

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT**

PRESIDENT AND FELLOWS OF HARVARD COLLEGE,

Plaintiff-Appellee,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; NATIONAL INSTITUTE OF HEALTH; ROBERT F. KENNEDY, in his official capacity as Secretary of the United States Department Health and Human Services; UNITED STATES DEPARTMENT OF JUSTICE; TODD BLANCHE, in his official capacity as Acting Attorney General of the United States; UNITED STATES DEPARTMENT OF EDUCATION; LINDA MCMAHON, in her official capacity as Secretary of the United States Department of Education; GENERAL SERVICES ADMINISTRATION; EDWARD FORST, in his official capacity as Administrator of the United States General Services Administration; UNITED STATES DEPARTMENT OF ENERGY; CHRISTOPHER WRIGHT, in his official capacity as Secretary of the Department of Energy; NATIONAL SCIENCE FOUNDATION; BRIAN STONE, in his official capacity as Acting Director of the United States National Science Foundation; UNITED STATES DEPARTMENT OF DEFENSE; PETER HEGSETH, in his official capacity as Secretary of the United States Department of Defense; NATIONAL AERONAUTICS AND SPACE ADMINISTRATION; JARED ISAACMAN, in his official capacity as Administrator of the National Aeronautics and Space Administration; UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; SCOTT TURNER, in his official capacity as Secretary of Housing and Urban Development; UNITED STATES DEPARTMENT OF AGRICULTURE; BROOKE L. ROLLINS, in her official capacity as Secretary of Agriculture,

Defendants-Appellants.

*On Appeal from the United States District Court
for the District of Massachusetts; Judge Allison Burroughs,
Case No. 1:25-cv-11048-ABD*

**BRIEF OF *AMICI CURIAE* UNIVERSITY PROFESSORS AND
SCHOLARS IN SUPPORT OF PLAINTIFF-APPELLEE AND
AFFIRMANCE**

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IDENTITY AND INTEREST OF AMICI CURIAE¹

Amici curiae are university professors and scholars with decades of experience studying and writing about democratic governance in the United States and other countries, and with substantial expertise in studying democracies that slide into authoritarianism and the rise of electoral authoritarian governments. They submit this brief to describe how rising authoritarian leaders interfere with the independence of universities to consolidate power, censor academic discourse, and stifle dissent. *Amici*'s expertise is relevant here, as it illuminates how the Trump administration's targeting of universities poses a threat to a pillar of democratic civil society and the rule of law in the United States and why it is essential for courts to carefully review these claims.

Amici are Michael Albertus, Nancy Bermeo, Javier Corrales, Scott L. Cummings, David M. Driesen, Francis Fukuyama, Tom Ginsburg, Gábor Halmai, Aziz Z. Huq, Sonia Mittal, Maria Popova, Kim Lane Scheppele, Susan Stokes, and Lucan Way. Biographies of each *amicus* are appended at the end of this brief.

¹ All parties have consented to the filing of this brief. *See* Fed. R. App. P. 29(a)(2). As required by Federal Rule of Appellate Procedure 29(a)(4)(E), *amici* provide this statement: no party's counsel authored this brief in whole or in part; and no person other than *amici* or their counsel made a monetary contribution to this brief's preparation or submission.

INTRODUCTION AND SUMMARY OF ARGUMENT

We are university professors and scholars who have studied nations around the world experiencing authoritarian consolidation and democratic backsliding—or the weakening of an existing democracy’s democratic norms, processes, and institutions. This area of study is particularly salient today, as recent assessments show that democratic backsliding is occurring across the world.² By some measures, autocracies now outnumber democracies, and many more countries, including the United States, are experiencing democratic decline than are democratizing.³ Through our research, we recognize that one common way leaders with authoritarian tendencies seek to consolidate their power is by asserting control over government and private institutions that have previously been insulated from political influence, including private and public universities.

The administration’s unlawful actions terminating over \$2 billion in federal funding to Harvard mirror attacks on the independence of public and private universities that have occurred in the countries we study. As we have seen in these

² See generally Freedom House, *Freedom in the World 2026: The Growing Shadow of Autocracy* (2026), https://freedomhouse.org/sites/default/files/2026-03/FIW2026_final_digital%20%281%29.pdf; Marina Nord et al., *Democracy Report 2026: Unraveling The Democratic Era?*, V-Dem Institute (2026), https://www.v-dem.net/documents/75/V-Dem_Institute_Democracy_Report_2026_lowres.pdf.

³ Nord et al., *supra* note 2, at 4-5 (noting that the world has 92 autocracies and 87 democracies as of the end of 2025, and 44 countries are autocratizing while only 18 are democratizing).

places—three of which we focus on here as case studies—when governments wield increased control over universities, they weaken a pillar of civil society by undermining institutions that generate “data and ideas essential to informed public discourse while training students to be critical, engaged” citizens.⁴ The erosion of universities’ independence can therefore damage democratic governance and undermine the rule of law. Yet because, as here, the improper targeting of universities is frequently supported by claims of legal authority, these actions may appear to be legitimate exercises of state power. It is vital to recognize the dangers that such unlawful attacks pose to the fabric of democracy.

Here, as the district court concluded below, the government’s funding termination constituted “an ideologically-motivated assault” on Harvard, in violation of the First Amendment, Title VI of the Civil Rights Act of 1964, and the Administrative Procedure Act (“APA”), after the university refused to capitulate to the administration’s “content- and viewpoint-based demands.” *President & Fellows of Harvard Coll. v. U.S. Dep’t of Health & Hum. Servs.*, 798 F. Supp. 3d 77, 91, 136 (D. Mass. 2025) (“*Harvard*”). But Harvard is not the only university over which this administration has attempted to assert control. Through an

⁴ Scholars at Risk Network, *Free To Think: Report of the Scholars at Risk Academic Freedom Monitoring Project*, at 1 (2025), https://www.scholarsatrisk.org/wp-content/uploads/2025/09/SAR_F2T2025_8.5x11_FINAL.pdf.

unprecedented pressure campaign, the administration has threatened multiple universities with massive funding cuts and has launched wide-ranging efforts—including the use of investigations into employment and admissions practices and responses to antisemitism on campus—in a bid to push schools to adopt the administration’s policy agenda. The campaign has even led to the resignation of the president of a prominent public university. *See* Section IV, *infra*.

This Court should not ignore this broader context and the troubling precedent the government’s unlawful funding terminations set. The Court should affirm.

ARGUMENT

I. TARGETING THE INDEPENDENCE OF UNIVERSITIES IS CHARACTERISTIC OF COUNTRIES EXHIBITING DEMOCRATIC BACKSLIDING.

One key indicator of democratic backsliding is a government’s reliance on “autocratic legalism”—the use or abuse of the law, or the trappings of law, to attack governmental and civil society institutions and diminish their independence so as to consolidate power and stifle dissent.⁵ Universities, with their commitment

⁵ Javier Corrales, *Autocratic Legalism in Venezuela*, 26 J. of Democracy 37, 38 (Apr. 2015); Kim Lane Scheppele, *Autocratic Legalism*, 85 U. Chi. L. Rev. 545, 547-49 (2018). Scholars generally characterize autocracies as systems of government where a ruler or small ruling group has captured state institutions, manipulated democratic procedures, and eroded checks and balances so that outcomes are predetermined. A façade of democracy may remain, but rulers are not accountable to the people. *See, e.g.*, Maria Popova, *Putin-Style “Rule of Law”*

to the search for the truth and methods for assessing facts and creating knowledge, may pose a threat to rising authoritarian leaders.⁶ By asserting control over universities' internal governance through the misuse or abuse of available legal tools, a leader gains the ability to censor public discourse, damage the development of scientific and other knowledge, and influence public perception—key tactics for a leader seeking to strengthen his hold on power.⁷ Once captured by the government, universities are less able to protect the academic freedom of their faculty and students to engage in free discourse and truth-seeking.⁸ Although the ways in which governments have tightened control over universities in backsliding countries have varied, the resulting loss of independence invariably damages public discourse and democratic governance.

& *the Prospects for Change*, 146 *Daedalus* 64 (2017); Steven Levitsky & Lucan A. Way, *The Rise of Competitive Authoritarianism*, 13 *J. of Democracy* 51 (April 2002). As scholars note, that a leader governs as an autocrat says nothing about that leader's particular political ideology. Likewise, autocrats that rely on autocratic legalism to consolidate power are not limited to any one particular political ideology, and indeed, "[t]heir ideology is often flexible," or they may deny having one at all. Scheppele, at 574 & n. 102.

⁶ Tom Ginsburg, *Academic Freedom and Democratic Backsliding*, 71 *J. of L. Educ.* 238, 239-41 (2022),

https://jle.aals.org/cgi/viewcontent.cgi?article=1737&context=home&utm_.

⁷ *Id.*

⁸ *Id.*

Below, we discuss examples from three countries that experienced democratic backsliding over the last two and a half decades.⁹ As historical events in Hungary, Venezuela, and Turkey show, governmental targeting of universities through heavy-handed and abusive application of legal tools enables leaders who embrace authoritarian playbooks to further consolidate power, stifle free discourse, and degrade civil society.

A. Hungary

Hungary was a functioning democracy around fifteen years ago, but under Viktor Orbán’s rule, experienced significant democratic backsliding, including through the government’s misuse of power to undermine the independence of universities.¹⁰

In 2010, Viktor Orbán became Prime Minister for the second time and, with his Fidesz party’s support, immediately began consolidating power and attacking

⁹ During these periods of backsliding, Hungary, Venezuela, and Turkey have been identified as “electoral autocracies.” Nord et al., *supra* note 2, at 15. In an “electoral autocracy,” there are multiparty elections for the executive, but “insufficient levels of fundamental requisites such as freedom of expression and association, and free and fair elections.” *Id.* at 14.

¹⁰ In April 2026, Hungarian voters ousted Prime Minister Viktor Orbán after 16 years in power. Justin Spike & Sam McNeil, *Hungarian Prime Minister Orbán Is Ejected After 16 Years in a European Electoral Earthquake*, AP News (Apr. 12, 2026), <https://apnews.com/article/hungary-election-orban-magyar-trump-1a4eb0ba6b94e0c80c3cd18bd36254ab>.

civil society organizations.¹¹ The Orbán government “exploited its legislative dominance” by unilaterally changing the constitution and adopting a new “illiberal” one, called the Fundamental Law.¹² It took control of previously independent institutions such as the Prosecution Service, Constitutional Court, the Supreme Court, other parts of the judiciary, and the State Audit Office, and replaced key officials.¹³ Orbán removed democratic checks and balances, changed the rules of the free press to ensure dominance by media companies owned by executives close to the Fidesz government, and, as relevant here, eliminated the

¹¹ Veronica Anghel & Erik Jones, *What Went Wrong in Hungary*, 35 J. Democracy 52, 52-53 (2024), <https://dx.doi.org/10.1353/jod.2024.a922833>; Michael Ignatieff, *The Geopolitics of Academic Freedom: Universities, Democracy & the Authoritarian Challenge*, 153 Daedalus 194, 200 (2024), https://doi.org/10.1162/daed_a_02074; Anne Corbett & Claire Gordon, *Academic Freedom in Europe: The Central European University Affair and the Wider Lessons*, 58 Hist. of Educ. Q. 467, 468 (2018), <https://doi.org/10.1017/heq.2018.25>; Elizabeth Redden, ‘An Unprecedented Attack’, Inside Higher Ed (Apr. 4, 2017), <https://www.insidehighered.com/news/2017/04/05/new-law-imperils-central-european-universitys-future-hungary>.

¹² Péter Krekó & Zsolt Enyedi, *Explaining Eastern Europe: Orbán’s Laboratory of Illiberalism*, 29 J. of Democracy 39, 42 (2018), <https://muse.jhu.edu/article/698916>; Gábor Halmai, *Illiberal Constitutionalization and Scholarly Resistance: The Cases of Israel and Hungary*, 4 J. of Illiberalism Stud. 33, 34, 39 (2024), <https://www.illiberalism.org/illiberal-constitutionalization-and-scholarly-resistance-the-cases-of-israel-and-hungary/>.

¹³ Krekó & Enyedi, *supra* note 12, at 42; Steven Levitsky & Daniel Ziblatt, *How Democracies Die* 78 (2018); János Kornai, *Hungary’s U-Turn: Retreating from Democracy*, 26 J. of Democracy 34, 35-36 (2015), https://www.kornai-janos.hu/media/konyvek_cikkek/KornaiJanosEletmuve_Cikkek_0774.pdf; Anghel & Jones, *supra* note 11, at 53-56.

constitutionally guaranteed autonomy of universities.¹⁴ It was particularly important to restrict universities' autonomy "because they are a fulcrum of dissent and opposition when democracy is undermined."¹⁵

While Orbán's government took a broad, but incremental, approach to tightening control over academic institutions,¹⁶ its assault on the Central European University (CEU) made that university "a byword for academic freedom under attack."¹⁷ CEU was a U.S.- and Hungarian-accredited institution funded with George Soros's support, to provide high-quality education in former communist-bloc countries.¹⁸

In 2017, the Orbán government set out to evict CEU, passing a bill, dubbed "Lex CEU," with new criteria for foreign universities operating in Hungary.¹⁹

¹⁴ Ignatieff, *supra* note 11, at 200; Balázs Majtényi & Andrew Ryder, *Hungarian Academia in a Deep State*, 33 Eur. Rev. S102, S104 (2025), <https://doi.org/10.1017/S106279872500016X>.

¹⁵ Balázs Majtényi & Andrew Ryder, *Academic Freedom and Dissent in Higher Education: The Case of Hungary*, 33 J. of Contemp. Cent. & E. Eur. 483 (2024), <https://www.tandfonline.com/doi/full/10.1080/25739638.2024.2435785>.

¹⁶ András L. Pap, *The Hungarian Roadmap: Eight Lessons on Academic Freedom From a Hungarian Perspective*, Verfassungsblog (Oct. 14, 2025), <https://verfassungsblog.de/hungary-academic-freedom>.

¹⁷ Corbett & Gordon, *supra* note 11, at 467; Ginsburg, *supra* note 6, at 254.

¹⁸ Ginsburg, *supra* note 6, at 253-54.

¹⁹ Ignatieff, *supra* note 11, at 200; Zsolt Enyedi, *Democratic Backsliding and Academic Freedom in Hungary*, 16 Perspectives on Politics 1067, 1067 (2018), <https://doi.org/10.1017/S1537592718002165>; Gábor Halmai, *The End of Academic Freedom in Hungary*, Droit & Société (Nov. 25, 2019), <https://ds.hypotheses.org/6368>.

Government officials accused CEU—or the “Soros university,” as they also called it—of being a “virtual” or “fake” university, and some alleged that CEU was part of an international conspiracy against Hungary.²⁰ Ultimately, the government refused to ratify an agreement that would have allowed CEU to continue to operate its U.S.-accredited academic programs in Budapest, and CEU moved them to Vienna in 2019.²¹

The CEU’s expulsion “sparked an international outcry,” but academics say some of the Orbán government’s “most transformative changes” to higher education were “quieter and more systematic.”²² For example, in 2014, the government created a Chancellor position at all universities, putting government appointees in charge of university finances.²³ In 2018, the government banned graduate programs in gender studies—at both public and private universities—disparaging the subject as “non-scientific” and “an affront to the sanctity of

²⁰ Enyedi, *supra* note 19, at 1068.

²¹ Elizabeth Redden, *Central European U Forced Out of Hungary*, Inside Higher Ed (Dec. 3, 2018), <https://www.insidehighered.com/news/2018/12/04/central-european-university-forced-out-hungary-moving-vienna>; Seher Asaf, *Will Hungary Rip Up Its Authoritarian Playbook for Universities?*, Times Higher Education (Apr. 9, 2026), <https://www.timeshighereducation.com/depth/will-hungary-rip-its-authoritarian-playbook-universities>.

²² Asaf, *supra* note 21.

²³ Renáta Uitz, *Restoring Academic Freedom in Hungary*, Verfassungsblog (June 17, 2026), <https://verfassungsblog.de/restoring-academic-freedom-in-hungary/>; Majtényi & Ryder, *supra* note 14, at S105.

heterosexual marriage and the conventional family.”²⁴ Orbán also reorganized the Hungarian Academy of Sciences to reduce the autonomy of its research network.²⁵

Perhaps most far-reaching, the government effectively privatized many universities by subjecting them to control by foundations governed by government-friendly boards and depriving university staff of public-servant status.²⁶ The transformation gave the Fidesz party “a large degree of control over university affairs,”²⁷ with the boards determining policies on spending, appointments, curricula, and hiring.²⁸ With this blow to academic freedom, the European Union

²⁴ Majtényi & Ryder, *supra* note 14, at S105; Halmai, *supra* note 19; Elizabeth Redden, *Hungary Officially Ends Gender Studies Programs*, Inside Higher Ed (Oct. 16, 2018), <https://www.insidehighered.com/quicktakes/2018/10/17/hungary-officially-ends-gender-studies-programs>.

²⁵ Halmai, *supra* note 19; Ignatieff, *supra* note 11, at 202; Uitz, *supra* note 23; Pap, *supra* note 16; David Adam, *What Orbán’s Fall from Power Means for Research Around the World*, Nature (Apr. 14, 2026), <https://www.nature.com/articles/d41586-026-01225-0>.

²⁶ Tímea Drinóczi, *Loyalty, Opportunism and Fear: The Forced Privatization of Hungarian Universities*, Verfassungsblog (Feb. 5, 2021), <https://verfassungsblog.de/loyalty-opportunism-and-fear/>; Árpád Kocsis, *The Shift in Governance Models for Hungarian Universities*, Heinrich Böll Stiftung (June 14, 2021), <https://cz.boell.org/en/2021/06/14/shift-governance-models-hungarian-universities>; Uitz, *supra* note 23; Majtényi & Ryder, *supra* note 14, at S105-S106; Asaf, *supra* note 21.

²⁷ Calvin Khalesi, *Decline of Academic Freedom in Hungary: Rational Choice Analysis of the European Response*, 25 Eur. Pol. Sci. 91, 91-92 (2026), <https://doi.org/10.1017/S1682098325100118>.

²⁸ Drinóczi, *supra* note 26.

barred foundation universities from receiving grants from the EU-funded Erasmus+ exchange and Horizon Europe research and innovation programs.²⁹

Orbán's defeat in last April's election presents an opportunity to undo some of his "systematic erosion of university independence."³⁰ The Magyar government's recent steps to dismantle the foundation model and restore university independence offer hope for what a government committed to democratic governance can achieve.³¹

B. Venezuela

Venezuela has also experienced tightening of control over universities through abusive methods. While President Hugo Chávez was in office from 1999

²⁹ Hungary Today, *EU Suspends Erasmus+ and Horizon Grants to 21 Universities*, University World News (Jan. 14, 2023), <https://www.universityworldnews.com/post.php?story=20230114100012771>; Khalesi, *supra* note 27, at 93; Uitz, *supra* note 23; Majtényi & Ryder, *supra* note 14, at S105-S106; Pap, *supra* note 16; Asaf, *supra* note 21.

³⁰ Adam, *supra* note 25; see also Kurt Deketelaere, *Hungary's Historic Election Offers Path Back to Academic Freedom*, Research Professional News (Apr. 17, 2026), <https://www.researchprofessionalnews.com/rr-news-europe-views-of-europe-2026-4-hungary-s-historic-election-offers-path-back-to-academic-freedom>.

³¹ *Hungarian State to Expand Again: Magyar Government Brings Universities Back Under State Control*, Daily News Hungary (July 1, 2026), <https://dailynewshungary.com/hungarian-universities-under-state-control/> (describing legislative changes to dissolve foundations running universities); Thomas Brent, *Hungary Moves to Overhaul University Models Banned from Horizon Europe*, Science Business (July 8, 2026), <https://sciencebusiness.net/news/research-and-innovation-gap/hungary-moves-overhaul-university-models-banned-horizon-europe> (describing new government's determination "to involve Hungary's research community in shaping future policies").

to 2013, he consolidated control over much of the Venezuelan government.³² After Chávez's death, his successor President Nicolás Maduro faced increased political opposition and mass protests. Maduro leveraged the state institutions Chávez had already captured, including the Public Prosecutor's Office and elements of the judiciary, to stabilize his precarious position.³³ Chávez and Maduro also focused their efforts on other government and nongovernment institutions, including universities, which they targeted both through persecution of professors and students who spoke out against their leadership and by withholding government resources. These efforts eventually led to a near collapse of the country's autonomous university system.

Between 2014 and 2017, a period in which Venezuela faced large political protests and unrest, student protestors were frequent targets of excessive force and repression at the hands of state law enforcement, including arbitrary detentions, physical attacks, interrogations that deployed psychological pressure, shootings by police officers at university campuses,³⁴ and sometimes sexual violence.³⁵ A 2021

³² Javier Corrales, *Autocracy Rising: How Venezuela Transitioned to Authoritarianism* 1-2 (Rowman & Littlefield Publ'g 2022).

³³ *Id.* at 119.

³⁴ Mayda Hocesvar, David Gómez & Nelson Rivas, *Threats to Academic Freedom in Venezuela: Legislative Impositions and Patterns of Discrimination Towards University Teachers and Students*, 3 Interdisc. Pol. Stud. 145, 152-53 (2017), <https://ese-journals.unisalento.it/index.php/idps/article/view/17320>; see also Ginsburg, *supra* note 6, at 246.

³⁵ Ginsburg, *supra* note 6, at 246.

Human Rights Council report found that in May 2014, state security forces and/or armed civilians initiated 27 attacks or other raids on university campuses.³⁶ In one case, in Venezuela's largest university in Caracas, vigilantes with metal pipes and wooden rods attacked a peaceful student protest of around 1,200 while "national guard members stood by."³⁷ University professors and other faculty were also targets of the government's intimidation campaign. For example, Professor Santiago Guevara of the University of Carabobo was arrested following publication of opinion articles on Venezuela's economic crisis in 2017.³⁸ Professor Guevara was charged with treason and imprisoned under harsh conditions where

³⁶ Independent Int'l Fact-Finding Mission on the Bolivarian Republic of Venezuela, *Detailed Findings of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela*, U.N. Doc. A/HRC/45/CRP.11, ¶ 70 (Sept. 15, 2020), https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFMV/A_HRC_45_CRP.11.pdf.

³⁷ Mery Mogollon & Chris Kraul, *Venezuela University Officials Decry Attacks on Students*, L.A. Times (Apr. 4, 2014), <https://www.latimes.com/world/mexico-americas/la-fg-venezuela-university-protests-20140405-story.html>; Ginsburg, *supra* note 6, at 246.

³⁸ Inter-American Comm'n on Hum. Rts., *Democratic Institutions, the Rule of Law and Human Rights in Venezuela: Country Report*, OEA/Ser.L/V/II., Doc. 209, ¶¶ 309-11 (Dec. 31, 2017), <http://www.oas.org/en/iachr/reports/pdfs/venezuela2018-en.pdf>.

his health deteriorated.³⁹ Persecution persisted throughout Maduro’s rule, causing many professors to flee the country.⁴⁰

At the same time the government used its security forces to stifle university dissent, it took advantage of its immense concentration of power to establish its own university system, subordinate to its rule.⁴¹ Chavez first established this “parallel non-autonomous system of higher education” known as *Sucre Mission* in 2003,⁴² and funneled resources into the system, “starving the traditional institutions of resources.”⁴³ In 2009, the Organic Law on Education was passed, requiring “the subordination of training programs and research” in academia “to the plans of the National Executive Power and the priority needs of the country.”⁴⁴ Given the parallel university system and the legal backing of the government’s priorities, the already existing public universities suffered a lack of funds, leading to reduced academic offerings, “loss of a critical mass of faculty,” and deterioration of

³⁹ *Id.*; see also *Santiago Guevara: Profesor Universitario Procesado Por Un Tribunal Militar Cuya Salud Está en Riesgo* [*Santiago Guevara: University Professor Whose Health is at Risk Processed by Military Tribunal*], Amnistía Internacional Venezuela [Amnesty International Venezuela] (Dec. 20, 2017), <https://www.amnistia.org/ve/blog/2017/12/4356/santiago-guevara-profesor-imputado-por-delitos-militares-con-salud-en-riesgo>.

⁴⁰ Juan Carlos Navarro, *Universities Punished for Defending Democratic Values*, University World News (Jan. 21, 2023), <https://www.universityworldnews.com/post.php?story=20230118073151529>.

⁴¹ Hocevar et al., *supra* note 34, at 156.

⁴² *Id.*

⁴³ Ginsburg, *supra* note 6, at 247.

⁴⁴ Hocevar et al., *supra* note 34, at 158.

physical infrastructure, teaching, and research activities.⁴⁵ The situation became so extreme that retired faculty and some staff suffered malnutrition and poverty as a result of their inadequate salaries; at the University of Andes, one of the best public universities, “professors who once received generous salaries” were paid “less than two-hundred dollars a month” in 2022.⁴⁶

C. Turkey

Turkey provides another example of an authoritarian government’s efforts to diminish universities’ independence and autonomy as part of a larger attack on democratic governance and as a means of consolidating power. Recep Tayyip Erdoğan became Turkey’s Prime Minister in 2003.⁴⁷ While Erdoğan initially implemented some democratic reforms,⁴⁸ by 2013, he became increasingly autocratic,⁴⁹ and after amending the constitution to grant more power to the presidency, became President in 2014.⁵⁰ In 2016, rebel soldiers attempted a coup,

⁴⁵ Navarro, *supra* note 40.

⁴⁶ Stephania Taladrid, *Aging and Abandoned in Venezuela’s Failing State*, The New Yorker (Apr. 12, 2022), <https://www.newyorker.com/culture/photo-booth/aging-and-abandoned-in-venezuelas-failing-state>; Ginsburg, *supra* note 6, at 246.

⁴⁷ Paul Kirby, *Erdogan: Turkey’s All-powerful Leader of 20 years*, BBC News (Mar. 24, 2023), <https://www.bbc.com/news/world-europe-13746679>.

⁴⁸ Ozan O. Varol, *Stealth Authoritarianism*, 100 Iowa L. Rev. 1673, 1715 (2015).

⁴⁹ Kirby, *supra* note 47.

⁵⁰ David M. Driesen, *The Specter of Dictatorship: Judicial Enabling of Presidential Power* 30 (Stanford Univ. Press 2021).

nearly capturing Erdoğan.⁵¹ Following the failed attempt, Erdoğan assumed even greater authority over the military, law enforcement, judiciary, and other government and nongovernmental institutions,⁵² purging close to 100,000 public servants,⁵³ closing fifteen private universities, and suspending more than 5,000 university faculty and staff based on their alleged connection with or support for the coup.⁵⁴ More than 1,500 university deans were forced to resign, and academics who had signed their names to a letter calling for an end to state violence against Kurds were investigated for disciplinary violations, fired, and even detained on terrorism charges.⁵⁵

In addition to chilling academic freedom by forcing out or prosecuting professors, Erdoğan's government has also sought to exert control over universities' finances and governance, eroding schools' administrative autonomy. For example, the government targeted Şehir University, a private institution which

⁵¹ Kirby, *supra* note 47.

⁵² Berk Esen & Sebnem Gumuscu, *How to Fight Turkey's Authoritarian Turn*, 36 J. of Democracy 106, 106 (2025).

⁵³ Ahmet T. Kuru, *Secularism, Islamism, and the Future of Turkey*, 36 J. of Democracy 92, 100 (2025).

⁵⁴ Ayça Alemdaroğlu, *The Capture of Turkey's Universities Under the AKP*, Middle East Research and Information Project (Apr. 29, 2026), <https://www.merip.org/2026/04/the-cumulative-capture-of-turkeys-universities-under-the-akp/>.

⁵⁵ *Id.*; see also Ayça Alemdaroğlu & Elif Babül, *Boğaziçi Resists Authoritarian Control of the Academy in Turkey*, Middle East Research and Information Project (Feb. 23, 2021), <https://www.merip.org/2021/02/bogazici-resists-authoritarian-control-of-the-academy-in-turkey/>.

had been closely associated with Ahmet Davutoğlu, a former prime minister who later resigned from Erdoğan's Justice and Development Party (AKP) to launch the opposition New Future Party.⁵⁶ One month after Davutoğlu's resignation, a state-owned bank froze the university's assets after it announced that the land the bank had accepted as collateral for a \$70 million loan was worthless.⁵⁷ Then, in December 2019, the government placed Şehir University under another university's control, citing Şehir University's financial situation, before formally stripping it of its permit to operate and ordering its closure.⁵⁸

Erdoğan also targeted Boğaziçi University, a prestigious, English-language, tuition-free public university, appointing a loyalist, Melih Bulu, as president (or “rector”) in 2021.⁵⁹ Following the 2016 attempted coup, Erdoğan's government amended its Higher Education Law, acquiring the authority to appoint public

⁵⁶ *Davutoğlu-Linked Şehir University Shut Down by Presidential Decree*, Duvar English (July 1, 2020),

<https://www.duvarenglish.com/politics/2020/07/01/davutoglu-linked-sehir-university-shut-down-by-presidential-decree>.

⁵⁷ *Id.*; *Academic Freedom Monitoring Project: Reported Attacks on Higher Education: Istanbul Sehir University*, Scholars at Risk Network, <https://www.scholarsatrisk.org/report/2020-06-30-istanbul-sehir-university/>.

⁵⁸ *Istanbul's Şehir University Turned over to Marmara University*, Duvar English (Dec. 19, 2019), <https://www.duvarenglish.com/domestic/2019/12/19/istanbuls-sehir-university-turned-over-to-marmara-university>; Alemdaroğlu, *supra* note 54.

⁵⁹ Kemal Kirişçi, Mine Eder & Mert Arslanalp, *Resistance to Erdoğan's Encroachment at Turkey's Top University, One Year On*, Brookings (Jan. 21, 2022), <https://www.brookings.edu/articles/resistance-to-erdogans-encroachment-at-turkeys-top-university-one-year-on/>.

university rectors without seeking university input or reliance on the previous university-run election processes.⁶⁰ Erdoğan used this authority to appoint AKP loyalists, including Bulu—a long-time AKP member—as rectors, diminishing university independence.⁶¹ Students and faculty protested Bulu’s appointment, and Bulu struggled to gain enough faculty support to assemble a new administration until Erdoğan issued a second presidential decree.⁶² This decree created two new departments at the university, allowing the appointment of a sufficient number of loyalist faculty for Bulu to establish control over university administration.⁶³ This increased level of control over university governance allowed Erdoğan’s government to further his goal of fostering what he has referred to as a “pious, homegrown, and national youth”—a youth culture supportive of AKP.⁶⁴

II. THE ACTIONS TAKEN TO TERMINATE HARVARD’S FUNDING BEAR STRIKING PARALLELS TO TARGETING OF UNIVERSITIES IN BACKSLIDING DEMOCRACIES.

This case raises concerning parallels to the targeting of universities, their governance, and academic freedom in the countries we have studied. Here, the

⁶⁰ Alemdaroğlu & Babül, *supra* note 55.

⁶¹ *Id.*; Zehra F. Kabasakal Arat, *Contextualizing Erdogan’s Attacks on Bogazici University*, Geo. J. of Int’l Affs. (Oct. 7, 2021), <https://gjia.georgetown.edu/human-rights-development/contextualizing-erdogans-attacks-on-bogazici-university/>.

⁶² Alemdaroğlu & Babül, *supra* note 55; Arat, *supra* note 61.

⁶³ Alemdaroğlu & Babül, *supra* note 55; Arat, *supra* note 61.

⁶⁴ Alemdaroğlu & Babül, *supra* note 55; Arat, *supra* note 61.

Trump administration summarily terminated billions of dollars of federal research grants to Harvard University in what the district court concluded was part of an unlawful and “targeted, ideologically-motivated assault on this country’s premier universities.” *Harvard*, 798 F. Supp. 3d at 136. The actions against Harvard drastically departed from historical enforcement practices, including by disregarding required procedural and remedial safeguards under Title VI, in ways no prior administration has pursued.⁶⁵

Beginning at the end of March 2025, the newly-created, multi-agency federal Task Force to Combat Antisemitism notified Harvard it was reviewing more than \$8.7 billion in federal funding to the university, and linked the review to alleged antisemitism there. *Id.* at 93-94; Harvard SOF ¶¶ 21-22 (Doc. 71). A few days later, on April 3, 2025, the task force provided Harvard with a list of “areas of reform that the government view[ed] as necessary for Harvard to implement,” and which included “governance reforms ‘to foster clear lines of authority’; [and] oversight for ‘biased programs’ . . . and to ‘improve viewpoint diversity.’” *Harvard*, 798 F. Supp. 3d at 94; Harvard SOF ¶ 24. The same day, the government sent Harvard’s counsel an email attaching a list of demands including a “‘choice’ between ‘install[ing] new leadership in problematic dep[artments]’ and ‘receivership.’” *Harvard*, 798 F. Supp. 3d at 94; Harvard SOF ¶ 30. The

⁶⁵ See Brief of *Amici Curiae* Former United States Agency Officials (Doc. 176).

government also sought a lien on Harvard assets to serve as collateral ““in the event of non-compliance.”” *Harvard*, 798 F. Supp. 3d at 94; Harvard SOF ¶ 31.

Eight days later, three federal agencies sent another letter to Harvard laying out a list of conditions Harvard had to meet to continue receiving federal funding. The list included governance and viewpoint-related demands such as ““commission[ing] an external party’” to audit the student body, faculty, staff, and leadership for viewpoint diversity’;” ““abolish[ing] all criteria . . . that function as ideological litmus tests’” for departments lacking in viewpoint diversity; hiring new faculty and admitting students to create additional viewpoint diversity; and ““reform[ing] and restructuring’ governance.”” *Harvard*, 798 F. Supp. 3d at 94-95; Harvard SOF ¶ 34.

Harvard rejected these demands. Within hours of Harvard’s rejection, the task force announced a \$2.2 billion freeze of multi-year grants and \$60 million in multi-year contract value to Harvard. *Harvard*, 798 F. Supp. 3d at 95-96; Harvard SOF ¶ 43. The government followed this announcement with stop-work orders on many grants, *Harvard*, 798 F. Supp. 3d at 96; Harvard SOF ¶ 67, additional freeze announcements, and termination letters from at least nine federal agencies. *Harvard*, 798 F. Supp. 3d at 98-99; Harvard SOF ¶¶ 57-61, 73-74. The district court found that the majority of the government’s demands were “directed, on their face, at Harvard’s governance, staffing, and hiring practices, and admissions

policies—all of which have little to do with antisemitism and everything to do with [the administration’s] power and political views.” *Harvard*, 798 F. Supp. 3d at 137.

This targeting of a premier research university in an attempt to curtail its independence and the academic freedom of its faculty and students parallels developments in Hungary, Venezuela, and Turkey. In each example, the government abused available tools and imposed measures tightening control over universities, including private academic institutions, reducing their independence and self-governance. *See* Section I, *supra*.

III. TARGETING UNIVERSITIES UNDERMINES DEMOCRATIC GOVERNANCE.

From our scholarship and research, we know that subjecting universities to heavy-handed and abusive tactics can have outsized effects on the rule of law and adherence to democratic principles. The rule of law requires both the government and its citizens to be bound by the law.⁶⁶ But that constraint is not self-enforcing.⁶⁷ It depends on individuals and institutions capable of holding the government to

⁶⁶ Brian Z. Tamanaha, *On the Rule of Law: History, Politics, Theory* 114-15 (Cambridge Univ. Press 2004); World Justice Project, *What Is the Rule of Law?*, <https://worldjusticeproject.org/about-us/overview/what-rule-law> (last visited July 21, 2026); U.N. Secretary-General, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, at 4, U.N. Doc. S/2004/616 (Aug. 23, 2004), <https://digitallibrary.un.org/record/527647?v=pdf#files>.

⁶⁷ *See generally* Sonia Mittal & Barry R. Weingast, *Self-Enforcing Constitutions: With an Application to Democratic Stability in America’s First Century*, 29 J. L. Econ. & Org. 278 (2013), <https://doi.org/10.1093/jleo/ewr017>.

account. And universities, including academics and students, are a vital part of that system, as they work to preserve academic freedom, including the “pursu[it] [of] truth as a vocation.”⁶⁸ As the President of Cornell University aptly stated: “Our colleges and universities are cradles of democracy and bulwarks against autocracy.”⁶⁹

By improperly targeting universities, students, and professors who speak out against their government and seek to produce new knowledge using trusted methods for assessing facts, leaders can further stifle public discourse and consolidate their power. A “core strateg[y],” of such leaders is to “try to control the public sphere,” including by “shaping the perception of the truth”; accordingly, they may “see autonomous knowledge institutions as a threat.”⁷⁰ Taking aim at universities, professors, and students who represent disfavored viewpoints, including through funding and governance structures, enables a backsliding government to exert a chilling effect that also deters other scholars, faculty, and students from vocally opposing the government’s policies.⁷¹

⁶⁸ Ginsburg, *supra* note 6, at 240.

⁶⁹ Michael I. Kotlikoff, *Universities Like the One I Run Aren’t Afraid to Let People Argue*, N.Y. Times (Mar. 31, 2025), <https://www.nytimes.com/2025/03/31/opinion/ideas-universities-controversey-protest.html>.

⁷⁰ Ginsburg, *supra* note 6, at 239.

⁷¹ See *id.* at 247.

Attacks on university autonomy, both financial and structural, further contribute to the threat against academic freedom and to the silencing of dissent among the university community and the general public. A recent report assessing the decline of academic freedom around the world concludes that in countries experiencing democratic backsliding, the decline in institutional autonomy can have a detrimental effect on “protection for individual scholars’ freedom.”⁷² By attacking university autonomy through the misuse of available legal tools or oversight, “governments can exert indirect control through leadership appointments, conditional funding, or restrictions on operational decision-making in admissions, hiring of academic staff, and research content, thereby undermining academic freedom even without overt repression.”⁷³ This was the case in the countries discussed above, including through adoption of the foundation model in Hungary, the *Sucre Mission* in Venezuela, and Erdoğan’s placement of AKP loyalists in Turkish universities. *See* Section I, *supra*. In each case the government targeted universities in attempt “to shape the polity to their own making and entrench their hold on power.”⁷⁴

⁷² Katrin Kinzelbach et al., *Academic Freedom Index: Update 2026* at 4, V-Dem Inst. (2026), https://academic-freedom-index.net/research/Academic_Freedom_Index_Update_2026.pdf.

⁷³ *Id.* at 5.

⁷⁴ Ginsburg, *supra* note 6, at 239.

IV. ADDITIONAL TARGETING HAS OCCURRED UNDER THIS ADMINISTRATION.

The administration's assault on Harvard represents only one piece of a larger "offensive against academia," including "the reduction of autonomy, the restriction of the freedom to research and teach, the politicization of educational content, and the weaponizing of federal funding."⁷⁵

The onslaught has been stunning in scale. "One tactic [has] loomed largest, particularly for research universities dependent on federal grant and contracts—the indiscriminate suspension of billions in federal funds with little justification from the administration beyond accusations of failing to address antisemitism."⁷⁶ It started with Columbia University. In March 2025, the administration canceled \$400 million in federal research funding to Columbia, just days after federal officials announced a probe, claiming the university had failed to protect Jewish students from harassment.⁷⁷ That month, the Department of Education's Office for

⁷⁵ Nord et al., *supra* note 2, at 38; *see also* Kinzelbach et al., *supra* note 72, at 7-8.

⁷⁶ Katherine Knott, *5 Charts Breaking Down Trump's Funding Freezes Against Universities*, Inside Higher Ed (Aug. 28, 2025), <https://www.insidehighered.com/news/government/2025/08/28/trumps-funding-freezes-against-universities-5-charts>.

⁷⁷ Ben Unglesbee, Laura Spitalniak & Natalie Schwartz, *Tracking the Trump Administration's Deals with Colleges*, Higher Ed Dive (Oct. 22, 2025), <https://www.highereddive.com/news/tracking-the-trump-administrations-deals-with-colleges/803434>; *see also* Sharon Otterman & Liam Stack, *White House Cancels \$400 Million in Grants and Contracts to Columbia*, N.Y. Times (Mar. 7, 2025), <https://www.nytimes.com/2025/03/07/nyregion/trump-administration-columbia-grants-cancelled-antisemitism.html>.

Civil Rights also sent letters to 60 universities warning of “potential enforcement actions” if they did not fulfill their obligations under Title VI to protect Jewish students from antisemitic discrimination and harassment.⁷⁸ And, as discussed above, the administration empowered a Joint Task Force to Combat Antisemitism to investigate and report violations.⁷⁹

In an escalating campaign that involved abusive tactics and misused legal tools,⁸⁰ the administration launched additional civil rights investigations and froze more funding. For example, it threatened to block \$510 million in federal contracts and grants for Brown University⁸¹ and froze \$1 billion for Cornell University and

⁷⁸ Press Release, U.S. Dep’t of Educ., U.S. Department of Education’s Office for Civil Rights Sends Letters to 60 Universities Under Investigation for Antisemitic Discrimination and Harassment (Mar. 10, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-educations-office-civil-rights-sends-letters-60-universities-under-investigation-antisemitic-discrimination-and-harassment>.

⁷⁹ Cecelia Smith-Schoenwalder, *Tracking Trump’s Crackdown on Higher Education*, U.S. News & World Report (May 20, 2026), <https://www.usnews.com/news/national-news/articles/trumps-higher-education-crackdown-visa-revocations-dei-bans-lawsuits-and-funding-cuts>.

⁸⁰ See Brief of *Amici Curiae* Former United States Agency Officials (Doc. 176). (explaining how federal agencies’ termination of federal financial assistance to Harvard violated Title VI’s requirements).

⁸¹ Anemona Hartocollis et al., *Trump Administration Set to Pause \$510 Million for Brown University*, N.Y. Times (Apr. 3, 2025), <https://www.nytimes.com/2025/04/03/us/trump-administration-brown-university-funding-pause.html>.

\$790 million for Northwestern University,⁸² \$108 million to Duke University,⁸³ \$175 million to the University of Pennsylvania,⁸⁴ over \$300 million for the University of California, Los Angeles,⁸⁵ and suspended dozens of federal grants to Princeton University.⁸⁶

The administration not only used the threat of devastating funding cuts to instigate governance, operations, and curriculum changes but to subject university leaders to demands that officials resign or apologize for past practices. For example, in June 2025, the administration forced the resignation of the University of Virginia's president, James E. Ryan, over the school's DEI efforts—the first

⁸² Michael C. Bender & Sheryl Gay Stolberg, *Trump Administration Freezes \$1 Billion for Cornell and \$790 Million for Northwestern, Officials Say*, N.Y. Times (Apr. 15, 2025), <https://www.nytimes.com/2025/04/08/us/politics/cornell-northwestern-university-funds-trump.html>.

⁸³ Chris Cameron, Michael C. Bender & Zolan Kanno-Youngs, *Trump Administration Freezes \$108 Million in Funds to Duke University*, N.Y. Times (July 29, 2025), <https://www.nytimes.com/2025/07/29/us/politics/trump-duke-university-frozen-funding-discrimination.html>.

⁸⁴ Alan Blinder & Michael C. Bender, *White House Plans to Pause \$175 Million for Penn Over Transgender Policy*, N.Y. Times (Mar. 19, 2025), <https://www.nytimes.com/2025/03/19/us/politics/trump-to-pause-175-million-for-university-of-pennsylvania-over-transgender-policy.html>.

⁸⁵ Jonathan Wolfe & Michael C. Bender, *Trump Administration Is Freezing Over \$300 Million for U.C.L.A.*, N.Y. Times (Aug. 1, 2025), <https://www.nytimes.com/2025/08/01/us/politics/trump-cuts-ucla-funding-federal-research.html>.

⁸⁶ Alan Blinder & Anemona Hartocollis, *Trump Pauses Dozens of Federal Grants to Princeton*, N.Y. Times (Apr. 1, 2025), <https://www.nytimes.com/2025/04/01/us/trump-federal-grants-princeton.html>.

time the administration coerced a university into removing its leader.⁸⁷ Not long after, the administration opened an investigation into George Mason University over diversity initiatives⁸⁸ and only six weeks later, demanded that the university's president apologize as a condition for resolving the matter; he refused.⁸⁹

Given the *in terrorem* effect of the threatened funding losses, at least six major universities (Brown, Columbia, Cornell, Northwestern, the University of Pennsylvania, and the University of Virginia) settled with the administration.⁹⁰ The terms vary, but several involved multi-million-dollar payments to the United States or agreed-upon recipients.⁹¹ Some of the six consented to ongoing monitoring and committed to policies that embrace the administration's views on gender, DEI programs, curricula, and the consideration of race in student

⁸⁷ Michael S. Schmidt & Michael C. Bender, *University of Virginia President Resigns Under Pressure From Trump Administration*, N.Y. Times (June 27, 2025), <https://www.nytimes.com/2025/06/27/us/politics/uva-president-resigns-jim-ryan-trump.html>.

⁸⁸ Laura Spitalniak, *George Mason University Leader Rebukes Trump Administration's Apology Demand*, Higher Ed Dive (Aug. 26, 2025), <https://www.highereddive.com/news/george-mason-university-leader-rebukes-trump-apology-demand-Gregory-Washington/758690>.

⁸⁹ *Id.*

⁹⁰ Alan Blinder, *How Is Trump Targeting Universities, and How Are They Responding?*, N.Y. Times (July 1, 2026), <https://www.nytimes.com/article/trump-university-college.html>.

⁹¹ *Id.*; Mary-Rose Papandrea, *Trump Administration's Attacks on the Press, Universities, and Law Firms: Five Key Commonalities*, 58 Conn. L. Rev. 1091, 1108 (2026); Unglesbee et al., *supra* note 77 (summarizing settlements).

admissions.⁹² Other institutions self-censored research proposals, programming, publications, and websites and removed perceived risky terms such as “climate change” and “biodiversity.”⁹³

After launching heavy-handed investigations into dozens of universities, with disproportionate consequences, the administration is now embracing “a wider approach, moving to rewrite the federal rules that govern all of higher education.”⁹⁴ Last October, among many efforts, the White House released what it called the “Compact for Academic Excellence in Higher Education.”⁹⁵ The President initially

⁹² Papandrea, *supra* note 91, at 1109; Unglesbee et al., *supra* note 77; Michael C. Bender & Michael S. Schmidt, *University of Virginia Makes Deal With White House to Halt Investigations*, N.Y. Times (Oct. 22, 2025), <https://www.nytimes.com/2025/10/22/us/politics/university-of-virginia-trump-agreement.html>.

⁹³ Chelsea Harvey, *Trump Takes a ‘Giant Wrecking Ball’ to U.S. Research*, Sci. Am. (Feb. 18, 2025), <https://www.scientificamerican.com/article/trump-takes-a-giant-wrecking-ball-to-u-s-research/>; Sharon Otterman, Anemona Hartocollis & Dana Goldstein, *Some Schools Act After Trump’s D.E.I. Orders. Others Say They’ll Resist*, N.Y. Times (Feb. 13, 2025), <https://www.nytimes.com/2025/02/13/nyregion/trump-dei-executive-orders-schools.html>.

⁹⁴ Collin Binkley, *Trump Officials Went After Dozens of Colleges. Now They’re Rewriting the Rules for All of Academia*, AP News (June 4, 2026), <https://apnews.com/article/trump-colleges-higher-education-investigations-rules-83d79bc1b371191f77ae571c1df3490d>; *see also* Smith-Schoenwalder, *supra* note 79.

⁹⁵ Papandrea, *supra* note 91, at 1108; Blinder, *supra* note 90; Katherine Knott, *How Universities Are Responding to Trump’s Compact*, Inside Higher Ed (Oct. 24, 2025), <https://www.insidehighered.com/news/government/2025/10/24/how-universities-are-responding-trumps-compact> (with links to the proposed Compact and accompanying letter).

offered nine top universities (and later, to any college) a deal in which schools would agree to advance the administration’s preferred policies and commit to a range of conditions in exchange for “‘multiple positive benefits,’ including ‘substantial and meaningful federal grants.’”⁹⁶ The 10-point compact, among other things, would require colleges to change their governance structures to prohibit anything that would “punish, belittle and even spark violence against conservative ideas.”⁹⁷

The administration’s unrelenting campaign to undermine the independence of universities has taken its toll. Research data shows that, while declines in institutional autonomy are “widespread among (former) democracies,” the decline in the United States “stands out as a case of fast and steep deterioration.”⁹⁸

V. JUDICIAL REVIEW PROVIDES AN IMPORTANT CHECK AGAINST THE ABUSIVE AND UNLAWFUL USE OF LEGAL TOOLS TO UNDERMINE DEMOCRATIC GOVERNANCE.

As discussed in Section III, the targeting of universities’ autonomy in authoritarian and backsliding countries damages the rule of law and the free exchange of ideas essential to a democratic society. This context is important to

⁹⁶ Ed Pilkington, *Trump Offers Top Universities Funds if They Boost Conservative Ideas*, The Guardian (Oct. 2, 2025), <https://www.theguardian.com/us-news/2025/oct/02/trump-university-funding-compact>.

⁹⁷ Michael C. Bender, *Trump Administration Asks Colleges to Sign ‘Compact’ to Get Funding Preference*, N.Y. Times (Oct. 3, 2025), <https://www.nytimes.com/2025/10/02/us/politics/trump-college-funding.html>.

⁹⁸ Kinzelbach et al., *supra* note 72, at 1.

consider when determining whether the administration's funding terminations are lawful. It is essential that the Court carefully examine whether the terminations violate the First Amendment, Title VI, and the APA, given that there is strong evidence that the government imposed content- and viewpoint-based demands on the university, retaliated against it when Harvard declined to acquiesce to those demands, and failed to follow statutorily required procedures or engage in reasoned decision-making. Moreover, Harvard was not the only university targeted by the administration, and these actions have already had widely-felt effects at academic institutions across the country.

As the growing group of present-day authoritarian and backsliding countries has amply demonstrated, democracies require universities insulated from political pressure and control and a strong, independent judiciary to stand firm and faithfully apply the law, no matter the identity of the parties before it or how they are perceived by those in power.⁹⁹

⁹⁹ See Susan C. Stokes, *The Backsliders: Why Leaders Undermine Their Own Democracies* 6 (2025).

CONCLUSION

Amici respectfully request that the Court consider the broader context in which the government terminated over \$2 billion in Harvard's federal funding and the danger to democratic governance that action poses and affirm.

Dated: July 22, 2026

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the typestyle requirements of Rule 32(a)(6) because it was prepared in 14-point Times New Roman, a proportionally spaced typeface, using Microsoft Word. *See* Fed. R. App. P. 32(g)(1). This brief complies with the type-volume limitation of Rule 29(a)(5) because it contains 6489 words, excluding the parts exempted by Rule 32(f).

Dated: July 22, 2026

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CERTIFICATE OF SERVICE

I, Bonnie Robin-Vergeer, hereby certify that on July 22, 2026, I electronically filed the foregoing Brief with the Clerk of the Court for the United States Court of Appeals for the First Circuit by using the appellate CM/ECF system. A true and correct copy of this Brief has been served via the Court's CM/ECF system on all counsel of record.

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ADDENDUM

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- **Nancy Bermeo** is a Nuffield College Senior Research Fellow at Oxford University, an Emeritus Professor of Politics at Princeton University and a Fellow of the American Academy of Arts and Sciences. Her research focuses on regime change, democratic backsliding and popular resistance.
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- **Scott L. Cummings** is the Robert Henigson Professor of Legal Ethics at the UCLA School of Law, where he teaches and writes about the legal profession and legal ethics, and is the Founding Director of the Program in Legal Ethics and Democracy. He was awarded a 2023 Guggenheim Fellowship to study the role of lawyers in democratic backsliding.
- **David M. Driesen** is an emeritus professor of law at Syracuse University College of Law where his areas of academic interest include constitutional law and law and economics. His book, *The Spector of Dictatorship: Judicial Enabling of Presidential Power*, analyzes the chief executive's role in the democratic decline of Hungary, Poland, and Turkey.
- **Francis Fukuyama** is a senior fellow at FSI, and a faculty member of FSI's Center on Democracy, Development and the Rule of Law, and has written widely on issues in development and international politics. Earlier in his career, he was a member of the Political Science Department of the RAND Corporation, and a member of the Policy Planning Staff of the U.S. Department of State from 1981 to 1982.

- **Tom Ginsburg** is the Leo Spitz Distinguished Service Professor of International Law and a professor of political science at the University of Chicago, where his research focuses on comparative and international law. His most recent book is *Democracies and International Law*.
- **Gábor Halmai** is an emeritus professor of the Eötvös Loránd University (ELTE) in Hungary and the European University Institute in Florence, where he served as Chair of Comparative Law between 2016 and 2022. His research interests include the backsliding of liberal democracies within the European Union, with special focus on the development of constitutionalism and human rights in Hungary.
- **Aziz Z. Huq** is a professor of law at the University of Chicago Law School. He is a scholar of U.S. and comparative constitutional law and his recent work includes a focus on democratic backsliding. His award-winning scholarship is published in several books and in leading law, social science, and political science journals.
- **Sonia Mittal** is a Clinical Lecturer in Law and Associate Research Scholar in Law at Yale Law School. Her research in law and political science concerns constitutional failure in the United States and abroad.
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- **Kim Lane Scheppelle** is the Rockefeller Professor of Sociology and International Affairs at Princeton. For more than 30 years, she has studied the rise and fall of constitutional government, living for extended periods in Russia and Hungary. Her book, *Destroying Democracy by Law*, is forthcoming from Harvard University Press.
- **Susan Stokes** is a professor of political science at the University of Chicago and the Faculty Director of the Chicago Center on Democracy. Her research and teaching interests include democratic theory and how democracy functions in developing societies. Her latest book, *The Backsliders: Why Leaders Undermine Their Own Democracies*, examines why democracies around the world are under assault by the leaders entrusted to preserve it.

- **Lucan Way** is a professor at the University of Toronto. His research focuses on global patterns of democracy and dictatorship. He has authored or co-authored several books on these topics, including *Revolution and Dictatorship: The Violent Origins of Durable Authoritarianism* and *Competitive Authoritarianism: Hybrid Regimes after the Cold War*.