

The National Center for Youth Law

Submission to the United Nations Permanent Forum on People of African Descent for inputs on topics to be considered for discussion during the second session of the Permanent Forum on People of African Descent

About the National Center For Youth Law

The National Center for Youth Law is a 501c(3) organization, based in the United States, that advocates for the rights of youth, especially youth blocked from educational, health, and social well-being opportunities, particularly Black youth and youth of color, LGBTQ youth, disabled youth, immigrant youth, and youth in child welfare and juvenile justice systems. The National Center for Youth Law engages in strategies including impact litigation, policy advocacy, research, and movement building to center the voices and needs of youth at the local, state, and federal levels.

In response to the call for inputs from the United Nations Permanent Forum on People of African Descent, the National Center for Youth Law has identified a significant need for the second session of the Permanent Forum on People of African Descent to examine attacks on “critical race theory” and education gag orders. The anti-CRT effort seeks to silence and erase the history of oppression of people of African descent from school classrooms in the United States. Further, proponents of this effort have expanded from limiting conversations about race and racism in classrooms to using rhetoric that incites violence against people of African descent.

This submission holds that the anti-Critical Race Theory movement, characterized by education gag orders, divisive concept measures, and book bans, and the vitriolic rhetoric that surrounds them, significantly contributes to the social, mental, and physical harm of people of African descent living in the United States. This submission further holds that if such measures are allowed to continue, direct and unabated oppression of people of African descent will increase and could lead to widespread systematic harm.

1. The Anti-Critical Race Theory Movement’s education gag orders and book bans have direct harmful effects on human rights in general and on the rights and dignity of people of African descent in particular.

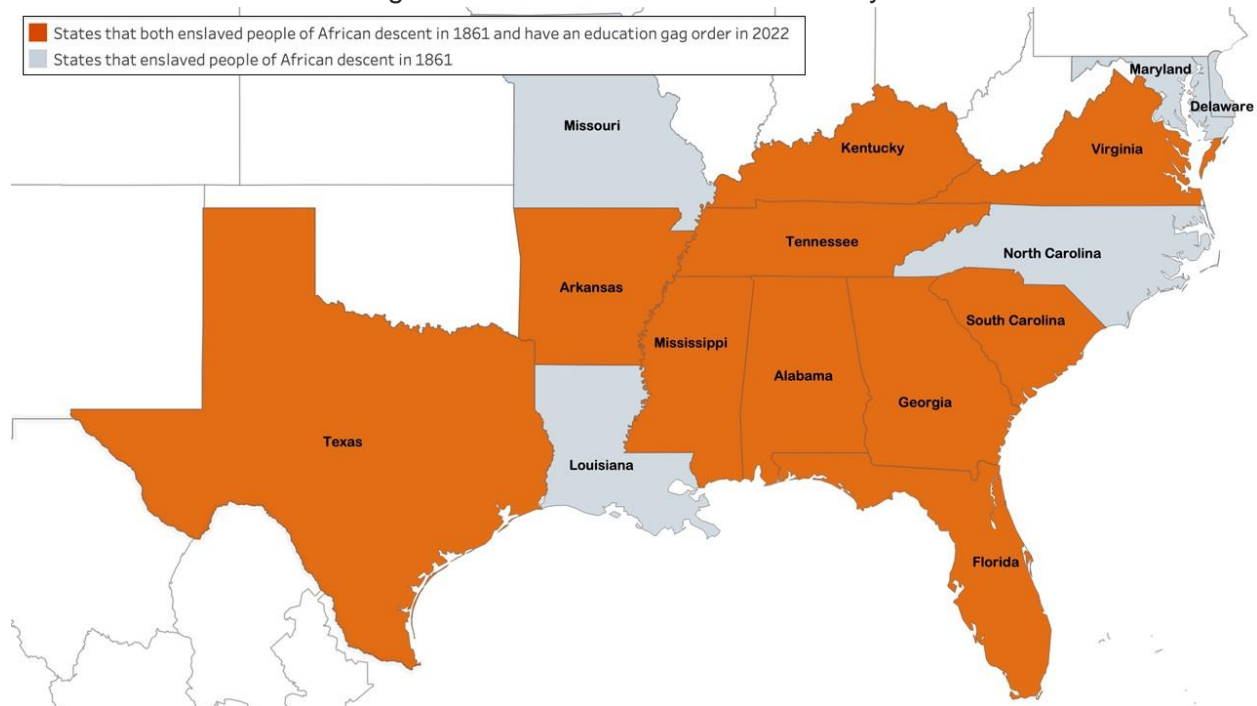
Since 2021, U.S. policymakers have proposed over 600 legislative actions to silence classroom discussions on race and racial discrimination in the United States.¹ Although these measures violate US Civil Rights law and international Human Rights standards, these detrimental measures have been proposed at all levels of government — local, state, and federal. Challenges in tracking local and municipal actions make it difficult to determine the exact number of measures that have been passed into law. However, these measures have been codified in at least 17 states and may have been passed into local policy in hundreds of school

¹ “Interactive Map,” CRT Forward Tracking Project, accessed March 20, 2023, <https://crtforward.law.ucla.edu/map/>.

districts and municipalities.² As a result, educators censor what they teach about race – specifically the past and present treatment of people of African descent in the United States. The impact is extensive. Across the country, 17.7 million students attend schools in areas where the policies exist.³ These policies and the rhetoric surrounding them have created an environment of social discord in which a new wave of racialized hatred has taken root.

2. Where harm stemming from education gag orders is most acute

Recognition that states with education gag orders and those leading in number of banned books largely align with states that historically supported the enslavement of people of African descent is of significant importance to understanding the intent behind these measures. The map below shows the overlap between states that legally allowed the enslavement of people of African descent in 1861 and states that have education gag orders in 2022. Of the fifteen states that allowed legal ownership and enslavement of people of African descent, ten have adopted policy measures to censure teaching about race and the racialized history of the United States.



The racial oppression of people of African descent in the United States continues to evolve. New language such as “anti-woke” or “anti-critical race theory” are today’s replacement for Jim Crow segregation and enslavement before that. Even a cursory glance at the rhetoric surrounding the anti-Critical Race Theory proposals reveals a deep and intentional anti-black sentiment. Politicians intentionally identified schools as the primary target for this racialized hate campaign as institutions of education are the primary purveyors of information in U.S. society.

² Ibid.

³ Eesha Pendharkar, “Efforts to Ban Critical Race Theory Could Restrict Teaching for a Third of America’s Kids,” *Education Week*, January 27, 2022, <https://www.edweek.org/leadership/efforts-to-ban-critical-race-theory-now-restrict-teaching-for-a-third-of-americas-kids/2022/01>.

Education is compulsory and if students do not have access to the history of the enslavement of Black people, the mass murder of Blacks after Reconstruction, and the continuing legacies of Jim Crow as seen through mass incarceration and housing segregation, then mass social movements, like Black Lives Matter, are less likely to challenge the current racial and social status quo.

3. What these policy measures attempt to ban

3.1. “Divisive Concepts”

Classroom censorship measures are intentionally mischaracterized as banning “divisive concepts.” At first glance the banned concepts may appear to promote positive racial discussion, however, the enforcement of the measures disproportionately penalizes educators for teaching about harms perpetuated by white Americans on people of African descent. The goal of these measures is to silence all discussion of race and racism by preventing an entire generation of American school children from learning about the past racial turmoil that continues to shape the present. Banned concepts include:⁴

- That one race or sex is inherently superior to another race or sex;
- That the U.S. or specific states are fundamentally racist or sexist;
- That individuals, because of their race or sex, are inherently oppressive, whether consciously or unconsciously;
- That individuals bear responsibility for actions committed in the past by members of their same race or sex;
- That anyone should feel “discomfort, guilt, anguish, or any other form of psychological distress” because of their race or sex.

The vague and sweeping language of these measures allows their application to be broad and arbitrary capturing a wide swath of literature, curriculum, historical materials, and other media, to be banned and casting a chilling effect over how educators engage students on issues of race.⁵

The prohibition of teaching about race is part of a wider political movement identified as the anti-Critical Race Theory movement. This movement seeks to undermine racial justice and anti-discrimination efforts that were amplified after the 2020 murder of George Floyd and the international Black Lives Matter protests that followed. Critical Race Theory is an academic study that examines how “U.S. social institutions (e.g., the criminal justice system, education system, labor market, housing market, and healthcare system) are laced with racism embedded in laws, regulations, rules, and procedures that lead to differential outcomes by race.”⁶ The term, as used in education gag orders, has become a catch-all to make illegal anything related to redressing racism, the oppression of people of color, or intentionally expanding diversity- with

⁴ Sarah Schwartz, “8 States Debate Bills to Restrict How Teachers Discuss Racism, Sexism,” *Education Week*, April 15, 2021, <https://www.edweek.org/policy-politics/8-states-debate-bills-to-restrict-how-teachers-discuss-racism-sexism/2021/04>.

⁵ “Educational Gag Orders” Pen America, <https://pen.org/report/educational-gag-orders/>.

⁶ Rashawn Ray and Alexandra Gibbons, “Why Are States Banning Critical Race Theory?,” The Brookings Institution, November 2021, <https://www.brookings.edu/blog/fixgov/2021/07/02/why-are-states-banning-critical-race-theory/>.

some states going so far as to propose bans on words like “equity, diversity, and inclusion,” “identity,” “multiculturalism,” and “prejudice.”⁷

4. Book Bans

In addition to “divisive concepts” measures, from July 2021 through June 2022, book bans occurred in over 138 school districts in 32 states. Of the books banned, 41 percent (674 titles) explicitly addressed LGBTQ+ themes or had LGBTQ+ protagonists or prominent secondary characters; 40 percent (659 titles) contained protagonists or prominent secondary characters of color; and 21 percent (338 titles) directly addressed issues of race and racism. These bans impact nearly 4 million students.

Many banned and challenged books include titles that directly speak to the experience of Black people in the United States. The most stated reason for the removal of these titles include concern that they do not discuss race in age-appropriate ways.⁸ Black parents, who have pushed back against the bans, state that Black children are forced to recognize their race early in life, and to remove these books denies the validity of their children’s experiences creating significant harm to their well-being.⁹ Examples of banned books include:

- *Ruby Bridges Goes to School* by Ruby Bridges: a picture book about 6-year-old Ruby Bridges who was the first Black child to integrate an all-white school in New Orleans in 1960 in the midst of segregationist outcry.¹⁰
- *Beloved* by Toni Morrison: a young adult book set in the Reconstruction era that vividly portrays the horrors of slavery and its legacy.¹¹
- *The Hate You Give* by Angie Thomas: a young adult fiction title about the shooting of a young, unarmed Black man by a white police officer.
- *Stamped: Racism, Antiracism, and You* by Ibram X. Kendi and Jason Reynolds: A young adult book that explores how the construct of race has been used to gain and keep power and create dynamics that separate and silence with the goal of revealing the history of racist ideas in America and inspiring hope for an antiracist future.¹²

⁷ Reid Wilson, “‘Woke,’ Multiculturalism,’ ‘Equity:’ Wisconsin GOP proposes banning words from Schools, The Hill, September 29, 2021, <https://thehill.com/homenews/state-watch/574567-woke-multiculturalism-equity-wisconsin-gop-proposes-banning-words-from/>.

⁸ Madeline Will, “Calls to Ban Books by Black Authors are increasing Amidst Critical Race Theory Debates” Education Week, September 30, 2021, <https://www.edweek.org/teaching-learning/calls-to-ban-books-by-black-authors-are-increasing-amid-critical-race-theory-debates/2021/09>.

⁹ Nicquel Terry Ellis and Eva McKend, “Black Parents say movement to Ban Critical Race Theory is Ruining their Children’s Education,” Why a publication of PBS and NPR, December 4, 2021, <https://why.org/articles/black-parents-say-movement-to-ban-critical-race-theory-is-ruining-their-childrens-education/>.

¹⁰ Ishena Robinson, “Anti-CRT Mania and Book Bans are the Latest Tactics to Halt Racial Justice,” NAACP Legal Defense Fund, accessed March 20, 2023, <https://www.naacpldf.org/critical-race-theory-banned-books/>.

¹¹ Caitlin O’Kane, “‘Beloved’ isn’t the Only Book Parents Have Challenged. Here’s Why and How Books Get Banned,” CBS News, November 17, 2021, <https://www.cbsnews.com/news/banned-books-beloved-controversy-critical-race-theory/>.

¹² Alison Flood, “Sharp Rise in Parents Seeking to Ban Anti-Racist Books in US Schools,” The Guardian, April 6, 2021, <https://www.theguardian.com/books/2021/apr/06/sharp-rise-in-parents-seeking-to-ban-anti-racist-books-in-us-school>.

5. These measures harm educators, students, and the U.S. public education system.

5.1. Impact of the education gag orders on K-12 school educators

The restrictions on talking about race or diversity and classroom censorship have led to a growing number of educators being fired or resigning from their positions.¹³ Actions leading to educator removal include discussing white privilege and hanging a Black Lives Matter flag in the classroom.¹⁴ As reasons for resigning, educators cite being told not to use words like “diversity”¹⁵ and being told they cannot explicitly tell their students that slavery is wrong.¹⁶ Unclear on what aspects of the history of Black people in the United States they can teach, one in four educators says they are self-censoring—choosing to forgo lessons that help students process racism—as they try to shield themselves from losing their jobs for teaching an accurate historical narrative.¹⁷ Further, many educators face an environment of harassment and intimidation as a result of these measures and the surrounding rhetoric. Agitators from in and outside of local communities have taken over school board meetings, threatening physical violence and death against school board members, teachers, and other school staff, and flashing Nazi symbols as they challenged teaching on diversity and the history of anti-Black racism.¹⁸

Not only do these measures censor what educators can teach students, but also they limit educators' ability to learn about diversity, equity, and inclusion through school or district-approved professional development.¹⁹ The results have disproportionately impacted learning about the oppression of people of African descent. For example, in one Florida school, lectures for educators on the history of the Civil Rights Movement were canceled as school administrators determined whether the lectures violated state law.²⁰

The harm of this erasure disproportionately impacts educators of African descent, a group severely underrepresented in the teaching profession. Only about 7 percent of public school educators are Black although Black children make up about 15 percent of public school

¹³ Tyler Kingkade, “Critical race theory battles are driving frustrated, exhausted educators out of their jobs,” NBC News, July 12, 2021, <https://www.nbcnews.com/news/us-news/critical-race-theory-battles-are-driving-frustrated-exhausted-educators-out-n1273595>.

¹⁴ Ibid.

¹⁵ Mariel Fernandez, “Anti-Critical Race Theory and Banned Books Halt Justice,” NAACP Legal Defense Fund, December 16, 2021, <https://www.naacpldf.org/critical-race-theory-banned-books/>.

¹⁶ Hannah Natanson, “‘Slavery Was Wrong’ and 5 Other Things Educators Won’t Teach Anymore,” *Washington Post*, March 6, 2023, <https://www.washingtonpost.com/education/2023/03/06/slavery-was-wrong-5-other-things-educators-wont-teach-anymore/>.

¹⁷ Asher Lehrer-Small, “National Study Reveals 1 in 4 Teachers Altering Lesson Plans Due to Anti-Critical Race Theory Laws,” *The 74 Million*, January 25, 2023, <https://www.the74million.org/article/national-study-reveals-1-in-4-teachers-altering-lesson-plans-due-to-anti-critical-race-theory-laws/>.

¹⁸ Mariel Fernandez, “Anti-Critical Race Theory and Banned Books Halt Justice,” NAACP Legal Defense Fund, December 16, 2021, <https://www.naacpldf.org/critical-race-theory-banned-books/>.

¹⁹ Laura Meckler and Hannah Natanson, “New Critical Race Theory Laws Have Teachers Scared, Confused and Self-Censoring,” *Washington Post*, February 14, 2022, <https://www.washingtonpost.com/education/2022/02/14/critical-race-theory-teachers-fear-laws/>.

²⁰ Ibid.

students.²¹ Black teachers appear poised to exit the profession at higher rates than teachers in other racial/ethnic groups because of the simultaneous challenges of confronting heightened racism during the period of pandemic recovery.²² The erasure and outlawing of Black history from school curriculum sends a clear message to Black educators: you are not welcome here.

5.2. Impacts of the education gag orders on students

As Black educators leave teaching for other professions where their identity is not directly under attack,²³ Black children will suffer the loss of their history and educators who look like them. Black children who have at least one Black educator in elementary school are 13 percent more likely to enroll in college – that statistic increases to 32 percent for Black children that have at least two Black educators.²⁴ Ultimately, the harm will extend to the already precarious social and economic well-being of people of African descent as Black student college attendance decreases.

Further, education gag orders erase the history and current social context of people of African descent from the curriculum taught to schoolchildren of various identities and backgrounds. By making it illegal for classroom teachers to discuss the history of anti-Black racism in the United States, students and potentially society at large have no context within which to make sense of racial disparities in issues such as police killings, COVID-19, and the devaluing of homes in Black neighborhoods.

Where a society has no understanding of the historical context for the present reality, it is likely that social harms will continue into the future. The present reality of Black people in the United States stems from 400 years of enslavement followed by systematic legal and extra-legal oppression. Policy measures that prevent the teaching of this history and its bearing on the present set the stage for increased national division and sustained social, mental, and physical harm for people of African descent.

In particular, proponents of the anti-CRT movement seek to erase the historical context in which Black students enter the education space – years of exclusion followed by widespread protests and the exiting of white families from public education so that their children would not have to go to school alongside Black children.²⁵ Without this context, the over-policing of Black children in schools and the extreme disparities seen in school discipline and academic performance between Black children and their peers appear to indicate an inherent flaw in the abilities and

²¹ Katherine Schaeffer, “America’s Public School Teachers Are Far Less Racially and Ethnically Diverse than Their Students,” Pew Research Center, December 10, 2021, <https://www.pewresearch.org/fact-tank/2021/12/10/americas-public-school-teachers-are-far-less-racially-and-ethnically-diverse-than-their-students/>.

²² Sarah Carr, “Why We Could Soon Lose Even More Black Teachers,” *Hechinger Report*, January 5, 2022, <https://hechingerreport.org/why-we-could-soon-lose-even-more-black-teachers/>.

²³ Sarah Carr, “Why We Could Soon Lose Even More Black Teachers,” *The Hechinger Report*, January 5, 2022, <https://hechingerreport.org/why-we-could-soon-lose-even-more-black-teachers/>.

²⁴ Jill Rosen, “Black Students Who Have One Black Teacher Are More Likely to Go to College,” *The Hub*, Johns Hopkins University, November 12, 2018, <https://hub.jhu.edu/2018/11/12/black-students-black-teachers-college-gap/>.

²⁵ “A History of Private Schools and Race in the American South,” Southern Education Foundation, accessed March 20, 2023, <https://southerneducation.org/publications/history-of-private-schools-and-race-in-the-american-south/>.

character of people of African descent rather than the clear result of sustained systemic oppression.²⁶

5.3. Impacts of the education gag orders on U.S. public education and society

In the U.S., schools are the primary social institutions that transmit national narratives about the past.²⁷ This role of public education is essential because teaching history can help students become engaged, responsible citizens, even in societies where ethnic divisions, poverty, mistrust, and low-level violence remain endemic.²⁸ The intent and effect of these education gag orders and book bans is to end the function of public schools as institutions that facilitate understanding among children of different backgrounds.

Eliminating this function of public education has widespread effects on U.S. society. Research shows there is danger in a nation where history education develops and protects narrowly defined ethnic, religious, and cultural identities. This limited historical perspective can be used to legitimize violence against marginalized groups.²⁹ As leading genocide scholar Gregory Stanton states:

The main way of preventing genocide...is to develop opportunities in a society for people to work and live together who are from different ethnic, social, national or religious backgrounds. This will allow people to become more tolerant and understanding of each other. In the United States, public schools serve this function, as they are places where all young people can go regardless of their ethnic, social, national or religious backgrounds. This search for common ground is vital to the early prevention of genocide.³⁰

Allowing these policy measures to continue unchecked perpetuates the oppression of people of African descent and fosters the conditions for widespread systemic harm.

6. These policy measures lead to increased social, mental, and physical harm for people of African descent.

There is a documented correlation between the onset of U.S. politicians encouraging anti-Critical Race Theory measures and an increase in racially motivated hate crimes, especially the targeting of people of African descent. Statistics from the U.S. Department of Justice show an

²⁶ Kirsten Weir, "Inequality at School," *American Psychological Association: Monitor on Psychology*, 47, no. 10 (2016), <https://www.apa.org/monitor/2016/11/cover-inequality-school>.

²⁷ Elizabeth A. Cole and Judy Barsalou, *Unite or Divide: The Challenges of Teaching History in Societies Emerging from Violent Conflict*, (Washington, DC: United States Institute of Peace, June 2006), <https://www.usip.org/sites/default/files/sr163-Unite-or-Divide.PDF>.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Gregory H. Stanton, *Ten Stages of Genocide*, (San Francisco, CA: The Genocide Education Project, 2013), https://genocideducation.org/wp-content/uploads/2016/03/ten_stages_of_genocide.pdf.

increase in hate crimes from 2020 to 2021 with 61 percent of hate crimes being racially motivated, and of those, more than 49 percent targeting the Black community.^{31 32}

This atmosphere of racially-motivated hatred leads to real violence against people of African descent. For example, in May of 2022, a white gunman traveled more than 3 hours from his home to a predominantly Black neighborhood in Buffalo, New York where he entered a grocery store and opened fire, killing 10 people and wounding 3 others.³³ His stated goal was to kill black people in their own community “to prevent black people from replacing white people.”³⁴

The national rhetoric surrounding the divisive concepts bills has also emboldened racial outcasting and bullying of people of African descent in schools across the country.³⁵ Research shows that peer-based bullying is linked to higher rates of suicidality.³⁶ The data on youth suicidality demonstrates the impact on Black youth. Despite overall rates of suicidality among young people trending downward for the past 30 years, between 2018 and 2022 suicide rates among Black young people increased by 37 percent.³⁷ Physical harm is even more acute for people with identities at the intersection of LGBTQ+ and Black. In 2022, one in four Black transgender youth reported a suicide attempt.³⁸

Policymakers and conservative media have repeatedly used their public platforms to claim that teaching about race and the history of racial discrimination in the nation is “an attempt to delegitimize our history and our institutions” and “a way to tear at the fabric of our society.”³⁹ In February 2023, Florida Governor Ron DeSantis blocked school districts in the state from adopting the Advanced Placement African American History Curriculum on the basis that it violated state law limiting discussions of race and racism and additionally “significantly lacked educational value.” Florida does not have a ban on any other AP course and offers AP European History. The governor's decision to single out this course as invalid further harms

³¹ Federal Bureau of Investigation - Criminal Justice Information Services Division, *Supplemental Hate Crime Statistics, 2021*, (Washington, DC: U.S. Department of Justice, 2023), <https://www.documentcloud.org/documents/23706818-supplemental-hate-crime-statistics-2021?responsive=1&title=1>

³² “FBI Releases Supplemental 2021 Hate Crime Statistics,” Federal Bureau of Investigation, March 13, 2023, <https://www.fbi.gov/news/press-releases/fbi-releases-supplemental-2021-hate-crime-statistics>.

³³ The Associated Press, “The Buffalo Supermarket Shooter Pleads Not Guilty to Federal Charges,” *NPR*, July 18, 2022, <https://www.npr.org/2022/07/18/1112035732/the-buffalo-supermarket-shooter-pleads-not-guilty-to-federal-charges>.

³⁴ Bill Chappell, “DOJ Charges Buffalo Gunman with Hate Crimes, and Says He Apologized to a White Victim,” *NPR*, June 15, 2022, <https://www.npr.org/2022/06/15/1105226662/buffalo-payton-gendron-federal-hate-crime>.

³⁵ Nicole Chavez, “Students are Fed Up with Racist Slurs and Bullying. Now They’re Walking Out of Class,” *CNN*, December 5, 2021, <https://www.cnn.com/2021/12/05/us/racist-bullying-school-incidents/index.html>.

³⁶ National Center for Injury Prevention and Control, *The Relationship Between Bullying and Suicide: What We Know and What it Means for Schools*, (Washington, DC: Centers for Disease Control and Prevention, 2014), <https://www.cdc.gov/violenceprevention/pdf/yv/bullying-suicide-translation-final-a.pdf>.

³⁷ *Ibid.*

³⁸ *Mental Health of Black Transgender and Nonbinary Young People*, (Washington, DC: The Trevor Project, February 2023), https://www.thetrevorproject.org/wp-content/uploads/2023/02/EMBARGOED_2.28.23_The-Trevor-Project-Research-Brief_Black-TGNB-Youth-Mental-Health.pdf.

³⁹ Brendan Farrington, “DeSantis: Critical Race Theory is ‘Crap,’ Vows to Fight It,” *AP News*, December 15, 2021, <https://apnews.com/article/business-florida-race-and-ethnicity-racial-injustice-ron-desantis-e394f2e734729bce696dca90775835d2>.

children of African descent by indicating that their history is inferior. Actions like this by politicians, contribute to the continued lack of understanding of the history of oppression faced by people of African descent living in the nation and heightened racial division.

7. The UN Permanent Forum on People of African descent should discuss the harms caused by the anti-Critical Race Theory movement to people of African descent in the United States at its second session.

The National Center for Youth Law recommends that the United Nations Permanent Forum on People of African Descent discuss the human rights violations and harm against people of African descent in the United States created by education gag orders, book bans, and the surrounding rhetoric led by policymakers at the second session of the Permanent Forum on People of African Descent.