The Impact of CRT Bans on Southern Public Universities: An Analysis of the Response of PWIs and HBCUs to Anti-CRT Legislation and a Way Forward

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Abstract: This article analyzes the actions parentschoolcs and school boards in Oklahoma and Mississippi took in response to the passage of each Anti-Woke (Anti-DEI/CRT) legislation. Additionally, by analyzing an official response to CRT bans from an HBCU in Mississippi, this article provides four actions faculty senates, and more specifically, instructors can take to counter and thwart current and future legislative restrictions on CRT or DEI practices and pedagogies in college classrooms: defy, dissent, disavow, and disobey. The article ends with an example of how the author uses acts of defiance, dissension, disavowal, and disobeying anti-CRT legislation in the classroom.

Keywords: critical race theory, HBCU, DEI, defy, dissent, disavow, disobey, anti-woke agenda

Introduction

Racial bias is socially learned and legally enforced. Therefore, educators in states across the country, and specifically the South, are rightfully concerned about what could happen to them if they provide students an education that counters the common—racist, imperialist, and colonial—narrative of the U.S. and how it reached its exceptionalism. However, this article will push back against the generalist narrative that teachers in southern red states are constantly attacked for teaching or being presumed to be teaching CRT or DEI in the classroom and show how these differences are linked not only to the racial, geographical, and political makeup of each state but also to the national political ambitions of governors in those states.

By exploring the ways that southern politicians use anti-DEI and anti-Critical Race Theory (CRT) rhetoric and legislation to advance their political agendas, I analyze the approach to DEI

and CRT restrictions in states where the politicians are in lockstep with those in red states seeking to become the POTUS. Next, this article analyzes the actions parents and school boards took in response to the passage of each bill. Further, this analysis attempts to show that while both bills lack substance and are what some pundits have called "nothing bills," these bills can and have been weaponized against teachers and schools if they are presumed to be teaching CRT.

My analysis will then nuance the educational ramifications of teaching Black students at Historically Black Colleges and Universities (HBCUs) where their states have banned CRT. Additionally, I focus on how HBCUs have responded to these bills intended to ban or severely restrict CRT by analyzing an official response to CRT bans from an HBCU in Mississippi. From the analysis of the official response, I provide four actions that university administrators, faculty senates, and student government associations can take to counter and thwart current or new legislative restrictions on CRT or DEI: *defy, dissent, disavow,* and *disobey.* I end by showing how I defy, dissent, disavow, and disobey anti-CRT legislation in the classroom.

These States Messy: My Experience Educating in the South with an Anti-Woke Agenda

As someone who taught in Oklahoma and Mississippi—states that banned teaching CRT—I noticed tangible differences between how doggedly both states are actively implementing or punishing those educators it presumes are teaching CRT and the schools that employ them. These tangible differences led me to explore how presidential political aspirations and agendas dictate politicians' approaches to DEI initiatives in public education.

When I entered the professorship in 2018, my first job was at an HBCU in Oklahoma. At that time in 2018, K-12 teachers were on strike due to low wages and poor working conditions. Additionally, there were growing concerns about transgender children using bathrooms that did not match the sex on their birth certificates. The political climate in Oklahoma in 2018 forecasted what became a deeply concerning educational trend in some of the southernmost U.S. states: the restriction of the rights of historically underserved populations.

What began as bathrooms and who should use them quickly became a push to restrict any reference to (let alone education about) the struggles of historically marginalized and disenfranchised people within the classroom. As more and more restrictions on educators, curriculum, libraries, and bathrooms mounted in Oklahoma and its neighboring state Texas, I quickly grew disconcerted (and afraid) with the educational climate and decided to move to Mississippi in 2022. And just as I was moving to Mississippi in May of 2022, Oklahoma Gov. Kevin Stitt signed SB 615, which "requires students at public schools and public charter schools to use restrooms and locker rooms that match the sex listed on their birth certificates" (Rose and Leblanc).

Racial and Political Demographics: Oklahoma and Mississippi

In Oklahoma, 7.8% of people identify as Black/African American, and in Mississippi, 38% of people identify as Black/African American. While these racial demographics are intriguing, they cannot be fully understood until looking into the political leanings and ideologies of each state. Oklahoma is "tied for the fourth-most Republican state in the United States... [and] has voted Republican in every presidential election since 1952 except for 1964" ("Most Republican States 2023"). Furthermore, what also must be considered are the political aspirations of elected officials within these states. Although Gov. Kevin Stitt has not intended or made his intentions to seek the office of the President of the United States known, Oklahoma's ranking as the fourth most conservative state with the least amount of African American residents allows for more restrictive legislation to blossom.

While Governor Tate Reeves of Mississippi is not running for POTUS, Mississippi's systemic disenfranchisement of public schools in predominately Black neighborhoods may be a legislative guide for POTUS-seeking politicians. Mississippi is, after all, the last state to desegregate schools¹. Mississippi's place in the racist history of America cannot be underestimated. In very real ways, "Mississippi places a mirror to America and tells her who she really is" (Brook). Mississippi is not absolved of its racist past or present, but there is neither a presence of public hysteria nor negative political rhetoric about CRT to forcefully enact and enforce anti-CRT and DEI educational legislation. Essentially, Mississippi got other problems, and politicians and parents just ain't got the time to give anti-CRT legislation anything more than lip service.

Racial Resentment: The Rise of Anti-Woke Rhetoric in American Politics and Education

Attacks on educational institutions, the curriculum that is taught in those institutions, and the educators who teach the curriculum are nothing new. Undoubtedly, the anti-woke educational agenda is just the newest iteration of attacks on the liberal education system, free thought, and one's pursuit of individual intellectual growth that is rooted in facts and historical accuracy. Moreover, various governors and school board leaders across multiple Southern states are at the forefront of implementing so-called anti-woke initiatives. In 2022 alone, Republicans in at least 10 states were "considering requiring schools to publish lists of all the books, reading materials, and other activities teachers use. Some proposals would allow parents to review materials before they are added to lessons or the school library, or to opt their children out of certain activities" (Ujifusa). These proposals and bills, Andrew Ujifusa argues, occurred:

¹ Bolton, Charles C. "The Last Stand of Massive Resistance: Mississippi Public School Integration, 1970."

...at the height of political pushback against the teaching of what their sponsors have deemed "divisive concepts" that prompted 14 states to enact bans or restrictions on how schools address topics like racism and sexism. And beyond curriculum, one bill in Arizona would allow the state to punish teachers who withhold students' confidences—like a disclosure that a student is gay—from their parents.

There is no question that certain southern politicians are determined to rid public education of any content about the experiences of people who are not white, male, and heterosexual. One only needs to do a survey of the banned books list² to discern the "concerns" that many powerful white men and women have about what people of color learn and might say.

Considering this concern extends to all of public education, educators at all levels across mostly southern and midwestern states should be concerned with how their institutions are responding to anti-woke initiatives. However, not all Southern states that banned CRT and other DEI initiatives have elected officials actively seeking to ban books, fire teachers for perceived CRT teaching, or vastly change course content to reflect a whiter historicity of the U.S. that undermines, minimizes, or excludes the experiences of People of Color (POC). How voraciously elected officials pursue the undermining and white washing of American education depends not only on geography, racial makeup, and educational needs of those in the State but also on the political makeup of the State and the aspirations of the politicians therein.

This is a White People Problem: CRT Laws, Parental Response, and HBCU Backlash

The majority of these anti-CRT bills are about white people and their problem acknowledging racism's existence, its systematicity through legislation, and its connection to their continued racial and economic dominance through its perpetuation. Most of these bills (as they are read) ensure that schools are complying with the U.S. Constitution and Federal laws. The issue with the bill is that it also ensures white people and historically marginalized populations never considers their role, responsibility, or how they benefit from discriminatory practices. For example, Oklahoma's anti-CRT legislation, HB 1775, has eight concepts that are banned and cannot be taught in schools. Concepts that are concerned with accountability or feelings are bolded:

- 1. "One race or sex is inherently superior to another race or sex.
- 2. An individual, by virtue of their race or sex, is inherently racist, sexist, or oppressive, whether conscious or not.
- 3. An individual should be discriminated against or receive adverse treatment solely or

² Orrin Grey. "The Ten Most Banned and Challenged Books of 2023."

partly because of their race or sex.

- 4. Members of one race or sex cannot and should not attempt to treat others without respect [based on] race or sex.
- 5. An individual's moral character is determined by their race or sex.
- 6. An individual, by virtue of their race and sex, bears responsibility for actions committed in the past by other members of the same race.
- 7. Any individual should feel discomfort, guilt, anguish or any other form of psychological distress on account of their race or sex.
- Meritocracy or traits such as hard work ethic are racist or sexist or were created by members of a particular race to oppress members of another race." ("Prohibition of Race and Sex Discrimination")

What is alarming about HB 1775 is how quickly it turns from equitable and inclusive educational practices, e.g., no one race or sex is superior to the other and no individual should be discriminated against based on their race and sex, to exclusionary, bowdlerized (white-washed) pedagogical practices, e.g., no individual, by virtue of their race and sex, bears responsibility for past actions committed by people of the same race and sex, and no individual should feel discomfort, guilt, anguish... psychological distress on account of their race.

Comparatively, Mississippi's SB 2113 is rhetorically savvy in that it aligns with the U.S. Constitution. Michael McClendon, in his analysis, noted that "the concepts outlined in SB 2113 namely, discrimination against individuals based on their sex, race, ethnicity, religion, or national origin—remain largely illegal under Title VI of the Civil Rights Act of 1964," and because of this alignment with the U.S. Constitution, "the bill would likely only have limited impact on current pedagogical practices in K-12 schools" (McClendon). However, the vague language on prohibiting classifying students based on race may "have implications beyond what is Federal Law" (Mc-Clendon). Contrastively, SB 2113 is far shorter than HB 1775 and has only four concepts that are banned and cannot be taught in school:

- No K-12 public school or public institution of higher learning (IHL) may compel (or teach a course that compels) students to 'affirm, adopt, or adhere to the idea that any sex, race, ethnicity, religion, or national origin' is inherently superior or inferior, or that any of these groups should be treated adversely on the basis of that identity.
- 2. No K-12 public school or public IHL may classify students by race (with an exception for

the required collection of demographic information).

- 3. No public funds may be expended for any purpose that would violate these provisions.
- If any provision of the law is declared invalid, the other provisions remain. ("Senate Bill 2113")

On its face, this bill (as it is read) is all gas, no go. The average American educator does not and would not compel students to affirm the idea that any human being is inherently superior or inferior based on their race, sex, ethnicity, religion, or national origin. For most educators, the thought of teaching such ideas in a classroom is abhorrent. However, when considering these bills, people "are less worried about reasonable people reading the law and acting reasonably and more worried about the climate of overreaction surrounding the law" (Ballard).

Parental Response: School boards, Libraries, and Book bans

While the laws supposedly banning CRT are both concerning and questionable, it is mostly white heterosexual cisgendered womens' overreaction to these laws that is noteworthy. In Oklahoma, Tulsa Public Schools (TPS) accreditation was downgraded after a white teacher filed a "... complaint with the state after she claimed training videos she was required to watch '...specifically shame white people for past offenses in history, and state that all are implicitly racially biased by nature'" (qtd. in Gamble). The school district responded that 1) the training on implicit bias occurred before the HB 1775 became law and 2) that within the training itself "there is no statement or sentiment pronounced that people are racist – due to their race or any other factor. We would never support such a training" (qtd. in Gamble). Considering how much racism has played in important factor in Tulsa, the complaint filed seemed odd because it was in the Greenwood District of Tulsa, known as Black Wall Street, where a violent mob of white people committed one of the worst acts of racial violence on the Black residents of Greenwood District: The Tulsa Race Massacre³.

Today, to demand that this same city and school system that serves mostly minority students not teach a complete education of America that would include and discuss the history of various minority contributions to and struggles in America is incompetent, a dereliction of duty, exclusionary, and downright racist because it panders solely to the feelings and tears of (mostly) white women– be they educators, parents, or school board members. But feelings aren't facts. And the facts are this: the assault on public education in Oklahoma is an assault not only on black students but also on every single minority student who must be educated there. Furthermore, the assault on CRT extends beyond the public school system and into public libraries (which serve the public and not just students) with calls to ban certain books. Without question, Oklahoma has made its intentions clear to its citizens: we are here to support and advance solely the educational desires white parents have for their white children and everyone else can get to the back of the bus or get off it entirely.

In contrast, Mississippi is different, not because it does not want to do what Oklahoma is doing, undoubtedly it does, but because Mississippi schools have other, more pressing concerns to address. Many of the schools have crumbling infrastructure which affects student performance and teacher retention. Many of these crumbling schools serve a predominantly Black student body. The lack of funding or equal access to funding is (without question) by design. At one school in Holmes County Mississippi, one teacher noted that "when it rains, the roof of the decades-old facility leaks. During the worst downpours, hallways flood. Attempts to raise taxes and build a state-of-the-art high school in this high poverty district have failed" (Harris). Furthermore, "the girls' bathrooms still don't have mirrors, and the plumbing is often broken... classroom sets of literature books... have pages missing" (Harris). In very real ways, Mississippi schools and the school board have neither the time or money to "enforce" a law that (simply put) is republican virtue signaling.

HBCU Responses from Oklahoma and Mississippi: Not Today, Satan

Working at an HBCU in both Oklahoma (at the height of white furor over CRT) and Mississippi (after leaving Oklahoma), the informal and formal responses of these institutions was exactly what I needed. PWIs like Oklahoma Community College were quick to cancel a fully enrolled course on race and ethnicity in the U.S. "pending a review for compliance with HB 1775" ("Class on Race 'Paused'") as public records showed "the cancellation was precipitated by a parent's complaint about 'critical race' and a student's complaint about a video on redlining" ("Class on Race 'Paused'"). While the course was reinstated on June 4th, 2021, how quickly Oklahoma moved to address the concerns or crying white people concerned me. How would the only HBCU in Oklahoma, Langston University (LU), respond?

While there was no formal response from the administration or the faculty senate, the Dean of Arts and Science at LU told us all to *keep teaching what you teaching and I'll handle the rest*⁴. As an educator, that is what I needed to hear. Our students came to this specific HBCU for a reason: they desired to know their history and what had systematically been kept from them. They did not desire to have teachers continue to paint incomplete pictures that left them out OR made them seem content with their condition– which they were not. These students wanted us to teach them all the facts and all the truth. As an educator, that stance from students (whatever their race) excites me.

⁴ This statement is the authors' recollection of the conversation she had with the Dean of Arts and Sciences. The statement should not be taken as a direct quote.

At Jackson State University (JSU), an HBCU and the fourth largest public institution (in terms of enrollment) in Mississippi, the JSU Faculty Senate issued a formal response to SB 2113, a Resolution of the Jackson State University Faculty Senate Defending Academic Freedom to Teach About Race, Gender, Justice, and Critical Race Theory, that read in part:

THEREFORE BE IT RESOLVED that the Jackson State University Faculty Senate resolutely rejects any attempts by bodies external to the faculty to restrict or dictate university curriculum on any matter, including matters related to racial and social justice, and will stand firm against encroachment on faculty authority by the legislature or the Boards of Trustees... **BE IT FURTHER RESOLVED** that the Faculty Senate affirms the <u>Joint</u> <u>Statement on Efforts to Restrict Education about Racism</u>, authored by the AAUP, PEN America, the American Historical Association, and the Association of American Colleges & Universities, endorsed by over seventy organizations, and issued on June 16, 2021.

Additionally, not only does JSU faculty formally admit it will actively resist and disobey legislation/laws that ban CRT or encroach on academic freedom, but also calls on the JSU administration to be just as, if not moreso, resistant:

BE IT FURTHER RESOLVED that the Jackson State University Faculty Senate calls upon the Jackson State University administration to affirm that they reject any attempts by bodies external to the faculty to restrict or dictate university curriculum, pedagogy, andragogy on any matter, including matters related to racial and social justice, and will stand firm against encroachment on faculty authority by the legislature or the Boards of Trustees.

The JSU faculty fully adopted and passed this resolution on January 27th, 2022. And while the JSU administration did not and has not publicly supported the faculty's position, they have not deterred or obstructed– either consciously or unconsciously– faculty from continuing pedagogical practices in the classroom that align with CRT. In very real ways, these informal and formal responses by HBCU faculty and deans provide some insight into how to subvert anti-CRT legislation. From reading the JSU Faculty Senate approved the resolution, there are four specific acts faculty intend to do in the classroom in response: Defy, Dissent, Disavow, and Disobey.

1. Defy: Resist all laws that limit an accurate teaching of history, science, literature, etc. based on beliefs that race and gender are not integral to history, science, literature, etc. must be openly defied.

a. "...the Jackson State University Faculty Senate resolutely rejects any attempts by bodies external to the faculty to restrict or dictate university curriculum on any matter, including matters related to racial and social justice" **2. Dissent:** Actively hold opinions that run counter to laws that ban or encourage efforts to undermine intersectional pedagogical practices.

a. "**BE IT FURTHER RESOLVED** that the Faculty Senate affirms the <u>Joint Statement</u> on <u>Efforts to Restrict Education about Racism</u>"

3. Disavow: Deny any support for any legislative or school board measures that seek to ban, whitewash, or water down curriculum rooted in learning from the experiences of People of Color (POC).

a. Joint Statement on Efforts to Restrict Education about Racism

4. Disobey: Break any legislation meant to deny POC access to an equitable education that includes their experiences and the experiences of their ancestors from being taught.

a. [The JSU Faculty] "will stand firm against encroachment on faculty authority by the legislature or the Boards of Trustees."

How faculty at HBCUs resist the push to whitewash their curricula or classroom activities and assignments differs depending on both the faculty members and the classes they teach. However, my resistance is tied to the students I teach and the knowledge they want to have. As a teacher of mostly Black and African-American college students, I recognize that many of these students have neither had many African-American teachers nor been introduced to Black/ African-American literature, art, and prose as an educational site of study. With such a focus on student-centeredness, relating every college activity or course with their daily life or what they should expect in their careers, I would fail these black students if I had them engage with exclusively white literature, prose, and art.

My students (and many students) bemoan reading and writing about things they do not presently care about. Sometimes, in a first-year writing class, the hardest thing any teacher will do is get students to read and actively engage with what they are reading. To make the task of learning to actively engage with readings less cumbersome for students, I attempt to give them readings centered on their experience, i.e., Zora Neale Hurston's "How it Feels to be Colored Me" and James Baldwin's "If Black English isn't a Language then Tell Me What it Is." From readings like these, I can discuss the writing moves Hurston uses to make an effective narrative or I can discuss the way Baldwin attempts to persuade his audience in his essay on Black Language.

I do not suggest that instructors of predominately white students at predominately white institutions do not assign these readings or discuss the writing moves Baldwin and Hur-

ston make in these readings. However, I do suggest that assigning these readings in an anti-CRT educational landscape would give any teacher of predominately white students more pause than an instructor who teaches predominately black college students at an HBCU. It is fair to say that the HBCU emboldens me to be brave. The HBCU encourages the educational advancement of Black people over the legislative restraints put in place to stop their educational advancement. It is simply negligent for me to teach this population of students while disregarding to contributions of Black people to the shaping of the United States.

At the same time, my students read many white authors throughout the semester. The purpose of teaching is to give a fuller and more complete picture of the U.S. and the experiences of those people in the U.S., which includes a great many white men and women. My students find value in those readings as well, depending on the content: the white woman who wrote "A Few Words on Breasts⁵" or the white man who wrote about war and soldiers and "The Things They Carried.⁶"

I want students to hear different voices, different people, and different stories so they can gain perspective. Writing and reading are all a matter of perspective(s) and persuasion(s). The more perspectives one has at their disposal, the more persuasive, communicative, and informed citizens, workers, and individuals they will be. Literature, indeed writing, provides perspective on difference. It is this difference that politicians and their base have long sought to extinguish. But engaging in difference is the only way to build a more equitable society.

Conclusion: Building a Coalition and Addressing the Barriers Between Us

The backlash against the idea of teaching students using a CRT lens is fierce and cannot be underestimated. Legislators and school boards in states Oklahoma have moved quickly to investigate educators for potential CRT violations⁷ causing some educators to resign⁸. In states like Florida and Texas, the political aspirations of the governors are driving their anti-CRT and anti-Woke agenda. These political aspirations have caused them to put bans on not only how children are educated, but also the type of children who are educated, e.g., LGBTQIA+ children.

In Mississippi, similar laws have not had the same effect on public education and educators not because Mississippi is less systematically racist than Oklahoma, Texas, or Florida, but because its long time systemic disenfranchisement of public education in predominately Black and brown neighborhoods shifts the focus from what is taught in the classroom to ensuring students and teachers have neither the materials nor the conditions to effectively teach and learn at all.

8 Reiss, Rebecca. "An Oklahoma teacher says she resigned over a state law requiring teachers to censor books in classroom libraries."

⁵ Ephron, Nora. "A Few Words about Breasts."

⁶ O'Brien, Tim. *The Things They Carried*.

⁷ Camper, Nick. "Norman High teacher received complaint from parent, accused of violating HB1775."

The four acts I mentioned are subversive and activist in nature; they are radical. But if, as MLK posited, the privileged will not willingly give up their privilege so that the human condition can improve for those without the same privileges, then conforming, going along to get along, and saying things are fine when they are not will cannot possibly lead to an equitable human condition for those who are not privileged. It would only show our propensity to participate in acts of deliberate inhibition that stop progress. People must be willing to defy, dissent, disavow, and disobey. What I am calling for is the courage to be an accomplice : the courage to break laws restricting anti-racist and anti-DEI curricula and initiatives, the courage to fight for equitable education for all those educated in U.S. classrooms, and the courage to push for a better education for all students in U.S. classrooms.

Institutions of Higher Education cannot be so quick to change their curriculum for fear of losing public funds. HBCUs, which are historically underfunded and never get their equal share, can lead the way in this fight because whether the threats are to cut government funding due to our curriculum or because we are not meeting arbitrary performance standards/measures, HBCUs stand firm. They been here before. HBCUs always been denied their equal share. What is it to them and to those of us who teach in the spaces of HBCUs to say "no? We have made do educating our students on less than our monetary share, and we will continue to make do educating them whether the U.S. government supports us or not.

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The four acts I mentioned are subversive and activist in nature; they are radical. But if, as MLK posited, the privileged will not willingly give up their privilege so that the human condition can improve for those without the same privileges, then conforming, going along to get along, and saying things are fine when they are not will cannot possibly lead to an equitable human condition for those who are not privileged. It would only show our propensity to participate in acts of deliberate inhibition that stop progress. People must be willing to defy, dissent, disavow, and disobey. What I am calling for is the courage to be an accomplice¹¹: the courage to break laws restricting anti-racist and anti-DEI curricula and initiatives, the courage to fight for equitable education

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Reiss, Rebecca. "<u>An Oklahoma teacher says she resigned over a state law requiring teachers to</u> censor books in classroom libraries."

11 Green, Neisha-Anne. "Moving beyond Alright: And the Emotional Toll of This, My Life Matters Too, in the Writing Center Work."