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## The Assault on Critical Race Theory as Pretext for Populist Backlash on Higher Education

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**THE ASSAULT ON CRITICAL RACE THEORY AS PRETEXT FOR  
POPULIST BACKLASH ON HIGHER EDUCATION**

DANIELLE M. CONWAY\*

ABSTRACT

*The rightwing is carrying out its most recent effort to install an authoritarian regime in America, which has been boosted by Donald Trump's white supremacist rhetoric and actions before, during, and after his four years holding the Office of the President of the United States. Resolute in the effort to destabilize American Democracy by forcing on to the populist, among other messages, "The Big Lie," the rightwing is committed to a coordinated strategy of attacking and delegitimizing democratic institutions for the purpose of retaining economic and political power.*

*The attack on Critical Race Theory ("CRT") is one element of the strategy to assault liberal democracy that has caught fire. Though CRT is in the crosshairs, higher education institutions represent the larger target, because they are the places and spaces where critical thinking, public discourse, and reasoned debate are practiced in furtherance of liberal, democratic ideals. Thus, the targeting of CRT is intended to chill specific speech representing various perspectives and viewpoints that critique the dominant white hierarchy. The objective of the rightwing assault is to propagate unreality, division, and fear to thwart the outcomes of a liberal democracy—equality, multiculturalism, and intellectualism.*

*The attacks on CRT are only one in a salvo of new and growing incursions on conveying truth in educational spaces. The intention is to whitewash America's history of racism and racial oppression, while at the same time eliminating the critical roles that dissent and contestation play in strengthening the "democratic health of [American] society." The unjustified barrage on CRT*

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*is a pretext for the erosion of freedom of thought and inquiry in our higher education institutions. Higher education institutions have the resources to archive truth, intellectual inquiry, dissent, and contestation and, therefore, must be out front in the battle for the hearts and minds of the next generation of critical thinkers.*

*This Essay discusses one approach for understanding the scope of CRT, explains why attacks on CRT are undemocratic, and concludes by suggesting how higher education institutions should respond to the attacks on CRT.*

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## INTRODUCTION

It can be said that higher education institutions in America were viewed as democratic public spheres.<sup>1</sup> This is an especially complicated statement considering racial segregation in public elementary, secondary, and higher education institutions perpetuated a separate and unequal system of education from the antebellum period through *Brown v. Board of Education* up to and beyond the 1964 Civil Rights Act.<sup>2</sup> These exclusions were all too often accompanied by force, violence, and terror and are well documented throughout American history; particularly during the Antebellum, Civil War, Reconstruction, Nadir, and Jim Crow eras making denial of such violent exclusion—as opposed to reconstructed and redemptive mythology—impossible.<sup>3</sup> That said, higher education institutions have, over time, made considerable space for intellectualism and Enlightenment. This, in turn, created space for a transforming democratic society, however incremental and incomplete.

What makes higher education institutions democratic is the commitment to teaching and learning that centers critical thinking and the capacity to reason and engage peacefully in the face of difference, disagreement, and dissent. Higher education institutions offer place, space, and resources to practice the indicia of democracy. These indicia include freedom of thought and speech, equality among peoples and perspectives, the building of the muscle of resistance and contestation, the courage and capacity to question the dominant policies, procedures, and practices that impact people differently, and the commitment to making what seems impossible—universal humanism based on unfettered equality—possible. Higher education institutions are vital to democracy because they have as a core feature the power to convene large swaths of people who have important, enlightened ideas about generating, growing, and disseminating knowledge that can be used to strengthen democratic institutions. The significance of higher education institutions as places where democratic ideals can be practiced routinely is exactly what makes them targets for populist backlash.

Universities have been one of the main focal points of attack by far-right leaders.<sup>4</sup> The tactics for targeting higher education institutions involve a unification of white patriarchy with an allegiance to a white national identity, both combining to hold power for the purpose of precluding critiques of

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1. HENRY A. GIROUX, *PROTO-FASCISM IN AMERICA: NEOLIBERALISM AND THE DEMISE OF DEMOCRACY* 3 (2004).

2. See JOHN HOPE FRANKLIN ET AL., *FROM SLAVERY TO FREEDOM: A HISTORY OF AFRICAN AMERICANS* 173–75, 502–09 (9th ed. 2011).

3. See Robert Change & Catherine Smith, *John Calmore's America*, 86 N.C.L. REV. 739, 746 n.28 (2008).

4. See JASON STANLEY, *HOW FASCISM WORKS: THE POLITICS OF US AND THEM* xiii (2020).

America's long and violent history with individual and institutional racism. To retain power, the white patriarchy "lashes out at immigrants and minorities to divert attention from the economic plight of their followers."<sup>5</sup> To maintain the intensity of divisiveness, lies are constructed and continuously disseminated to fuel the diversion.<sup>6</sup> The threat of disinformation and misinformation about America's history in promoting and exploiting human bondage and structural racism has persisted from 1619 through the Civil War to the Civil Rights Movement and now in the Movement for Black Lives. The teaching and learning in higher education institutions about the facts of the founding of America create an impediment to the white patriarchy's construction of a heroic identity of America founded on the democratic ideals of liberty, equality, and justice for all.

To preserve this mythic identity in the present, those with the power to enforce the patriarchal status quo make it their mission to control America's democratic institutions so as to control the political, social, and economic structures that are designed to scaffold the mythic identity. This form of perverse activism sows the seeds for backlash against anyone who, or any institution that, critiques these structures and presents an alternative reasoned, intellectual framework to contest these structures. Because higher education institutions have typically been places and spaces for intellectual inquiry and examination, they find themselves in the cross hairs of populist backlash movements whose *raison d'être* is to normalize human hierarchy in an attempt to stall unification of the American people around the democratic principles of equality, realism, and commitment that would dismantle structural racial inequality and systemic inequity.

The American ideals of liberalism, democracy, and the rule of law are visibly under siege both inside and outside of our higher education institutions as evidenced by the events following Donald Trump's failed attempt to be re-elected as president of the United States. Trump's "Big Lie"—that the 2020 election was stolen as a result of voter fraud—continues to spread like wildfire despite court decisions and determinations by election officials that the election was fair, legitimate, and free from widespread corruption or fraud.<sup>7</sup> Trump, his believers, and right-wing activists continue to attack democratic institutions by using "The Big Lie" to foment dangerous discord. A stark example was resort to violence by a mob of insurrectionists—predominantly white men—storming

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5. See THEO HORESH, *THE FASCISM THIS TIME: AND THE GLOBAL FUTURE OF DEMOCRACY* 40 (2020).

6. See *id.*

7. See Michael Balsamo, *Disputing Trump, Barr Says No Widespread Election Fraud*, ASSOC'D PRESS (Dec. 1, 2020), <https://apnews.com/article/barr-no-widespread-election-fraud-b1f1488796c9a98c4b1a9061a6c7f49d> [<https://perma.cc/ZFZ6-UKE7>]; see also Jane Mayer, *The Big Money Behind the Big Lie*, NEW YORKER (Aug. 2, 2021), <https://www.newyorker.com/magazine/2021/08/09/the-big-money-behind-the-big-lie> [<https://perma.cc/RZ9K-Y4D7>].

the U.S. Capitol after being spurred on by a defeated President Trump's language to "stop the steal." The insurrection demonstrated the violent refusal to respect the election and the basic rules of democracy.

Donald Trump's brand of illiberalism did not begin and end with the insurrection of January 6, 2021. Instead, his message and "Make America Great Again" campaign have fomented social and political unrest, violence, and discord within and outside of the United States since before he was elected president in 2016.<sup>8</sup> Toward the end of his term, Donald Trump issued Executive Order 13950 ("EO 13950"),<sup>9</sup> which erroneously defined Critical Race Theory ("CRT") as a "malign ideology that undermines the inherent equality of every individual in America." A morally bankrupt punitive memory law campaign, the now revoked Executive Order 13950, and the 1776 blueprint project<sup>10</sup> are being modeled in state legislation targeting, distorting, and maligning CRT for the purpose of grooming and then riling populist voters to augment the Trump base in anticipation of the next election cycle.

The connection between EO 13950, the January 6, 2021 insurrection, and the populist attacks on CRT must be addressed. The purpose of EO 13950 was to ban any speech critiquing structural racism—a dangerous assault on democracy to be sure. The executive order represented a codification of the use of state power to silence oppositional voices. When the American people spoke in the 2020 election, Joe Biden was elected president. Trump and his supporters—prioritizing the maintenance of power and white patriarchy—resorted to violence, as illustrated by the insurrection, and intensified the attack on "Critical Race Theory" to exploit and perpetuate fear based upon difference.<sup>11</sup> The two-fold goal of this divisive strategy was, and remains, to push the ranks of populist voters to cast ballots for Republicans, while at the same time discrediting CRT, specifically, and intellectualism, generally.<sup>12</sup>

Attacks on CRT and the legal scholars who developed it, ironically as a critique of the failures of the Civil Rights Act of 1964, misrepresent and distort CRT for the purpose of generating gross political theater. In this way, the assault on CRT is a thinly veiled threat against those deemed by the dominant white

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8. See Peter Baker, *In Days of Discord, a President Fans the Flames*, N.Y. TIMES (July 15, 2020), <https://www.nytimes.com/2020/05/30/us/politics/trump-george-floyd-protests.html> [<https://perma.cc/HAA5-H9NM>].

9. Exec. Order No. 13950, 85 Fed. Reg. 60683 (2020).

10. See *infra* note 16.

11. See Jelani Cobb, *The Man Behind Critical Race Theory*, NEW YORKER (Sept. 20, 2021), <https://www.newyorker.com/magazine/2021/09/20/the-man-behind-critical-race-theory> [<https://perma.cc/J3BU-V72K>].

12. See generally Khiara M. Bridges, *The Hidden Agenda in GOP Attacks on Critical Race Theory*, BERKELEY NEWS (July 21, 2021), <https://news.berkeley.edu/2021/07/12/khiara-m-bridges-the-hidden-agenda-in-gop-attacks-on-critical-race-theory/> [<https://perma.cc/WM8C-TW8T>].

patriarchy to be outside the sphere of whiteness and undeserving of citizenship. Similarly, those in higher education institutions seeking to promote frameworks that decenter the sphere of whiteness—whether by mapping the history of racial injustice in America, tracking how that injustice is embedded in law and culture, and connecting these data points to today’s systems of inequity—are equally subject to threat of attack. For purposes of striking fear into administrators, faculty, staff, and students, especially amidst economic precarity exposed by the Covid-19 pandemic, the attacks on CRT have had the desired chilling effect on those who would otherwise engage in the larger discourse around society’s awakening to the reality of the pervasiveness of systemic racial inequality.

Targeting CRT by mischaracterizing it, while simultaneously mythologizing the greatness of an American past, essentially draws a line in the sand using an “us versus them” calculus to prime populist voters for the next cycle of elections. It is this exercise in line drawing that is intended to, at worst, paralyze or, slightly less Machiavellian, neutralize the liberals, progressives, and moderate conservatives who are being pushed to the margins in American institutions of higher education. The attacks on CRT are only one in a salvo of new and growing incursions on conveying truth in our classrooms—from K-12 to post-secondary—with the intention to whitewash America’s history of racism and racial oppression, while at the same time eliminating the critical roles that dissent and contestation play in strengthening the “democratic health of [American] society.”<sup>13</sup> This opening salvo against CRT is a pretext for the erosion of freedom of thought and inquiry in our higher education institutions. Higher education institutions have the resources to archive truth, intellectual inquiry, dissent, and contestation and, therefore, must be out front in the battle for the hearts and minds of the next generation of critical thinkers.

The remainder of this Essay discusses one approach for understanding the scope of CRT and then explains why attacks on CRT are undemocratic. The Essay concludes by suggesting how higher education institutions should respond to the attacks on CRT.

### I. THE SCOPE OF CRT

Critical Race Theory—though widespread and used in many disciplines for over four decades—originated in the legal academy.<sup>14</sup> Beginning in the 1970s, a racially and ethnically diverse group of legal scholars, called Critical Race Theorists, created frameworks for understanding how race and racial

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13. See GIROUX, *supra* note 1, at 12.

14. See *generally* News Release, Am. Ass’n L. Sch., Statement by AALS on Efforts to Ban the Use or Teaching of Critical Race Theory (Aug. 3, 2021), <https://www.aals.org/aals-news-room/statement-on-critical-race-theory/> [<https://perma.cc/FQ9E-YY69>] (this author served on the AALS ad hoc committee assigned to draft this Statement); see also Adrien K. Wing, *Is There A Future For Critical Race Theory?*, 66 J. LEGAL EDUC. 44 (2016).



subordination have shaped and continue to shape law and society. Scholars, using the CRT framework, have sought to explain and illustrate how structural racism produces racial inequity and inequality within our social, economic, political, legal, and educational systems. They have detailed how this can occur even absent individual racist intent.<sup>15</sup> Furthermore, these pioneering legal scholars have addressed the ways in which racism is interwoven with sexism, classism, and homophobia, among other exclusionary systems. Finally, CRT scholars have challenged the substance and the style of conventional legal scholarship. They have employed methodologies for producing legal scholarship, such as storytelling and narrative, to draw on their lived experiences with racial inequality and injustice, among other experiences, and to center the voices of marginalized peoples.

In her 2016 essay in the *Journal of Legal Education*, Professor Adrien Wing asked this question: “Is there a future for Critical Race Theory?” She sets forth a prescient argument that foretells exactly why CRT was and is not a fringe subject. In fact, if the current attacks on CRT were not so grotesque, distorted, and mischaracterized, the surfacing of CRT in mainstream media outlets could literally be said to validate the importance of the theory to untangling, and then understanding, the fundamental building blocks of reasoned, democratic discourse about the reality of racism and the need to focus on anti-subordination and anti-oppression in the pursuit of racial justice. The Childress Lecture and Accompanying Panel for which the Essay was drafted better illustrates the significance of CRT to strengthen our democratic institutions. The tenet to which this author refers is the intellectual engagement with the practice of resistance and contestation, especially by minoritized people and groups.

## II. THE ANTI-DEMOCRATIC NATURE OF THE ATTACKS ON CRT

There is a constant tension within and outside of higher education institutions; most notable, between the reassertion of white dominance and the retention of power on one end of the spectrum, and the struggle to change systems, culture, and power relationships on the other. Society members residing at points in between appear to be declining, conceptually signaling a breaking point. It is this breaking point that imperils our American Democracy and is so flagrantly illustrated by state-sponsored censorship. The fervor to elect conservative school board members nationwide under the guise of reforming the public education system, the promotion of revisionist American history intended to erase America’s continuing legacy of racial hierarchy, subordination, and oppression, and the scapegoating tactics targeting CRT are done with the aim of disempowering and disfranchising minoritized people and distracting populist voters from seeking meaningful economic, social, legal, and political reforms.

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15. EDUARDO BONILLA-SILVA, RACE WITHOUT RACISM: COLOR-BLIND RACISM AND THE PERSISTENCE OF RACIAL INEQUALITY IN AMERICA xv (5th ed. 2017).

As evidence of distraction, the stated objective of this anti-truth movement is to “abolish critical race theory and ‘The 1619 Project’ from the public school curriculum.”<sup>16</sup> What could not be accomplished by EO 13950 is now being pushed by state legislation; specifically, punitive memory laws.<sup>17</sup>

Memory laws come in different types and are enacted to address the historical record or the shared perception of the past.<sup>18</sup> Memory laws can be used to achieve varied purposes. With respect to EO 13950 and state legislation banning or proposing to ban CRT, such laws are being used to ban a negative perception of a violent past, in this case America’s history with slavery.<sup>19</sup> These types of memory laws are undemocratic, as they are imposed “to limit public debate on the national past by banning oppositional or minority views, in contrast to the principles of free speech and deliberative democracy.”<sup>20</sup> Memory

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16. See *Promoting Patriotism and Pride in American History: Changing the Future of Our American History Education*, 1776 PROJ. PAC, <https://1776projectpac.com/> [<https://perma.cc/EF9S-UNE5>] (last visited Oct. 8, 2021).

17. EO 13950 explicitly and erroneously defined Critical Race Theory as a “malign ideology that undermines the inherent equality of every individual in America.” Exec. Order No. 13950, 85 Fed. Reg. 60683 (2020). EO 13950’s purported purpose was to “prohibit the promotion of certain divisive concepts in diversity trainings funded by federal grant funds and appropriations.” *Id.* Section Two purported to define terms such as “divisive concepts,” “race or sex stereotyping,” “race or sex scapegoating,” all for the purpose of prohibiting the teaching of critical race theory and teaching diversity, equity, and inclusion training. 85 Fed. Reg. at 60685. Section Three directed the Department of Defense to cease teaching, instruction, or training service members to believe any of the divisive concepts identified in Section Two. *Id.* Though revoked, portions of language from EO 13950 appear in state legislation promoting censorship. See Rashawn Ray & Alexandra Gibbons, *Why Are States Banning Critical Race Theory?*, BROOKINGS (Nov. 2021), <https://www.brookings.edu/blog/fixgov/2021/07/02/why-are-states-banning-critical-race-theory/> [<https://perma.cc/HYS3-CC4L>]. For example, in North Dakota, House Bill 1508, 76th Leg. Assemb. (2021), <https://www.ndlegis.gov/assembly/67-2021/special-session/documents/21-1078-02000.pdf> [<https://perma.cc/44WD-DTDN>], which was signed by Governor Doug Burgum, prohibits K-12 public schools from instruction related to critical race theory, which teaches “that racism is systemically embedded in American society and the American legal system to facilitate racial inequality.” Also, in Idaho, House Bill 377, 66th Leg., 1st Reg. Sess. (2021), <https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2021/legislation/H0377.pdf> [<https://perma.cc/EJ65-9P64>], which was signed by Governor Brad Little, bans teaching specified concepts about race and gender in public schools, public charter schools, and public institutions of higher education and states that “tenets . . . often found in critical race theory, undermine . . . [the] respect [for] the dignity of others, the right of others to express differing opinions, intellectual honesty, freedom of inquiry and instruction, freedom of speech and association” as well as “exacerbate and inflame divisions on the basis of sex, race, ethnicity, religion, color, national origin, or in other criteria in ways contrary to the unity of the nation and the well-being of the state of Idaho and its citizens.”

18. See Yifat Gutman, *Memory Laws: An Escalation in Minority Exclusion or a Testimony to the Limits of State Power*, 50 LAW & SOC’Y REV. 575 (2016).

19. See *id.*

20. Memory laws that “ban a negative perception of a violent history in order to fortify a positive memory of the nation-state . . . are nondemocratic . . . [because] [t]hey are proposed in order to limit and narrow the national public debate on the collective past, in contrast to the

laws have the potential to create a body of legally defined and legally enforced knowledge that a government—in this case, state governments through proposed bans on the teaching of CRT—protects from public scrutiny and removes that knowledge from the realm of historical dispute.<sup>21</sup> In this case, state legislation proposing bans on teaching CRT are meant to elevate a whitewashed history of America’s complicity with slavery and genocide, generally, and its maintenance of systemic racism, oppression, and subordination, specifically.<sup>22</sup>

State-sanctioned, punitive memory laws, such as those enacted or proposed to ban CRT, amount to self-serving attempts to apply self-exculpatory laws to protect states from criticism about systemic racial inequality.<sup>23</sup> Apart from political theater, and dangerously so, the use of punitive memory laws deprives historians, citizens, residents, journalists, and minoritized people the right to challenge constructed histories in some cases and flagrantly false, redemptive histories in other cases.<sup>24</sup> Moreover, memory laws create a tension between principles of freedom of speech, freedom of the press, and academic freedom on the one hand, and the policies, processes, and procedures a government seeks to promote on the other. The tension escalates when memory laws include punishment because this feature creates a chilling effect on individuals and institutions who would otherwise seek to engage in open debate in furtherance of a pluralistic society.

Thus, the resulting attacks on CRT are themselves undemocratic and indicative of a larger attack on progressive higher education and intellectualism. Specifically, the attack is doubly damaging in the sense that white dominance and the power that it wields go unchecked, allowing it to be built, rebuilt, and reinforced to protect and promote the status quo of white hierarchy, while law and the legal system are used to further embed white dominance through constructs such as colorblind jurisprudence or through codification of state power to silence oppositional voices. Just as EO 13950 suppressed antiracist speech until its revocation upon President Biden legitimately taking office, state

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principles of free speech and deliberative democracy that advocate the opening up of public debate to a variety of voices, experiences, and interpretations of the past and present (as well as the future, [citation omitted]). Their legislators use these laws to try and guard against critical interpretation and counter-memories of a previous regime’s conduct toward citizens and non-citizens either explicitly, by forbidding negative perceptions of the past . . . , or implicitly, by exclusively acknowledging the dominant perception of a contested past . . .” *See id.* at 575, 576–77.

21. *See* Klaus Bachmann et al., *The Puzzle of Punitive Memory Laws: New Insights into the Origins and Scope of Punitive Memory Laws*, 35 E. EUR. POL. & SOC’YS & CULTURES 996, 997 (2021).

22. *See* Marokey Sawo & Asha Banerjee, *The Racist Campaign Against ‘Critical Race Theory’ Threatens Democracy and Economic Transformation*, ECON. POL’Y INST. (Aug. 9, 2021), <https://www.epi.org/blog/the-racist-campaign-against-critical-race-theory-threatens-democracy-and-economic-transformation/> [<https://perma.cc/6S7G-7AS9>].

23. *See* Gutman, *supra* note 18, at 577.

24. *See id.*

legislatures are using their collective power to silence those who would learn how to critique systemic racism and inequality in America using CRT lessons. Unequivocally, federal, state, local, and municipal government level attempts to ban CRT are censorship.

This is the point at which higher education institutions must be on guard. Professor Cheryl Harris explains that “any kind of thought or speech that attempts to pierce ignorance, is by its very nature a radical ideology that white hierarchy is driven to suppress.”<sup>25</sup> This means that higher education institutions committed to pluralism are targets of the new McCarthy-like list making. More than half of the states in our nation have proposed bills to ban CRT.<sup>26</sup> The proposed and enacted legislative bans on CRT are not only meant to silence antiracist speech, but also to perpetuate ignorance, all for the purpose of scaffolding systemic inequality.

The attacks on CRT are meant to create political unity in the alt-right, and these attacks are intended to push back against unified movements to eradicate structural, institutional, and systemic racism. As well, CRT is under attack because it creates a path for knowledge acquisition, especially within higher education institutions, about established facts that reasonably and rationally explain the durability of systemic racial inequality. Moreover, pulling CRT out of higher education institutions and mischaracterizing it in mainstream political rhetoric to mobilize right-wing ideologues and their followers draws on the fictionalized boogeyman. This ever-useful boogeyman stokes the power and demographic displacement fears of those identifying with the dominant white hierarchy. This side of America then becomes further entrenched in the anti-intellectual tradition, which has the effect of discrediting higher education institutions, the very places where new generations of learners go to practice and master critical thinking.

### III. THE RESPONSE OF HIGHER EDUCATION INSTITUTIONS TO THE ATTACK ON CRT

Higher education institutions committed to academic freedom—which by definition includes engagement and discourse with CRT—are in the crosshairs precisely because they teach critical inquiry that facilitates deeper understandings about human hierarchy and the construction of history. Specifically, critical inquiry about human hierarchy sets the groundwork for contesting the myth that America is a heroic nation built on liberty and justice

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25. Cheryl I. Harris was part of the opening roundtable, Framing What Grounds Us: Structural Inequality, Social Movements, and the Law, at the University of California, Los Angeles Law Review’s 2021 Annual Symposium (Day 1). See African American Policy Forum, *UCLA Law Review’s 2021 Annual Symposium (Day 1), Structural Inequality and the Law*, YOUTUBE (Apr. 19, 2021), <https://www.youtube.com/watch?v=VkYQqP2pApw> [<https://perma.cc/48BD-YUVZ>].

26. See Ray & Gibbons, *supra* note 17 (Appendix).

for all. The response from higher education institutions must account for the reality that not all Americans are having the same experiences, nor are all Americans immune to blind spots when it comes to awareness and acknowledgement of systemic inequity.

This is exactly the reason higher education institutions must respond with more, not less, opportunities to lean into discourses that promote critical intellectual thought, such as CRT, in order to examine and interrogate, among other things, built environments and structures that perpetuate racial disparities and racial hierarchies. Taking her own advice, this author leaned into critical intellectual thought by developing a course called “Women’s Suffrage, the Nineteenth Amendment, and the Duality of a Movement.” The purpose of the course was to develop a strong working knowledge of the history leading to the ratification of the Reconstruction Amendments and the Nineteenth Amendment; to develop skills in questioning historical mythology around the founding principle of America’s democracy: “that all men are created equal . . .;” to be able to recognize, articulate, and criticize arguments about the legitimacy of human hierarchy and the support for racist ideas and institutions built on the perpetuation of racism, sexism, and bias; to understand the ways in which law and legal systems reinforce racism, sexism, classism, and elitism; and to identify antiracist, antisexist, and antibias-focused approaches to furthering the objectives of equity, equality, fairness, and transparency of the law and legal systems in America’s democracy.

In part, through engagement with CRT, this author became more fluent about the racial injustices experienced by Black women in the larger women’s suffrage movement and how these women were denied the franchise even after the ratification of the Nineteenth Amendment. She also learned techniques for presenting challenging and disturbing material in ways that would not alienate students, but rather would allow them the place and space to interpret history from a decentered lens. CRT, along with feminist legal theory and critical pedagogy, provided the tools and the frameworks to help explain, contextualize, and illustrate how structural racism produces racial inequity within our social, economic, political, legal, and educational systems. The students with whom the author shares learning space have conveyed that the critical work done in the classroom gave them the language they needed to engage in discourse about systemic inequity, oppression, and subordination. With such responses from students, confidence in sustaining America’s democracy rises, even after the insurrection of January 6, 2021. This confidence stems from the knowledge that higher education institutions are the exact places where the work is being done by the next generation of learners to reform our democratic institutions through critical thinking, the capacity to reason, and the will to engage peacefully in the face of difference, disagreement, and dissent.

This author contends that she does not have all of the credentials to call herself a scholar of CRT; what she does have is the capacity and willingness, by

virtue of her connection to and investment in the learning enterprise, to maintain a posture of critical thinking and learning. CRT will continue to be targeted by those committed to perpetuating American racial hierarchy and white supremacy for the purpose of hoarding power and scaffolding systemic inequity. As such, higher education institutions have an obligation to push forward on engagement with critical intellectual thought that meets systemic racial inequality and injustice with actions explicitly and unapologetically focused on transformational systemic equity. Our higher education institutions must seize the opportunity to be part of reforming society by harnessing the potency of knowledge acquisition flowing from the critical contemplation of the systems we need to build to support an interdependent collective committed to equality and justice for all.

#### CONCLUSION

CRT and its principles stand at the center of today's most prominent social movements. At the exact same time, simply talking about race, racism, and America's history with slavery threatens to label the speaker as un-American. For this very reason, CRT is worthy of discussion. The ultimate objective of EO 13950 was to attack higher education institutions because that is where the knowledge of CRT is being generated. Conservative strategies to maintain racial hierarchy and white supremacy are shifting and changing at extreme speeds. To respond, higher education institutions must support new, innovative, and disruptive ways of engaging with struggle, contestation, and resistance to continue the teaching and learning of antiracism, anti-subordination, and anti-oppression. The work to be done includes marshaling the resources within higher education institutions to lead in forming and maintaining strong coalitions committed to truth and reconciliation for a future focused on and committed to building structural, institutional, and systemic equity into American society.

