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Universities Need a New Defense

The authoritarian threat is growing. The old playbook won't work.

ILLUSTRATION BY THE CHRONICLE

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The American university remains the standard for the world. Some of the most talented individuals from around the globe spend their lives as professors on American campuses working to discover new knowledge and introduce the next generation to accomplishments of the human mind.

But this moment has brought severe and unprecedented challenges to its continued viability — indeed, to its very existence. The most immediate threats come, of course, from our own federal government.

In March 2025, the Trump administration started with Columbia University, my home, by threatening a massive withdrawal of federal funds for science and biomedical research. The purported basis for this attack on Columbia and several peer research universities was that they had failed to protect Jewish students against antisemitism during protests following the massacre in Israel by Hamas on October 7, 2023.

As we know, Harvard in particular and many other leading American universities have faced the Damoclean sword of funding suspensions for this, as well as for operating programs that promote diversity, equity, and the inclusion of historically marginalized and underrepresented groups among students and faculty.

Because federal funds constitute such a significant proportion of every research university's annual budget, universities have rightly claimed that they are facing an existential threat, one that can only be alleviated by allowing the federal government an unprecedented role in their institutions, despite a longtime understanding that freedom of the university needs special protections. Columbia and several peers have chosen a path of conciliation and negotiation, which led to a settlement with the Trump administration. Harvard, presented with an especially onerous set of demands, chose resistance as well as negotiation, winning an injunction from a federal District Court that blocked the government's "arbitrary and capricious" suspension of funds.

The federal government is not alone in launching an assault on academic institutions. Several states have also tried to seize control of the inner workings of public universities, forbidding professors from teaching certain ideas or demanding that they emphasize others favored by government officials. At the same time, groups of major donors and alumni have, in some cases, joined the effort to cajole their alma maters by threatening to withhold future giving.

We are, in short, witnessing a tectonic shift in America toward the use of authoritarian tactics in many sectors of society, from immigration and criminal justice to economic policy and business regulation. Long-established norms and legal precedents, hard won over decades and centuries, are being cast aside. The university is among the first (along with the press) of the major independent institutions in society to feel the brunt of this new and frightening transformation.

When you are under attack, one clear benefit is that you are forced to be clearer in your own mind about what you believe and why you believe it. The fortifications and barriers erected in the past to protect our values are now clearly insufficient.

We need nothing less than a new conception of the role of the university in a free society. The traditional arguments for why we should value universities — that they advance civilization, that they are an engine of economic and social growth, that they are a competitive advantage for the nation in the world, and that they educate our young and prepare our citizens and attempt to equalize the opportunities available to them — are valid. But these arguments do not begin to capture the foundational role of the university in the American constitutional system. If the press is the unofficial fourth branch of the system, the university is the fifth — and even more so now, as the press is in decline. Universities must preserve their integrity. We all have a responsibility to protect their standing in our democracy.

Like many of my generation, I found my way to the university from a middle-class family, attending public schools in rural areas of the American West. My father was the editor and publisher of a small-town daily newspaper. From him, and through my experience working at the paper, I was imbued with a very strong sense of the public role, and the necessary autonomy, of the press. When I became a law professor, I was naturally drawn to the First Amendment. I felt the excitement that came with the ambition to master a subject and to make a contribution to its advancement. From the time I was a dean of a law school, I learned how a scholar becomes part of a larger field of inquiry and a part of the university. And then, as a university president, I learned how the entire system of universities operates.

Both my scholarship and experience lead me to believe that all of us who live, work, and learn within the university should think of our institution as part of the larger constitutional structure of the nation. The university is built into our foundational ideals and its freedom to serve this essential mission should be protected accordingly.

This is no small matter. Given recent events, I cannot help but think about this truth in the context of university leaders responding to intrusive questioning by a hostile

congressional committee. When members of Congress make demands on universities to punish certain faculty members or to challenge academic decisions, one's answers should be guided by the university's role as the fifth branch of the nation. How members of the press or how Supreme Court justices respond when they are challenged would be an appropriate guide.

The simple fact is that leaders at every level, from faculty members to deans to presidents to trustees and alumni, must focus now on building this sense of mission. We must express it over and over again, taking every opportunity to explain and affirm it in as much detail as possible. This idea cannot be treated as something that everyone will grasp on their own or will naturally intuit. Like the modern meaning of the First Amendment, the idea of the freedom of the university is not self-evident, and the latter is certainly not part of the general knowledge of the faculty, students, and the public. We must never be shy about characterizing the university as one of the key means of realizing the human need to know, to understand, and to search for truth. It must be repeated endlessly and with all the infinite variations that will come over time.

The principle is about a system, not a "right" held by any single professor or university. This is an important feature that needs emphasizing. We spend far too much time these days trying to distinguish individual institutions from others, feeding that competitive spirit that has many positive features but is secondary to the needs of the collective whole. The university, for all its faults and shortcomings, not only generates the pioneering ideas that benefit society and contribute to democratic self-government, but also fulfills the innately human drive to understand the world and live a good life. The admittedly unwieldy structure of the modern university — and importantly the interplay among the nation's universities — contributes to its unparalleled success but also leaves it vulnerable. So the role of the university, broadly conceived, must be fortified in our minds and the minds of the public.

Students need to be bought into this vision from the moment they arrive on campus until graduation. I have often been in meetings and conversations about how to get students to realize their responsibilities to give back once they are able, so that the next generation may succeed like them. These "student/alumni development" discussions are valuable. But

I have never heard a comparable discussion on the idea that every student should be informed about the larger societal role of the university. We spend an inordinate amount of time educating students in the history and identity of their own discrete college or university to instill a sense of loyalty and pride. We would be wise to spend as much time educating them on the nature and sources of the mission of the university and the deep substance underlying it.

Similarly, this principle should be part of the process of selecting all leaders of the university — chairs, deans, provosts, and presidents. This would significantly increase the likelihood that the mission and the identity of the university will naturally be incorporated in all decision-making. Whenever people are considered for these roles, the first question they should be asked is how they would articulate their views on the freedom of the university.

Moreover, boards of trustees should also be composed of individuals who are in alignment with the academic mission and the fundamental principle of freedom of the university. Maintaining the appropriate role of boards is complex, fraught with concerns about overstepping. Having in mind the very special nature of the university is critical to maintaining the proper balance.

Also of utmost import, all members of the faculty must understand that they have a responsibility to live by and uphold their role in this concept of the university. We are not talking about some individual privilege of each professor but rather the right of a system, of a network, of a collection of people who have accepted a role in a larger body. We are part of a whole, and it is the whole that provides the mission, the terms under which we pursue the mission, and the basis for the standing we have in society.

As I know from first-hand experience, research universities need effective fiscal management to run and pursue their mission. Crafting budgets and identifying revenue streams are an essential part of leadership at any organization. But we should cringe when we hear anyone, including those on the inside, speak about the university as a business. Nothing is more harmful to the meaning of universities than when students are depicted as “customers” or “throughputs,” or when there is seemingly serious talk about

"credentialing" students or about certain areas of the university being "profit centers," or when people focus on increasing "efficiencies" in the "transmission of information." This is one of the most pernicious characterizations of the university, and it should be scorned in every form.

We have become very good at describing the benefits to society that result from basic research in science and engineering. But this familiar account lacks the richness of the principle I am talking about here. There are "benefits" of all kinds brought by the university, not least from the arts and humanities that bring us to a better grasp of life in every single dimension we can imagine. It is a mistake to defend the university with respect to only a limited number of its many branches of knowledge. Finally, we need major figures — leaders from every sector of society — to speak about this broader role.

Clearly, we need to build a new, long-term defense of the university. To be sure, our new age of authoritarianism is not, so far, the same style of authoritarianism that Europe experienced in the 1930s and 1940s. It is a softer version. The basic goal of the new authoritarianism, from the point of view of the autocrat and his minions, is to intimidate and silence the opposition just to the point that they cannot prevent you from convincingly winning every election. The pretense of abiding by the rules and norms of democracy and of basic rights and liberties is part of this version of authoritarianism. You need not cast your exercise of power in raw terms of authority, demanding obedience and submission.

Rather, everything you do is presented in terms of democratic ideals: protecting free speech, ending discrimination, insisting on diversity of thought, and cleansing the society of traitors. Repression in the name of noble values is calibrated to chill speech enough to weaken but not destroy the opposition.

The conditions underlying the current state of affairs are unlikely to dissipate soon or to be resolved easily. Donald Trump may be a once-in-a-lifetime political figure, but as many have pointed out, he is at least as much a symptom as he is a cause. The concerns we have about the vulnerability of universities and the question of how we think about their place in society are serious matters for the long as well as the near term.

One thing, at least, is clear: The forces undermining democracy have centrifugal effects. That makes the university, as a countervailing force shoring up the "center" of American opinion and life, all the more critical to the future of this country.

In every society that has fallen to, or embraced, authoritarianism, the state goes after the press first and closes in on universities next. Typically, the assault begins by undermining the leaders of the universities and then replacing them with individuals who will be more compliant. We have seen this in Turkey when Recep Tayyip Erdoğan moved to secure his power, and also in Hungary, with Viktor Orbán's brutal confrontation with the Central European University. From the authoritarian's point of view, opposition is never regarded as legitimate.

The most powerful strategy the authoritarian can use is to employ the vast resources of the government in favoring or disfavoring political friends and enemies. In doing so, he relies on one of the key lacunae of the First Amendment cases dealing with this kind of "censorship." Justices have been almost exclusively engaged with how to deal with laws that directly punish or forbid certain speech, which is analytically easier than trying to determine when in the conduct of the government's business *a comparable result to that of direct censorship* should be disallowed.

The most dramatic instances of this strategy have been directed at universities. The post–World War II pact between the government and research universities — which saw federal funding go to advance scientific and biomedical research — has been placed in jeopardy.

In the context of the First Amendment, these acts raise the issue referred to as "unconstitutional conditions." This is a known problem, but the case law is underdeveloped. As always, there is a tension to be resolved. On the one hand, the government has "rights" just like everyone else to express its views about issues it regards as important (for example, advocating against cigarettes because of health hazards), and the government has a legitimate interest in not having to fund things that might end up coming into conflict with its policies and views.

On the other hand, given the vast amounts of money the government distributes, if we extend complete freedom to the state to condition contracting or funding on whatever grounds it likes — including requiring recipients to refrain from expressing certain viewpoints or ideas — then the government will be able to accomplish indirectly what the nation has already decided is a corruption of the marketplace of ideas. The First Amendment would quickly be eviscerated.

Another technique employed by the Trump administration is threatening to take action, or actually taking action, in a limited manner that is nevertheless dire enough to create widespread fear. The threat itself is often enough to achieve broad silence. I am personally aware of this method, having been explicitly mentioned in certain MAGA publications as a person who should be criminally indicted.

The upshot is that we, the denizens of the university, need to learn how to exist in a hostile environment, one in which government (both federal and state) seems to have a malicious interest in undermining the position and credibility of the university while also helping to throttle scholarship and teaching.

The question of how to respond to these new threats leads us back to the Constitution and the First Amendment. We must articulate and emphasize the notion of the freedom of the university at every opportunity. The larger challenge is to secure that principle, and the idea of the university as the fifth branch of the American system, in the Constitution.

We begin by becoming more deliberate and long-term in our thinking. In times of stress and crisis, your values stand out more sharply. In this sense, the authoritarian siege has done wonders for elevating freedom of the university in people's minds.

What we need is a decision or two by the Supreme Court affirming the principle of the freedom of the university. What would this look like in practice? It would mean not some absolute right against any form of government intervention, but rather a heightened scrutiny and an insistence that the government meet a very high bar to justify any

intrusion. Interference would be weighed against the powerful constitutional reasons for the special standing afforded universities collectively.

Over time, the court should put clear and appropriately restricted boundaries around what the government can do with this extraordinary power. No one is contending that the government cannot place any restrictions or conditions on funding, including those concerned with stopping invidious discrimination as defined by the Constitution itself. But the reach and methods of that authority must be very narrowly circumscribed, and the court must be highly sensitive to instances of abusive intent.

One reason — an important one — to go to court is that it offers the opportunity to most clearly articulate what values you are fighting for, what identity you claim, and what determination you possess to defend these principles.

The Trump administration's threats to withdraw funding from Harvard unless the university agrees to turn over major elements of its academic decision-making is a perfect example of unconstitutional encroachment. By filing its own lawsuit against the government, Harvard seized that opportunity and has now succeeded in persuading a federal judge to enjoin the government from continuing with its unconstitutional assault. Whatever ultimately happens, the path of resistance has been opened.

I am not naïve. There is no question that when up against a determined and hostile government, it is difficult to win, whatever the courts ultimately rule on the claim of academic freedom in a particular context. As we have seen over this past year, even with robust protections, constitutional or otherwise, the tactics of attack are almost unlimited, and the shield of principle is necessarily porous. The government can always initiate investigations, file lawsuits, find ways to hold back or deny funds. These and other actions can add up to make life unbearable — and the institutional life as we know it unsustainable. In these circumstances, maintaining your sense of self and your integrity is the most important thing you can do. Strategies of appeasement never work. Concessions rarely stop further demands, and the cycle of encroachment continues.

At some point, sanity will return. If you've given up your principles and values when under pressure, you will likely never get them back. If the First Amendment is to have meaning, it's the recognition that a free, democratic society cannot afford to constrain the essential human need to discover new knowledge.

This essay is adapted from Lee C. Bollinger's new book, University: A Reckoning*, out this month from W.W. Norton.*

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We welcome your thoughts and questions about this article. Please email the editors or submit a letter for publication.

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