

**Knowledge Is Power, But Viewed As a Threat:
Showing the Parallels Between the “Threat” Found in
Abolitionist Literature and Today’s Attack on Critical
Race Theory**

MECCA AIKENS*

TABLE OF CONTENTS

INTRODUCTION 96

I. THE HISTORY AND IMPORTANCE OF ABOLITIONIST LITERATURE 98

A. The Suppression of Abolitionist Literature 98

B. The Trial of Reuben Crandall. 100

II. ANTI-CRT LEGISLATION 102

A. The Beginnings of the Anti-CRT Movement 102

B. The Current State of Anti-CRT Legislation. 103

III. THE HARMS OF ANTI-CRT LAWS 105

A. Negative Impacts on Students 105

B. Hindering Educators in Expressing Their Academic Freedom 106

IV. SIMILARITIES IN RHETORIC AND ASSAULTS ON ABOLITION AND CRT 107

V. RESISTANCE TO THE ANTI-CRT REGIME. 110

A. Resistance in the Legal System 110

B. Resistance in the Community 111

CONCLUSION 112

* © 2025, Mecca Aikens.

INTRODUCTION

Critical Race Theory (“CRT”) is a theoretical framework for examining American society with a belief that “the social and experiential context of racial oppression is crucial for understanding racial dynamics, particularly the way that current inequalities are connected to earlier, more overt, practices of racial exclusion.”¹ Critical race theorists root their ideologies in the distinctive experience of Black people and other people of color to challenge the “normative standard” that is the white experience.² Founders of the CRT movement include legal scholars such as Derrick Bell, Charles Lawrence, Lani Guinier, Richard Delgado, Mari Matsuda, Patricia Williams, and Kimberlé Crenshaw.³ CRT scholarship includes discussions on “affirmative action, race-conscious districting, campus speech codes, and disproportionate sentencing of racial minorities in [this country’s] criminal justice system.”⁴ With its growing popularity since the 1970s, CRT has expanded to other areas, such as “education, sociology, and women’s studies.”⁵

Contrary to the narrative that CRT opponents attempt to advance, CRT does not teach students that all white people are racist or that all racial minorities are oppressed.⁶ Instead, CRT’s inclusion in educational curricula serves to assist students in developing the tools necessary not only to recognize but to criticize systematically racist institutions in the United States, and shed light on inequalities that still persist today.⁷ It is particularly harmful when Black students are not taught the history of their ancestors or equipped with the historical context that informs their lived experiences. Part of this critical history includes the abolitionist movement, which was an organized effort to end the institution of slavery based on the view that it “was wrong in principle.”⁸ Slavery deprived enslaved people of their “natural right of liberty, the opportunity for advancement,” and of the ability to use their skills for their own benefit.⁹ Both Black and white abolitionists united to form antislavery societies which employed various techniques to advance their efforts, including sending petitions with thousands of signatures to Congress, holding abolition meetings and conferences, boycotting products made with slave labor, giving countless speeches for their

1. Edward Taylor, *A Primer on Critical Race Theory: Who are the critical race theorists and what are they saying?*, 19 THE J. OF BLACKS IN HIGHER EDUC. 122 (1998).

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. *The Importance of Addressing Equity, Diversity, and Inclusion in Schools: Dispelling Myths About Critical Race Theory*, NAT’L ASS’N OF SCH. PSYCH. (2021), <https://www.nasponline.org/resources-and-publications/resources-and-podcasts/diversity-and-social-justice/social-justice/the-importance-of-addressing-equity-diversity-and-inclusion-in-schools-dispelling-myths-about-critical-race-theory#:~:text=CRT%20is%20a%20theoretical%20framework,of%20individual%20prejudices%20or%20biases>.

7. Alexandria Smith, *Why Critical Race Theory Is Essential To An Honest Education In America*, HUMAN RIGHTS PULSE (Sept. 2, 2021), <https://www.humanrightspulse.com/mastercontentblog/why-critical-race-theory-is-essential-to-an-honest-education-in-america>.

8. Henry H. Simms, *A Critical Analysis of Abolition Literature 1830-1840*, 6 THE J. OF S. HIST. 368, 369 (1940).

9. *Id.*

cause, and, the focus of this Note, printing and disseminating a large body of abolitionist literature.¹⁰

Abolitionist literature consisted of “books, newspapers, pamphlets, poetry, published sermons, slave narratives,” and more, but they all had the same purpose: to raise awareness of the “evils of the [slave] institution.”¹¹ With literature being a popular tool to depict the atrocities that enslaved people endured, white Southerners feared this literature would inspire slave uprisings and, worse, the dismantling of the slave society.¹²

This Note highlights the parallels between antebellum laws restricting the dissemination of abolitionist literature and the anti-CRT movement gaining traction in Republican-led states. It argues that this legacy of hostility to racial truth-telling in written works is evidence of the embedded institutional racism that CRT articulates. The Note explores the connections between the “threat” white individuals saw in abolitionist literature and the manufactured “threat” animating anti-CRT legislation. History repeats, and this Note raises the question of why the education of Black students and society generally, whether through abolitionist literature or current CRT works, is perceived as dangerous to the status quo.

Part I will explore the history of abolitionist literature, detailing why this work was created and how it advanced the abolitionist movement. Part I will discuss the suppression of abolitionist literature and legislative attempts pursued to prevent its dissemination. To conclude, Part I will examine resistance lawyering tactics in the abolitionist movement, detailing the trial of Reuben Crandall, who was arrested for possessing abolitionist pamphlets. Part II surveys the anti-CRT legislative landscape, beginning with the origins of the anti-CRT movement and tracking its current state. Part III discusses why anti-CRT legislation is harmful, from both a student and educator perspective. Part IV compares the rhetoric and actions against abolitionist literature with those wielded against CRT, highlighting the similarities in how these attacks were efforts to maintain an inequitable regime of social control and restrict Black liberty. Concluding this Note, Part V will analyze what resistance to the anti-CRT regime looks like and what can be learned from the abolitionist movement and their resistance lawyering tactics.

Overall, this Note aims to show that the white hysteria that surrounded abolitionist literature is the same panic arising now regarding CRT. The “threat” found in abolitionist literature and CRT both stem from white Southerners and conservative politicians’ desire to maintain their status within society, viewing it as having the potential to thwart their positions of power and authority.

10. *The African American Odyssey: A Quest for Full Citizenship*, LIBRARY OF CONG. (last visited Mar. 8, 2024), https://www.loc.gov/exhibits/african-american-odyssey/abolition.html#skip_menu.

11. *Slave narratives and Uncle Tom’s Cabin, 1845-1862*, PBS (last visited Mar. 18, 2024), [https://www.pbs.org/wgbh/aia/part4/4p2958.html#:~:text=Using%20books%2C%20newspapers%2C%20pamphlets%2C,the%20most%20important%20abolitionist%20writings; see also W. Sherman Savage, Abolitionist Literature in the Mails 1835-1836, 13 J. NEGRO HIST. 150 \(1928\).](https://www.pbs.org/wgbh/aia/part4/4p2958.html#:~:text=Using%20books%2C%20newspapers%2C%20pamphlets%2C,the%20most%20important%20abolitionist%20writings; see also W. Sherman Savage, Abolitionist Literature in the Mails 1835-1836, 13 J. NEGRO HIST. 150 (1928).)

12. Michael Kent Curtis, *The Curious History of Attempts to Suppress Antislavery Speech, Press, and Petition in 1835-37*, 89 NW. U. L. REV. 785, 802 (1994-1995).

I. THE HISTORY AND IMPORTANCE OF ABOLITIONIST LITERATURE

Abolitionist literature was a prominent tool used to “[depict] the horrors” enslaved people endured and garner sympathy and support to assist abolitionists in fighting against the institution of slavery.¹³ Some of the most popular pieces of abolitionist literature include David Walker’s *An Appeal to the Colored Citizens of the World*, William Lloyd Garrison’s *The Liberator*, and Harriet Beecher Stowe’s *Uncle Tom’s Cabin* which incited an increased feeling that the status quo of white Southern society was being placed under threat.

David Walker’s *Appeal* urged enslaved people to resort to violence, which ultimately led to some Southern states passing “more repressive slave codes,” including Georgia and South Carolina.¹⁴ Walker held the belief that America belonged to all who helped build it and, controversially, stated that “America is more [Black people’s] country than it is the whites—we have enriched it with our blood and tears.”¹⁵ Garrison, in the first release of his abolitionist newspaper, *The Liberator*, wrote “I do not wish to think, or speak, or write, with moderation . . . I am in earnest—I will not equivocate—I will not excuse—I will not retreat a single inch—AND I WILL BE HEARD.”¹⁶ Stowe’s work, *Uncle Tom’s Cabin*, was wildly popular, rapidly selling five thousand copies.¹⁷ In her preface, Stowe explained her desire “to awaken sympathy and feeling” for enslaved people.¹⁸

All of these pieces of abolitionist literature worked to incite sympathy, anger, or violence in response to slavery and the trauma that was inflicted on enslaved people. While these works were successful in spreading the message of the abolitionist movement, their dissemination was soon viewed as a “threat” that had to be stifled.

A. *The Suppression of Abolitionist Literature*

A number of anti-slavery societies in the North began to proliferate the cry for immediate abolition, which led to “a harsh and violent reaction” in both Northern and Southern states.¹⁹ From 1833 to 1837, pro-slavery mobs “disrupt[ed] abolitionist meetings in Utica, New York, Boston, Massachusetts, and throughout the North.”²⁰ The *Boston Atlas*, a local newspaper, blamed violence in Boston on the “provocative [and controversial] position taken by abolitionists.”²¹ The paper “‘branded free discussion on the subject of slavery’ as ‘the mischief . . . in a nutshell.’”²² In its critique

13. Savage, *supra* note 11.

14. Simms, *supra* note 8, at 380.

15. David Walker’s Appeal, PBS (last visited May 11, 2024), <https://www.pbs.org/wgbh/aia/part4/4h2931.html>.

16. William Lloyd Garrison, 1805-1879, PBS (last accessed May 11, 2024), <https://www.pbs.org/wgbh/aia/part4/4p1561.html#:~:text=In%20the%20very%20first%20issue,%22%20And%20Garrison%20was%20heard.>

17. Robert S. Levine, *Uncle Tom’s Cabin in Frederick Douglass’ Paper: An Analysis of Reception*, 64 AM. LITERATURE 71, 74 (1992).

18. *Id.*

19. Curtis, *supra* note 12, at 800.

20. *Id.*

21. *Id.* at 801.

22. *Id.*

of the abolitionist movement, the paper further stated a hope that future “efforts by abolitionists to renew excitement on the subject of slavery would be met with ‘universal scorn and indignation, [and] that they may be indicted before the Grand Jury as public nuisances . . .’”²³ If societal disapproval was not the remedy, the *Atlas* posited a different remedy: coating abolitionists with tar and feathers.²⁴

To ignite abolitionist feelings in the South, the American Anti-Slavery Society sent publications to the area via postal mail, to which the South responded furiously, through restricting legislation and extra-legal mob violence,²⁵ including the July 1835 burning of abolitionist publications in a Charleston, South Carolina post office.²⁶ In response to the mass mailings of Garrison’s *The Liberator*, North Carolina passed laws to forbid teaching Black people to read or to provide them with reading material.²⁷

In 1835 and 1836, Congress unsuccessfully attempted to ban abolitionist writings from the U.S. mail.²⁸ Despite Congress’s failure, the House of Representatives managed to pass a gag rule in 1836 to produce a “cooling off” period in response to the numerous submitted petitions in support of abolitionist legislation.²⁹ However, it was renewed and strengthened to ban virtually any mention of abolition or the limiting of slavery or the domestic slave trade.³⁰

Unable to rely on Congress, Southern states demanded that the North do more to suppress abolitionists and prevent them from interfering with the South’s slave society.³¹ In particular, Alabama, Georgia, North Carolina, South Carolina, and Virginia published open letters and sent official communications to Northern states urging them to control the disruptive activities of abolitionists.³²

In 1831, Virginia Governor John Floyd, who was once in support of a gradual plan to abolish slavery, expressed concerns that the slave revolt led by Nat Turner was a result of the abolitionist message reaching enslaved people through free Black people and their white allies.³³ In the same year, the Governor of North Carolina labeled Northerners as “reckless,” accusing them of encouraging rebellion amongst slaves and claiming that free Black people were assisting in conveying these seditious messages.³⁴ Southern states also took it upon themselves to suppress the threat they saw in the abolitionist movement and its literature through their own state legislatures, such as Missouri, which completely banned all forms of abolitionist messaging.³⁵ Within a few years of this legislation passing, every Southern state had adopted laws that limited the freedom of speech

23. *Id.*

24. *Id.*

25. *Id.*; Thurman Hart, *Abolitionists and Free Speech*, FREE SPEECH CTR. AT MIDDLE TENN. STATE UNIV. (Feb. 11, 2024), <https://firstamendment.mtsu.edu/article/abolitionists-and-free-speech/>.

26. Curtis, *supra* note 12, at 801.

27. Hart, *supra* note 25.

28. Curtis, *supra* note 12, at 801; Hart, *supra* note 25.

29. Hart, *supra* note 25.

30. *Id.*

31. Curtis, *supra* note 12, at 801; *see also* Hart, *supra* note 25.

32. Hart, *supra* note 25.

33. Curtis, *supra* note 12, at 802.

34. *Id.*

35. Hart, *supra* note 25.

with regard to abolitionist literature and its dissemination.³⁶ These laws gave Southern states a path to pursue legal consequences against those individuals who still participated in, or were suspected of having participated in, its dissemination.

B. The Trial of Reuben Crandall

The trial of Reuben Crandall is an example of Black people being subjected to legal consequences for the dissemination of abolitionist literature. Reuben Crandall was a Connecticut-born physician and botanist who moved to Washington, D.C. in late May 1835.³⁷ Later that year, police officers went to Crandall's residence to conduct a search of his home and office, which resulted in his arrest for allegedly circulating incendiary publications among enslaved and free Black people in the city.³⁸ After Crandall consented to the search, the officers found a trunk that contained many abolitionist pamphlets.³⁹ Believing that they had found sufficient evidence, the officers arrested Crandall and took him to the city jail.⁴⁰ However, despite possessing these materials, Crandall was not, nor had he ever been, a member of any abolitionist society; though he did admit that he agreed with the abolitionist message.⁴¹ Even with his lack of allegiance to any particular abolitionist society, Crandall was still an object of suspicion due to his sister's actions. Prudence Crandall organized a school for free Black girls, but Crandall opposed his sister's actions and put in his best efforts "to break up the school."⁴² His opposition did very little to protect Crandall from suspicion, and the criminal case against him proceeded.

Francis Scott Key, author of the "Star-Spangled Banner," was the United States Attorney for the District of Columbia and led the charge against Crandall, motivated by various factors.⁴³ First, Henry King, a respected resident of Georgetown, informed Key that Crandall possessed a large amount of abolitionist literature shortly before the "flood" of abolitionist literature that arrived in Washington, D.C. via mail.⁴⁴ Second, Key found the contents of pamphlets in Crandall's belongings to be damning.⁴⁵ From Crandall's belongings, King obtained a two-year-old copy of the *Anti-Slavery Reporter*, which contained a multitude of attacks on the American Colonization Society, an organization Key had founded in 1816.⁴⁶ The third motivation for Key to prosecute Crandall was rooted in a "partisan political necessit[y]."⁴⁷

36. *Id.*

37. Neil S. Kramer, *The Trial of Reuben Crandall*, 50 RECS. OF THE COLUM. HIST. SOC'Y, WASH. D.C. 123, 126, 129 (1980).

38. *Id.* at 123.

39. *Id.*

40. *See id.*

41. *Id.* at 127.

42. *Id.*

43. *Id.*; see also Christ Myers Asch, 24 HISTORY SOCIETY OF WASHINGTON, D.C. 168, 168–69 (2012) (reviewing Jefferson Morely, *Snow-Storm in August: Washington City, Francis Scott Key, and the Forgotten Race Riot of 1935* (2012)).

44. Kramer, *supra* note 37, at 127.

45. *Id.*

46. *Id.* at 127–28.

47. *Id.* at 128.

The Democratic candidate in the 1836 presidential campaign, Martin Van Buren, was concerned that he would lose the Southern vote due to him being viewed as “soft on anti-slavery.”⁴⁸ Key, a member of President Andrew Jackson’s party, viewed the prosecution of Crandall, an alleged abolitionist, as an opportunity to provide more political traction for the Democratic ticket.⁴⁹

The grand jury’s indictment consisted of charges regarding publishing “‘false, malicious, seditious, and inflammatory’ libels among the slaves and free [Black people in] the District.”⁵⁰ When Congress was considering a new code of laws for Washington, D.C. in 1833, they included a provision that stated:

If any person shall knowingly publish and circulate, or have agency, directly or indirectly, in publishing and circulating any writing or pamphlet, printed or unprinted, among the free [B]lack or slave population of this district, tending to excite a discontented or insurrectionary spirit . . . [they] shall be punished by confinement in the penitentiary for not less than two, not more than seven years.⁵¹

The proposed provision would have made the dissemination of abolitionist literature a capital offense if it incited an “actual rebellion,” but Congress never approved this code.⁵² Despite the code not being adopted and lacking the actual authority of law, the D.C. District Court still abided by the code and it played a pivotal role in Crandall’s case.⁵³

Crandall’s attorneys, Richard S. Coxe and Joseph H. Bradley, divided up their defensive strategy. Coxe argued that (1) Key’s “evidence of [Crandall’s] possession [of abolitionist literature]” was not sufficient enough to show that he actually circulated and published the works in his collection; (2) “the publication to individuals, by whom and through whom others would not be affected injuriously, is not evidence of the malicious intent charged in the indictment”; and (3) until Key produced evidence to show that Crandall had malicious intent to publish said literature, the Court should not allow Key to introduce “evidence of the nature of the papers.”⁵⁴ Bradley “opened [his] presentation . . . with a [clever] trick.”⁵⁵ He read an excerpt of an 1828 speech published by Key “in the eleventh annual report of the Colonization Society.”⁵⁶ After the judge was told of the source of these excerpts, he stated “that he thought [Bradley] was reading from some of the libels” that were admitted into evidence, a damning and shocking revelation for not only the judge and jury, but for Key himself.⁵⁷

After both sides presented their cases, the jury “deliberated [for] less than an hour before [returning] a verdict of not guilty.”⁵⁸ However, as a result of the Court

48. *Id.*

49. *Id.* at 128–29.

50. *Id.* at 130.

51. *Id.*

52. *Id.*

53. *Id.*

54. *Id.* at 134.

55. *Id.*

56. *Id.*

57. *Id.* at 134–35.

58. *Id.* at 138.

denying Crandall bail, which resulted in him waiting nearly eight months in deplorable jail conditions, his health was severely diminished.⁵⁹ He suffered from tuberculosis during his time in jail and ultimately died from his illness in early February of 1838.⁶⁰

The fear regarding the “threat” surrounding abolitionist literature was quite prominent throughout the 1830s and harmed slaves and free Black people despite these small “wins” (i.e., Crandall’s acquittal). Reuben Crandall was an innocent man and not even affiliated with any anti-slavery societies. Yet, he too was subjected to criminal allegations due to this belief that abolitionist literature was an attack on the status quo and the elevated position white Southerners enjoyed in society.

While abolitionist literature is no longer being circulated throughout the nation, conservative politicians have now determined that there is a new “threat” to the status quo: CRT.

II. ANTI-CRT LEGISLATION

America’s education system is currently under attack, as Republicans have taken it upon themselves to pass legislation attacking the teaching of CRT under the guise of protecting the nation’s children. In reality, they are preventing educators from teaching the true history of America and how to navigate the current state of its systems and institutions, which are still embedded with racism and prejudice. Anti-CRT laws, though, did not get their start through educators speaking out against CRT, but through political rhetoric, which implicates the true intention and purpose behind these laws.

A. *The Beginnings of the Anti-CRT Movement*

In early September 2020, conservative scholar Christopher Rufo appeared as a guest on Fox News, sounding the alarm that a “cult” had “pervaded every institution in the federal government.”⁶¹ Rufo further stated that this “default ideology of the federal bureaucracy” was “now being weaponized against the American people.”⁶² The “cult” that Rufo was referring to was CRT. The next day, President Donald Trump’s Chief of Staff called Rufo to let him know that the President watched his Fox News segment and that “[the President] was ready to act.”⁶³ A few days later, on September 4, 2020, the Trump Administration released a memo that incorporated Rufo’s language from the segment and labeled CRT as “divisive, false, and demeaning propaganda . . . [that was] contrary to all we stand for as Americans and should have no place in the federal government.”⁶⁴ Continuing on this call-to-action, on

59. See *id.* at 131, 139.

60. *Id.* at 139.

61. Tess Bissell, *Teaching in the Upside Down: What Anti-Critical Race Theory Laws Tells Us About the First Amendment*, 75 STAN. L. REV. 205, 212 (2023).

62. *Id.*

63. *Id.*

64. *Id.*

September 22, 2020, Executive Order 13,950 (EO 13,950) was signed into law by President Trump.⁶⁵ The Order's purpose was to ban the teaching of "divisive concepts" in federal offices' diversity training, "a response to the increase in anti-racism sessions in the workplaces and schools conducted in the aftermath of George Floyd's murder."⁶⁶

President Joe Biden revoked EO 13,950 on January 20, 2021, requesting that the federal government "pursue a comprehensive approach to advancing equity for all" and instructed federal agencies to "recognize and work to redress inequities in their policies and programs that serve as barriers to equal opportunity."⁶⁷ However, the "threat" regarding CRT had already been established in the minds of Republicans. Elementary and secondary students desired opportunities in their classes to discuss the various issues that were brought to the forefront of mainstream media after the murder of George Floyd, including police brutality, racism, and bias.⁶⁸ Educators responded by integrating lesson plans and opportunities that focused on such topics.⁶⁹ In response, "conservative organizations, including Citizens for Renewing America, Alliance for Free Citizens, the America First Policy Institute, and the Heritage Foundation put out model legislation targeting schools and educators, and also consulted with states on proposed anti-CRT bills."⁷⁰ This was the foundation on which the current anti-CRT legislative landscape was built, and it has only grown since Rufo's Fox News segment in 2020.

B. *The Current State of Anti-CRT Legislation*

Initially, attacks on CRT were broadly implemented, with bans being focused on "the teaching of 'divisive concepts,' such as the idea that members of one race are automatically morally superior to those of another or that a person must feel guilty because of the past actions of people of his or her race."⁷¹ While these ideas were only caricatures of what CRT truly is, newer efforts have now become much more specific. "More than half of [the] states have passed [various] measures against the teaching of CRT," with another dozen having implemented "successful initiatives on a smaller scale [and] single cities, counties, or school districts establishing [anti-CRT] laws and directives."⁷²

For example, Republican Governor of Florida, Ron DeSantis, recently championed and signed the Individual Freedom Act, also known as the "Stop WOKE" Act

65. *Id.* at 213.

66. Olivia B. Waxman, *Exclusive: New Data Shows the Anti-Critical Race Theory Movement Is 'Far From Over'*, TIME (Apr. 6, 2024), <https://time.com/6266865/critical-race-theory-data-exclusive/>.

67. Bissell, *supra* note 61, at 213.

68. *Id.* at 214.

69. *Id.*

70. *Id.*

71. Jon Edelman, *The Next Frontiers in the Battle Over CRT and DEI*, DIVERSE MAGAZINE (Sept. 19, 2023), <https://www.diverseeducation.com/from-the-magazine/article/15546477/the-next-frontiers-in-the-battle-over-crt-and-dei>.

72. Katharina Buchholz, *Anti-CRT Measures Adopted by 28 U.S. States*, STATISTA (Apr. 19, 2023), <https://www.statista.com/chart/29757/anti-critical-race-theory-measures/>.

in 2023, which mandates certain “standards for social studies curricula.”⁷³ The Act “limit[ed] the ways concepts related to systemic racism and sex discrimination [could] be discussed” by teachers and during trainings conducted by or in workplaces.⁷⁴ Through their attacks on CRT, more Republicans have adopted the popular political platform of being “anti-woke,” which has led to a continued spread of misinformation with a newer, more specific effort to attack CRT principles via diversity, equity, and inclusion (DEI) initiatives.

In response to George Floyd’s murder, “schools, companies, and individuals [in general] sought more solutions to become more racially and socially inclusive.”⁷⁵ These endeavors, however, have caused “a backlash with conservative media outlets, politicians, lawyers, and social media influencers.”⁷⁶ Proponents of the anti-DEI movement claim that DEI initiatives and programs are unconstitutional, arguing that “focusing on diversity and inclusion only divides Americans and fosters ‘white guilt.’”⁷⁷ Now, more than thirty states, including Florida, Texas, and Utah, have passed, or at least introduced, “more than one hundred bills to either restrict or regulate [DEI] initiatives in the [2023-2024] legislative session.”⁷⁸

Now, with the backing of the Supreme Court’s decision in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College* (“*SFFA*”),⁷⁹ attacks rooted in this white moral panic have moved to dismantle programs that factor race into “hiring or the awarding of scholarships.”⁸⁰ Despite the Biden administration’s guidance on the Supreme Court ruling, emphasizing that it is only applicable to college admissions, red states have proposed and passed laws that go beyond this scope.⁸¹ For example, Missouri Attorney General, Andrew Bailey, “ordered state schools to drop minority scholarships,” which “the University of Missouri [has] complied” with.⁸² University of Kentucky’s president expressed his belief that minority scholarships were forbidden post-*SFFA*, and, in response, Western Illinois University ended a \$1,000 scholarship that had previously been awarded to students of color, but has since reversed this decision.⁸³

The current state of the anti-CRT legislative landscape is ever-growing and seems to be expanding even beyond CRT. Anti-CRT laws have created a harmful

73. Edelman, *supra* note 71.

74. Leah Watson, *Lessons Learned from Our Classroom Censorship Win Against Florida’s Stop W.O.K.E. Act*, ACLU (Nov. 29, 2022), <https://www.aclu.org/news/free-speech/lessons-learned-from-our-classroom-censorship-win-against-floridas-stop-w-o-k-e-act>.

75. Char Adams and Nigel Chiwaya, *Map: See which states have introduced or passed anti-DEI bills*, NBC NEWS, (Mar. 2, 2024), <https://www.nbcnews.com/data-graphics/anti-dei-bills-states-republican-lawmakers-map-rcna140756>.

76. *Id.*

77. *Id.*

78. *Id.*

79. *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023).

80. Edelman, *supra* note 71.

81. *Id.*

82. *Id.*

83. *Id.*; see also Jacob Stewart, *University retracts race-based scholarship from 300 students after SCOTUS ruling, then reinstates*, CAMPUS REFORM (Aug. 4, 2023), <https://www.campusreform.org/article/university-retracts-race-based-scholarship-300-students-scotus-ruling-reinstates/23738>.

environment for both students and educators within America's education system. It is crucial for students to have the ability to talk about the "hard history" of the country they live in, and educators should be able to utilize their academic freedom to facilitate these types of discussions. The implementation of these laws does more harm than good and will continue to do so unless actors within and outside the education system work to rid themselves of these laws rooted in white hysteria.

III. THE HARMS OF ANTI-CRT LAWS

Despite CRT being primarily taught at the graduate level,⁸⁴ anti-CRT laws have had the most negative impact on the K-12 education system. Most importantly, they have (1) negatively impacted the way students learn about the true history of the country and (2) prevented educators from being able to utilize their academic freedom to teach their students as they see fit.

A. Negative Impacts on Students

Facially, anti-CRT laws seem to only be an attack on the theoretical framework itself. However, these laws go much further than that. Conservative leaders are utilizing these laws to "deny [students] of the substance and the skills required for informed citizenship," and this includes being able to analyze various perspectives, especially those that differ from their own.⁸⁵ CRT equips educators with tools to identify and examine issues of race found in the K-12 "curriculum and pedagogy, teaching, and learning through a [] lens" rooted in the experiences of Black people and other people of color.⁸⁶ Preventing educators from teaching with CRT principles in mind diminishes the quality of education for all students, but significantly hinders students of color.

Official school curriculums are "designed to maintain White supremacy through" silencing diverse voices and perspectives while promoting a "dominant, White, upper-class, male [perspective] as the [only standard] students need to know."⁸⁷ Within an education system like this, students learn about the "violent" Malcolm X in comparison to the non-violent Dr. Martin Luther King Jr., or about Hellen Keller's accomplishments as a disabled person, but not about her advocacy efforts against capitalist and imperialist institutions.⁸⁸

Anti-CRT laws are devoid of actual student perspectives when, instead, legislators should be centering students in the process of shaping federal, state, and local

84. See Jill Anderson, *The State of Critical Race Theory in Education*, HAR. GRADUATE SCH. OF EDUC. (Feb. 23, 2022), <https://www.gse.harvard.edu/ideas/edcast/22/02/state-critical-race-theory-education>.

85. Michelle Bellino and Manoucheke Celeste, *Miseducating the Public: Anti-CRT Movement, Rhetoric, Policy, and Impact*, UNIV. OF MICH. NAT'L CTR. FOR INSTITUTIONAL DIVERSITY (Jan. 30, 2023), <https://lsa.umich.edu/ncid/news-events/all-news/spark/series-essays/spark-series-miseducating-the-public.html>.

86. Monica E. Allen, *The Relevance of Critical Race Theory: Impact on Students of Color*, 4 URBAN EDUC. RSCH. & POL'Y ANNS. 33, 38 (2017).

87. Christopher B. Knaus, *Shut up and listen: applied critical race theory in the classroom*, 12 RACE, ETHNICITY, AND EDUC. 133, 137 (2009).

88. *Id.*

standards.⁸⁹ Through this, the already neglected voices of marginalized groups are forever lost. CRT provides tools that educators can use to create spaces where all students are empowered to find ways to make their learning experiential and engaging.⁹⁰ By preventing educators from using these tools, conservatives are allowing white supremacy within the education system to go unrecognized, which allows inequities within this system to persist “and guarantees the continuation of the status quo.”⁹¹

B. Hindering Educators in Expressing Their Academic Freedom

Arguably, anti-CRT laws have more of an impact on educators than students because the laws make them feel vulnerable to legal or social sanction and bring concerns about job security, leading to self-censorship.⁹² After the mass shooting of ten Black shoppers at a supermarket in Buffalo, New York, a Memphis history teacher, Mary McIntosh, was at a loss on how to discuss this current event with her high school students.⁹³ With Tennessee being one of the many states with laws in place “regulat[ing] how racism and issues of race [can be] discussed in the classroom[,] . . . McIntosh struggled to address” these issues with her students, despite teaching predominantly Black and brown students.⁹⁴

McIntosh altered her lesson plans out of fear that she would not be in compliance with the restrictions the Tennessee legislature had put in place. She decided against teaching *Just Mercy*, the memoir of prominent civil rights lawyer Bryan Stevenson, due to her fear that the parts of the book which discussed the “historical legacy of racism in the criminal justice system” would fall within one of the “prohibited concepts” outlined in the state’s anti-CRT legislation.⁹⁵ Prior to dealing with this new legislative framework, McIntosh would also use the “Facing History and Ourselves” website, “which offers historian-approved curriculum resources,” but now she hesitates to include its lessons in her teachings as she attempts to “[tie] contemporary issues to the past.”⁹⁶

Educators find themselves second-guessing whether to include certain voices and perspectives in their lesson plans due to the restrictive effects of the anti-CRT laws. Partly, this is due to the overly vague language these laws use.⁹⁷ For example, some

89. See *id.* at 138.

90. See Allen, *supra* note 86, at 38.

91. *Id.* at 39.

92. Oksana Holovka, Ban on Critical Race Theory: What it Means for the Future of Education in the United States of America 17–18 (May 2023) (submitted to the School of Liberal Studies and Continuing Education in partial fulfillment of the requirements for the degree of Bachelor of Arts in Liberal Studies, Purchase College, State University of New York).

93. Olivia B. Waxman, *Anti-‘Critical Race Theory’ Laws are Working. Teachers Are Thinking About How They Talk About Race*, TIME (June 30, 2022), <https://time.com/6192708/critical-race-theory-teachers-racism/>.

94. *Id.*

95. *Id.*

96. *Id.*

97. Laura Beth Kelly, et al., *The Chilling Effects of So-Called Critical Race Theory Bans*, RETHINKING SCHOOLS (last visited Mar. 24, 2024), <https://rethinkingschools.org/articles/the-chilling-effects-of-so-called-critical-race-theory-bans/>.

laws may expressly allow both “the impartial discussion of controversial aspects of history” and “the impartial instruction on the historical oppression of a particular group of people based on race.”⁹⁸ While facially the law seems to allow the discussion of race in the classroom, educators still take pause in the way the word “impartial” can be interpreted by state legislatures.⁹⁹ A “more restrictive interpretation”¹⁰⁰ is available and is likely the state legislature’s intention in proposing bills with this overly vague language. Educators find themselves at a loss on how to continue teaching the state-mandated curriculum in a way that does not conflict with these new laws. Thus, they resort to simply not utilizing certain lesson supplements and avoid certain classroom discussions entirely in order to not face losing their jobs or, worse, prosecution for allegedly “indoctrinating students.”¹⁰¹ The resulting censorship and surveillance have reached new heights as some state legislatures now require “all curricular materials – including daily lesson plans – [to] be posted on the Internet” and be open for critique and objection from anyone.¹⁰²

Not only do anti-CRT laws impact current educators, but prospective teachers as well. Educators see their profession as a way “to build students’ critical consciousness.”¹⁰³ However, with the current legislative landscape, this seems to prevent them from doing so. For some, they see complying with these laws as essentially lying to their students due to these new laws “erasing history.”¹⁰⁴ In expressing her struggle in deciding whether or not to pursue a career in teaching, one college student stated, “It’s like me lying to students, and I don’t even feel comfortable doing that as a teacher. I would be fired . . . I really value being honest with students [and] I really don’t think I can navigate teaching in such a watered-down type of way.”¹⁰⁵

IV. SIMILARITIES IN RHETORIC AND ASSAULTS ON ABOLITION AND CRT

Attacks against CRT stem from conservatives believing that it is a “domestic threat.”¹⁰⁶ While they try to pose this “threat” as being against the safety of their children and their education, for them, it is actually a threat against the status quo and the dominant status within American society which they have enjoyed since the establishment of this nation.

Susan Nye Hutchinson, a teacher in Augusta, Georgia, wrote various journal entries that illustrate life in the couple decades preceding the Civil War.¹⁰⁷ In a journal

98. *Id.*

99. *Id.*

100. *Id.*

101. Richard C. Miller, et al., *Misunderstanding the Campaign Against CRT: Absurdity and White Supremacy in Attacks on Teaching and Teacher Education*, 46(1) THRESHOLDS 139, 148 (2023).

102. *Id.*

103. Kelly et al., *supra* note 97.

104. *Id.*

105. *Id.*

106. Anthony Conwright, *Today It’s Critical Race Theory. 200 Years Ago It Was Abolitionist Literature*, MOTHER JONES (Sept. 2021), <https://www.motherjones.com/politics/2021/07/critical-race-theory-slave-abolition-school-literature/>.

107. *Id.*

entry from April 7, 1829, she wrote, “[g]reat fear begins to be prevalent that the negroes are about to rise.”¹⁰⁸ This entry was written in response to a series of fires in the city due to “rumors of insurrection[s]” inciting “negro- and pyro-phobic” feelings amongst the city’s citizens.¹⁰⁹ Enslaved people were blamed for the damages resulting from the fires, which caused “hysteria” and led enslaved people to face the unjust consequences of being “rounded up and tried without evidence.”¹¹⁰

The feelings of Southerners concerned with the abolitionist movement were only further exacerbated when David Walker’s *An Appeal to the Colored Citizens of the World* emerged in the South. In his pamphlet, Walker wrote, “[m]y object is, if possible . . . to awaken in the breasts of my afflicted, degrade and slumbering brethren, a spirit of inquiry and investigation respecting our miseries and wretchedness.”¹¹¹ To Southern politicians, Walker’s words and his rejection “of their values” was “incendiary.”¹¹² In response to Walker’s *Appeal*, magistrate James McKee “issued a warning to Governor John Owen” stating:

the dissemination of Walker’s pamphlet . . . [proves] beyond a doubt that a systematic attempt is [being made] by some reckless persons at the North to sow sedition among the slaves of the South, and this pamphlet is intended and well calculated to prepare the minds of the slave population for any measure, however desperate, that they may propose for accomplishing their emancipation . . . I fear the consequences may be serious to the extreme.¹¹³

Pressured by this urging, North Carolina passed multiple laws, including one that banned individuals from “teaching [] slaves to read and write,” because the legislature believed this “had a tendency to excite dissatisfaction in [slaves’] minds and to produce insurrection and rebellion to the manifest injury of the citizens of this [North Carolina].”¹¹⁴

Walker’s *Appeal* also led to Georgia passing an anti-literacy law in 1829, “which made circulating ‘insurrectionary texts’ [i.e., abolitionist literature] punishable by death,” with Virginia, Missouri, and other states following suit and passing similar laws.¹¹⁵ These laws were “deemed necessary because ‘an uneducated Black population made white citizens feel more secure against both abolitionists and slave uprisings.’”¹¹⁶

These same “fear[s] of insurrection and rebellion” through the “spread of thoughts and words” still persist today, and it is evident through the attacks on CRT and the rhetoric surrounding them.¹¹⁷ Opponents of the abolitionist movement relied on

108. *Id.*

109. *Id.*

110. *Id.*

111. *Id.*

112. *Id.*

113. *Id.*

114. *Id.*

115. *Id.*

116. *Id.*

117. *Id.*

using “community obligation” to prevent the spread of abolitionist literature.¹¹⁸ Invoking community obligation was powerful because, while white Southerners understood there to be “an obligation to the laws, [they had] a higher [obligation] to the communities in which [they] live[d].”¹¹⁹ So much so that if the current laws stood in the way of the community, it was considered “patrioti[c] to disregard them.”¹²⁰ Through the use of this obligation, opponents of the abolitionist movement hoped that locals would “mitigate the dangerous threat of outside ‘poison’ from disrupting the carefully ordered system of control that was slaveholder mastery.”¹²¹

This rhetoric is very similar to the words used by conservatives in an attempt to incite the same level of white hysteria and fear that white Southerners felt as the abolitionist movement gained traction through the dissemination of abolitionist literature. By using similar rhetoric, anti-CRT advocates have depicted CRT as “a diabolical ideograph that justifies overcoming the stigma of racism and giving voice to generations of grievances against movements for racial justice.”¹²² For example, conservative advocate Josh Hammer stated that “CRT in schools ‘instill[s] racially divisive poison in the minds of impressionable students [and] is a recipe for disaster . . . [b]anning CRT . . . is a prudent and necessary first step to salvaging a fractious nation teetering on the brink of collapse.”¹²³ Governor Ron DeSantis “framed the rise of [CRT] as a moral threat to the [country]” and described the theory as “an attempt to really delegitimize our history . . . to replace it with a very militant form of leftism that would absolutely destroy our country.”¹²⁴ This move to incite moral panic, characterize critical race theorists as evil, and exaggerate their conduct should seem familiar, as it was a popular move used by slaveholders and politicians during the abolitionist movement. Conservatives today simply just have a new target.

Anti-CRT advocates have disrupted the public education system outside the classroom as well by “disrupting school board meetings, harassing school board members and school staff, filing lawsuits and federal complaints alleging discrimination against white students, and harassing parents [that show] support” for educators teaching their students about CRT-related issues.¹²⁵ For example, Elana Yaron Fishbein founded No Left Turn in Education, which is “a grassroots [organization] against” CRT.¹²⁶ Fishbein argued that allowing this type of curriculum to be taught would “indoctrinate the children into the ‘woke’ culture.”¹²⁷ In her letter to her school

118. Jennifer Rose Mercieca, *The Culture of Honor: How Slaveholders Responded to the Abolitionist Mail Crisis of 1835*, 10 RHETORIC & PUB. AFFS. 51, 68 (2007).

119. *Id.* at 51.

120. *Id.*

121. *Id.* at 68.

122. Julien Burns, Narrative Infidelity and White Resentment in the Rhetorical Mobilization of the Anti-CRT Movement (Aug. 11, 2023) (Master’s thesis, Louisiana State University) (on file with Louisiana State University Scholarly Repository).

123. Miller, et al., *supra* note 101, at 147.

124. *Id.* at 148.

125. *Id.* at 144.

126. Conwright, *supra* note 106.

127. *Id.*

district's superintendent, Fishbein asked whether the lessons would include "Black bigotry towards whites" and argued that "America is not a racist country."¹²⁸ She went on to say that "'white students who attend predominantly Black inner-city schools fear for their lives daily,' but they don't declare 'White Lives Matter' or 'loot and vandalize their communities to bring attention to this issue.'"¹²⁹ Fishbein fantasizing about Black-on-white bigotry is all too similar to the fanaticism proponents of slavery stoked, as they tried to advocate against the abolitionist movement.

The "threat" that conservatives find in CRT is the same "threat" that pro-slavery Southerners and Northerners found in abolitionist literature. Black people educating themselves on the institutions that are systemically and negatively impacting Black communities inspires them to challenge the status quo. Preventing educators from being able to discuss the true history of the United States, and then rooting the reasoning behind these laws in a "community obligation to protect the country's children," is, ironically, harmful to children. Students deserve to be educated properly and that cannot be achieved with the current anti-CRT policies in place.

V. RESISTANCE TO THE ANTI-CRT REGIME

Resistance to the institution of slavery took form in various ways within the abolitionist movement. While abolitionist literature proved to be an effective tool to incite feelings of sympathy from white Northerners or violence and revenge from enslaved people, other methods of resistance were used as well. Resistance was used within the legal system through means of delay, escape, purchased freedom, and exoneration.¹³⁰ Resistance was also found at the grassroots level.¹³¹ Similarly, forms of resistance to the anti-CRT movement have been found within the legal system, but also outside the legal system through community activism.

A. *Resistance in the Legal System*

Various lawsuits have been filed to address the grievances against the anti-CRT movement. Plaintiffs have based these lawsuits on various claims, such as the anti-CRT laws violating educators' and students' First and Fourteenth Amendment rights or creating a hostile work environment. For example, Temecula Valley Educators Association, a 1,300-member teachers' union, along with "about a dozen teachers, students, and parents," filed a lawsuit "in California Superior Court against the Temecula Valley Unified School District" in August 2023.¹³² The lawsuit was filed in response to the school board passing a resolution in December 2022 that banned "the teaching of CRT and other similar [ideological] frameworks."¹³³

128. *Id.*

129. *Id.*

130. Daniel Farbman, *Resistance Lawyering*, 107 CALIF. L. REV. 1877, 1882 (2019).

131. *Id.* at 1904.

132. Eesha Pendharkar, *School District's Anti-CRT Resolution Prompts Lawsuit From Teachers and Students*, EDUC. WEEK (Aug. 30, 2023), <https://www.edweek.org/leadership/school-districts-anti-crt-resolution-prompts-lawsuit-from-teachers-and-students/2023/08#:~:text=A%20small%20group%20of%20teachers,and%20restricts%20students%27%20fundamental%20rights.>

133. *Id.*

After the passage of the resolution, Temecula's classrooms became void of any discussions that conflicted with the Board members' views, "including the history of the LGBTQ+ movement and the existence of racism in today's society."¹³⁴ The Plaintiffs' argued that the resolution's vague language, along with the severity of the consequences educators faced if they violated the resolution created a "chilling effect" on educators' ability to teach and, essentially, their speech.¹³⁵ The Plaintiffs further asserted that this chilling effect created a hostile work environment in the teachers' own classrooms, impacting the students.¹³⁶

Another lawsuit was filed by the ACLU "on behalf of seven [professors] and one student in colleges and universities across Florida to challenge [DeSantis's] Stop WOKE Act."¹³⁷ Their first argument was that "instruction in higher education is protected by the First Amendment and academic freedom," which was being thwarted by this Act.¹³⁸ In response, Florida "asserted that it had the *absolute* right to control what educators can teach because it is government speech," basing their claim in the fact that "university professors are public employees."¹³⁹ Academic freedom is a special concern of the First Amendment, which means that it "protects universities' and professors' right to make teaching choices without government censorship targeting disfavored viewpoints."¹⁴⁰ The district court, in ruling in favor of the Plaintiffs, also rejected Florida's attempts to justify the significant censorship it was imposing on state educators by arguing that the state had a compelling interest as a public employer and educator in prohibiting discrimination in university classrooms.¹⁴¹ Writing for the court, Judge Walker agreed that "education gag orders do not serve anti-discrimination purposes" and that "[t]hey are thinly veiled speech restrictions without any attempt to limit discriminatory actions."¹⁴²

B. Resistance in the Community

Beyond the courtroom, there has been resistance to anti-CRT laws found on the community level. For example, multiple Black churches in Florida have decided to take on the role of teaching accurate Black History to students due to the state pushing a "watered-down" version of it in schools.¹⁴³ "Faith in Florida, a coalition of churches advocating for social justice causes, created [an] online toolkit [that consists of] books, documentaries, videos," and other sources related to Black history.¹⁴⁴

134. *Id.*

135. *Id.*

136. See Diana Lambert, *Temecula Valley Unified CRT ban has created a hostile school environment, lawsuit says*, EDSOURCE (Aug. 2, 2023), <https://edsource.org/2023/temecula-valley-unified-crt-ban-has-created-a-hostile-school-environment-lawsuit-says/695080>.

137. Watson, *supra* note 74.

138. *Id.*

139. *Id.*

140. *Id.*

141. *Id.*

142. *Id.*

143. Deborah Barfield Berry, *Black churches in Florida buck DeSantis: 'Our churches will teach our own history'*, USA TODAY (Sept. 18, 2023), <https://www.usatoday.com/story/news/nation/2023/09/08/desantis-banned-some-black-history-classes-these-churches-fought-back/70783000007/>.

144. *Id.*

Equipped with this, more than 200 primarily Black churches, such as the Friendship Missionary, are now equipped with the tools necessary to “teach[] unfiltered lessons during Sunday school, Bible Study, or as part of [their] sermons.”¹⁴⁵ These church members feel a sense of responsibility to ensure that Black “history is not erased or watered down,” which is the primary purpose of these anti-CRT laws.¹⁴⁶

As the attack on CRT persists, and with legal battles challenging these laws still ongoing, it is imperative that communities, such as these Black churches, come together, ironically under a sense of obligation to each other, to ensure that Black history is acknowledged and respected.

CONCLUSION

Throughout this Note, I established the connections between the rhetoric around abolitionist literature in the early 1800s and the current rhetoric around the anti-CRT movement. This Note reflects on how abolitionist literature was demonized leaving those who were caught spreading its message, or even thought to be, to face horrific consequences. While the consequences of incorporating critical analyses of America’s institutions may not be as egregious, the message is still the same: there is no place in American society where individuals can be informed of the truth. The conservative attempt to posit that their intentions for introducing and passing various anti-CRT laws are rooted in “protecting our children” is just not true. They simply want to protect their status in society, similar to the way white Southerners wanted to protect the slave society that led to their wealth and lofty positions in their communities.

CRT is not a political tool that should be used for fear mongering. CRT allows for educators to teach the accurate history of America to students. This is a vitally important task, especially when there are various examples of outrageous distortions of history making it into traditional curricular materials and practice. In 2015, a mother complained about a McGraw-Hill ninth-grade textbook that “described enslaved people as ‘workers.’”¹⁴⁷ “In 2018, a San Antonio charter school issued a statement that apologized for a teacher asking eighth-grade students to list both the positives and negatives of slavery as part of a school assignment.”¹⁴⁸

Based on these examples alone, it is clear that CRT, or at least the accurate teaching of history, is critical to giving students the education they deserve. Ridding the country of these detrimental laws would protect students, not passing more anti-CRT initiatives and laws that are rooted in the fear of Black education that we have seen time and time again. In the same way anti-slavery abolitionists worked to abolish slavery in this country, abolitionists today have a new battle to conquer: abolishing these anti-CRT laws and preventing the erasure of the true history of America. It seems that this country has yet to learn from the past and, thus, we will be doomed to repeat it unless this nation works vehemently to break this unfair cycle.

145. *Id.*

146. *Id.*

147. Francesca López, et al., *Understanding the Attacks on Critical Race Theory*, NATIONAL EDUCATION POLICY CENTER 1, 4 (Sept. 2021), <https://files.eric.ed.gov/fulltext/ED616105.pdf>.

148. *Id.*