

Human Rights and the War on Higher Education

Submission of the Critical Legal Collective (CLC) and the American Association of University Professors (AAUP) to the
United Nations Universal Periodic Review of the United States of America
50th Session of the Universal Periodic Review; 4th Cycle (November, 2025)
April 7, 2025

I. Human Rights and the War on Higher Education

1. This Submission speaks to two sets of issues that have come to a head in a series of Executive Orders by President Trump: 1) attacks on racial justice and equity in higher education, and 2) attacks on the right to protest, to speak and write freely, and other related dimensions of freedom of conscience and academic freedom. These Executive Orders have been implemented with especially pernicious consequences for institutions of higher education and their mission to pursue truth and knowledge for the common good, as well as for the students, staff and faculty of these institutions. The combined force of these two sets of Executive Orders and their associated policy directives have amounted to an unprecedented war on higher education.
2. A) Racial Justice in Higher Education
In the first month of his presidency, Trump issued a series of executive orders terminating policies and programs addressing diversity, equity and inclusion (DEI) in all federal agencies, and in grants and contracts issued by the federal government, including to institutions of higher education. DEI encompasses a broad array of practices but primarily seeks to promote the full participation and fair treatment of all people, particularly groups historically marginalized based on identity or disability. Trump has declared DEI programs illegal and illegitimate. In the January 21st Executive Order titled “Ending Illegal Discrimination and Restoring Merit-Based Opportunity,” DEI programs were declared discriminatory and federal contractors and grantees were asked to terminate DEI offices, positions and programs and equity related grants; in addition, state and local educational institutions and other organizations were encouraged to terminate such programs with threats of heightened scrutiny and surveillance to ensure compliance with these new policies. They also repealed prior executive orders by both democratic and republican administrations that required contractors receiving federal funds to take active steps to prevent discrimination and address barriers to employment opportunities.
3. These 2025 initiatives follow the first Trump administration’s policies targeting “Critical Race Theory.” These policies sought to end teaching and research on past and present structural racism in the United States, and they sparked a massive censorship campaign. This was accompanied by policies authorizing the detention and exclusion of migrants of color from the global South, especially Muslim majority countries (the latter effort colloquially known as the “Muslim Ban”). The 2025 orders also follow recent Supreme Court decisions that have unraveled many of the laws and policies that the civil rights movement fought for in the 1950s and 1960s. These laws—such as the Voting Rights Act of 1966—and policies—such as affirmative action—were designed to address centuries of slavery and

apartheid—often referred to in the United States as “Jim Crow” laws. The Trump administration claims that these efforts to redress injustice and discrimination are themselves unjust and discriminatory. As a result, as we elaborate below, the administration has weaponized civil rights against the very populations they were designed to protect.

4. B) The Right to Assembly and Association — the Right to Protest

Over the course of the last two years, there has been increased curtailment of the right to protest, with especially severe responses directed against students, faculty and staff protesting Israel’s war on Gaza, the American government’s political, economic and military support of the war, as well as its longer term support of Israeli settler colonialism and apartheid. The central demands of many campus protests were about the complicities of American universities. With calls to “Disclose, Divest and Boycott” protestors sought transparency and shared governance of the ethical guidelines for their universities’ financial investments in relation to war, apartheid, and settler colonialism. On 29th January 2025 President Trump issued Executive Order No. 14,188, titled “Additional Measures to Combat Anti-Semitism” and on 30th January 2025 Executive Order No. 14,161, titled “Protecting the United States from Foreign Terrorists and Other National Security and Public Safety Threats.”

5. These executive orders, amongst others, have weaponizes ideological intolerance and racism and escalated this “war on higher education” through pronouncements linking the act of protest to support for Hamas and terrorism. These orders have had dire consequences for the Right to Education, Freedom of Thought, Conscience, Speech, Association and Assembly; they have rendered all protest suspect and had a chilling effect on expressions of dissent. Non-citizens have been rendered especially vulnerable; US government agencies have declared their intention to implement these executive orders through mass arrests, detentions, and deportation of noncitizen students and faculty who participate in pro-Palestinian protests or who engage in related activities involving expression and association. The background context of state-authorized racism, xenophobia and ideological intolerance shapes how federal agencies have implemented President Trump’s executive orders; they have terminated programs that help institutions of higher education address the histories of structural racism that have excluded or marginalized students and scholars of color; they have also targeted people of color for arrest, detention and deportation.
6. We recommend addressing these issues by repealing President Trump’s executive orders; reinstating funding for DEI programs; ending the unlawful and unjust attacks on the legal status of noncitizens; ending punitive attacks on the exercise of free expression (including protest); and advancing policies and programs that strengthen a commitment to academic freedom, including by non-citizens.
7. The following sections describe the central strategies that have been utilized in the war on higher education.

II. Weaponizing Civil Rights Laws to Undermine Civil Rights

8. A central strategy of the war on higher education has been to redefine policies addressing discrimination and injustice as problems rather than solutions. The strategy works in the following ways: First, the Trump administration asserts that acknowledging the United

States' history of racial discrimination and marginalization is racist because it mentions race. The administration and its allies then claim that the Equal Protection Clause of the US Constitution and related civil rights laws legally forbid scholarship, teaching, and advocacy that acknowledges systemic racism, and that similar concerns forbid the attempt to ameliorate past discrimination with DEI programs. Finally, based on the specious claims that discussing racism and that seeking equity and inclusion for unjustly marginalized groups is racist, the administration attempts to punish university and private entities for such scholarship, teaching, and programming by threatening to cut off federal aid for such activities. Thus it has both dismantled previous civil rights legislation as well as calling for the scrubbing of DEI from all university programming and the titles and job descriptions of staff. As the ACLU describes it, "The Trump administration's three executive orders targeting diversity, equity, inclusion, and accessibility (DEIA) initiatives take a "shock and awe" approach that upends longstanding, bipartisan federal policy meant to open doors that had been unfairly closed." ⁱ

9. In addition to addressing racial discrimination, civil rights laws also protect against sex-based discrimination and have been used to protect gender diversity in higher education. However, just as people of color have been targeted in the name of fighting racial discrimination, the Trump administration has targeted Trans women in the name of protecting women. Civil rights laws designed to promote women's full participation in higher education have been invoked to block and punish the inclusion of transgender and nonbinary students, faculty, and staff in programs and activities in higher education. For example, in an Executive Order signed February 5, 2025 entitled "Keeping Men out of Women's Sports," President Trump references Title IX of the Education Amendments Act of 1972 (Title IX) in order to enforce a ban on transgender girls playing with other girls on sports teams. Thus in a slew of new initiatives at the federal and state level, transgender women have been prohibited from playing in women's sports and universities have been threatened with funding cuts for non-compliance. The Administration has also weaponized civil rights laws in its specious claims of antisemitism, as discussed further below.
10. The Trump administration's cynical use of civil rights laws has led to the most successful attack on higher education the United States has witnessed since the McCarthyism era of the mid-twentieth century. ⁱⁱ The tactic of cutting funding, or threatening to cut funding, to institutions of higher education has cowed universities into cooperating with unlawful and discriminatory policies. Colleges and universities depend on federal funding for over half of all their research and development programs. The federal government also funds student attendance through financial aid in the form of grants and loans. The current administration's willingness to jeopardize or destroy the research and teaching missions of higher education has provided a successful avenue for authoritarian government control of universities.

III. Assaults on Free Speech, Academic Freedom, and Assembly

11. Both international law and U.S. constitutional law protect free speech, academic freedom and the right to assembly, including the right to protest. Under international law everyone has a right to hold an opinion, the right to freedom of expression; which includes the "freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print"(ICCPR Article 19(2)). Further, everyone has a right of peaceful assembly (ICCPR 20, which includes demonstrations, protests, meetings, processions, rallies,

sit-ins, candlelit vigils and flash mobs” (ICCPR Article 21, General comment No. 37 (2020)).

12. The First Amendment to the United States Constitution protects much of these same rights, providing in relevant part, “Congress shall make no law ... abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” The Supreme Court has declared that the First Amendment’s core purpose is to allow for free debate on public issues.ⁱⁱⁱ This interpretation of the First Amendment is found in American case law, particularly through Supreme Court decisions. Under First Amendment jurisprudence, discussions of racism, sexism and other oppressive systems should constitute protected speech, as should views about DEI. And yet, censorship of these discussions have become widespread.
13. A) Censorship of Curricula and Research
During President Trump’s first term as president, an interlocking and well-resourced coalition of reactionary ideological entities campaigned to purge—through law, discourse, and intimidation—classroom conversations about racism, sexism, and other dynamics that compromise the aspiration to a truly multi-racial democracy in the United States.^{iv} Champions of “discriminatory censorship” now dominate the Republican Party (GOP), one of the two major political parties in the United States. GOP officials control various state and local administrations and occupy significant legislative and judicial positions at the national level.^v
14. Across federal, state, and local governments, GOP officials have proposed nearly 800 discriminatory censorship laws since January 2021.^{vi} Such laws have been proposed in all but one U.S. state.^{vii} Over the same period, the United States has witnessed almost 6,000 instances of book bans across 41 states and 247 public school districts.^{viii} At the outset of this campaign, most discriminatory censorship laws regulated educators and institutions at the primary and secondary level (K-12). However, GOP officials have increasingly targeted higher education. New initiatives include efforts to expand governmental control over curricular content in public colleges and universities; to restrict tenure and other faculty protections; to restrict accreditation agencies; and, most recently, to exert “direct ideological control over how universities operate” through bans on DEI programs.^{ix} As education policy experts note, this ban on what the administration describes as ““Discriminatory equity ideology” could lead to bans on discussion and teaching of the history of discrimination or racial oppression, from slavery to redlining, as well as the discussion and teaching that focuses on historically marginalized communities such as ethnic studies or queer studies.^x Each target of this multifaceted assault comprises an essential pillar of academic freedom—and, by extension, functional democracy.
15. B) Repression of Academic Freedom
Today’s assault on education generally, and academic freedom specifically, makes sense, given that a well-informed citizenry, university autonomy, and faculty independence are all antithetical to authoritarian causes.^{xi} Academic freedom in the United States is grounded in and protected pursuant to the First Amendment of the U.S. Constitution.^{xii} And though academic freedom is not defined in the United States Constitution, the Supreme Court has held that the unique role of speech and thought in public colleges and universities provides a special niche in approaching First Amendment matters.

16. In 1915, the same year that it was founded, the AAUP issued its Declaration of Principles on Academic Freedom and Tenure (The Declaration).; In 1940, it also issued a Statement of Principles on Academic Freedom. In 1966, it issued a Statement on Government of Colleges and Universities emphasizing the relationship between academic freedom and the need for structures of governance of Colleges and Universities that uphold financial and political independence. The Declaration articulates three core functions of academic institutions in society:

- (i). to promote inquiry and advance the sum of human knowledge,
- (ii) to provide general instruction to students; and
- (iii) to develop experts for various branches of the public service.

The Declaration further articulates three related principles of *academic freedom*:

- (i) freedom of inquiry and research;
- (ii) freedom of teaching within the university or college; and
- (iii) freedom of extra-mural utterance and action.

17. While AAUP's energies have often been focused on faculty and others engaged in providing education, over the last two years all of these principles have also developed particular urgency with regard to students and other employees at institutions of higher education. The urgency is made more extreme because the courts have not been stalwart in protecting these principles. In recent years, conservative majorities have eroded the Supreme Court's longstanding commitment to academic freedom, and the current political environment and the judicial appointments of the Trump administration may further endanger academic freedom unless there is concerted resistance from civil society within the United States with the support of International Human Rights bodies.

18. A marked feature of the spate of new actions that we have seen in 2025 is the control of academic research. One of the central and most extraordinary conditions that the Trump administration imposed on Columbia University in its March 13 letter was that the university place Middle Eastern, South Asian, and African Studies Department under "academic receivership for a minimum of five years."^{xiii} Columbia has agreed to these terms and academic work in these fields will now take place under the oversight of an administrator.

19. This is a blatant violation of AAUP principles. As noted in the AAUP 1966 Statement on Government of Colleges and Universities, "the faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process." The administration's attack on Columbia has intimidated other universities into voluntary self-censorship. Days after the Columbia debacle, Harvard University fired the faculty leadership of its Middle Eastern Studies program.^{xiv} Harvard AAUP condemned these actions as "a political infringement on academic freedom and the autonomy of professors to shape intellectual agendas in their areas of research, teaching, and programming expertise." Placing these departments under politicized oversight fundamentally undermines faculty governance and the intellectual integrity of curricula and research in these fields.

20. (C) Repression of Assembly and Association – The Right to Protest

Over the last two years, American campuses have been roiled with protests regarding the genocidal violence in Gaza, and American financial, military and political support for the government of Israel and settler colonialism. Students have demanded that their universities divest and disclose their investments in weapons manufacturing companies and other institutions that have supported or profited from the colonization of Palestine and from violations of international human rights and humanitarian law. They have expressed these protests through a range of actions, including pickets, marches, encampments, poetry readings, sit-ins and petitions. In some cases staff and faculty have also participated in these protests, but the majority of them have been student-led. Most university administrations have responded to these actions with repression: disciplinary hearings and sanctions including warnings, suspensions, expulsions and designation as persona non-grata on campus premises. University administrations took these actions under pressure from wealthy donors, trustees and national politicians. For example, Columbia University president Minouche Shafik was the third university president since December 2023 to be hauled before Congress (after Liz Magill of the University of Pennsylvania and Harvard's Claudine Gay) and berated for insufficient severity in punishing dissenting speech and action by faculty, students and other members of the university community.

21. The Executive Orders implementing an ideological deportation policy have launched a high profile attack on academic freedom through a policy of arrest, detention and deportation of non-citizens for writing opinion pieces, engaging with political discussions on campus and protesting the actions of the United States or the State of Israel. These attacks have had adverse consequences not only for the non-citizens who have been targets, but for all members of the academic community by undermining the culture of free speech and open dialogue that is a prerequisite for any institution of higher education to thrive. As articulated in the preliminary injunction against the ideological deportation policy, free speech includes a corollary right to listen freely to the opinions of others in the community. Therefore, assaults on the free speech of non-citizens severely impair the free-speech rights of citizens. Moreover, because communities of color have been disproportionately targeted by the administration's ideological deportation policy, academic freedom issues are intertwined with the racial politics of migration rights. Protecting academic freedom, therefore, also requires the protection of non-citizens of color from illegal and unjust visa restrictions, status changes, detention, and deportation.
22. A central tactic of the suppression of dissent has been the charge of antisemitism. On the one hand, like all other forms of racism and prejudice, antisemitism exists, including in institutions of higher education. Antisemitism needs to be combatted, including by strengthening the larger legal and policy infrastructure advancing civil rights and protecting communities who continue to face discrimination. On the other hand, as noted by Bernie Steinberg, the former Executive Director of Harvard Hillel, in recent federal actions we have also seen "the cynical weaponization of antisemitism by powerful forces who seek to intimidate and ultimately silence legitimate criticism of Israel and of American policy on Israel."^{xv xvi} Antisemitism has been invoked to suppress dissent, censor speech, control research centers and interfere with the academic freedom of Jews and non-Jews. Although some organizations and individuals affiliated with Judaism have applauded these actions, many have not. For example, in March 2025, over 3000 Jewish faculty from across the United States signed a statement titled "Not in Our Name," denouncing "without equivocation, anyone who invokes our name – and cynical claims of antisemitism – to

harass, expel, arrest, or deport members of our campus communities.”^{xvii}

23. The Canada-based Jewish Faculty Network Steering Committee’s May 2024 Submission to the Standing Committee on Justice and Human Rights illustrates this support for freedom of expression. The Submission calls attention to “the real instances of antisemitism (and anti-Jewish hatred) experienced by Jewish students and faculty who express support for Palestine or simply stand up for the freedom of expression of those who criticize Israel’s war crimes. This abuse and harassment is directed at them by pro-Israel supporters. Such harassment has included significant threats of violence, sexual violence and dehumanization, at times invoking antisemitic tropes.”^{xviii} Vocal Jewish critics of Israel have accused those equating antisemitism with anti-Zionism as interfering with their freedom of religion, including the freedom to be critical of Israel in ways that have been formed by the Jewish tradition. Jewish students at Columbia have in a recent action chained themselves to the university gates to protest the weaponization of antisemitism to suppress dissent. As noted in the *Not in Our Name* letter,^{xix} they have condemned the use of “Jews as a shield” to justify a naked attack on political dissent and university independence.^{xx} All against the backdrop of Trump pardoning white supremacists^{xxi} and platforming neo-nazis.”^{xxii}

IV. Impacted Communities and Individuals

24. (A) The Current Academic Community of Students, Staff and Faculty

Mahmoud Khalil’s story offers a window into how these attacks by the US government have impacted the university community as a whole - citizens and non-citizens, people of color and critics of the government, activists and scholars, students and faculty/staff, those dependent on federal funding and those dependent on freedom to write, research and speak out without fear.

25. On 8th March, 2025 Mahmoud Khalil, a U.S. permanent resident whose family is of Palestinian origin, was arrested in the lobby of his building by federal officers implementing the 29th January Executive Order mentioned above which orders colleges to “monitor for and report activities by alien students and staff” relevant to antisemitism.^{xxiii} Khalil, a recent Columbia graduate, was living in Columbia housing with his wife, an American citizen. At the time of Khalil’s arrest, Khalil’s wife was 8 months pregnant with their child. In addition to publicly defending Palestinian rights, throughout the previous year Khalil had acted as an intermediary between the University and student protesters, and was recognized as a mediator by both parties. As noted by over a hundred international law scholars (see Annexure II and III), the arrest of Mahmoud Khalil is a violation of the human rights to freedom of opinion, expression, association, and assembly and other international law obligations that the United States is bound to respect. The same is true of all the other deportations and threatened deportations noted above – indeed, of the ideological deportation policy as a whole. These ideological deportation policy also violate the rights of American citizens. The constitutional right to free speech includes the corollary right to listen to the speech of others, including non-citizens who speak in classrooms, protests, and other public spaces (see Annexure I). The ideological deportation policy directly undermines those fundamental rights.
26. Khalil’s case illustrates the central issues we wish to highlight: 1) the viewpoint-based persecution of someone exercising his right to protest government actions and to associate

with members of the Columbia community who shared his views; 2) the targeting of a student of Muslim and Palestinian heritage; and 3) the government's effort to increase surveillance and shut down forums for discussion and debate in university spaces. Moreover, the arrest, detention and initiation of deportation proceedings against Mr. Khalil violated basic principles of due process. The government has sought to justify its actions by invoking a vague and open-ended argument that Mr. Khalil's presence in the United States has "potentially serious adverse foreign policy consequences for the United States" under the Immigration and Nationality Act ("INA").^{xxiv} This arbitrary and capricious argument punishes Mr. Khalil in ways that have created a broad chilling effect on expressions of dissent, assembly and association on college and university campuses across the nation.

27. This chilling effect is intentional. President Trump has pronounced that Mr. Khalil's arrest "is the first arrest of many to come." And indeed, it has been followed by the targeting of other noncitizen students who dared to exercise their right to speak and write freely. Khalil's arrest was followed by the arrest and detention of Badar Khan Suri, a scholar at Georgetown University, who was targeted for his social media posts expressing Palestine solidarity. Rumeysa Ozturk, a doctoral student at Tufts University, was arrested and detained after coauthoring an article in a student newspaper criticizing the university administration's response to the war in Gaza. Dr. Rasha Alawieh, a kidney transplant specialist and Brown University professor, was deported hours after she arrived back in Boston after visiting family in Lebanon. Momodou Taal, a British-Gambian Ph.D. student at Cornell, was an outspoken activist in solidarity with Palestine; he went into hiding pending a legal proceeding seeking to halt deportation proceedings against him and eventually left the country as the threats escalated.^{xxv} Yunseo Chung is a Barnard student and permanent resident of Korean heritage who has lived in the US since she was seven. Chung is threatened with deportation for protesting the university's response to Palestine activism, and she too is now involved in a legal battle to stay the deportation. Leqaa Kordia, of Palestinian heritage, was arrested and detained with allegations that she was active in protests at Columbia. Ranjani Srinivasan, an Indian citizen, fled to Canada in what is described as a self-deportation after their visa was revoked and ICE agents visited their apartment looking for them. The Department of Homeland Security issued a statement that, based on no evidence, characterized Ms. Srinivasan as a terrorist sympathizer and accused them of advocating violence and being "involved in activities supporting Hamas, a terrorist organization." In each of these cases, there is no allegation of any criminal violations. These persecutions have been undertaken purely on the basis of participation in lawful campus protests – or, as in Srinivasan's case, for no apparent reason at all.
28. These arrests are the tip of the iceberg. US Secretary of State Marco Rubio asserted that the administration has revoked 300 student visas because those students participated in campus protests.^{xxvi} The New York Times also reports that the administration is considering a travel ban or restriction on persons from 43 countries. there are purportedly 43 countries on a list of countries being considered by the administration for a travel ban or travel restriction. According to a January 20 Executive Order, such bans are justified in order to protect American citizens "from aliens who intend to commit terrorist attacks, threaten our national security, espouse hateful ideology or otherwise exploit the immigration laws for malevolent purposes."

29. The majority of those targeted for arrest and deportation are people of color and Muslim. As in the perversion of civil rights enforcement noted above, these assaults on academic freedom and the freedom of expression are intertwined with xenophobic and racist assaults on persons, communities, and indeed entire countries. These activities threaten to destroy the mission of higher education in the United States: to protect and foster freedom of expression in the search for truth, and to create an open and inclusive culture of inquiry and mutual respect. Dissent and the expression of unpopular opinions in the classroom and in public protest are part of the free exchange of ideas that colleges and universities are designed to protect.
30. Relatedly, pursuant to policies targeting Trans women, in a form of anticipatory obedience, university hospitals have stopped providing care for trans youth; for instance, this is the case with NYU Langone which stopped performing gender-affirming procedures weeks in the weeks after Trump's inauguration.^{xxvii} The academic community is enriched by diversity and pluralism and the enactment of policies that have targeted historically marginalized communities undermine this central ethos.
31. (B) Institutions of Higher Education
In addition to harming campus communities and their culture of free academic inquiry and public debate, the assault on academic freedom also undermines institutions of higher education themselves by eroding the economic and policy infrastructure that is critical for learning, teaching and research.
32. Some of the attacks on the infrastructure of higher education are directed at marginalized communities and at the production and dissemination of knowledge, in accordance with the perversion of civil rights enforcement described above. There has been a particular push to cut federal funding for university programs that embrace goals of DEI, or that touch on race, gender or LGBTQ+ communities and rights. For example, the Trump administration paused more than \$100 million in grants to the University of Maine system in retaliation for "openly disregarding" President Trump's executive order barring transgender girls and women from girls' and women's sports. "Antisemitism" was invoked in the threat to cut \$400 million in grants and contracts with Columbia University.
33. Other administration assaults on the infrastructure of higher education seem bafflingly irrational, or designed simply to cripple distinguished institutions and their research missions. An example is the slashing of funding for medical and scientific research. As the New York Times notes, "The Trump administration in recent weeks has canceled or frozen billions of dollars in federal grants made to researchers through the National Institutes of Health,^{xxviii} and has moved to sharply curtail funding for academic medical centers and other institutions.^{xxix} It has also, through the initiative called the Department of Government Efficiency, tried to fire hundreds of workers, at the National Science Foundation,^{xxx} an independent federal agency. Over \$9 Billion of federal funds to Harvard are under review.^{xxxi}
34. In these latter examples, there is no connection between the stated goal (combating antisemitism for example) and the funds cut; for instance, \$250 million of the \$400 million at stake in the federal government's threats to Columbia University was funding from the National Institutes of Health for biomedical research in areas such as cancer and diabetes. With the threat of federal funding cuts in the air, many American universities have instituted

spending freezes – halting hiring plans, denying research funding, rescinding graduate student admission offers, and ceasing work on research projects already underway.

35. The irrationality of these attacks on the research and teaching missions of American colleges and universities suggests that their source lies not in supposed “antisemitism” or in disagreements about the proper interpretation of civil rights norms, but in animus based on ideology. For the current administration, higher education is a target precisely because it values free inquiry, dissent, critical thinking and inclusion. These values are central to a free society, but inimical to authoritarian rule. Higher education is thus often attacked by authoritarian governments, as in Hungary under Orban, Brazil under Bolsonaro, and others. The United States is now in the midst of just such an assault. Vice president JD Vance described this goal explicitly when speaking to the National Conservatism Conference in 2021: “If any of us want to do the things that we want to do for our country, and for the people who live in it, we have to honestly and aggressively attack the universities in this country.”
36. Historians describe authoritarian governments as interested in monopolizing and controlling educational resources to extend and entrench their own grip on power through four strategies to attack higher education: 1) breaking academic norms; 2) bending the rules; 3) extralegal methods (such as threats); and 4) “de-specification,” by which she means “integrating or dissolving programmes through the redefinition of teaching content” and “defin[ing] and redefin[ing] teaching content in order to promote ideological aims.”^{xxxii} Each of these strategies is visible in the Trump war on higher education. Separately and together, these strategies violate human rights.

V. Suggested Recommendations

37. (A.) We recommend repealing the executive orders on DEI, free speech and deportation.
38. (B.) We recommend reinstating funding for DEI programs, and all the academic programs that have been cut.
39. (C) We recommend concrete steps to advance inclusion and redress for communities that have been historically marginalized in curricula and research, and as faculty and students. This includes ending the unlawful and unjust attacks on members of our community who are noncitizens.
40. (D) We recommend ending punitive attacks on the exercise of free expression and association and proactive steps to safeguard those freedoms, by citizens and non-citizens alike.
41. (E) We recommend initiatives for transparency and accountability in the administration of higher education. This includes the administration of universities to empower faculty governance and responsiveness to students call for transparency and accountability such as their demand for disclosure and divestment from companies complicit in war crimes, genocide and settler colonialism.

42. (F) We recommend meaningful reparations for all those who have been injured by the war on higher education. This may include monetary compensation but it also includes reform and transformation of the legal and policy environment for institutions of higher education to ensure that they can flourish and thrive without political interference or economic precarity.

VI. Endnotes

- ⁱ ACLU, Trump's Executive Orders Rolling Back DEI and Accessibility Efforts, Explained <https://www.aclu.org/news/racial-justice/trumps-executive-orders-rolling-back-dei-and-accessibility-efforts-explained>
- ⁱⁱ But elements of today's coordinated assault on academic freedom have more recent echoes. See Juan Cole, *The New McCarthyism*, Salon (Apr. 22, 2005), https://www.salon.com/2005/04/22/mccarthy_5/ (drawing parallels between the McCarthy era a 2005 controversy in which a Columbia professor was targeted for their speech critical of the Israeli government's policies).
- ⁱⁱⁱ See *New York Times Co. v. Sullivan*, 376 U.S. 254, 272 (1964).
- ^{iv} See Feingold & Weishart, *Discriminatory Censorship Laws*, *supra* note 16.
- ^v See generally, Mutua, *Reflections on Critical Race Theory in a Time of Backlash*, *supra* note 50 (discussing smear campaigns targeting critical race theory).
- ^{vi} The 800 proposals include federal, state and local bills, resolutions, executive orders, opinion letters, statements, and other measures. See CRT Forward: *Tracking the Attack on Critical Race Theory* (Apr. 6, 2023), https://crtforward.law.ucla.edu/wp-content/uploads/2023/04/UCLA-Law_CRT-Report_Final.pdf.
- ^{vii} *Id.*
- ^{viii} PEN America, Report: Spineless Shelves: Two Years of Book Banning (2023) (reporting 5894 instances), <https://pen.org/spineless-shelves/>.
- ^{ix} PEN America, Report: America's Censored Classrooms: Lawmakers Shift Strategy as Resistance Rises (November 9, 2023), <https://pen.org/report/americas-censored-classrooms-2023/>.
- ^{xi} See Ronald J. Daniels, *Why Authoritarian Regimes Attack Independent Universities*, Washington Post (Sept. 28, 2021), <https://www.washingtonpost.com/opinions/2021/09/28/why-authoritarian-regimes-attack-independent-universities/>.
- ^{xii} See Rachel Levinson, *Academic Freedom and the First Amendment: Presentation to the AAUP Summer Institute*, American Association of University Professors, <https://www.aaup.org/our-work/protecting-academic-freedom/academic-freedom-and-first-amendment-2007> (last visited Jan. 31, 2024).
- ^{xiii} <https://www.columbiaspectator.com/news/2025/03/14/trump-administration-issues-list-of-demands-columbia-must-meet-to-maintain-federal-funding/>
- ^{xiv} <https://www.jadaliyya.com/Details/46618/AAUP-Press-Release-On-the-Termination-of-Harvard%E2%80%99s-CMES-Leadership>
- ^{xv} <https://www.thecrimson.com/article/2023/12/29/steinberg-weaponizing-antisemitism/>
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xx <https://www.theguardian.com/us-news/2025/mar/10/trump-arrest-palestinian-activist-mahmoud-khalil>

xxi <https://glaad.org/donald-trumps-dangerous-pardon-of-jan-6th-insurrectionists/>

xxii <https://forward.com/news/680626/project-esther-heritage-jewish-conspiracy-antisemitism/>

xxiii <https://www.whitehouse.gov/presidential-actions/2025/01/additional-measures-to-combat-anti-semitism/>

xxiv 8 U.S.C. §1227(a)(4)(C)(i); INA §237(a)(4)(C)(i).

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xxxii Andrea Pető, Why We Must Resist Illiberalism's Attacks on Higher Education, <https://theloop.ecpr.eu/to-survive-illiberalisms-attacks-on-higher-education-we-must-resist/>

VII. Annexes

- 1) AAUP v. Rubio
- 2) Amici Curiae Brief of International law Professors, Experts, Practitioners, and Scholars as Amici Curiae in support of petitioner in Mahmoud KHALIL, Petitioner, v. Donald J. TRUMP et. al.
- 3) List of Amici Curiae
- 4) AAUP, 1915 Declaration of Principles, <https://www.aaup.org/NR/rdonlyres/A6520A9D-0A9A-47B3-B550-C006B5B224E7/0/1915Declaration.pdf>
- 5) AAUP, 1940 Statement of Principles on Academic Freedom, <https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure>.

6) AAUP, 1966 Statement on Government of Colleges and Universities,

<https://www.aaup.org/report/statement-government-colleges-and-universities>.