to do what I was doing.

I have to say that is actually, in that sense, a success. They didn't fire me. My tenure held. That's a positive notch for Stanford. It's a kind of negative academic freedom, like an academic freedom where they don't actively fire the people that dissent. That's a notch in favor of that. A lot of other universities actually failed that. My colleague and friend, Aaron Kheriaty at UC Irvine, was actually fired from his tenured position in psychiatry because of his opposition to vaccine mandates.

Steve McGuire:

Mm-hmm, right.

Jay Bhattacharya:

So it's not true that every university passed that test. Stanford did, but where Stanford failed was in its support for positive academic freedom. Now academic freedom, meaning let's foster the debates the world needs to have. Let's foster the discussions the world needs to have. Let's support the science that needs to happen. They put their thumb on the scale and made sure that those debates and discussions didn't happen, and as a result, de-legitimized the people that were dissenting, essentially excommunicated us from the community of people that we normally interact with at Stanford.

Steve McGuire:

Mm-hmm. Yeah, it sounds like a terrible experience. Since then, or perhaps somewhat in the meantime, there's been a number of other events that seem to undermine academic freedom, or at least raise questions from the outside looking in about how vital academic freedom and free expression are at Stanford. I'm thinking of the Academic Freedom Conference that some of your colleagues organized. I was actually there, saw you speak when you spoke there. But then, of course, there was the Elimination

of Harmful Language Initiative. There was the shout down of Judge Duncan at the law school. There's the Protected Identity Harm Reporting system, which I've done some writing on myself. There's the Stanford Internet Observatory, which obviously they have academic freedom rights and that sort of thing as well.

There was you and your colleagues who ran into difficulties because of your views about the pandemic and the lockdowns, but then there are all these other things that have been happening. And I wonder, what's your assessment of all of that? What is your assessment of the state of academic freedom at Stanford in light of not just your personal experiences but these other things that have happened there recently?

Jay Bhattacharya:

I mean, Stanford, I always thought of as a wonderful place for that. Our motto is, "Let the winds of freedom blow," and the winds of freedom have not blown in the last few years at Stanford. A lot of the initiatives you're talking about essentially are initiatives aimed at suppressing people from expressing ideas that others deem heretical or dangerous. That Language Initiative, which is just this list of words that they were going to scrub Stanford websites of, had words like "citizen." It had words like "American" or "immigrant". It even had "guru" on the list, for some reason I can't fathom. Essentially they're sending this message that there's some speech that's so dangerous that we're going to police it, you're allowed to say it. Stanford should not be standing for that.

Actually, we should talk about the Stanford Internet Observatory because this is very closely related to the Missouri versus Biden case. So let me tell listeners very, very quickly, first about the Missouri versus Biden case and then about the Stanford Internet Observatory. So a lot of the censorship and a lot of the sort of environment of discussion of speech around COVID during the pandemic, it felt really suppressed. People would post things on Facebook, or on Twitter, or on other social media, and immediately they would get labels posted on it, "Oh, you're spreading misinformation," official labels by the social media sites. Sometimes people will get banned for posting things. I got a friend who got banned for posting that if you got COVID and recovered, you had some immunity. I mean, from Facebook or Twitter. Martin Kulldorff, again, this Harvard professor who signed the Great Barrington Declaration, got suspended on Twitter for posting that telling people that masks protect you when they don't is dangerous because then people will take risks thinking they're protected when they're not.

So there's some kinds of discussions that you weren't allowed to have. In August 2022, the Missouri and Louisiana Attorney General's offices approached me and asked if I'd be willing to be a private plaintiff in a case that they were bringing against the Biden administration. Because their theory was that it wasn't that these social media companies were by themselves trying to suppress speech. I mean, the more speech they had on their platforms, the better their platforms are going to do. The theory was that the Biden administration was forcing social media companies to censor this speech.

And in that case, we were granted the opportunity to do discovery where we deposed Tony Fauci and a dozen other federal officials, including people in the White House. We got to read the emails. That theory was confirmed. What we found in discovery was that the Biden administration was essentially going to social media companies, telling the social media companies, "You need to censor these ideas and these people, and if you don't, we're going to regulate your company out of existence." I mean, that was the implied threat in all of the kind of interactions we observed in the discovery. And a federal judge, on July 4th of this year, agreed with us, called the whole enterprise, "a ministry of ruth," and ordered it to stop.

And then the Biden administration appealed. Then the appeals court also agreed with us. They analogized what the Biden administration was doing to what Al Capone would do to companies. The

famous gangster, he'd go to companies and say, "Well, that's a nice company you have there. It'd be a shame if something were to happen to it." And of course, then the companies would pay him protection money. Essentially that's what the Biden administration was doing. They were going to companies saying, "If you don't censor these people and these ideas of people who are criticizing our policies, we're going to go after you."

And the social media companies complied because they like to have their companies run. That is illegal, that's unconstitutional, and the federal courts have told the Biden administration to stop in no uncertain terms. Right now it's sitting, I think, at the Supreme Court, and we'll see how the Supreme Court weighs in, but it's so obviously illegal and unconstitutional. It would surprise the heck out of me, and I'd wonder about the country I'm living in if the Supreme Court then says, "Yeah, a government can go tell newspapers or social media or whatever, that, 'You have to censor these people and these ideas.'" That's just blatantly unconstitutional.

Steve McGuire:

Mm-hmm.

Jay Bhattacharya:

So let me go back to the Stanford Internet Observatory. And, in fact, the question is, where does the Biden administration and the government get its list of people to censor and ideas to censor? It turns out that entities like the Stanford Internet Observatory, and there's this analogous group at the University of Washington, and I think Harvard has a group; there's a whole bunch of these universities affiliated and other nonprofit groups that trawl the internet looking for themes of things that they deem to be misinformation, and people that they think are spreading misinformation. They issue these reports. A lot of these activities are funded by the government. For instance, the Stanford Internet Observatory is funded by the National Science Foundation. And what happens is they're also very closely connected with the government, and they're then also embedded inside social media companies because they are essentially endorsed by the government as places that have identified misinformation.

So there's two activities going on here. One is essentially like a creation of a hit list for censorship by entities like the Stanford Internet Observatory, and then there's the enforcement arm, which is the government officials in the White House, in the CDC, in the Surgeon General's office, in the FBI, in the State Department, going to social media saying, "You need to take the people identified on this hit list off the internet. You should take their speech off, otherwise we're going to go after you as a company." So in a sense, there's two different activities. There's the development of this hit list for censorship that has been offloaded by the government to private entities like Stanford, and then there's the enforcement of the censorship. There's a two-step thing.

The original circuit court order said that the government is not allowed to do either, either fund this creation of this hit list, and they're also not allowed to coerce social media companies to censor. The appeals court said, "Well, it's not unconstitutional for the government to fund organizations to create this hit list, but they're not allowed to force censorship," and that's currently where we stand.

So you mentioned academic freedom of these groups on campus, and I agree with you on that actually, Steve. I agree that the Stanford Internet Observatory should have the freedom to develop their hit list for censorship. I have no problem with that at all. I mean, I think their research is socially not particularly beneficial, but that's my opinion. That's obviously not theirs. They're entitled to have their research agenda. What I think, though, is that the government should not be funding that if the purpose is to censor citizens. I think that the government should get out of the business of funding this hit list for

ensorship and then essentially sort of authorizing them to go to social media companies and say, "Oh, we're this NSF-funded entity that's developed this hit list for censorship," and then the government coming in and saying, "Well, you got to censor."

It's like a privateer going around taking down ships in the Revolutionary War period, or something. The government says, "Oh, you have the authority to go take down British shipping. You're not a US Navy ship, but you are allowed to go take down British shipping in the war of 1812," or something. Right? Essentially, they're acting like privateers for censorship, and I think the government should be out of that business altogether. If those folks at Stanford want to develop a hit list for censorship, fine, but they should not have the imprimatur of government behind them; that the American people do not have an interest in funding that kind of work, which is so plainly contrary to our basic commitment the United States has to free speech.

Steve McGuire:

Interesting. Yeah. I mean, your experiences, they raise questions to me that go beyond just questions of academic freedom or free expression on campus and touch on the interface between those things and politics, public policy, things that are going on in the "real world." I mean, it's one thing if a bunch of academics with tweed jackets and pipes sit around and discuss some crazy idea in the faculty lounge. It's another thing, perhaps, when you're talking about policies that could really impact people's lives in the moment in terms of things that people in government are worrying about. And this goes back maybe, too, to the email from Francis Collins to Tony Fauci and these questions that are raised in *Missouri v. Biden*. I wonder, just sort of from a devil's advocate perspective a little bit. I mean there's the questions of science, and then there are the questions, as you yourself have noted in this conversation, of politics, of policy, and these are sort of things that interact but are different kinds of questions.

I mean, when it comes to responding to a pandemic, do you see any room for government officials who are maybe worried about... I don't know. I mean, when you published the Great Barrington Declaration, we didn't have the vaccines yet, but obviously anti-vaxxers became a huge concern for many people, for the government; anti-masking people who weren't abiding by recommended guidelines and that sort of thing, and maybe they think, "Look, we're doing what we think is in the best interest of this country and the people who live in this country, and we just can't have people sowing doubt in the minds of the American people." I mean, how would you respond to someone who was looking at things from that perspective?

Jay Bhattacharya:

Right. So the question is, how settled is the science on which these recommendations are made? So you have a new disease floating around. The science just can't possibly be settled on those issues so quickly. And in fact, a lot of what you're describing, Steve, is an ethical norm inside public health. The ethical norm of public health is that when public health makes a pronouncement, in order for it to be effective, there needs to be pretty much near unanimity, and people that are expressing doubts about things that the public health is saying are doing harm.

The ethical basis for that is that there actually is absolutely rock solid scientific evidence, a real true consensus about the things that public health is saying. So for instance, public health often puts a message out that smoking is a terrible habit that will cause you physical harm, and there's rock solid evidence behind that, which is the underlying basis, the underlying scientific basis for the statement that they make. And that rock solid scientific basis for that is the ethical basis for saying, if I, a Stanford medical professor, come out and say, "Oh, smoking's good for you," well, I've committed a sin, right? I'm doing some great harm to the public by saying that. I shouldn't say that, and I could understand the

umbrage that people in public health would take to me going out and saying that. I would never say that because smoking is terrible for you. I'm a big opponent of it.

But here we have a new condition where the scientific evidence is in flux. You absolutely need to allow scientists to do their thing. In fact, the ethical norm in science is that we have this free speech. Science can't operate without free speech. If the head of the National Institute of Health says that these guys are fringe, what it does is sends a signal to scientists who disagree with the National Institute of Health or the CDC to stay silent or, "Your career is going to get destroyed."

And that is a deeply unethical thing to do in the context of a situation where their science is still not completely settled yet. They are putting on the mantle of public health, adopting the ethical norms of public health where dissent is kind of an iffy thing to do without having the underlying ethical basis of having a true scientific consensus. What would've been right to do was to have free speech in science, to allow the science to actually occur. Instead, the government officials like Francis Collins abuse their power.

Let me just describe to the audience exactly what I mean by "abuse of power." So I have a tenured position at Stanford University Medical School. One of the reasons I have this tenured position is because I successfully won some NIH grants. Much of my funding throughout my career has come from the NIH, and it's a marker of success that places like Stanford used to decide whether to tenure somebody and to hire people.

Essentially, when Tony Fauci or Francis Collins says, "Fringe epidemiology, devastating takedown," for me, they're sending a signal to other scientists that if you speak up, your career is going to be destroyed. Your social position within science is going to be destroyed. You're not going to be able to do the science you want to do. And so, of course, scientists are going to stay silent. A lot of them did. It was an abuse of power to silence scientists in order to create an illusion of consensus around the science that did not exist. It was deeply unethical what they did. And on the specific facts, they turned out to be wrong. Masking does not actually stop the disease from spreading. When people are masking, like older people going out with cloth masks that do nothing but confident that it does something, they might even kill people.

As I said earlier, I believe the vaccine was quite important for protecting older people, but the evidence says for young people that it didn't really protect very much because young people have such a low risk of dying anyways from COVID, and it has this high rate of myocarditis in young men. It's not clear to me that the vaccines were net beneficial for young people. It was a nuanced conversation that should have been happening. And scientists, absolutely, the dissent should have had an honored place at the table rather than this sort of desire to excommunicate anyone that disagreed with Tony Fauci.

Steve McGuire:

What do you do in public health if you're in an emergency situation and you don't have scientific consensus, but you have to tell people something? I mean, what do you think could have been the messaging from the US government, from Dr. Fauci and others during those moments when, like you say, maybe the science wasn't settled, people didn't know all of these various details and what might work and what might not work. What should they have done or said, do you think?

Jay Bhattacharya:

I think the key word is humility. So the model I've looked at for public health communication and public health thinking in the pandemic is this man, Anders Tegnell in Sweden. I think he was the head of public health in Sweden when the pandemic hit. At first, he had his favorite scientist. He had his mentor, Johan

Giesecke, who advised him about policy and what the science was saying, but he also had other people that he disagreed with that were advising him. And in his public statements, he would reflect, of course, what he thought, but also the disagreement. And this is the most important thing, when he got something wrong, he would say that he got it wrong. When he made a statement, he would say, "I'm not certain about this or that." It was clear communication saying honestly what was known, what was not known.

And I can contrast that with the communication by the US public health authorities, very confidently saying things that they didn't know to be true. They couldn't have known because the scientific evidence hadn't been at that point, and so they ended up looking like they're liars. I'll just give you one example of Tony Fauci. At the beginning of the pandemic he said, "You don't need to wear masks. The scientific evidence doesn't support mask wearing as a way of controlling the spread of a highly infectious respiratory disease." He was reflecting in February 2020 what the scientific consensus was based on a dozen or more randomized trials and experience with the flu, that the masking is not a particularly effective infection control tool. A month and a half later, he comes up and says, "Well, I was lying to you then. I wanted to save the masks for the people in hospitals. It was a noble lie. Masks actually do work. Use them."

Let's leave aside the substance. If someone does that, that admits to intentionally manipulating public, is going to throw away any possibility that they have of building trust with the public. They are essentially telling the public that they think of them as children to be manipulated rather than adults to be reasoned with. And it's one of those things where it shocks me that someone with 40 something years of public communications on public health issues, advised seven presidents, would make such a fundamental mistake in public health communication. The first thing is you always tell the truth 100%, even when it's inconvenient for something, what you think is going to be inconvenient in terms of making people do the thing you want them to do. As soon as you do that, everything else is going to follow much better.

Or how about, "If you get the vaccine, you can't spread the disease?" Well, there was no scientific evidence that said that when they started saying that in 2021. The randomized trials had not demonstrated that. The 2020 large scale randomized trials did not look at transmission at all, so why did they start telling the public that if you take the vaccine, you're going to not get the disease? Very quickly after that, people who got the vaccine started getting the disease. I got the vaccine and four months later I got the disease. I got it in April 2021, and then the disease in August 2021. A lot of people had that experience. Well, what do people do when they see public health officials saying direct lies or statements that are very, very far in front of what the evidence is actually saying, that turn out to be wrong? They're going to start to distrust everything that those public health authorities are saying.

I think a lot of the vaccine skepticism we're seeing now, not just with the COVID vaccines, but generally with vaccines is a result of this dishonest communication, this manipulative communication by American public health. And people are very reasonably saying, "Well, if you led me astray on that, maybe you led me astray on everything else." I think it's a catastrophic mistake. I don't know how you fix it, but it absolutely needs to get fixed. Public health is very important, I think, and if you have a public health that's not trustworthy, it can do a tremendous amount of damage, and that's where we are right now.

Steve McGuire:

That's interesting. And you probably saw the poll that was published by Gallup recently that showed that American confidence in a variety of our institutions has declined, and in some cases... I think they've been doing this survey now for, I forget how long it is, over a decade, maybe a couple of decades, something like that. But for instance, confidence in higher education, which they don't always

ask about, but they've asked about maybe three, four, or five times, is at a historic low. I think it was like 30 some percent of people said that they had confidence in higher ed. It seems like there's something deeper or broader happening in American society in recent years, that you would see this decline in confidence almost across the board. I think maybe small businesses was like the one institution that hadn't shown any decline, and maybe there was one other one.

But in terms of universities too, when they hear your story, when they see things like the shout down of Judge Duncan, which was obviously a very high profile event that really captured people's attention, do you think that that's the kind of thing that's contributing to this decline in confidence? Because I think we could also point to economic factors. For example, people are probably looking at how much it costs to go to college, and now they're once again paying their loans back, and maybe they're looking at that. And even though data still shows that people who go to college generally benefit from it economically and that sort of thing, people's perception of that has dropped. And certainly for some people it probably didn't work out the way that they had hoped it would.

So there might be other explanations. There might be something that's sort of in the water, so to speak, in American society. But what's your take on that when you hear a stat from Gallup that only about a third of Americans say that they have confidence in American higher education?

Jay Bhattacharya:

I mean, it makes me sad, but I have to say I agree with the folks who have lost a lot of confidence in higher education, even though I am a professor. If you think about what universities actually produce, especially the top universities, what do they produce? Well, very broadly, one of two things you can think about what it produces. A, it produces an incredible educational experience where very, very bright young people come in and mature and become citizens that can do great things later on. It contributes to their growth and maturity, and their knowledge, of course.

Steve McGuire:

Mm-hmm.

Jay Bhattacharya:

That would be A. B is it just provides a credential to enter the elite parts of society, and it has nothing to do with what the university actually provides in terms of education. It just has to do with the piece of paper you get from a place like Stanford. It's A or B. And I think universities, especially top universities, we aspire to do A, but we live on B.

Steve McGuire:

Mm-hmm.

Jay Bhattacharya:

And looking at the kinds of intolerance of other ideas, ideas that the public finds reasonable, not being allowed to be said in university settings. And then during the pandemic, you have universities, for instance, adopting policies that are directly contrary to the scientific evidence. So mandating that young adults, all of them be vaccinated even though there's evidence of myocarditis in young men, and there's evidence that the vaccine doesn't stop you from getting COVID, and Harvard's still mandating it. A lot of people look at this and say, "Well, what are these universities really for? Are they really in favor of doing great science, thinking important thoughts, contributing to public policy discussions in a nonpartisan,

rigorous way, or are they just political shops that credential the next generation of entitled elite?" I think a lot of American public has looked at the behavior of universities in, certainly, the last three or four years, but I've been looking back probably longer, and they said that American universities are more like B than A.

Steve McGuire:

Yeah. One last one for you before we wrap up. So when the Judge Duncan shout down took place, the dean of the law school was Jenny Martinez, and some have questioned some elements of how she's responded, whether there was enough action taken in terms of whether the students should have been disciplined. The promised free expression or free speech education program ended up being a series of online sort of HR-style modules. But she's become the provost now of the university, and she did get a lot of kudos for the memo that she wrote, and I liked a lot of what she had to say in there: defense of free speech, defense of academic freedom. Especially liked that she mentioned the idea of institutional neutrality, the University of Chicago's Calvin Report.

And now I saw she did Q&A that the Stanford report published. I think it was just late last week. And she sort of reiterated that point that, "Look, we're going to have DEI at Stanford. This is important, but it's not going to take the form of institutional pronouncements," that sort of thing. So I think there's some good things that she has said and that she's now said again since becoming provost at Stanford.

But I just want to close by asking: What's your hope for, maybe, the future of academic freedom at Stanford? Do you see some signs of promise? I know this is where you live and work, so maybe you have to be politic in your answer. It's your new provost and all of that. But I just wonder, do you see any real signs of hopeful change at Stanford, or are you concerned that maybe the lesson hasn't really been learned, and if there's future controversies, others will find themselves in situations similar to the one that you found yourself in?

Jay Bhattacharya:

I do find a lot of what you just said promising. I mean, I was quite dismayed at the treatment of that judge. I mean, we agree or disagree with him about the facts. Some folks had invited him to give a speech. The treatment of that judge was just disrespectful, and it wasn't conducive to any exchange of ideas or constructive exchanges. In fact, I think there was a dean at Stanford that had intervened to actually pour gasoline on the fire, more or less, metaphorically anyways.

Steve McGuire:

Right.

Jay Bhattacharya:

And the dean of the law school, Martinez, I thought she did quite well in that position, and I was really pleased to see her be chosen as the provost. And you can probably tell, Steve, I've not been particularly politically astute during the pandemic regarding criticizing my own, the [inaudible 00:59:52]. I mean, I say that with all sincerity, and I do think that they face a tremendous challenge. I think that the kinds of ideas they have, this University of Chicago idea, this Institutional Neutrality, I think is a really important thing, but there has to be some acknowledgement and repair of the harm that the previous administration did to academic freedom at Stanford.

I'll give you one very concrete thing. It's not about me, it's about Scott Atlas. Scott Atlas was President Trump's advisor for COVID in July, August, September 2020. A hundred of my colleagues wrote a

ridiculous letter accusing him of anti-science, insinuating in effect that he didn't even believe in hand washing. Now, he was the chair of neuroradiology for 10 years. The faculty senate then voted. I mean, they didn't call it this, but this is effectively what it was, was to excommunicate him. They didn't fire him, but they essentially said he was effectively not part of the Stanford community, that he was [inaudible 01:00:59].

And now the things he was advocating... I know from firsthand experience because I was talking with him daily when he was in the White House, the things he was advocating were absolutely consistent with what the scientific evidence was saying. He was advocating opening schools, he was advocating better focused protection for older people. That's what he was advocating to President Trump. And now he disagreed about the effectiveness of masking. In retrospect, he turns out to have been right. So the point is that he was well within the range of acceptable of ideas, given what the scientific evidence was at the time. And in retrospect, he was correct.

The Stanford faculty Senate voting to essentially excommunicate him with leaders of the university. They put the letter up on the medical school webpage. The letter was organized by a former dean of the medical school. There has to be some acknowledgement that Stanford did some very wrong things in pushing that forward. And there needs to be, I think, a formal apology to Scott Atlas before I would really believe that Stanford is honestly starting to take academic freedom seriously. That is a black mark in Stanford's history. That is a direct attack on Scott's academic freedom. It's fine if a bunch of faculty want to say, "I don't agree with Scott." That's completely consistent, but to use the faculty senate to have essentially the university stamp this attack, and that's in the record, is a huge, huge black mark on Stanford's history. And until that's corrected, I won't fully believe that this new administration is taking seriously its commitment to academic freedom, although I do agree with you that signs are very hopeful. I will see what they do.

Steve McGuire:

Good. Well, as you know, at ACTA we have our Gold Standard for Freedom of Expression and our campus Freedom Initiative. And Stanford is one of the schools that we have focused on, so we're certainly hopeful that Stanford will... I mean, it's obviously one of our major elite institutions. We'd love for them to be a leader on academic freedom and free expression on campus. So let's hope that Professor Martinez helps to lead Stanford to a bright future where, what was it, the winds of freedom blow once again. All right, well thanks, Jay. It's been really great talking to you. Thanks for joining us today.

Jay Bhattacharya:

Thanks, Steve. It was really nice to talk.