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## RECLAIMING THE INTELLECTUAL

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# Ohio Northern University Law Review

## Dean's Lecture Series

### Reclaiming the Intellectual

EMILY M.S. HOUH\*

#### INTRODUCTION

I was invited to deliver the September 2017 Dean's Lecture, on which this essay is based, in March of 2017, shortly after the inauguration of Donald J. Trump as the 45<sup>th</sup> president of the United States. I had originally planned to present on one of my longstanding research areas, the intersections of contract law and critical race theory, but as the spring wore on, I began to feel an urgency about using my expertise to comment more directly on the increasingly overt but trenchant race, gender, sex, and class inequalities and conflicts that have plagued our nation for centuries.

This sense of urgency was stoked by the intense summer of 2017, which brought us, among other things: the white supremacist, torchlight "Unite the Right" rally in Charlottesville—organized ostensibly to protest the city's plans to remove its Confederate monuments—during which thirty-four people were injured and three died, including 32-year-old Virginian, Heather Heyer (a white counter-protester killed by a Unite the Right marcher who drove his car into a crowd of which she was a part).<sup>1</sup> Additionally, two Virginia state troopers were killed in a helicopter crash

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1. *Officials Identify Woman Killed in Car Attack*, DAILY PROGRESS (Aug. 13, 2017), [http://www.dailyprogress.com/newsvirginian/news/crime/officials-identify-woman-killed-in-car-attack/article\\_3485a6b0-8062-11e7-a640-bfdb8580f873.html](http://www.dailyprogress.com/newsvirginian/news/crime/officials-identify-woman-killed-in-car-attack/article_3485a6b0-8062-11e7-a640-bfdb8580f873.html); Allison Wrabel, *'Heather Died Because of White Supremacy': Vigil Held at Spot of Saturday's Killing*, DAILY PROGRESS (Aug. 13, 2017), [http://www.dailyprogress.com/news/local/heather-died-because-of-white-supremacy-vigil-held-at-spot/article\\_0a176aa6-8037-11e7-8b94-73eb9f5a8e2f.html](http://www.dailyprogress.com/news/local/heather-died-because-of-white-supremacy-vigil-held-at-spot/article_0a176aa6-8037-11e7-8b94-73eb9f5a8e2f.html).

while on a surveillance detail of the rally.<sup>2</sup> The country was also hit by a wave of Category 4 and 5 hurricanes (which many experts believe were exacerbated by climate change) that brought mass devastation to southeast Texas, southwest Louisiana, the Florida coasts, Puerto Rico, and the Caribbean islands.<sup>3</sup> Further, in central Mexico, powerful earthquakes killed more than 370 people and injured at least 6,000.<sup>4</sup> Throughout these surreal summer months, possible nuclear standoff between the United States and North Korea also hovered over all.<sup>5</sup>

Indeed, at various times throughout 2017 and into 2018, many have felt like the apocalypse was upon us. As in all times of distress, however, we must and do continue to go about our daily lives, caring for our families and partners, preparing for class, looking for employment, studying for final exams and the bar exam, or sitting alone in our offices writing law review articles that we only hope will be read (or at least downloaded) by those to whom we eventually send reprints and links. Yet, writing an article about contract law and critical race theory felt too luxurious to me, for while the production and dissemination of even very specialized knowledge is essential to the survival and progression of academic endeavor, contract law's role in the construction of racial and gender identity did not seem to me a particularly relevant subject for a lecture in such calamitous times. I wondered: what should an "intellectual" say in a Dean's lecture in times like these? The answer to this question—which is largely what this essay is about—was far harder to answer than I had initially imagined.

Though I have been a law professor since 2000, I have never consciously thought of myself as an "intellectual," having reserved that title for the likes of well-known and well-established scholars like Cornel West, Henry Louis Gates, Jr., and Patricia Williams. It is one thing to do intellectual work—teaching, researching, and writing—under the patronage of a college or university; it is quite another to perform in the role of the

2. Rachel Weiner, *Virginia State Troopers Killed in Helicopter Crash Monitoring Charlottesville Clash*, THE WASH. POST (Aug. 13, 2017), [https://www.washingtonpost.com/local/public-safety/virginia-state-troopers-killed-in-helicopter-crash-monitoring-charlottesville-clash/2017/08/13/56649702-803d-11e7-b359-15a3617c767b\\_story.html?utm\\_term=.0c8a96a552ad](https://www.washingtonpost.com/local/public-safety/virginia-state-troopers-killed-in-helicopter-crash-monitoring-charlottesville-clash/2017/08/13/56649702-803d-11e7-b359-15a3617c767b_story.html?utm_term=.0c8a96a552ad).

3. Angela Fritz, *Harvey. Irma. Maria. Why is this Hurricane Season so Bad?*, THE WASH. POST (Sept. 23, 2017), [https://www.washingtonpost.com/news/capital-weather-gang/wp/2017/09/23/harvey-irma-maria-why-is-this-hurricane-season-so-bad/?utm\\_term=.f59bd027da59](https://www.washingtonpost.com/news/capital-weather-gang/wp/2017/09/23/harvey-irma-maria-why-is-this-hurricane-season-so-bad/?utm_term=.f59bd027da59).

4. Christopher Sherman, *Recuperan Cuerpo de Última Víctima del Terremoto en México*, AP NEWS (Oct. 4, 2017), <https://apnews.com/70b3a90e267d44138eb30203d96aab7d/Recuperan-cuerpo-de-C3%BAltima-v%C3%ADctima-del-terremoto-en-M%C3%A9xico>; Agencia Reforma, *Reporta Ssa 51 Lesionados Graves*, INDEPENDIENTE DE HIDALGO (Sept. 28, 2017), <https://www.elindependientehidalgo.com.mx/reporta-ssa-51-lesionados-graves/>.

5. Evan Osnos, *The Risk of Nuclear War with North Korea*, THE NEW YORKER (Sept. 18, 2017), <https://www.newyorker.com/magazine/2017/09/18/the-risk-of-nuclear-war-with-north-korea>; Daryl G. Kimball, *The North Korea Standoff Is Now as Bad as the Cuban Missile Crisis*, FORTUNE (Sept. 25, 2017), <http://fortune.com/2017/09/25/north-korea-news-war-trump/>.

intellectual, as West, Gates, and Williams have done so consistently over the past several decades.<sup>6</sup> My own hesitancy in self-identifying as an “intellectual” has some basis in the elitism I myself associate with the word; moreover, in having just used the word “elitism,” I want to make clear that I do not use *that* word in the far-right, populist sense that seems to now dominate in the mainstream media.<sup>7</sup> Rather, I mean that calling oneself an “intellectual” just seems—in less fraught, plain-spoken terms—a bit pompous, self-important, and snobby.

Of all things, social media discourse in the wake of President Trump’s inauguration made me reconsider the meaning, utility, and importance of identifying as an intellectual. Through Twitter—as concededly flawed and problematic a platform as it is—I became aware of thoughtful, substantive, and critical work being done by academics like Ibram X. Kendi (American University) and Tressie McMillan Cottom (Virginia Commonwealth University), and independent scholars like Sarah Kendzior; their well-traveled and hugely-followed Twitter accounts<sup>8</sup> only hint at their robust scholarly work in history, sociology, and authoritarianism, respectively.<sup>9</sup> Twitter also introduced me to a host of critics and commentators who were bringing their insightful and comprehensive critical analyses of the current state of America (and the world) to audiences (presumably) dissatisfied with talking-head punditry, through the now booming medium of podcasting. I discovered that podcasts can provide solace, not simply because listening to them makes sitting in traffic almost enjoyable, but because they prove that critical analytical thinking is still alive and well, despite the collective lament of faculty<sup>10</sup> and employers<sup>11</sup> all over the country. As importantly,

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6. *About Dr. Cornel West*, DR. CORNEL WEST, <http://www.cornelwest.com/bio.html#.WqcdN-cpA2x> (last visited Mar. 12, 2018); *Henry Louis Gates, Jr.*, HARV. U. DEP’T AFR. & AFR. AM. STUD., <https://aaas.fas.harvard.edu/people/henry-louis-gates-jr> (last visited Mar. 12, 2018); *Patricia J. Williams*, COLUM. L. SCH., <http://www.law.columbia.edu/faculty/patricia-williams> (last visited Mar. 12, 2018).

7. See Beverly Gage, *How ‘Elites’ Became One of the Nastiest Epithets in American Politics*, THE N.Y. TIMES MAG. (Jan. 3, 2017), <https://www.nytimes.com/2017/01/03/magazine/how-elites-became-one-of-the-nastiest-epithets-in-american-politics.html> (noting that as a noun, the word elite, embodied by living people, has become one of the nastiest epithets in American politics).

8. Ibram X. Kendi (@DrIbram), TWITTER, <https://twitter.com/DrIbram>; Tressie Mc (@tressiemcphd), TWITTER, <https://twitter.com/tressiemcphd>; Sarah Kendzior (@sarahkendzior), TWITTER, <https://twitter.com/sarahkendzior>.

9. Ibram X. Kendi, *Bio*, IBRAM X. KENDI, <https://www.ibramxkendi.com/aboutibramxkendi/> (last visited Mar. 11, 2018); Tressie McMillan Cottom, *Cirriculum Vitae*, TRESSIE MCMILLAN COTTOM (2016), <https://tressiemc.com/cv/>; Sarah Kendzior, *About*, SARAH KENDZIOR, <https://sarahkendzior.com/about/> (last visited Mar. 11, 2018).

10. See Steven C. Ward, *No Child Left Behind Goes to College*, ACADEME, Sept.-Oct. 2015, 12 (describing the neoliberal “attack” on both liberal arts and higher education); Frank Breslin, *Why Public Schools Don’t Teach Critical Thinking – Part 1*, HUFFINGTON POST – THE BLOG (last updated Aug. 7, 2016), [https://www.huffingtonpost.com/frank-breslin/why-public-schools-dont-t\\_b\\_7956518.html](https://www.huffingtonpost.com/frank-breslin/why-public-schools-dont-t_b_7956518.html) (asserting in the context of secondary education [as preparation for college and university education] that

the rapid rise in popularity of media forms such as podcasts shows that there is a considerable appetite, at least among the American populace, for such critical thinking and analysis.<sup>12</sup>

Indeed, podcasts (which are accessible to anyone with a smartphone and data plan), more than any other form of non-print new media, have become a singularly important forum for serious socio-political and even activist dialogue and discourse.<sup>13</sup> Moreover, the number of podcasts produced by academic centers, institutes, and faculty is growing, covering both broad and specific areas, such as the criminal justice system,<sup>14</sup> national security law,<sup>15</sup> and the law of evidence.<sup>16</sup> Like other podcasts, these academy-related programs feature in-depth but comprehensible discussion among experts on topics, both specific and general, and reach far beyond a typical conference audience of faculty colleagues, students, and revolving-door policy wonks.<sup>17</sup> As such, podcasts are creating a forum for intellectually sophisticated and highly accessible discourse that, in turn, can help us rehabilitate or “reclaim” the intellectual in the eyes of the mainstream public.<sup>18</sup>

Much of the remainder of this essay discusses why I believe reclamation of the intellectual is necessary and how, as a theoretical and pragmatic matter, such work can be done.<sup>19</sup> Following this, and in my conclusion, I also suggest how new media can provide a space in which intellectuals can do this work.<sup>20</sup>

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“[t]he essence of an education – the ability to think critically and protect oneself from falsehood and lies – may once have been taught in American schools, but, with few exceptions, is today a lost art.”)

11. Steve Tobak, *Proof that Critical Thinking is Dead*, CBS NEWS (Aug. 7, 2012, 8:20 AM), <https://www.cbsnews.com/news/proof-that-critical-thinking-is-dead/>.

12. See Brendan Regan, *Podcasts Took Off This Year. What Will the New Year Bring?*, NEWSWEEK (Dec. 26, 2017, 6:10 AM), <http://www.newsweek.com/podcasts-took-year-what-will-new-year-bring-758304> (noting that fifteen percent of Americans listen to podcasts weekly).

13. See Siobhan McHugh, *Truth to Power: How Podcasts Are Getting Political*, THE CONVERSATION (last updated Sept. 1, 2017, 12:04 AM), <http://thecoversation.com/truth-to-power-how-podcasts-are-getting-political-81185> (discussing how podcasts are used to address socio-political issues).

14. See, e.g., CRIMINAL (IN)JUSTICE (2016), <http://www.criminalinjusticepodcast.com/> (describing the podcast’s recent topics relating to criminal justice).

15. See, e.g., THE NATIONAL SECURITY LAW PODCAST (2017), <https://www.nationalsecuritylawpodcast.com/> (listing the podcast’s recent topics relating to national security law).

16. See, e.g., EXCITED UTTERANCE (2017), <https://www.excitedutterancepodcast.com/> (describing the podcast’s recent topics relating to evidence issues).

17. See *supra* notes 14-16 (describing podcasts’ upcoming topics and guests).

18. See McHugh, *supra* note 13 (noting how some highly controversial topics are being explored through podcasts).

19. See *infra* Section Intellectualism & Anti-Intellectualism.

20. See *infra* Section Conclusion.

## INTELLECTUALISM AND ANTI-INTELLECTUALISM

Strains of intellectualism and anti-intellectualism have co-existed—sometimes within the same cohort—in American life since well before the Constitutional Convention was convened in Philadelphia in 1787.<sup>21</sup> For example, in 1642, John Cotton, the influential Puritan preacher and minister of the First Church of Boston in the Massachusetts Bay Colony, famously wrote, “[t]he more learned and witty you bee, the more fit to act for Satan will you bee.”<sup>22</sup> Yet, only a decade earlier, Cotton had been driven out of England, where he was a religious scholar and preacher, due to his opposition to the Church of England’s “antiquated corruptions.”<sup>23</sup> Moreover, Cotton had drafted New England’s first Constitution in 1636<sup>24</sup> and was influential in the founding of Harvard College in 1637.<sup>25</sup> In a broad sense, the trajectory of Harvard, traced from its inception as a religious college to its current position as one of the most (if not *the* most) elite secular institutions of higher learning in the world—runs parallel to the trajectory of American intellectualism and anti-intellectualism, both of which are rooted in a refusal to abide by the Anglican Church of England’s corruptions and by “New World” Puritan religiosity.<sup>26</sup>

In the mid-twentieth century, the late historian Richard Hofstadter published his classic (and sprawling) monograph, *Anti-Intellectualism in American Life*, where he identifies, “only two cohorts of intellectuals who [were] able to set the overall tone for the country[:] the Puritan ministers and the Founding Fathers . . . .”<sup>27</sup> Hofstadter further notes the two steady and primary forces of *anti*-intellectualism: “evangelical religion” and “business.”<sup>28</sup> I note here that though both of these “forces” deserve further discussion, this essay addresses mainly the latter, as it is closer to what I know (and teach).<sup>29</sup>

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21. See Lauren Langman & Meghan A. Burke, *From Exceptionalism to Imperialism: Culture, Character, and American Foreign Policy*, in 24 CURRENT PERSPECTIVES IN SOC. THEORY 189, 209 (Jennifer M. Lehmann & Henry F. Dahms eds., 2006) (describing strains of anti-intellectualism that Puritans brought with them to the American colonies in the mid-seventeenth century).

22. *Id.*

23. A.W. M’Clure, *The Life of John Cotton*, in 1 LIVES OF THE CHIEF FATHERS OF NEW ENGLAND 1, 31 (1846) (<https://archive.org/details/lifeofjohncotton00mlclu>).

24. IBRAM X. KENDI, *STAMPED FROM THE BEGINNING: THE DEFINITIVE HISTORY OF RACIST IDEAS IN AMERICA* 18 (2016).

25. *Id.* at 16.

26. Langman & Burke, *supra* note 21, at 209.

27. Nicholas Lemann, *The Tea Party is Timeless*, COLUM. JOURNALISM REV. (Sept./Oct. 2014), [https://archives.cjr.org/second\\_read/richard\\_hofstadter\\_tea\\_party.php](https://archives.cjr.org/second_read/richard_hofstadter_tea_party.php).

28. *Id.* (emphasis added); see RICHARD HOFSTADTER, *ANTI-INTELLECTUALISM IN AMERICAN LIFE* 21 (1969).

29. See *infra* Section Edward Said’s *Representations of the Intellectual*.

Hofstadter also observes that our institutions of higher learning were not, at least in the twentieth century, immune from the resurgence of anti-intellectualism.<sup>30</sup> In a 2014 review of *Anti-Intellectualism* in the Columbia Journalism Review, writer Nicholas Lemann describes Hofstadter's prescient concerns:

Education, the main institutional countervailing force to anti-intellectualism, has been continually invaded by anti-intellectual ideas, especially the idea that *practical training* should take precedence over book-learning, and the idea that schools should attend more closely to the emotional well-being of their students than to their instruction.<sup>31</sup>

Though I might take issue with what Lemann means when he references the “emotional well-being of . . . students”<sup>32</sup> in the above excerpt, it is clear that in the decades since Hofstadter voiced these concerns, the “invasion” of educational institutions (primary, secondary, *and* post-secondary) has been unceasing and increasing. Managing what many fear is a losing battle now all but consumes institutions of higher learning (as well as all other institutions of learning, no matter the level) in almost every respect, in terms of administration, instruction, curriculum, research, production of scholarship, and faculty governance.<sup>33</sup> Legal education, with which I am obviously most familiar, has been a site of fierce contestation in this regard. American legal education is unique in the world because, in relevant part, it comprises a course of graduate, rather than undergraduate, study.<sup>34</sup> Additionally, American law schools—perhaps even more than other professional graduate programs (medicine and business, for example)—have always struggled openly, to some degree, with the tensions inherent in serving the dual “masters” of professional and intellectual training.<sup>35</sup>

These tensions were brought to the fore of legal education in 2007 when the Carnegie Foundation for the Advancement of Teaching published a

30. Lemann, *supra* note 27.

31. *Id.* (emphasis added).

32. *Id.*

33. See Evelyn Morales Vazquez & John S. Levin, *The Tyranny of Neoliberalism in the American Academic Profession*, ACADEME (Jan.-Feb. 2018), <https://www.aaup.org/article/tyranny-neoliberalism-american-academic-profession#WvWqoaQvyM8> (noting that major changes in the “academic profession” over the last thirty years “are a consequence of external pressures and structural changes in public higher education institutions. In the case of public research universities, the shifts in institutional missions have coincided with the rise of neoliberal ideology, which numerous scholars link to an increase in managerialism, accountability, and surveillance.”).

34. See generally Daniel R. Coquillette, *American Legal Education: Where Did We Come from? Where Are We Going?*, THE BAR EXAMINER, Apr. 19, 2013, at 46 (describing how American legal education is unique).

35. See *id.* at 47 (noting that law schools must balance professionalism and intellectual training).

report on the state of legal education, *Educating Lawyers: Preparation for the Profession of Law*.<sup>36</sup> In the Report, law schools were lauded for what they did well, such as teaching legal reasoning and providing, “rapid socialization into the standards of legal thinking.”<sup>37</sup> Law schools were criticized, however, for not teaching students how legal reasoning and doctrine connect to practice, and for their failure “to complement the focus on skill in legal analyses with effective support for developing ethical and social skills.”<sup>38</sup> The Report also criticized the way in which legal pedagogy tends to downplay the importance of and “desire for justice.”<sup>39</sup> In the decade since the Report was published, law schools have altered their programs to offer more skills-based classes and more “experiential” learning opportunities (clinics, externships, etc.).<sup>40</sup> Additionally, contrary to what some might believe about “naval-gazing” academics, many individual faculty members, including myself, continue to take the Report’s criticisms seriously, given our obligations to prepare our students for the honorable and ethical practice and profession of law. Yet, many of us also continue to harbor and voice concerns that echo Hofstadter’s, about (more specifically on our part) preserving legal education as a bulwark against the anti-intellectual forces of business and corporate interests.<sup>41</sup> Our concerns were only heightened by the financial calamities of 2008.<sup>42</sup> As a result, we worry over further diminishing our students’ sense of legal education as not just a means to a professional and material end, but also an *intellectual* endeavor designed to equip them to think critically and deeply about the most pressing issues we continue to face; indeed, issues such as how to define and pursue justice and equality are arguably more relevant now than ever. Further discussion about the future of the legal academy, however, is a topic for another lecture or paper.

Independent historian Susan Jacoby took up where Hofstadter left off when she published *The Age of American Unreason* in 2008.<sup>43</sup> Where Hofstadter sought, in part, to investigate the tensions between the “elite

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36. WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (2007) (hereinafter, “the Report”).

37. *Id.* at 5.

38. *Id.* at 6.

39. *Id.*

40. See Margaret Loftus, *Law Schools Innovate with Hands-On Learning*, U.S. NEWS & WORLD REP. (Mar. 30, 2016, 9:30 AM), <https://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/2016-03-30/law-schools-innovate-with-hands-on-learning> (noting that some law schools are now offering more skills workshops, among other things, for students).

41. Vazquez & Levin, *supra* note 33; Lemann, *supra* note 27.

42. Kimberly Amadeo, *2008 Financial Crisis Timeline: The 33 Most Critical Events in the Worst Crisis Since the Depression*, THE BALANCE (last updated Apr. 30, 2018), <https://www.thebalance.com/2008-financial-crisis-timeline-3305540>.

43. SUSAN JACOBY, *THE AGE OF AMERICAN UNREASON* (1st ed. 2008).

character” of intellectualism and the (anti-intellectual) “aspirations” of democracy,<sup>44</sup> Jacoby asserts in her book that, “America is now ill with a powerful mutant strain of intertwined ignorance, anti-rationalism and anti-intellectualism.”<sup>45</sup> In a 2008 Washington Post op-ed she wrote to promote her book, she states further: “[i]t is almost impossible to talk about the manner in which public ignorance contributes to grave national problems without being labeled an ‘elitist,’ one of the most powerful pejoratives that can be applied to anyone aspiring to high office.”<sup>46</sup> In the new 2018 edition of her book, re-titled *The Age of American Unreason in a Culture of Lies*, Jacoby doubles down on her diagnosis of what gave rise to this new highly virulent strain of American anti-intellectualism—“digital dependency.”<sup>47</sup> She writes:

There is considerable evidence that Americans have become increasingly and exceedingly reluctant to see reason as a virtue, to apply rigorous standards of truth and logic to what they read and hear on social media, or to consider the impact of willed indifference to expertise on everything from scientific research to decisions about war and peace. . . .

America is now ill with a stream of intertwined ignorance, anti-rationalism, and anti-intellectualism that has mutated, as a result of technology, into something more dangerous than the cyclical strains of the past. . . . This condition is aggressively promoted by everyone, from politicians to media executives, whose livelihood depends on a public that derives its opinions from sound bites and blogs, and it is passively accepted by a public in thrall to the serpent promising effortless enjoyment from the fruit of the twittering tree of infotainment.<sup>48</sup>

Jacoby goes on to argue that the “geometric progression in public ignorance was much more important [to the election of Trump] than Trump’s potent appeal to anachronistic white American nationalism, Hillary Clinton’s shortcomings as a candidate, Russian interference in the electoral process, or the gap between ‘the elites’ and ordinary workers.”<sup>49</sup> Though I believe that the interrelated and complex causes of the 2016 election

44. HOFSTADTER, *supra* note 28, at 407-08.

45. JACOBY, *supra* note 43, at xx.

46. Susan Jacoby, *The Dumbing of America*, WASH. POST (Feb. 17, 2008), [http://www.washingtonpost.com/wp-dyn/content/article/2008/02/15/AR2008021502901\\_2.html?sid=ST2008021801200](http://www.washingtonpost.com/wp-dyn/content/article/2008/02/15/AR2008021502901_2.html?sid=ST2008021801200).

47. SUSAN JACOBY, *THE AGE OF AMERICAN UNREASON IN A CULTURE OF LIES* (2d ed. 2018).

48. *Id.* at xxvii-xxviii.

49. SUSAN JACOBY, <http://www.susanjacoby.co/> (last visited Mar. 27, 2018).

warrant more attention than Jacoby perhaps suggests, her basic point—about the role digital media has played in the collective weakening of our ability to think critically, as well as of our “refusal” to distinguish between what is well-researched (“expert”) and what is not (“common”)—is well taken.

Journalist Jane Mayer’s recent examination of the steady ascendancy of the corporatist<sup>50</sup> far-right in *Dark Money: The Hidden History of the Billionaires Behind the Rise of the Radical Right*, makes another important contribution to our understanding of modern anti-intellectualism.<sup>51</sup> This new iteration owes much of its success, in my view, to having “flipped the script” on intellectualism. That is, to counter anti-intellectualism’s “countervailing force” of education, corporatist business interests took an “if you can’t beat ‘em, join ‘em” approach to their problem, through which they have effected a masterful cooptation of university-supported intellectualism. Mayer reports in *Dark Money* that by establishing and funding ostensibly philanthropic foundations in the mid-twentieth century,

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50. The term “corporatism” has several meanings so divergent that some have called for its removal from current political discourse. Michael Lind, *The “corporatist” confusion: Why a prominent political term needs to be retired*, SALON (Jan. 5, 2015, 11:59am), [https://www.salon.com/2014/01/05/the\\_corporatist\\_confusion\\_why\\_a\\_prominent\\_political\\_term\\_needs\\_to\\_be\\_retired/](https://www.salon.com/2014/01/05/the_corporatist_confusion_why_a_prominent_political_term_needs_to_be_retired/). Because of this, I note here that I use the term throughout this essay as it has been used in critiques of neoliberalism. For example, on the corporatist state, David Harvey writes:

Businesses and corporations not only collaborate intimately with state actors but even acquire a strong role in writing legislation determining public policies, and setting regulatory frameworks (which are mainly advantageous to themselves). Patterns of negotiation arise that incorporate business and sometimes professional interests into governance through close and sometimes secretive consultation. . . . The state typically produces legislation and regulatory frameworks that advantage corporations, and in some instances specific interests such as energy, pharmaceuticals, agribusiness, etc. In many of the instances of public-private partnerships, particularly at the municipal level, the state assumes much of the risk while the private sector takes most of the profits. If necessary, furthermore, the neoliberal state will resort to coercive legislation and policing tactics . . . to disperse or repress collective forms of opposition to corporate power.

DAVID HARVEY, A BRIEF HISTORY OF NEOLIBERALISM 76-77 (2005). It is also useful to define here what I mean when I use the terms “neoliberal” and “neoliberalism.” Again, I use the terms as Harvey does:

Neoliberalism is in the first instance a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade. The role of the state is to create and preserve an institutional framework appropriate to such practices. . . . [B]eyond these tasks the state should not venture.

*Id.* at 2. Harvey goes on to argue that this “pure” conception of neoliberalism has “entailed much ‘creative destruction’ [and theoretical tweaking] in service to ‘ruling elites.’” *Id.* at 3, 13-15.

51. See JANE MAYER, DARK MONEY: THE HIDDEN HISTORY OF THE BILLIONAIRES BEHIND THE RISE OF THE RADICAL RIGHT (2016).

several large and influential corporations, in essence, killed two birds with one stone.<sup>52</sup> By contributing large sums of money to foundations they themselves created, they were able to avoid substantial corporate tax obligations.<sup>53</sup> These foundations could (and did) then use these contributions to fund—through the development of grant-awarding programs—pro-business research institutes and centers, as well as individual faculty and researchers at universities and colleges all over the country.<sup>54</sup> Throughout the latter half of the twentieth century and through the present, this approach worked as part of an “integrated strategy” (which also included an explicitly political prong that advocated for the position eventually taken by the Supreme Court of the United States in *Citizens United*) to implement policy change and advance “the gospel of economic freedom.”<sup>55</sup>

At this point, I want to pause to address concerns that some readers may have that I am “biased” or that I have not been “objective” in giving the above account. Indeed, I do not deny that I have a pronounced point of view. In fact, since I consider myself a critical race/feminist scholar, I state unequivocally that I *do* have a point of view. For doing otherwise would run counter to one of the most important tenets of critical race theory, which “rejects the prevailing orthodoxy that scholarship should be or could be ‘neutral’ and ‘objective,’”<sup>56</sup> and insists that “knowledge and politics are inevitably intertwined.”<sup>57</sup> Race crits and their legal crit and fem crit contemporaries were certainly not the first in the academy to make these claims.<sup>58</sup> In the context of American legal scholarship, for example, the Legal Realists of the early and mid-twentieth century practically revolutionized legal theory and jurisprudence during that era by making similar claims.<sup>59</sup> Further, scholars across many different disciplines have

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52. *Id.* at 71-72.

53. *Id.*

54. See Dave Levinthal, *Koch Brothers' Higher-Ed Investments Advance Political Goals: Boost in School Funding Builds Free-Market 'Talent Pipeline'*, THE CENTER FOR PUB. INTEGRITY (Nov. 4, 2015, 4:27 PM), <https://www.publicintegrity.org/2015/10/30/18684/koch-brothers-higher-ed-investments-advance-political-goals>.

55. *Id.*

56. CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT xiii (Kimberlé Crenshaw et al. eds., 1995).

57. *Id.* at xxii.

58. For example, in two highly influential monographs published in 1977 and 1992, legal historian and realist Morton Horwitz draws from the work of legal realists of the early twentieth century to make a compelling case about the myth of the law's neutrality, and to expose the law's inherently political and ideological nature. MORTON J. HORWITZ, *THE TRANSFORMATION OF AMERICAN LAW, 1780-1860* (1st ed. 1977); MORTON J. HORWITZ, *THE TRANSFORMATION OF AMERICAN LAW, 1870-1960* (1st ed. 1992).

59. *Id.*; see also Victoria Nourse & Gregory Shaffer, *Varieties of New Legal Realism: Can a New World Order Prompt a New Legal Theory?* 95 CORNELL L. REV. 61, 121-22 (2009).

argued that corporatist policy changes of the past several decades were made possible only because we have collectively accepted the false “neutrality” of private/corporate market ideology.<sup>60</sup> As Mayer correctly points out in *Dark Money*, nowhere is this more true than in legal education, where the discourse of classical law and economics (which excludes contemporary interventions of, for example, behavioral economists) now undergirds almost all of the “core” courses, regardless of the public or private law subjects covered in them.

Having acknowledged what might have been an elephant in the room, I return to the topic at hand. Corporatist anti-intellectualism, in its modern and highly sophisticated form, is flourishing.<sup>61</sup> And, if anti-intellectualism has always been, as Hofstadter demonstrated, a part of American culture and politics, one might ask, why fight it?<sup>62</sup> Why can’t we all just co-exist and get along? With public opinion about higher education now at an all-time low,<sup>63</sup> is rethinking the value of intellectualism and what it means to be an intellectual worth it? Should we not simply continue to teach our courses, write in our specialized areas, give the occasional (or frequent) media interview, write the occasional (or frequent) op-ed, provide our lively commentary on cable news, do our book tours, and perhaps even try to use social and digital media to advance our ideas (in 280 characters or less)?

With regard to the last in the above series of rhetorical questions, I think we should absolutely continue to teach, write, and comment in the fields that we know and love; this is what we have always done as teachers, scholars, and experts on the ground, and we should never cease doing these things. As to the more difficult questions that speak to *why* we should never stop and *how* we do these things, I propose below a model of intellectualism that responds to some of the critiques of anti-intellectualism I have discussed above, but also set forth a set of principles and values by which intellectualism should and must be reclaimed. In so doing, I turn to the late Edward Said.<sup>64</sup>

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60. Nourse & Shaffer, *supra* note 59, at 133.

61. See Connor Gibson, *Jane Mayer’s “Dark Money” Exposes Charles Koch’s Lobbying Scheme*, DAILY KOS (Feb. 1, 2016, 12:23 PM), <https://www.dailykos.com/stories/2016/2/1/1478119/-Jane-Mayer-s-Dark-Money-Exposes-Charles-Koch-s-Campus-Lobbying-Scheme> (outlining Charles Koch’s academic prong of the “integrated strategy”).

62. HOFSTADTER, *supra* note 28, at 6.

63. Hannah Fingerhut, *Republicans Skeptical of Colleges’ Impact on U.S., but Most See Benefits for Workforce Preparation*, PEW RES. CTR. (July 20, 2017) <http://www.pewresearch.org/fact-tank/2017/07/20/republicans-skeptical-of-colleges-impact-on-u-s-but-most-see-benefits-for-workforce-preparation/>.

64. See *infra* Section Edward Said’s *Representations of the Intellectual*.

EDWARD SAID'S *REPRESENTATIONS OF THE INTELLECTUAL*

Edward Said, who died in 2003, was a preeminent Columbia University English professor and literary scholar, who is best known for his monograph *Orientalism*,<sup>65</sup> in which he introduced and outlined Orientalism as a theory of (imperial and Western) material domination of the East (the “Orient”) and its colonial subjects, effected through discursive representations of those subjects as the “Other.”<sup>66</sup> While the bulk of the monograph applies Orientalist theory through analyses of British and French literary works about the East, Said’s articulation of the theory of Orientalism in the book’s “Introduction” has been hugely influential across disciplines and became one of the foundational pillars of what is now known as post-colonial studies.<sup>67</sup>

Throughout his career, Said continued to refine, broaden, and apply his theoretical interventions both as a literary scholar, cultural critic, public intellectual, and political activist.<sup>68</sup> A Palestinian American born to Arab Christians in Jerusalem and raised partly in Cairo, Said was both revered and reviled for his highly visible advocacy against Palestinian dispossession in the Middle East.<sup>69</sup> Notably, Said “[m]ore than any other Palestinian writer . . . qualified his anti-colonial critique of Israel, explaining its complex entanglements and the problematic character of its origins in the persecution of European Jews, and the overwhelming impact of the Zionist idea on the European conscience.”<sup>70</sup>

My purpose in referencing Said’s political position on Palestinian dispossession is not to make an argument for that position on the merits, but to emphasize (1) the risks Said knowingly undertook in taking on such a spectacularly controversial issue, and (2) that he did so intentionally, without donning the cloak of “neutrality,” as an intellectual who believed that, “[t]he purpose of the intellectual’s activity is to advance human freedom and knowledge.”<sup>71</sup> With regard to what this means more particularly, Said writes:

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65. EDWARD W. SAID, *ORIENTALISM* 1 (1979).

66. *Id.*

67. *Id.* at 1-27; see also BILL ASHCROFT, ET AL., *POST-COLONIAL STUDIES: THE KEY CONCEPTS* 174-75 (3d ed. 2013) (noting that “the discourse of Orientalism persists into the present. . . . its practice remains pertinent to the operation of imperial power in whatever form it adopts; to know, to name, to fix the other in discourse is to maintain a far-reaching political control.”).

68. Malise Ruthven, *Edward Said*, *THE GUARDIAN* (Sept. 26, 2003, 5:52 EDT) (cite as website does), <https://www.theguardian.com/news/2003/sep/26/guardianobituaries.highereducation>.

69. *Id.*

70. *Id.*

71. EDWARD W. SAID, *REPRESENTATIONS OF THE INTELLECTUAL: THE 1993 REITH LECTURES* 17 (1994).



not an intervention in, but rather the steep *ascendency of*, intellectual professionalism in the decades following its publication, an ascendency that Jane Mayer documents in *Dark Money* and, as I argue above in my brief discussion of her book, can also be characterized as an anti-intellectual cooptation of intellectualism.<sup>78</sup>

As we are currently caught up in a rising tide of anti-intellectualism, it seems to me that the time for the reclamation of intellectualism—as Said conceived of it—is now. In saying this, I of course do not mean to call out, criticize, or diminish colleagues and friends who have been working consistently for years and decades against the anti-intellectual “neoliberalization” of, in particular, public universities and colleges.<sup>79</sup> Rather, my purpose is to present a set of constructive, related principles and normative values, drawn from Said’s *Representations of the Intellectual*, which hopefully will spur more connected and organized efforts among individuals to reclaim intellectualism. Not one of these principles—I set forth six in all—is more important than any other, notwithstanding the order in which the paper presents them, and all are interrelated.<sup>80</sup>

First, the intellectual in doing her work always should “attempt to hold to a universal and single standard,” where Said defines “universality” as:

[t]aking a *risk* in order to go beyond the easy certainties provided us by our background, language, nationality, *which so often shield us from the reality of others*. It also means looking for and trying to uphold a single standard for human behavior when it comes to such matters as *foreign and social policy*.<sup>81</sup>

Said’s conception of this “single standard for human behavior” is particularly important given the prevailing public perception that intellectuals *as a class* are detached from “the reality of others.”<sup>82</sup> Furthermore, in light of broad assertions by scholars, writers, and journalists across the political spectrum, it seems that universities on the whole are perceived as “ideologically narrow, morally slack, hypersensitive, and out

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78. See *supra* Section Intellectualism and Anti-Intellectualism.

79. The Association of American University Professors, for example, formed in 1915 to protect and advocate for the principles of academic freedom and faculty governance, which are two primary targets of the neoliberal “invasion” of higher education. See *About the AAUP*, AM. ASS’N U. PROFESSORS, <https://www.aaup.org/about-aaup> (last visited Mar. 5, 2018); Walter Benn Michaels & Scott McFarland, *From One Bargaining Unit to One Faculty*, ACADEME, Nov.–Dec. 2015, at 40; Dane S. Claussen, *A Brief History of Anti-Intellectualism in American Media*, ACADEME, May–June 2011, at 8.

80. See *supra* Section Edward Said’s *Representations of the Intellectual*.

81. SAID, *supra* note 71, at xiv.

82. *Id.*

of touch.”<sup>83</sup> In 2016, *New York Times* conservative op-ed columnist Russ Douthat went so far as to characterize the “American university system” as “genuinely corrupt,” and claimed that it used “rote appeals to . . . left-wing pieties to cloak its utter lack of higher purpose.”<sup>84</sup> Though I disagree with Douthat’s arguments on their merits,<sup>85</sup> I, like *Atlantic* writer Jason Blakely, agree that Douthat’s claims reflect the beliefs of a large and growing swath of Americans, whether formally educated or not.<sup>86</sup> As such, the intellectual should always explicitly and vociferously name and stake the universal standard to which she holds, with an eye toward reattaching herself to the reality of others.

Second, as to what this universal standard substantively requires, the intellectual should insist that “all human beings are entitled to expect decent standards of behavior concerning freedom and justice from worldly powers or nations, and that deliberate or inadvertent violations of these standards need to be testified and fought against courageously.”<sup>87</sup> It follows, then, that “the intellectual belongs on the same side as the weak and underrepresented.”<sup>88</sup> Indeed, I can think of no “higher purpose” (as Douthat puts it), moral or otherwise, than to testify and fight against “prevailing norms,”<sup>89</sup> that work to violate, individually or systemically, standards aiming to effect freedom and justice for *all*.<sup>90</sup> Such purpose may be oppositional to those asserted by critics like the ones I reference above, but that opposition does not render this purpose, as articulated by Said, nonexistent or meaningless.

Third, it follows from both principles above that the intellectual should always be conscious of the *public* and *political* nature of her work as well as the work’s *representative* nature, particularly in light of the “mutant strain of intertwined ignorance, anti-rationalism and anti-intellectualism” that, according to Jacoby, has taken center stage in American politics and society today.<sup>91</sup> As Said notes, “defining . . . the intellectual” in the recent past has

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83. Jason Blakely, *Deconstructing the ‘Liberal Campus’ Cliché*, THE ATLANTIC (Feb. 13, 2017), <https://www.theatlantic.com/education/archive/2017/02/deconstructing-the-liberal-campus-cliche/516336/> (referencing *New York Times* columnist Russ Douthat and Allan Bloom).

84. Ross Douthat, *A Crisis Our Universities Deserve*, THE N.Y. TIMES (Nov. 14, 2015), <https://www.nytimes.com/2015/11/15/opinion/sunday/a-crisis-our-universities-deserve.html>.

85. For example, I agree with Douthat that the “American university system” is corrupt, but not because of “left-wing pieties.” Rather, I connect this corruption to the ongoing neoliberalization of the American university system, which continues to erode our collective understanding of education as a public good.

86. Blakely, *supra* note 83.

87. SAID, *supra* note 71, at 11-12.

88. *Id.* at 22.

89. *Id.* at 36.

90. SAID, *supra* note 71, at 93-94.

91. JACOBY, *supra* note 47, at xx.

taken up too much of our collective attention in the academy.<sup>92</sup> The intellectual, writes Said, instead should pay more attention to, “the image, the signature, the *actual intervention* and *performance*, all of which taken together constitute the very lifeblood of every real intellectual.”<sup>93</sup> That is, the work of the intellectual is to testify.

“Testify” in this context refers not to “objective” opinions that an expert witness might provide in a court case, but to the intellectual’s duty to speak “truth to power,”<sup>94</sup> and to shout her power to the rooftops. Such testimonial representation is not merely cerebral, but visceral, as in the case of Sartre:

when we remember an intellectual like Sartre we recall the personal mannerisms, the sense of an important personal stake, the sheer effort, risk, will to say things about colonialism, or about commitment, or about social conflict that infuriated his opponents and galvanized his friends and perhaps even embarrassed him retrospectively. When we read about Sartre’s involvement with Simone de Beauvoir, his dispute with Camus, his remarkable association with Jean Genet, we situate him (the word is Sartre’s) in his circumstances; in these circumstances, and to some extent because of them, Sartre was Sartre, the same person who also opposed France in Algeria and Vietnam. Far from disabling or disqualifying him as an intellectual, these complications give texture and tension to what he said, expose him as a fallible human being, not a dreary and moralistic preacher.<sup>95</sup>

To be clear, what is called for here is not the bravura performance of any one intellectual’s persona, but rather the intellectual’s willingness to engage in her work as her authentic self, no matter the inevitable embarrassments and discomforts that will sometimes follow.

Fourth, intellectuals should actively push aside motivations based in ego, status, and power. Said writes:

The intellectual’s representations, his or her articulations of a cause or idea to society, are not meant primarily to fortify ego or celebrate status. Nor are they principally intended for service within powerful bureaucracies and with generous employers. Intellectual representations are the *activity itself*, dependent on a kind of consciousness that is skeptical, engaged, unremittingly devoted to

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92. SAID, *supra* note 71, at 13.

93. *Id.*

94. *Id.* at 85-102 (chapter titled *Speaking Truth to Power*).

95. *Id.* at 13-14.

rational investigation and moral judgment; and this puts the individual on record and on the line.<sup>96</sup>

From personal experience, I know that this principle is a difficult one to follow—(aspiring) intellectuals are, after all, human. Moreover, the tenure gauntlets at most institutions, though differing in the details, almost universally include requirements that overvalue status and incentivize egoism, which makes resisting these motivators ever more difficult.<sup>97</sup> But if the intellectual is going to put her “cause[s] and idea[s]” and her authentic self “on the record and on the line,” she must regularly and constantly position herself outside her comfort zone so that she can, with integrity, urge others to do the same.<sup>98</sup> The intellectual should never work and “write only for him or herself, or for the sake of pure learning”—or, I might add, for the sake of self-promotion—but for and in service to others and society.<sup>99</sup> Tenure is essential to allowing the intellectual to do this kind of work and, as such, the basis for conferring it should focus more on the work itself, and less on stature and status.

Fifth, the intellectual should, in the words of well-known death-penalty lawyer and writer Bryan Stevenson, “be proximate.”<sup>100</sup> For the intellectual, being proximate means that, if she wants to effect change in society, then she must “slip into it” and be subject to society’s demands.<sup>101</sup> Making oneself and one’s ideas subject to anything, let alone “society’s demands,” can be, quite plainly, terrifying. To prepare, the intellectual must work very hard at the front end—where she must situate and contextualize her research and discovery, hone her analyses, and do the physical act of writing. This “front end” work can indeed be isolating and certainly exhausting and can cause one to drift onto paths of lesser resistance (see the fourth principle above), but preparing to be proximate and accountable to society requires it.

Sixth, and finally, the intellectual should aspire, perhaps counterintuitively, to what Said calls “amateurism.”<sup>102</sup> He writes:

the problem for the intellectual is to try to deal with the impingements of modern professionalization . . . not by pretending

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96. *Id.*

97. To be clear, be referencing the “gauntlet” of tenure I do not mean to suggest that the academy ought to eliminate or weaken tenure; in fact, I believe tenure is necessary to the protection of academic freedom and, thus, the academic enterprise.

98. SAID, *supra* note 71, at 20.

99. *Id.* at 110.

100. Barbara C. Perez, *Bryan Stevenson Heart to Heart Re-cap 2016*, YWCA GREATER CIN., [http://www.ywcacincinnati.org/site/c.biINIZNKKjK0F/b.9381295/k.D418/Bryan\\_Stevenson\\_Heart\\_to\\_Heart\\_Recap\\_2016.htm](http://www.ywcacincinnati.org/site/c.biINIZNKKjK0F/b.9381295/k.D418/Bryan_Stevenson_Heart_to_Heart_Recap_2016.htm) (last visited Mar. 5, 2018).

101. SAID, *supra* note 71, at 75.

102. *Id.* at 82.

they are not there, or denying their influence, but by representing a different set of values and prerogatives . . . collect[ed] under the name of *amateurism*, literally, as an activity that is fueled by *care and affection* rather than by profit and selfish, narrow specialization.<sup>103</sup>

It is not by coincidence that this final principle circles back to my earlier discussion of the perils of intellectual professionalism.<sup>104</sup> What this articulation makes clear is simply this: that the primary concern of the intellectual should be the good of society and humanity and, in particular, the most disempowered and disenfranchised among us.

#### CONCLUSION

In the introduction to this essay, I described how something as mundane as listening to podcasts in the dawn of the Trump presidency gave me hope in what I still see as very dark times.<sup>105</sup> Strangely enough, listening to these podcasts also inspired me to use my privileged position as a law professor to resist more directly the policies being put in place by the new American regime and, consequently, to consider more seriously what it means to be an “intellectual.” Having come to the conclusion that intellectuals have an urgent obligation in these times to reclaim our role as pursuers of freedom and justice for all, I set forth above some basic principles that should guide intellectuals in this pursuit.<sup>106</sup>

I want to return, however, to the mundane and the quotidian because, it is in the day-to-day, that we live and do all our work. Susan Jacoby, as referenced above, asserts that digital distraction and dependency have overtaken our everyday lives, resulting in a corrosive “dumbing of America.”<sup>107</sup> Jacoby argues this digital “dumbing” played the most important role in making possible the ascendancy of a new anti-intellectualism that gave way to the Trump presidency.<sup>108</sup> As I stated earlier, I do not entirely agree with that blunt diagnostic assertion,<sup>109</sup> but in the details, my own opinions and analyses are consistent, at least in substance, with Jacoby’s.

With respect to our dependency on digital and social media, however, I must state the obvious: new media is here to stay. As technology becomes

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103. *Id.*

104. *See supra* Section Intellectualism and Anti-Intellectualism.

105. *See supra* Section Introduction.

106. *See supra* Section Intellectualism and Anti-Intellectualism.

107. JACOBY, *supra* note 47.

108. *Id.*

109. *See id.*

more advanced, new media will continue to proliferate, in even more sophisticated and manipulable forms, further into our lives and minds. For the intellectual, as Said conceives of her, this will continue to present great challenges, for the continuing rise of new and pervasive forms of media will require us to keep extending our zones of discomfort and contestation.<sup>110</sup>

I urge the intellectual, at this moment in time, to consider extending that zone, admittedly in a small way for purposes of this essay, into the realm of podcasting precisely because it is a media form that is “of the moment.” This is not to say that the intellectual, as a general matter, should chase digital trends, or any trends for that matter. But the “representing intellectual” should consider exploring podcasting for a few reasons.

The range of available podcasts one might listen to is staggering, impressive, and overwhelming.<sup>111</sup> Though I listen regularly to many podcasts across genres, the ones to which I subscribe all have one thing in common: each addresses *critically* the complex reality of American life and history<sup>112</sup> and each *inspires* me toward action, large and small, in, for example, how I teach and write, how I parent, and how I engage in community or political work. My mind has been opened more times than I can count while listening to podcasts in my car, driving to and from work. I have not only read *Representations of the Intellectual* (several times), but listened to Said’s original lectures (also several times) on the BBC Radio 4’s Reith Lectures Podcast.<sup>113</sup> The auditory experience of listening to the lectures brings to mind what Said wrote about Sartre: in *hearing* Said give his lectures (I never had the good fortune to hear or see Said in person before his death in 2003), I could sense the “personal stake” in what he was saying, as well as the great passion, integrity, and humanity behind his words.

Of course, not every podcast is of the caliber of a Said lecture. Moreover, lectures, in general, do not make for good podcasting. Rather, the vast majority of podcasts follow a host-guest and/or panel format. The best ones share a few important characteristics: they address their topics substantively and thoroughly; because they usually involve at least two hosts plus one or more guests, they are conversational and less prone to off-putting pontification; they often succeed, better than print or cable media, in

110. SAID, *supra* note 71, at 21-22.

111. To get a sense this growing medium, one need only browse through the myriad podcasts available at PODSEARCH.COM, <https://podsearch.com/> (last visited May 13, 2018).

112. I am acutely aware that currently, the vast majority of podcast listeners are white millennials. Efforts, of course, must be made to persuade more people belonging to historically marginalized groups to listen to and produce/create podcasts. As present, some of the most radical and proximate critiques of American social, cultural, political, and economic are coming out of lesser known podcasts featuring people of color. *See., e.g.*, BODEGA BOYS; THE READ; #GOODMUSLIMBADMUSLIM.

113. *The Reith Lectures*, *supra* note 73.

presenting highly complex information and analysis in comprehensible and (usually) un-patronizing ways; they often feature hilariously sharp commentary on depressingly serious subjects; and, most importantly, they model a type of rigorous, un-staged, un-rehearsed, person-to-person engagement that is almost entirely absent in popular political and popular cultural discourse today.

In other words, podcasting provides an ideal forum for the intellectual who aspires, as Said did, “publicly to raise embarrassing questions, to confront orthodoxy and dogma . . . to be someone who cannot easily be co-opted by governments or corporations, and . . . to represent all those people and issues that are routinely forgotten or swept under the rug.”<sup>114</sup> To be sure, the costs of podcasting—in terms of time, energy, and money—must also be carefully considered and managed. But as the most vulnerable and underrepresented among us continue to be pummeled and put out by a new regressive American regime, we cannot afford *not* to consider using promising new forms of media in the struggle to reclaim intellectualism.

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114. SAID, *supra* note 71, at 11.