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## II

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### *Academic Containment*

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## Neoliberalism, Militarization, and the Price of Dissent

*Policing Protest at the University of California*

*Farah Godrej*

In this chapter, I argue that the neoliberal logic of private capital at work in the privatization of the University of California is necessarily intertwined with the logic of militarization and the criminalization of dissent. I will argue that the deliberate and systematic privatization of one of the nation's greatest public education systems engenders—and in fact *requires*—a militarized enforcement strategy that relies on criminalizing those who dissent and on being able to engage in legitimized violence against such dissenters as and when necessary. The enforcement of the tuition hikes, budget cuts, and other so-called austerity measures at the heart of the privatization strategy is an irreducibly political project, not simply because it relies on a rhetorical political strategy that cleverly assigns responsibility for privatization to recalcitrant state legislators who insist on state disinvestment in public education rather than to those elites within the UC leadership who stand to benefit from such privatization. It is political and politicized in a much deeper sense in that it is able to plausibly and powerfully squash all public dissent from this plan by casting those who dissent against its neoliberal logic as criminal, ensuring that the “price” of their dissent—whether in terms of violence, jail time, or simply public stigmatization—is high enough to discourage further dissent. It uses the legal-political resources of the neoliberal state and replicates the neoliberal state's complicity with private capital in order to build political legitimacy for its repression of dissenting views.

The basic premise of my chapter—that the leadership of the University of California has since 2009 been committed to the deliberate and systematic privatization of one of the nation's premier public education systems—should not be in question. This plan involves being complicit with the state's disinvestment in public education and shifting the burden of payment for education from society to individual students. The effect of this shift hits the

least privileged the hardest, so that the accessibility and affordability of this education is eroded, particularly for those who are least able to afford this burden. Access to education in this system is now meant to require one of two routes: already having the wealth and privilege to pay the exponentially multiplied fees or taking on unimaginable amounts of student debt in order to do so, which in turn provides profitable investments for banks. The outcome of this deliberate plan is to further widen the already massive inequalities of income so as to reinforce existing privileges of race, wealth, class, income, and so forth. Indeed, as Chris Newfield has so convincingly argued, the financial and political crises of public universities are the result of a conservative campaign to end public education's democratizing influence on American society.<sup>1</sup> One of the greatest experiments in democracy, the University of California's commitment to accessible, affordable public education, had created unprecedented levels of social and economic mobility over the past forty or so years while creating a racially integrated mass middle class. But Newfield skillfully demonstrates how the expansive vision of an equitable America that emerged from the postwar boom in college access has gradually been replaced by the emergence of the antiegalitarian "corporate university," which contributes to the ongoing erosion of the college-educated middle class.

The specifics of the University of California's strategy of systematic privatization should not require much exploration; vocal critiques by dissenting scholars within the UC system have repeatedly demonstrated that the so-called austerity measures such as tuition cuts, fee hikes, and budget cuts are *not* to be seen as the somewhat desperate response of a hapless and helpless UC leadership with no other choice in the face of a bankrupt state that insists on disinvestment.<sup>2</sup> The convincing choruses of "What else can we do?" constitute the first discursive political victory of the UC leadership, ensuring that the state is seen as the political problem and that the leadership's own abdication of responsibility for forcefully and publicly advocating for public education is utterly occluded. Indeed, what is occluded above all is the fact that privatization, rather than being a necessary evil, comes about as the result of deliberate complicity with—and in fact advocacy of—neoliberal disinvestment in the concept of education as a public good by the very people charged with protection and disbursement of this public good. And consequently, education is systematically reframed as a private good existing in the sacred neoliberal realm of individual choice, something therefore to be commodified and paid for by those who have the resources. But it is crucial

to recall that such reframing is the result of a rhetorical strategy by precisely those who would profit from this commodification and privatization.

However, in order to be able to enforce the tuition hikes, budget cuts, and other “efficiency” and “austerity” measures at the heart of this privatization strategy, the UC leadership has relied on a concomitant strategy of plausibly and powerfully squashing all public dissent from this plan. I argue here that the enforcement strategy has two distinct but interrelated components. First, it uses a militarized police force in order to inflict injury and violence upon any protesters. Second, it engages in the deliberate and systematic criminalization of all dissent that arises in opposition to this plan. The two components are of course intertwined, for the one requires the other: all violence inflicted on a dissenting public must be legitimized and justified as a necessary measure in the public’s own interest to maintain law and order against ostensible criminal threats. Together, these combined elements of militarization and criminalization are designed to ensure that the price of protest is so high that dissent against the privatization strategy becomes prohibitively expensive. The neoliberal language of “price” and “expense” here is of course intentionally multivalent. It includes the literal “price” in terms of financial cost of ensuing legal battles but also refers to the cost of being labeled as a criminal in the public imagination or of suffering injury by police forces. The higher these costs, the more those involved in dissent are incentivized into silence through a carefully constructed chilling effect on all forms of speech and action that criticize, protest, or dissent against the privatization plan.

## Militarization

The UC protests against privatization predated both the Arab Spring and the Occupy Wall Street movements, beginning as early as 2009 in response to the UC leadership’s commitment to the systematic privatization of the system along with its implicit support for the state’s disinvestment in public education. By 2011, however, the moral outrage of dissenters within the UC system was largely aligned with that of the emerging Occupy movement, itself in turn inspired by the Arab Spring. Despite the obvious differences among these movements—with the Arab Spring focused specifically on the critique and removal of undemocratic military dictatorships and repressive neoliberal regimes—both movements share, in Anne-Marie Slaughter’s words, the “same fundamental drivers: a deep sense of injustice and invisibility.”<sup>33</sup> Dissenters within the UC system, like their counterparts

in the Occupy movement and elsewhere, expressed public anger at the increasing power of private capital, the impunity with which it operated in enriching its own profit-making agents while impoverishing the vast majority of citizens, and the state's collusion with the self-enriching power of capital through increasing disinvestment in public services such as health care and education. And the tactics of expressing such dissent were remarkably similar in both the Occupy movement and the movement in support of public education, which involved the occupation of public spaces such as university campuses, parks, or other areas surrounding seats of local government, along with the traditional markers of nonviolent protest such as chanting, singing, sitting-in, raising slogans both verbal and pictorial, and generally drawing attention to the injustice of the overarching framework of racial and socioeconomic inequity that framed the lives of the protesters. In a few cases, the protesters engaged in specifically disruptive yet nonviolent action such as blockading the entrance to a bank or refusing to allow officials to leave a building. Across the board, the movements were mostly avowedly peaceful and nonviolent in both symbolic intent and actual practice, although, as we will see later, there were some exceptions to this.

It is therefore perhaps all the more worth noting that each of these movements was ultimately met with a violent, militarized force deeply disproportionate to its peaceful character, while the respective authorities engaged in dispersing these protests justified this militarized violence through the use of rhetoric that served to paint its targets as potentially dangerous and threatening. The Occupy encampments were systematically dismantled, throughout winter 2011–2012, by various city mayors employing police and other law enforcement authorities who sometimes manhandled or otherwise violently dragged, slammed, and beat protesters in the course of arresting or handcuffing them.

The response to protests at the Davis, Berkeley, and Riverside campuses of the University of California in 2011 and 2012 was rather more dramatically disproportionate. In November 2011, in a series of iconic images that would soon evoke international outrage, police in riot gear armed with assault weapons were recorded pepper spraying, beating, and shoving batons into the stomachs of nonresisting, nonviolent student and faculty protesters occupying the Davis and Berkeley campuses. Two months later, scenes of similarly disproportionate militarized response were seen at the Riverside campus where the UC regents were meeting, ostensibly to discuss another set of tuition hikes and budget cuts in the course of privatization. Protesting

students and faculty surrounding the location of the regents meeting were faced with police in riot gear and eventually shot with lead paint bullets. While students and faculty chanted; peacefully blockaded a building; and repeated their intent for peaceful, nonviolent expression of dissent, the administration responded with a massive show of militarized force. Police from every UC campus were mobilized and eventually supplemented by officers from the Riverside Police Department and the Riverside County Sheriff's Department, while helicopters circled overhead and officers took sniper positions at high points on campus buildings, as described in the introduction to this book. Viral videos taken on cell phones showed police pushing fences into crowds of students, shoving batons into the bodies of protesters, slamming heads into the ground, dragging bodies across the ground, and shooting guns loaded with lead paint bullets.

Much was of course written and said about the moral illegitimacy of the administrative response in each of these cases. But what is worth emphasizing here is that the militarization of campuses seems crucially linked to the privatization of public universities. UC Santa Cruz professor and former president of the Council of UC Faculty Associations Bob Meister articulates the link between the privatization of public universities, the financial services industry, and the national and global security industry:

Since 9/11 the US defense industry of the Cold War has morphed from being mainly in the military hardware business into a new role as global provider of security services that enables government and corporations throughout the world to outsource intelligence, policing, background checks, construction of secure sites and various operations that may need to be deniable—as well as the public relations efforts necessary to support such deniability. Most Americans do not know that there is a huge domestic market for services provided by the defense industry. . . . The fastest growing market for the defense and security services industry is in the area of local government and public agencies that feel threatened by political protests, such as the Occupy movement, and that have reporting and other obligations under the Patriot Act.<sup>4</sup>

UC Davis professor and poet Joshua Clover, who was arrested as part of the civil disobedience movement against privatization, goes on to point out that while the specifics of such connections may vary, the systemic logic is clear:



“Heightened campus security is inextricably linked to heightened campus securitization in its two main forms: the decision of universities to pursue a certain line of investment strategies which move money away from educational services and into capital projects; and the corresponding decision to cover those educational costs by shifting burdens to students at a rate which can only be financed through student loans, concomitantly providing profitable investment for banks laden with otherwise fallow capital. The rise in tuition and indebtedness within the context of economic crisis simply is the militarization of campus; *they are one and the same.*”<sup>5</sup>

In other words, to paraphrase UC Davis faculty member and activist Nathan Brown, police brutality is an administrative tool to enforce tuition increases<sup>6</sup> precisely because of the link between privatization and militarization. In short, it is no accident that we see the repeated deployment of armored, armed, militarized police forces on campuses where large crowds of students and faculty and staff gather to protest the erosion of the accessibility and affordability of public education. Nor should it have been surprising that in July 2012, the UC Berkeley police department briefly considered the purchase of an armored military tank with grant funds from the U.S. Department of Homeland Security. The UC administration is willing to, able to, and indeed does deploy militarized force in order to make the cost of dissent high. Note that its deployment of both campus police and external police forces makes the neoliberal state complicit in the militarization of these campus spaces. So this is one sense in which it is in the administration’s interest to make sure that the cost of protest and dissent is high. The message is clear that if dissent occurs publicly and collectively, those involved are likely to be pepper sprayed, beaten with batons, shoved to the ground, shot with lead paint bullets, and so forth. It is better, in short, to stay home and silent rather than to participate in such events.

The extent to which the UC leadership wants to underscore its encouragement of such silence can be seen in the text of a travel advisory ostensibly issued by the UC Office of the President (UCOP) before May Day protests of 2012. The memo apparently warned UC students, faculty, and staff to avoid all rallies and demonstrations as a precaution and offered “tips for reducing vulnerability,” which include “avoid[ing] all large gatherings,” because “even seemingly peaceful rallies can spur violent activity or be met with resistance by security forces.”<sup>7</sup> Furthermore, one is advised to avoid “cities with a large immigrant population and strong labour groups.” If this advice is not followed, the memo offered a glimpse of the violent and militarized response that likely

awaits: “Bystanders may be arrested or harmed by security forces using water cannons, tear gas or other measures to control crowds.” Members of the UC community that must travel near protests should “dress conservatively . . . maintain a low profile by avoiding demonstration areas . . . [and] discussions of the issues at hand.”<sup>8</sup> As Mark Levine notes, such advice might well have been offered to a black person in a white neighborhood forty years ago: “Dress well, stay low, don’t talk to strangers, stay clear of the police, and most of all, don’t do anything to draw suspicion to yourself. And for God’s sake, don’t mess with the one per cent.”<sup>9</sup> When those tasked with advocating for public education issue such public messages, the thinly veiled warning to dissidents within the UC system is clear: stay away from places with lots of poor immigrants and/or wage-working people, especially those with the nerve to fight for their rights; keep your head down; keep your voice down; don’t cause trouble; and don’t get involved with troublemakers. Or else.

### Criminalization Part I: Rhetoric

I turn now to the second component of the enforcement strategy. The second thing that the UC system needs in order to enforce privatization is the ability to make the cost of dissent high by systematically criminalizing those who protest, speak out, and dissent against privatization. This criminalization takes two forms. The first is a kind of rhetorical criminalization, which we actually saw used most effectively in the nationwide dismantling of Occupy encampments, where city and local officials justified the often violent expulsion of the occupiers with the vague and unsubstantiated threat that such people posed to law and order. The city authorities responsible for authorizing the often violent expulsion of Occupy encampments engaged in forms of rhetoric designed to justify the need for such violent response by casting the protests as potentially threatening and even perhaps criminal, with the idea that the extended occupation of public spaces by citizens (some of whom were unemployed) posed a threat to law and order. While the precise nature of the threat was rarely specified, such justifications often used the rhetorical strategy of linking the presence of protestors to unemployment, bad personal hygiene, the recreational use of alcohol and narcotics, and sometimes sexual predation. The general image evoked was that of dirty people who have no jobs and nothing better to do than to shout loudly about their anger, get drunk, and perhaps prey on innocent women. In the public imagination, it was suggested, such people should be seen as somehow threatening, and

their loud, angry, and disruptive behavior—along with their somewhat questionable status on the margins of society, as evidenced by the dodginess of their personal bearing and activities and their concentration in large numbers in tents in public places—should be seen as a source of concern. And it is precisely this concern that should rightfully cause city officials to bring in the forces of law and order.

The UC leadership's rhetorical strategy in defense of its own militarized response to various protests was uncanny in its similarity. Perhaps the best example comes from Nathan Brown's excellent analysis of the Reynoso report, in which UC Davis chancellor Linda Katehi, a month after the pepper spray incident at Davis, offered her explanation of why she had to authorize police presence in order to remove protesters from the Quad: "We were worried at the time about that because the issues from Oakland were in the news and the use of drugs and sex and other things, and you know here we have very young students . . . we worried especially about having very young girls and other students with older people who come from the outside without any knowledge of their record."<sup>10</sup> To quote Brown, "The best rationale our Chancellor can come up with (after a month's reflection) for a major police operation against non-violent student protesters is 'the use of drugs and sex and other things' in the midst of 'very young girls'. . . . In brief, all [she] has to offer in its defense is the danger of sex and drugs, of 'older people,' and the terribly frightening specter of 'Oakland' [presumably referring to the Occupy Oakland debacle]."<sup>11</sup> Indeed, this rationale echoed almost exactly the somewhat absurd logic repeatedly employed by city authorities that the combination of public anger and many bodies in tents and the possible presence of sex and drugs automatically equals a potential threat that must be squashed through a militarized police response.

But other rhetorical moves made by UC leadership were rather less laughable and must be taken more seriously in their deliberate intent to criminalize dissent. Perhaps the most infamous was the attempt by UC Berkeley chancellor Robert Birgenau to rationalize the police beating of unarmed and unthreatening students and faculty by claiming that linking arms and forming a human chain in order to prevent police from gaining access to an encampment, as the Berkeley protesters did, was "not non-violent civil disobedience."<sup>12</sup> Indeed, such a discursive strategy, while widely reviled and thus hopefully repudiated (Chancellor Birgenau subsequently resigned, citing personal reasons), was notably never contradicted by anyone in the UC leadership. Meanwhile, its logic rested on the ability to argue that the actions

of the protesters were loud enough, aggressive enough, confrontational enough, and disruptive enough—even if they were not directly violent—to warrant the violent response. In other words, protesters had provoked or invited police violence simply through the disruptiveness and provocation, and thus the subjectively perceived aggressiveness, of their tactics.<sup>13</sup>

But what precisely had the protesters done that could be perceived as aggressive, confrontational, disruptive, and thus deserving of violence? Or, in other words, what about their behavior could have plausibly, albeit subjectively, been interpreted as “not nonviolent”? Indeed, a wonderful analysis of these rhetorical strategies in the blog *Reclaim UC* reminds us that it is precisely the fact that the protesters refused to submit to the commands of the police that placed their actions outside the category of “nonviolence” according to the rationality of the police. The only thing remaining in the realm of the nonviolent, according to this logic, “is the absolute, uncritical obedience to their authority . . . in short, ‘non-violence’ according to the police means the uncritical compliance with the growing arbitrary power of the sovereign.”<sup>14</sup>

Similar logic was used in the case of the UC Riverside (UCR) response to the crowd of student and faculty protesters at the regents’ meeting on Riverside’s campus, also mentioned in the opening vignette of this book’s introduction. The administrative response to the hundreds-strong unarmed crowd—chanting peacefully, often using humorous slogans, music, drumbeats, and dance—was to declare the nonviolent assembly unlawful and to issue the command that everyone disperse or otherwise be subject to forcible removal. Through this declarative act, conducted anonymously and without any public justification (the precise responsibility for the declaration of unlawful assembly remains as yet unaccounted for by the UCR administration, despite repeated requests), every single student and faculty member doing nothing other than standing in a public space at a public university was thereby criminalized. When protesters refused to disperse and instead more actively surrounded the location of the meeting, police in riot gear escalated the situation by shoving batons and fences into the bodies of protesters and eventually shooting lead paint bullets at an entirely unarmed crowd. While the UCR leadership subsequently expressed the usual regret for the injury to protesters, at no point did their rhetoric do anything except defend such violence as regrettably necessary by pointing to the threats posed by the angry and active opposition of the protesters.

In both a public communiqué to the campus as well as a town hall

meeting, then UCR chancellor Tim White repeatedly relied on the argument that the protestors were somehow potentially threatening and that they were endangering the safety and security of all present. Despite the existence of multiple videos demonstrating that it was clearly the police in riot gear rather than the unarmed protestors who had escalated the violence, the UCR administration continued to use vague, questionable, and nebulous imagery in order to argue otherwise. At a town hall meeting on March 6, 2012,<sup>15</sup> White projected photos of protestors carrying signs, claiming that such signs were potentially injurious. According to White, other photos ostensibly showed students menacing or threatening members of the administration, yet not a single one of these images showed anything other than protestors in various confrontational poses, sometimes expressing anger. No actual violence or threat of violence is seen in any of the photographic or video evidence. Yet the administration continued to rely on vague and unsubstantiated threats to public safety in order to justify bringing in a highly militarized police force and the subsequent escalation of violence.

A system-wide review of the various campus responses to protests was then conducted by the UC general counsel and the Berkeley Law School dean at the request of UC president Mark Yudof. Despite the lip service it paid to the importance of “free expression, robust discourse and vigorous debate,” the resulting Robinson-Edley report was even more striking in the discursive gymnastics it produced in order to further widen the scope of the university’s ability to respond to protest with a variety of militarized strategies. It begins by stating that civil disobedience “by definition involves violating laws or regulations, and that civil disobedience will generally have consequences for those engaging in it because of the impact it can have on the rest of the campus community.”<sup>16</sup> Thus the report preemptively suggests that offering any resistance whatsoever to any “regulations” (without examining what can fall under the scope of such “regulations”) can be construed as threatening, provocative, confrontational, and potentially violent and thus worthy of whatever “consequences” the campus authorities deem fit. In an echo of the discursive strategies that preceded it, the very presence of militarized forces on campuses is deemed to be beyond question, and at no point do these reports and strategies address the responsibility to curb the largely disproportionate responses that such militarized forces present to unarmed resisting dissenters.<sup>17</sup> But if unarmed protestors express any confrontation or active opposition in response to such militarization, then they have perhaps

automatically declared themselves suspect and even worthy of a violent response.

In one fell swoop, the administrative response to campus protest has managed to completely subvert the logic of nonviolent protest, effectively criminalizing all forms of it by focusing on the potentially threatening nature of such protest. If the very refusal to submit to authority, and indeed the moral obligation to actively and confrontationally oppose such authority is at the very core of nonviolent resistance, then reserving the right to construe any such form of active opposition or resistance as threatening (and thus worthy of “consequences”) potentially criminalizes all nonviolent protesters for undertaking the very act that defines nonviolence resistance. And in continuing to insist that civil disobedience can “have consequences” because of its “impact” on a community, these strategies serve to hint darkly that disruptive and confrontational actions that express public anger can be equated with dangerous and potentially threatening behavior, thus justifying a potentially violent response. In invoking this logic, the Robinson-Edley report seems to reserve the right to criminalize protesters for nonviolent behavior if it can be deemed sufficiently oppositional or disruptive.

Moreover, leading with the assumption that civil disobedience can have an “impact on a campus” is similar in rhetorical function to the “ticking time bomb” scenario in debates on U.S.-sponsored torture. That is, the question encourages the interlocutor to imagine a hypothetical situation that would justify the use of force and suggests that we use such hypothetical situations as the basis of policy.<sup>18</sup> It allows administrators to equate disruptive and potentially embarrassing student behavior with “dangerous” behavior, which requires a police presence—ostensibly for safety. At the same time, it functions to shift critical attention away from the *actual* use of repressive force, which generally has little or nothing to do with these hypothesized rationales.<sup>19</sup> Leading by assuming that civil disobedience requires punishment because of its “impact” seems to leave the door open for a militarized response with no justification other than the vague and unsubstantiated threat of a so-called impact on campus.

It should of course be noted that in many of these instances of protest, the behavior of protesters was often disruptive, confrontational, oppositional, and laden with anger. At Berkeley, this meant simply locking arms and the refusal to disperse. But in other cases, protesters refused to allow officials to leave and blockaded exits. Angry and perhaps offensive language was thrown at police officers. The regents’ meeting was occupied by students

and eventually shut down. Authorities could have responded by recognizing the underlying causes of such expressions of public anger or choosing to recognize their moral underpinnings, even while disavowing those actions that were offensive or perhaps rude. They could even have acknowledged the slipperiness of terms like “violent” or “nonviolent,” recognizing that nonviolent resistance spans a wide variety of different kinds of actions, some of which can be more disruptive, aggressive, and confrontational than others, while clarifying which forms of aggression are worthy of a violent response and which are not. Any of these statements would have fallen within the realm of reasonable moral responses to such situations. Instead, the UC leadership has chosen to adhere to an uncritical, monolithic, and unrepresentative caricature of *all* confrontational and disruptive methods of resistance as always potentially threatening.

Thus the UC leadership’s ability to justifiably criminalize nonviolent dissenters appears to depend on making a convincing argument that anger, disruption, confrontation, and provocation equal danger to public safety. It rests on the ability to argue that dissenting loudly and collectively about the erosion of one’s access to affordable public education makes one a threat to public safety, dangerous enough to warrant a heavily weaponized response in the name of the so-called public. What remains unexamined, of course, is who in particular represents this “public” whose safety is ostensibly at risk in such situations: in a mass e-mail to the UCR community following the regents’ meeting protest, Chancellor White bemoaned the fact that nine of the officers involved in the militarized response—“our coworkers who are police”—received minor injuries. The bloodied knuckles sustained by police officers in the course of shoving batons into the bodies of protesters becomes the justification for the use of force: these very injuries, the e-mail suggests, demonstrate why the police “did need to use force at times . . . to protect themselves and ensure safety for others.” Such appeals to “public” safety rest on the absurd assumption that if a confrontation between unarmed nonviolent protesters and those ostensibly charged with protecting public safety results in violence, then such violence must somehow be traceable to the party that is disruptive and confrontational yet unarmed rather than to the party that adheres to the most militarized, weaponized, and militant techniques of preemptive repression ever known to humankind. The “public” whose safety requires protection is easily conflated with those who already have legitimately sanctioned weapons at their disposal (thus ostensibly representing and supposedly protecting this public), while disruptive,

loud, angry, and confrontational yet unarmed protesters are cast as potential criminals.

The logic at work in such argumentation is, of course, precisely the post-9/11 logic of the neoliberal state in response to the War on Terror and the PATRIOT Act. This logic rests on convincing us that a nebulous group of potentially dangerous and threatening “others” are “out there,” coming to get us. Accordingly, those charged with protecting our safety and security—who, as it turns out, are the most weaponized, militarized, and militaristic elements of society—need to use force and sometimes suspend civil liberties in order to achieve this. As the bloggers at Reclaim UC have rightly noted, “This takes us to the somewhat self-evident point that the state has successfully instrumentalized and redefined the slippery term ‘violence’ to repress and criminalize various forms of dissent against austerity measures, and to shrink and eliminate established spaces and practices of constitutionally protected forms of political expression.”<sup>20</sup> These authors also remind us that such logic follows “the classical expansion of the executive authority of the state, such as, for instance, the 2012 National Defense Authorization Act, passed with a provision that allows for the indefinite detention of terrorism suspects on US land, including citizens, without trial. Much more insidiously, the police operate within the juridical regime of the liberal state, while using interpretive tactics to bend definitions of crime and expand their own power to incriminate dissenting subjects.”<sup>21</sup> As David Theo Goldberg notes, “crisis creation, chaos fabrication and management of state terror to fight the projection of terrorism”<sup>22</sup> allow states to conduct legitimate violence in the name of so-called civilized citizenry. “That the figure of the ‘violent protester’ has become a trope in the liberal media and a target of condemnation in popular liberal discourse is a direct effect and continuation of the logic of the violent state, masquerading behind the language of peace, order, and safety.”<sup>23</sup> It is this same logic that governs the UC leadership’s criminalization of dissent, following the neoliberal state’s “promot[ion] of a new ahistorical stereotype of the ‘violent protester,’ structured around a logic of prejudice, stigma, and exclusion—where violence against protesters appears *a priori* reasonable and justified.”<sup>24</sup>

## Criminalization Part II: Laws

The second form of criminalization evident in the squashing of dissent uses the legal power of the neoliberal state and its complicity with the forces of



capital to criminalize nonviolent protestors through legal channels. In March 2012, twelve UC Davis students and faculty—including Joshua Clover—were arrested and faced twenty-one misdemeanor charges and up to eleven years in jail for nonviolently blockading the campus branch of U.S. Bank. In early 2012, Clover and the eleven students—now dubbed the “Banker’s Dozen”—had conducted a nonviolent sit-in at the bank office to protest its role in, and profiteering from, the ongoing privatization of public education at UC. The sit-in was designed to draw attention to the problematic nature of the relationship between the banks and the privatizing university. University contracts with banks encourage tuition hikes because banks stand to profit directly from rising tuition while the administration comes to rely on funding from bank contracts. Thus UC Davis’s contract with U.S. Bank was explicitly predicated on the continued shift of funding for education from public to private sources. When the bank was finally forced to close its campus branch office in breach of its contract with UC Davis, it held the university responsible for all costs, claiming they were “constructively evicted” because the university had not responded by arresting the “illegal gathering.” Shortly thereafter, at the behest of the UC Davis administration, the Davis district attorney charged the so-called Banker’s Dozen with twenty counts each of obstructing movement in a public place and one count of conspiracy. If convicted, the protesters would face up to eleven years each in prison and \$1 million in damages payable to U.S. Bank.

Another case of legal criminalization was in response to a March 29, 2012, meeting of the regents at UCLA, when three students were arrested and manhandled by police, even though they were not disobeying any police orders or resisting in any way. The students were charged with criminal offences, strip-searched, and, even more onerously, forced to post bail in excess of \$10,000 each, which necessitated their raising \$6,000 to pay the fees for their bonds. All three students had previous records of having engaged in civil disobedience at other times and were thought to have been targeted for this reason. UC president Mark Yudof is on record as having thanked the officers who conducted their arrest. Despite the subsequent dismissal of all charges by the San Francisco district attorney, the bond money posted by the students was not recoverable.

At the regents’ meeting protest at UCR in January 2012, Ken Ehrlich, a lecturer from the UCR art department, also known to have been involved in previous instances of public protest against privatization, was assaulted by several police officers, subsequently charged with felony assault, and held on

\$25,000 bail. Witnesses say that at the time of his arrest, Ehrlich was doing nothing other than holding a protest sign in the shape of a book. A video of the protest shows Ehrlich being pushed into the police line and then being slammed to the ground and dragged across the pavement by police. Although all charges were subsequently dropped, Ehrlich was forced to raise funds for his legal defense in the interim, money that is yet again not refundable or recoverable.

These and other instances of legal criminalization demonstrate clearly the collusion between university and state authorities in defense of private capital. In instances where the university does not directly criminalize its own faculty and students, it appears to encourage and even assist the state's legal authorities to act against those who threaten the systemic logic of privatization and neoliberalism. Even when charges are subsequently dropped and protestors pay no price in terms of their criminal records, they are left with the literal cost of financing their own bail or legal defense to the tune of thousands if not millions of dollars. Dissent is literally made to be prohibitively expensive. In contrast to the public rhetoric and discursive strategies addressed in the previous section, we see here that the university uses a strategy that calls upon the legal resources and mechanisms of the state to replicate the state's hostility to dissent against privatization and neoliberal disinvestment in public services. What is particularly clever about such a strategy is its delivery of threats without the use of speech or discourse. The discursive message is indeed that those who do not keep their heads low and their mouths shut will be made to pay a high price, quite literally. But this threatening message is never actually spoken. Rather, it is conveyed through the use of legal prosecution in which the university itself never seems to be directly involved but is always lurking in the shadows, always willing to comply with and support—if not encourage—such prosecution against dissenters.

## Conclusion

I have offered here a particular window into the ways in which the interests, mechanisms, and operations of both the university system and the neoliberal state are aligned with those of private capital. Of course, that the academy is made to strategically ally with capital as a key piece of neoliberal consolidation should not surprise us. Rather, what is worth noting, I have argued here, is the *necessity* of the linkages between disinvestment in public education,

militarization, and the criminalization of dissent. These necessary linkages demonstrate this volume's premise that the university is an institution embedded in the hierarchies and inequalities of U.S. racial, gender, and class politics and shed light on the confluence of military and industrial interests as they appear within the U.S. university. I have sought also to emphasize the systematicity and multilayered complexity of this phenomenon. That is, the various pieces of this picture necessarily go together, as rhetoric, law, bureaucracy, and the force of arms all combine effectively to produce the desired end.

The neoliberal logic entailed in the privatization of the University of California is, I have argued, necessarily interlinked with the logic of militarization and the criminalization of dissent, because it employs a militarized enforcement strategy, coupled with a political rhetoric that criminalizes the specific behaviors involved in protest and dissent against these strategies. The militarization of the university campus is thus not simply a reflection of the increasing militarization of American law enforcement based on the logic of ongoing threats to public safety encoded in years of the War on Drugs and the War on Terror.<sup>25</sup> Rather, such militarization is one prong of a necessary enforcement strategy designed to convey that dissent against privatization is meant to be costly in inflicting various forms of legitimized violence upon those who dissent. The second prong of the enforcement strategy also conveys that dissenters will pay a high price by being criminalized, either through rhetoric that paints them as violent and therefore marginal, unworthy, and undesirable in the public imagination or through legal machinations that force them to expend tremendous financial resources on extricating themselves from prosecution.

The language of cost and price here, of course, reminds us of the ongoing hegemony—and perhaps victory—of the conceptual frameworks of neoliberalism and its theoretical accompaniments, such as rational choice theory, predominantly featured in neoclassical economics. These strategies of criminalization and militarization rest on sending signals to adversaries, encoded precisely in these languages, wherein value and worth are measured in terms of indicators such as price or cost, and rational actors are assumed to be guided by a universally comprehensible incentive structure. Thus the strategies of criminalization and militarization rest on de-incentivizing dissent, so to speak, assuming that dissenters will measure the costs inherent in their actions and choose rationally to cease from engaging in such dissent. The continued insistence on dissent is therefore resistance to the logic of

neoliberal privatization on multiple levels: it not only calls out the complicity of the university with the neoliberal state and the forces of private capital but also continues to dissent despite the “incentives” offered in exchange for desisting from dissent. And in so doing, it should be signaling its rejection not simply of privatization but of the entire conceptual baggage of neoliberalism, including its logics of rational choice, cost, price, and incentive, as well as its logic of structural violence. In other words, the ongoing struggle against the logic of neoliberal privatization requires that dissent continue, despite its high “price.”

## Notes

1. Christopher Newfield, *Unmaking the Public University: The Forty-Year Assault on the Middle Class* (Cambridge, Mass.: Harvard University Press, 2008).

2. See, for instance, Nathan Brown, “Five Theses on Privatization and the UC Struggle,” *Distribution of the Insensible*, November 15, 2011, <http://distributioninsensible.tumblr.com/post/12867650744/five-theses-on-privatization-and-the-uc-struggle>; Stan A. Glantz, “The Problem Is Privatization, and It Can Be Reversed,” *Remaking the University*, September 29, 2011, <http://utotherescue.blogspot.com/2011/09/problem-is-privatization-and-it-can-be.html>; Bob Samuels, “UC Might Increase Tuition 81% over the Next Four Years,” *Changing Universities*, September 12, 2011, <http://changinguniversities.blogspot.com/2011/09/uc-might-increase-tuition-81-over-next.html>; Chris Newfield, “Just Trying to Say That We Don’t Care,” *Remaking the University*, December 29, 2010, <http://utotherescue.blogspot.com/2010/12/just-trying-to-say-that-we-dont-care.html>.

3. Anne-Marie Slaughter, “Occupy Wall Street and the Arab Spring,” *Atlantic*, October 7, 2011, <http://www.theatlantic.com/international/archive/2011/10/occupy-wall-street-and-the-arab-spring/246364>. See also Mitchell Hartman, “Did the Arab Spring Spark the ‘Occupy’ Movement?,” *Marketplace*, January 24, 2012, <http://www.marketplace.org/topics/wealth-poverty/did-arab-spring-spark-occupy-movement>; Rebecca Solnit, “How the Arab Spring and Occupy Wall Street Started with One Tunisian Man,” *Mother Jones*, October 18, 2011, <http://www.motherjones.com/politics/2011/10/arab-spring-occupy-wall-street-protests>.

4. Bob Meister, “Debt, Democracy, and the Public University,” *Remaking the University*, December 16, 2011, <http://utotherescue.blogspot.com/2011/12/debt-democracy-and-public-university.html>.

5. Joshua Clover, “Reflections from UC Davis: On Academic Freedom and Campus Militarization,” *College Literature* 39, no. 2 (2012): 5. Emphasis added.

6. Brown, “Five Theses on Privatization and the UC Struggle.”

7. The full text of the travel advisory e-mail no longer appears anywhere online,

perhaps because of the controversy it generated. For most of the text of the advisory, see Maryam Monalis Gharavi, "Avoid All Demonstrations as a Precaution," *New Inquiry*, April 28, 2012, <http://thenewinquiry.com/blogs/southsouth/avoid-all-demonstrations-as-a-precaution>.

8. For more reports on the text of the travel advisory, see Jon Weiner, "May Day Warning from the University of California President: 'Avoid All Protests,'" *Nation*, April 30, 2012, <http://www.thenation.com/blog/167642/may-day-warning-u-cal-president-avoid-all-protests#>. Meanwhile, there is now some controversy over whether the travel alert came from UCOP or from Connexus, the UC travel website. See Christopher Yee, "UCOP Says That Yudof Warning Travelers to Avoid May Day Protests Was False," *Daily Californian*, May 1, 2012, <http://www.dailycal.org/2012/05/01/yudof-warns-travelers-to-avoid-may-day-protests>.

9. Mark Levine, "How Ego and Ideology Are Destroying the World's Greatest Public University," *Al Jazeera*, May 11, 2012, <http://www.aljazeera.com/indepth/opinion/2012/05/201251195339240940.html>.

10. Nathan Brown, "The Reynoso Report: A Portrait of Administrative Malice, Stupidity, Incompetence and Immaturity," *Remaking the University*, April 11, 2012, <http://reclaimuc.blogspot.com/2012/04/reynoso-report-portrait-of.html>.

11. Brown, "The Reynoso Report."

12. "Message to the Campus Community about 'Occupy Cal,'" UC Berkeley News Center, UC Berkeley Office of Public Affairs, November 10, 2011, <http://newscenter.berkeley.edu/2011/11/10/message-to-the-campus-community-about-occupy-cal/>.

13. Rei Terada, "Not Non-Violent Civil Disobedience," *Work without Dread*, November 11, 2011, <http://workwithoutdread.blogspot.com/2011/11/not-nonviolent-civil-disobedience.html>.

14. "On Violence and Non-Violence, Once Again: Lessons from Recent Political Developments on the Berkeley Campus (Part 1)," *Reclaim UC*, March 21, 2012, <http://reclaimuc.blogspot.com/2012/03/on-violence-and-nonviolence-once-again.html>.

15. Footage available at [http://chancellor.ucr.edu/webcast\\_archive.html](http://chancellor.ucr.edu/webcast_archive.html), click on Town Hall Meeting Webcast of March 6, 2012, scroll to 68:00.

16. Christopher F. Edley Jr. and Charles F. Robinson, "Response to Protests on UC Campuses: A Report to University of California President Mark G. Yudof," September 13, 2012, 2, <http://campusprotestreport.universityofcalifornia.edu/documents/protest-report-091312.pdf>.

17. Bob Ostertag, "Militarization of Campus Police," *Huffington Post*, November 19, 2011, [http://www.huffingtonpost.com/bob-ostertag/uc-davis-protest\\_b\\_1103039.html](http://www.huffingtonpost.com/bob-ostertag/uc-davis-protest_b_1103039.html).

18. See Bob Brecher, *Torture and the Ticking Bomb* (Malden: Blackwell, 2007); Alfred W. McCoy, "The Myth of the Ticking Time Bomb," *The Progressive*, October 2006, [http://www.progressive.org/mag\\_mccoy1006](http://www.progressive.org/mag_mccoy1006); Conor Friedersdorf, "Torture

Opponents Were Right,” *Atlantic*, May 5, 2011, <http://www.theatlantic.com/politics/archive/2011/05/torture-opponents-were-right/238387>.

19. I owe this point to my colleague Bronwyn Leebaw.

20. “On Violence and Non-Violence.”

21. *Ibid.*

22. David Theo Goldberg, “Killing Me Softly: Civility/Race/Violence,” *Review of Education, Pedagogy and Cultural Studies* 27 (2005): 345.

23. “On Violence and Non-Violence.”

24. *Ibid.*

25. Norm Stamper, “Paramilitary Policing from Seattle to Occupy Wall Street,” *The Nation*, November 28, 2011, <http://www.thenation.com/article/164501/paramilitary-policing-seattle-occupy-wall-street>.

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