
FOREWORD

THE UNIVERSITIES WILL NOT SAVE US

In the spring of 2024, thousands of university students joined campus protests advocating for Palestinian human rights and calling on their institutions to divest from Israel's military assault on Gaza.¹ The student action echoed historical protest movements that universities routinely celebrate in their brochures, monuments, and signage.² Yet rather than embrace their students' principled activism, universities across the country deployed militarized force against their own communities.³ From elite Ivies in the northeast, to large privates in the Midwest, to state schools in Texas and California, administrators greeted peaceful protest with discipline, smears, and physical violence.⁴

The campus repression coincided with an official country visit from Farida Shaheed, the United Nations Special Rapporteur on the right to education.⁵ The Special Rapporteur's subsequent report documented violence and repression directed at students on university campuses:

¹ See Shirin Sinnar, *Campus Protests and the Rule of Law*, 87 L. & CONTEMP. PROBS. 117, 127-27 (2025).

² See Kathryn Fink, Patrick Jarenwattananon & Ari Shapiro, *Many Universities Celebrate Student Activism. That is, When Protests Are in the Past*, NPR (May 6, 2024, at 17:07 ET), <https://www.npr.org/2024/05/06/1249425920/many-universities-celebrate-student-activism-that-is-when-protests-are-in-the-pa> [<https://perma.cc/QMU4-3JX4>] ("Cornell, for example, has a plaque and did a year-long ceremony recently devoted to the 1969 armed takeover of a campus building during the civil rights and Vietnam-era protests.").

³ See Isabelle Taft, Alex Lemonides, Lazaro Gamio & Anna Betts, *Campus Protests Led to More Than 3,100 Arrests, but Many Charges Have Been Dropped*, N.Y. TIMES (July 21, 2024), <https://www.nytimes.com/2024/07/21/us/campus-protests-arrests.html> ("When Columbia University called in the police in April to break up an encampment, it was the first major detainment of protesters. Since then, more than 3,100 people have been arrested or detained on campuses across the country.").

⁴ See Bianca Ho & Kieran Doyle, Brief, *US Student Pro-Palestine Demonstrations Remain Overwhelmingly Peaceful*, ACLED (May 10, 2024), <https://acleddata.com/brief/us-student-pro-palestine-demonstrations-remain-overwhelmingly-peaceful-acled-insight> [<https://perma.cc/XHG8-RWTS>] ("[B]etween 7 October and 3 May, the overwhelming majority of student demonstrations — 97% — have remained peaceful."); Vimal Patel, *Police Treatment of a Dartmouth Professor Stirs Anger and Debate*, N.Y. TIMES (May 3, 2024), <https://www.nytimes.com/2024/05/03/us/dartmouth-professor-police-protests.html> ("Annelise Orleck, a labor historian who has taught at Dartmouth College for more than three decades, was at a protest for Palestinians in Gaza on Wednesday night, when she was knocked to the ground[,] . . . zip-tied[,] and was one of 90 people who were arrested . . .").

⁵ See *Call for Contributions: Country Visit to the United States of America (29 April–10 May 2024)*, U.N. HUM. RTS. OFF. HIGH COMM'R (Apr. 14, 2025), <https://www.ohchr.org/en/calls-for-input/2024/call-contributions-country-visit-united-states-america-29-april-10-may-2024>.

Riot units reportedly used tear gas and rubber bullets in clashes with demonstrators, there are reports of violent arrests leading to injuries, including concussions and broken bones requiring hospital treatment, as well as harassment of the protesters. . . . [U]niversities have reportedly taken disciplinary measures against those who participated or plan to participate in the protests, including surveillance of students and staff through high resolution cameras, university email addresses and other high-and low-tech means, suspensions (leading to an inability to graduate, for example), expulsions, evictions from university housing, cancelation of food support programs and even deportations of international students. All these measures have inevitably created a chilling effect on the whole academic community and a climate of intimidation.⁶

The Special Rapporteur also highlighted that universities selectively targeted pro-Palestine advocacy:

The most appalling factor is the unequal treatment of protesters depending on their political position. Pro-Palestinian protesters are disproportionately affected by the harsh response, allegedly for their antisemitic views, paradoxically, even if they self-identify as belonging to the Jewish community or represent Jewish student associations.⁷

The spring of 2024 was a dark moment for higher education. The universities' violent response to peaceful protest also clashed with their own avowed commitments.

For example in the spring of 2023, Cornell University President Martha Pollock had tapped free expression as the value that would ground Cornell during the 2023-2024 academic year. Addressing the campus community, Pollack called "[f]ree expression and academic freedom the bedrock not just of the university, but of democracy."⁸

⁶ Farida Shaheed, *Statement by the Special Rapporteur on the Right to Education* at 2, U.N. HUM. RTS. OFF. HIGH COMM'R (May 10, 2024), <https://www.ohchr.org/sites/default/files/documents/issues/education/statements/20240510-stm-eom-sr-education-usa.pdf> [<https://perma.cc/65KU-BC8A>].

⁷ *Id.* ("While all states must prohibit advocacy of national, racial or religious hatred that constitutes incitement to violence, hostility or discrimination, the expression of a critical political opinion is not, and will never be a legitimate ground to restrict freedom of expression. Expressing support for, or opposition to, a specific government, is fully guaranteed by the rights to freedom of expression, association and peaceful assembly and shall not be equal to harassment.").

⁸ James Dean, *2023-24 Academic Year to Feature Free Expression Theme*, CORN. CHRON. (Apr. 14, 2023), <https://news.cornell.edu/stories/2023/04/2023-24-academic-year-feature-free-expression-theme> [<https://perma.cc/Z4BB-CV9N>]; see also Martha E. Pollack, *The Indispensable Condition: Freedom of Expression at Cornell*, CORN. UNIV.: UNIV. STATEMENTS (Apr. 17, 2023), <https://statements.cornell.edu/2023/20230417-free-expression.cfm> [<https://perma.cc/UJN4-4QHE>].

The statement evoked a controversial 2015 report (the “Chicago Statement”) from the University of Chicago’s Committee on Freedom of Expression.⁹ Chaired by one of the nation’s leading academic freedom scholars, the Chicago Statement closed with a warning: “[W]ithout a vibrant commitment to free and open inquiry, a university ceases to be a university.”¹⁰

More than 115 universities or faculty bodies have adopted the Chicago Statement; among them Columbia University, Northwestern University and the University of Texas—some of 2024’s worst free expression offenders.¹¹ So did Johns Hopkins University, whose president is a leading authority on authoritarianism.

In 2021, as the Taliban laid siege to American University of Afghanistan, Johns Hopkins President Ronald Daniels explained authoritarian regimes’ ire for independent universities.¹² Daniels centered the “shared fate” of universities and democracy:

Universities cannot truly thrive under the threat of authoritarian censorship or attack. . . . [B]y the same token, no democracy can prosper without independent universities to forge a bedrock of objective fact, to preserve and interrogate the nation’s collective past, to cultivate diverse and pluralistic communities, and to educate citizens in the skills necessary for active and engaged citizenship.¹³

Daniels helps us understand why the Trump regime, akin to authoritarians in Hungary, Turkey and Russia, is waging an ongoing battle to either destroy or capture higher education in America.¹⁴ But a related claim in Daniels’ piece

⁹ Geoff Stone et al., REPORT OF THE COMMITTEE ON FREEDOM OF EXPRESSION (2015), <https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf> [<https://perma.cc/7CSB-LAUC>]. For critics, the Chicago Statement represented a rejection of rising institutional commitments to diversity, equality and inclusion and misunderstood the relationship between academic freedom and equality. See, e.g., BRIAN SOUCEK, THE OPINIONATED UNIVERSITY (2026); The Critical (Legal) Collective, Blog, *Why Academic Freedom Needs DEI*, LAW & POL. ECON. PROJECT (Dec. 5, 2024), <https://lpeproject.org/blog/why-academic-freedom-needs-dei> [<https://perma.cc/4P5P-RU6M>]; Anton Ford, *The Chicago Principles Are Undemocratic*, CHRON. HIGHER EDUC. (May 6, 2024), <https://www.chronicle.com/article/the-chicago-principles-are-undemocratic>.

¹⁰ Geoff Stone et al. *supra* note 9.

¹¹ See *Chicago Statement: University and Faculty Body Support*, FIRE, <https://www.fire.org/research-learn/chicago-statement-university-and-faculty-body-support> [<https://perma.cc/VA6F-MTJY>] (last visited May 8, 2026).

¹² Ronald J. Daniels, *Why Authoritarian Regimes Attack Independent Universities*, WASH. POST (Sep. 28, 2021), <https://www.washingtonpost.com/opinions/2021/09/28/why-authoritarian-regimes-attack-independent-universities>.

¹³ *Id.*

¹⁴ Emma Green, *Inside the Trump Administration’s Assault on Higher Education*, NEW YORKER (Oct. 13, 2025), <https://www.newyorker.com/magazine/2025/10/20/inside-the-trump-administrations-assault-on-higher-education>. Beyond learning from authoritarians abroad, the Trump Administration is following a playbook Republican officials have fine-tuned across multiple GOP-controlled states. See generally Athena Mutua, Jonathan Feingold, Angela

warrants closer scrutiny: “By their very nature,” he writes, “universities are committed to free speech, open dissent and unfettered information.”¹⁵

The proposition tracks how universities tend to talk about themselves. It might also capture public opinion. But it remains irreconcilable with the actual behavior of universities across the country. Much of this repression came from ostensibly liberal institutions in deep Blue cities and states—all with a Democrat in the White House. To name the bipartisan nature of censorship is not an invitation for false equivalencies.¹⁶ Nor is it meant to erase the daily contestation and struggle happening within university campuses.¹⁷ But to the extent democracy depends on free expression and academic freedom—not to mention racial and gender equality—many of our most powerful universities have proven to be something quite distinct from guardians of democracy we might presume them to be.¹⁸ Beyond compromising their own purported values, when universities met peaceful protest with state violence, they set dangerous precedent for the return of an aspiring dictator comfortable ruling through domination and force.¹⁹

It is this uncomfortable place—the recognition that universities might, in fact, be sites of antidemocracy—that motivated the *Boston University Law Review*’s 2025 Symposium on “The University and Democracy.” The thirteen essays in this Symposium issue help us begin to interrogate, struggle with, and perhaps answer why so many of our institutions have accommodated fascistic attacks on their own communities and commitments. It is customary for Symposium forewords to preview each contribution. I am electing to refrain from that here. Instead, I urge readers to jump to the essays, to peruse them carefully, and to

Harris, Emily M. Houh, Matthew P. Shaw & Francisco Valdes, *The War on Higher Education*, 72 UCLA L. REV. DISC. 2 (2024); ISAAC KAMOLA, MANUFACTURING BACKLASH: RIGHT-WING THINK TANKS AND LEGISLATIVE ATTACKS ON HIGHER EDUCATION, 2021-2023 (2024), https://www.aaup.org/sites/default/files/Manufacturing_Backlash_final.pdf.

¹⁵ Daniels, *supra* note 12.

¹⁶ The effort to destroy and control higher education is a rightwing project. *See, e.g.*, Jeffrey Adam Sachs, Amy Reid & Jonathan Friedman, *Expanding the Web of Control: America’s Censored Campuses 2025*, PEN AM. (Jan. 15, 2026), <https://pen.org/report/america-as-censored-campus-25-web-of-control> (“There is no use in sugarcoating things. For higher education in America, 2025 was a year of catastrophe.”).

¹⁷ I refer, for example, to the heroic efforts of university faculty across the country who have risked their own employment and personal well-being to push their universities to resist authoritarian attacks. *See, e.g.*, Abigail S. Gerstein & Amann S. Mahajan, *Harvard’s AAUP Set Out to Reform the University. Instead, It Went National*, HARV. CRIMSON (Feb. 13, 2026), <https://www.thecrimson.com/article/2026/2/13/harvard-aaup-feature> [<https://perma.cc/Y6TJ-BN99>].

¹⁸ This includes the widescale dismantling of institutional civil rights initiatives and programs—many of which fall under the umbrella of diversity, equity, and inclusion (“DEI”). *See* Sonel Cutler, *Tracking Higher Ed’s Dismantling of DEI*, CHRON. HIGHER EDUC. (Feb. 10, 2026), <https://www.chronicle.com/article/tracking-higher-eds-dismantling-of-dei>.

¹⁹ *See* Emmanuel Mauleón, Blog, *Whistling at the Edge of Law*, LAW & POL. ECON. PROJECT (Feb. 12, 2026), <https://lpeproject.org/blog/whistling-at-the-edge-of-law> [<https://perma.cc/DW4L-8ULW>].

view them as a set of interactive conversations about institutions within which many of us study and work, and that have a critical role to play in the future of this country. Learning about ourselves and our world is a collective and communal enterprise. I am grateful for the opportunity to be in conversation with each of our authors and the wells of knowledge, experience, and struggle on which they have drawn.

Before closing, I want to extend a personal thank you to each of our Symposium authors and to the many others who attended and participated in our in-person gathering at Boston University School of Law in November 2025. I also want to thank the student leaders of the *Boston University Law Review*. Their vision, courage, and determination made this year's Symposium possible. Beyond the resolve to host a set of conversations regarding topics that most universities have actively sought to avoid, the student editors embraced the task of utilizing a Symposium Issue to seed a robust and voluminous set of critical conversations. The students have been an integral part of this scholarly endeavor. They are a model for what we might all aspire towards.

I also want to thank the many members of Boston University's event staff, communications team, and Audio/Visual team. Although their names will not appear on Symposium posters, brochures or essays, their contributions are essential to this project and they are essential members of our community.

Lastly, I would like to thank the three organizations that co-sponsored this year's Symposium: The AAUP's Center for the Defense of Academic Freedom, Scholars for a New Deal for Higher Education, and the Critical Legal Collective (of which I am a board member). Thank you for your vision, collaboration, and partnership.

We are living through a fascistic assault on our basic right to convene and to learn together. This means that convening and learning together are radical acts. Perhaps these are also modest acts, but in these times, they are radical ones.

Jonathan Feingold
Professor of Law, Boston University School of Law