

RETURN OF THE REPRESSED:

WILL THE CORONAVIRUS BRING A GREAT TRANSFORMATION TO AMERICA?

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The COVID-19 pandemic hit the United States hard. By the end of May 2020, the U.S. accounted for nearly a third of all cases worldwide and the largest number of deaths.¹ The disease has put on full display the nation's schisms: party preferences, race, religion, and residence. As yet it's uncertain whether the pandemic will narrow these rifts and strengthen the safety net or lead to opposite results.

Snapshots of the pandemic's fault lines: Recent polls show that Republicans are much more likely than Democrats to place economic concerns over health issues.² The crowds protesting stay-at-home orders and business closures are almost entirely white.³ Republicans have come down hard on noncitizens; Democrats have defended them.⁴ Racial resentment drives opposition to larger safety-net expenditures. Because whites are less

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1. Among the G7 nations, Canada, Germany, and Japan had considerably lower per-capita death rates than the U.S., whereas France, Italy, and the U.K. were at the high end. *Mortality Analyses*, Johns Hopkins U. & Med.: Coronavirus Resource Ctr., <https://coronavirus.jhu.edu/data/mortality> (last visited May 26, 2020) (data as of May 24, 2020).

2. Steven Shepard, *Republican Voters Give Trump and GOP Governors Cover to Reopen*, Politico (May 13, 2020, 4:30 AM), <https://www.politico.com/news/2020/05/13/poll-coronavirus-reopen-trump-republicans-252726>; *U.S. Public Sees Multiple Threats From the Coronavirus – and Concerns Are Growing*, Pew Res. Ctr. (Mar. 18, 2020), <https://www.people-press.org/2020/03/18/u-s-public-sees-multiple-threats-from-the-coronavirus-and-concerns-are-growing/>.

3. Hailey Branson-Potts, Anita Chabria, Andrew J. Campa, & Priscella Vega, *At Protests, Mostly White Crowds Show How Pandemic Has Widened Racial and Political Divisions*, L.A. TIMES (Apr. 25, 2020), <https://www.latimes.com/california/story/2020-05-08/california-coronavirus-protests-race>; Ben Poston, Tony Barboza, & Alejandra Reyes-Velarde, *Younger Blacks and Latinos Are Dying of COVID-19 at Higher Rates in California*, L.A. TIMES (Apr. 25, 2020), <https://www.latimes.com/california/story/2020-04-25/coronavirus-takes-a-larger-toll-on-younger-african-americans-and-latinos-in-california>.

4. Anna Maria Mayda, Giovanni Peri, & Walter Steingress, *Immigration to the U.S.: A Problem for the Republicans or the Democrats?* 4 (Nat'l Bureau of Econ. Research, Working Paper No. 21941, Jan. 2016), <https://www.nber.org/papers/w21941.pdf>.

vulnerable to COVID-19 than nonwhites, it is nonwhites who would disproportionately benefit from spending that affects health outcomes.⁵ White evangelicals prefer that people in need not turn to government but instead rely on their families, religious communities, and prayer. Sixty percent of white evangelicals say that COVID-19 is a minor public health threat and two-thirds of them say that God will protect them from COVID-19 infection. The foregoing opinions prevail in red states, where voters are predominantly Republican. They constitute President Trump's most loyal supporters.⁶

Trump may seem a buffoon. But he's been effective in exploiting the pandemic to prove his fealty to the inclinations of his base. Nevertheless, it's proven difficult for the White House to combat the pandemic without energizing big science and big government as during previous crises. It's one reason that the president has tried to shift responsibility for public health from Washington to the states, whose efforts are less visible. The trick hasn't worked.

The level of public confidence in state governors—but not national leaders—has increased from 51 percent in April 2014 to 68 percent in April 2020. When people were asked to rate the trustworthiness of public figures offering advice about the coronavirus, those with the highest ratings were a scientist and a politician: Dr. Anthony Fauci member of the White House Coronavirus Taskforce, and New York's Governor Andrew Cuomo, who has been a vocal critic of the Trump administration. Meanwhile there's been unprecedented Federal and state spending—several trillion dollars—to combat the pandemic and the burdens it's placed on business and workers.⁷

5. Adam M. Enders, *A Matter of Principle? On the Relationship Between Racial Resentment and Ideology*, Pol. Behav. 1 (2019); Rachel Wetts & Robb Willer, *Privilege on the Precipice: Perceived Racial Status Threats Lead White Americans to Oppose Welfare Programs*, 97 Soc. Forces 793, 794 (2018). As compared to whites, the death rate from the coronavirus is twice as high for Blacks and one-and-a-half times higher for Hispanics. Dylan Scott, *Covid-19's Devastating Toll on Black and Latino Americans*, in *One Chart*, Vox (Apr. 17, 2020), <https://www.vox.com/2020/4/17/21225610/us-coronavirus-death-rates-blacks-latinos-whites>.

6. White evangelicals represent around one-fourth of U.S. voters and up to half of those voting in Republican primaries. Eighty percent lean toward or identify with the GOP. Melissa Deckman, Dan Cox, Robert Jones, & Betsy Cooper, *Faith and the Free Market: Evangelicals, the Tea Party, and Economic Attitudes*, 10 Pol. & Religion 82 (2017); Philip Schwadel, *The Republicanization of Evangelical Protestants in the United States: An Examination of the Sources of Political Realignment*, 62 Soc. Sci. Res. 238 (2017); *UChicago Divinity School/AP-NORC Poll: Few Feel Restrictions on In-Person Worship Violate Freedom of Religion*, U. Chi. Divinity Sch. (May 15, 2020), <http://www.apnorc.org/PDFs/Divinity-AP-NORC%20May%202020/AP-NORC%20Divinity%20School%20Press%20Release%20May%202020%20%20FINAL.pdf>; Gregory A. Smith, *Most White Evangelicals Satisfied with Trump's Initial Response to the COVID-19 Outbreak*, Pew Res. Ctr. (Mar. 19, 2020), <https://www.pewresearch.org/fact-tank/2020/03/19/most-white-evangelicals-satisfied-with-trumps-initial-response-to-the-covid-19-outbreak>.

7. Jeff Jones & Lydia Saad, *Gallup Poll Social Series: Economy & Personal Finance*, Gallup News Serv. (Apr. 1–14, 2020) <https://news.gallup.com/file/poll/309191/200422ConfidenceEconomicLeaders.pdf>; Grace Panetta, *Dr. Anthony Fauci and Andrew Cuomo Remain the Most Trusted Leaders on Coronavirus, While Donald Trump and Jared Kushner Are the Least Trusted*, Bus. Insider (Apr. 30, 2020),

Now is a different moment than when *The Commanding Heights* was published in 1998.⁸ The popular book celebrated how globalization and internet technology had reinvigorated the private sector. The authors argued that postmodern economies no longer needed government to moderate markets and ensure prosperity, citing the recent collapse of the Soviet Union as an example *in extremis*. With the unemployment rate in 1998 at its lowest level since 1970, the argument was plausible.

The book's title harked back to the early 1920s, when Soviet agriculture and small business were left in private hands, while the state took ownership of banks and heavy industry, what Lenin called "the commanding heights."⁹ During the 1930s and 1940s, Europe and the United States adopted a social democratic version of Lenin's New Economic Policy that combined markets and government into what was called the mixed economy: market regulations, macroeconomic controls social insurance, and in some countries, nationalized industry and indicative planning. Referring to the mixed economy, the authors of *The Commanding Heights* said there was underway a "battle between government and the marketplace that is remaking the world." In their view, markets were trouncing government. The idea was in the air. Six years before the book appeared, President Bill Clinton announced in his first State of the Union address that the era of big government was over.

The first part of this article is a brief history of America's vexed relationship with social insurance. The focus is on public spending to relieve income loss due to unemployment, illness, and old age. The second part considers the likelihood that COVID-19 will lead to more social spending and a larger role for government in other realms as well. Although the article was written before George Floyd's death, the protest movements that ensued are discussed in an epilogue.

In *Ancient Law* (1861) the jurist Sir Henry Sumner Maine offered his oft-repeated dictum: "The movement of the progressive societies has hitherto been a movement from Status to Contract."¹⁰ In the status societies of Europe and the American colonies, persons had fixed roles as slave, serf, wife, child, citizen, and queen. The relationships were embedded in custom and law, and suffused with mutual obligations and responsibilities. Merchants were required to charge fair prices. Wages were to be restrained when demand for

<https://www.businessinsider.com/fauci-cuomo-most-trusted-trump-kushner-least-trusted-on-coronavirus-2020-4>.

8. DANIEL YERGIN AND JOSEPH STANISLAW, *THE COMMANDING HEIGHTS: THE BATTLE FOR THE WORLD ECONOMY* (1998).

9. ALAN M. BALL, *RUSSIA'S LAST CAPITALISTS: THE NEPMEN, 1921-1929* (1990).

10. HENRY SUMNER MAINE, *ANCIENT LAW* 141 (Cambridge Univ. Press 2012) (1861).

workers was high but kept above subsistence levels when demand slackened. The law of master and servant, which originated in the sixteenth-century Statute of Artificers, conceived the employment relationship as one in which masters had a duty to provide their wards with food, shelter, medical care, Christian education, and employment lasting at least a year. This was what historian E.P. Thompson called “the moral economy.”¹¹ But status should not be romanticized. Masters had the right to administer corporal punishment—and the practice could be savage—and to seek imprisonment of wayward dependents.

The spread of free labor and pressures from a new industrial class brought the demise of master-servant doctrines. By the late eighteenth century, American courts were refusing to impose normative obligations on employers. All that mattered were the terms reached by freely contracting agents. The employer had the right to exercise control in return for which the worker received a wage, nothing more. At any moment, workers could quit or employers dismiss them. Laissez-faire enthusiasts hailed contract’s ascent. Its flexibility, they said, permitted self-regulating markets. Self-help boosted the work ethic, which made it superior to paternalism and state intervention. But despite contract’s symmetrical imagery, power was on the employer’s side. It inspired Karl Marx’s gibe:

He, who before was the money-owner, now strides in front as capitalist; the possessor of labour-power follows as his labourer. The one with an air of importance, smirking, intent on business; the other, timid and holding back, like one who is bringing his own hide to market and has nothing to expect but—a hiding.¹²

Even as laissez-faire took hold among jurists and economic elites, a reaction to the market’s pernicious effects was setting in. Workers’ parties, trade unions, social reformers—these propelled what Karl Polanyi called “the great transformation” from personal responsibility to social provision. Polanyi wrote his major work, *The Great Transformation* (1944), after leaving London for Bennington College in Vermont.¹³ Behind him was the economic collapse of the Thirties. Ahead would be Britain’s nationalization of the coal, rail, and steel industries, and the establishment of national health insurance. In between was the influential Beveridge Report (1942) that laid out a postwar agenda for government to protect citizens from what Beveridge called the five giant evils: “want, disease, ignorance, squalor, and idleness.”¹⁴

11. E. P. THOMPSON, *CUSTOMS IN COMMON: STUDIES IN TRADITIONAL POPULAR CULTURE* 12 (1992). See also ROBERT J. STEINFELD, *COERCION, CONTRACT, AND FREE LABOR IN THE NINETEENTH CENTURY* (2001).

12. KARL MARX, *CAPITAL: VOLUME ONE: A CRITIQUE OF POLITICAL ECONOMY* 196 (Friedrich Engels ed., Samuel Moore & Edward Aveling trans., Dover Thrift Editions 2019) (1867); KAREN ORREN, *BELATED FEUDALISM: LABOR, THE LAW, AND LIBERAL DEVELOPMENT IN THE UNITED STATES* (1991).

13. KARL POLANYI, *THE GREAT TRANSFORMATION: THE POLITICAL AND ECONOMIC ORIGINS OF OUR TIME* (1944).

14. SIR WILLIAM H. BEVERIDGE, *REPORT ON SOCIAL SERVICES AND ALLIED SERVICES* 6 (1942).

ORIGINS OF THE AMERICAN WELFARE STATE

During the latter half of the nineteenth century, people banded together with others like themselves to share the risk of having insufficient funds to meet life's catastrophes. The first line of defense was the family, followed by voluntary organizations for mutual aid. Fraternal associations, benevolent societies, and labor unions offered death and sickness benefits. The Cigar Makers union even devised an elaborate out-of-work benefit scheme for its members.¹⁵

After the First World War, large companies began to offer more secure jobs with modest pension and health benefits. A few launched their own unemployment insurance plans. This was welfare capitalism, which American employers intended as an alternative to the high taxes and strong labor unions associated with European welfare states. Companies used welfare capitalism to create the impression that the corporation was a *Schicksalsgemeinschaft*, a community of shared fate. The community was run in top-down fashion by the CEO, the corporation's paterfamilias. Welfare capitalism was an ersatz version of social insurance, thinly funded and full of defects.

Herbert Hoover had the bad luck of being president when the stock market crashed in 1929. Hoover, an engineer, was a complicated figure. He was committed to small government but attentive to social problems that could be solved by private means. During the 1920s Hoover led a movement to reduce unemployment using scientific management to stabilize production. His was an enlightened laissez-faire.

Hoover responded to the depression by launching a national Share-the-Work movement that nudged employers to reduce hours and keep everyone working. He met with captains of industry, seeking pledges to forswear wage cuts. Instead of federal spending, he sought to balance budgets. But the strategies failed miserably. Welfare capitalism collapsed, wages were cut, and the unemployment rate ratcheted up from 3 percent in 1929 to 24 percent in 1932. With few safety nets in place, the suffering was great.¹⁶

Germany pioneered a different approach. Nineteenth-century German economists—the historical school—rejected the free-market doctrines emanating from Great Britain. They derisively dubbed laissez-faire as “Smithianismus,” arguing that a developmental state and social reform were required to speed industrialization. The historical school developed after the

15. Sanford M. Jacoby *Risk and the Labor Market: Societal Past as Economic Prologue*, in SOURCEBOOK OF LABOR MARKETS: EVOLVING STRUCTURES AND PROCESSES (Ivar Berg & Arne Kalleberg, ed., 2001).

16. SANFORD M. JACOBY, EMPLOYING BUREAUCRACY: MANAGERS, UNIONS, AND THE TRANSFORMATION OF WORK IN THE TWENTIETH CENTURY (2004).

pan-European downturn of the 1840s, which brought unemployment and impoverishment in its wake, and ended with the 1848 revolution.¹⁷

Twenty years later, the German government faced a new problem: large numbers of workers began voting for left-wing parties, to the alarm of Chancellor Otto von Bismarck. Bismarck responded during the 1880s with sticks and carrots. The sticks were repressive laws aimed at labor unions and the left. The carrots were social insurance programs for sickness, industrial accidents, and old-age. They comprised the world's first welfare state.

Germany was the place where hundreds of young Americans went in the late 19th century to obtain graduate degrees in economics and other fields. Among them were the founding members of the American Economic Association, established in 1885. One was Richard T. Ely of the University of Wisconsin, who professed the German approach to government and social spending.¹⁸

In 1906, Ely co-founded the American Association for Labor Legislation (AALL) with his colleague John R. Commons, also at Wisconsin. For the next several decades, the AALL developed model legislation for protecting workers from labor-market risks. The panoply included unemployment insurance, worker's compensation, old-age insurance, minimum wage laws, industrial safety regulations, and national health insurance. Commons and John B. Andrews, director of the AALL, said that the common thread in these policies was "solidarism"—"that all will equitably bear the burdens that fall upon each individual."¹⁹ The going was slow because legislation was blocked repeatedly in the courts. Because of this, the AALL also advocated judicial reform.

Periodic epidemics were another route to the welfare state. A concerted effort to eliminate cholera was propelled by the nineteenth-century fusion of science and the administrative state. Cities built public housing and hospitals along with infrastructure for water and sanitation. They opened bureaus of health and departments of city planning. The response to cholera was global; the first of several International Sanitary Conferences was held in 1851. The cholera battle had a less edifying side. Well into the 20th century, immigrants and itinerants were blamed for outbreaks of the disease, fueling immigration restriction and border controls, sometimes with eugenic justifications. Progressive reformers associated with the AALL, among them economist John R. Commons, justified immigration restriction with eugenic ideas, a

17. GEOFFREY M. HODGSON, *HOW ECONOMICS FORGOT HISTORY: THE PROBLEM OF HISTORICAL SPECIFICITY IN SOCIAL SCIENCE* (2001); Leonidas Montes, *Das Adam Smith Problem: Its Origins, the Stages of the Current Debate, and One Implication for Our Understanding of Sympathy*, 25 J. HIST. ECON. THOUGHT 63 (2003).

18. MALCOLM RUTHERFORD, *THE INSTITUTIONALIST MOVEMENT IN AMERICAN ECONOMICS, 1918–1947: SCIENCE AND SOCIAL CONTROL* (2011); AXEL R. SCHÄFER, *AMERICAN PROGRESSIVES AND GERMAN SOCIAL REFORM, 1875–1920* (2000).

19. JOHN R. COMMONS & JOHN B. ANDREWS, *PRINCIPLES OF LABOR LEGISLATION* 499–500 (1916).

way to prevent what Commons called “race suicide.” Solidarism had its limits.²⁰

THE NEW DEAL

After Franklin D. Roosevelt’s landslide election in 1932, the new president faced pressure from below to act quickly. Bitter strikes had become more frequent and an unemployed workers’ movement—and unemployment rates—crested in 1933. To revive the economy, Roosevelt embraced alternatives to laissez-faire that combined ideas from German economists, American Progressives, and the British economist John Maynard Keynes. Reluctant to hand out money, which Keynes said would have sufficed to kickstart the economy, the administration instead hired the jobless to build infrastructure such as dams, bridges, and highways. The largest of these efforts was the Works Project Administration, which at one point employed one-third of the nation’s jobless.

When it came to social insurance, the New Deal’s crown jewel was Social Security (retirement insurance and unemployment insurance). There were new labor laws, including for minimum wages, overtime pay, and protection of unions. Roosevelt drew on policies the AALL had championed for thirty years. In recognition of regional variation in wages and political preferences, the unemployment insurance program was a joint effort of states and the federal government. States were permitted to supplement unemployment benefits and raise their benefits above the national minimum, or not.

What brought social insurance to America was the Great Depression’s severity. Tens of millions were stuck in the same leaky boat, which fostered solidarity with anonymous others. Not everyone was included in what historian David Hollinger calls the “circle of we.”²¹ The Social Security Act originally omitted agricultural and domestic labor from minimum wage coverage, this at the request of Southern politicians anxious to restrain wages. Three-fifths of all Black workers were employed in those industries.²²

Welfare capitalism did not disappear. Parts of it became a second tier of protection, a complement to social insurance. Social Security, for example, was designed to integrate its benefits with private pension plans. Corporate programs also competed with public provision, as when employer-provided

20. CHARLES E. ROSENBERG, *THE CHOLERA YEARS: THE UNITED STATES IN 1832, 1849, AND 1866* (2009); Thomas C. Leonard, “*More Merciful and Not Less Effective*”: *Eugenics and American Economics in the Progressive Era*,” 35 *HIST. POL. ECON.* 687 (2003). Said Commons, “The question of race suicide of the American or colonial stock should be regarded as the most fundamental of our social problems.” JOHN R. COMMONS, *RACES AND IMMIGRANTS IN AMERICA* 200 (1907).

21. David Hollinger, “*How Wide the Circle of the “We”?*” *American Intellectuals and the Problem of the Ethnos Since World War II*, 98 *AM. HIST. REV.* 317 (1993).

22. Jill S. Quadagno, *Welfare Capitalism and the Social Security Act of 1935*, 49 *AM. SOC. REV.* 632 (1984).

health insurance undermined attempts to secure a national system. Although employers faced labor shortages during the war, the government restricted them from raising wages. Instead they offered “fringe” benefits, including pensions, paid vacations, and health coverage—all an extension of welfare capitalism.

Pressing companies to be generous was an empowered labor movement. On top of employer programs, they built a private welfare state for their members. Several unions obtained guarantees that workers would be recalled after layoffs and that companies would pay supplements to what were still-meager unemployment benefits. Nonunion companies matched and sometimes bettered what unions had negotiated. Frank Tannenbaum, historian at Columbia University, in 1951 lauded unions for demanding these benefits, saying they would end the “complete helplessness against the vicissitudes that each individual faces at some time in his life.” The labor movement, he wrote, “is re-creating a society based upon status, and destroying the one we have known in our time—a society based on contract.”²³

Tannenbaum recognized that risk protection via employer provision was less inclusive than public spending. But he preferred voluntarist class struggle to top-down government activism. Not so British sociologist T.H. Marshall. A year before Tannenbaum, Marshall had proposed an expanded welfare state grounded in national, not industrial, citizenship. He said that every British citizen had a social right to be protected from the five evils, including the right to a guaranteed real income, a forerunner to today’s universal basic income. Unlike civil rights and political rights, however, social rights required funding through redistributive taxation. Marshall lauded the fact that this would reduce income inequality, and it did.²⁴

Grounding the welfare state in citizenship was not without problems. Noncitizens were excluded, an issue that’s become more pressing during the current era of widespread immigration and asylum seekers. Related to this was the Völkisch notion that the welfare state would strengthen a nation’s bloodline. Eugenic traces tainted proposals and practices associated with the welfare state, whether Progressive reform, the New Deal, the Beveridge Report, or the Scandinavian welfare states. Polanyi’s depiction of the great transformation was heroic; it left out its dismal parts.²⁵

23. FRANK TANNENBAUM, *A PHILOSOPHY OF LABOR* 147 (1951). *Id.* at 149–50; Michael Merrill, *Even Conservative Unions Have Revolutionary Effects: Frank Tannenbaum on the Labor Movement*, 77 *INT’L LAB. AND WORKING-CLASS HIST.* 115 (2010).

24. T.H. MARSHALL, *CITIZENSHIP AND SOCIAL CLASS AND OTHER ESSAYS* (1950); Jytte Klausen, *Social Rights Advocacy and State Building: T.H. Marshall in the Hands of Social Reformers*, 47 *WORLD POL.* 244 (1995).

25. GUNNAR BROBERG & NILS ROLL-HANSEN, *EUGENICS AND THE WELFARE STATE: NORWAY, SWEDEN, DENMARK, AND FINLAND* (2005); WENDY KLINE, *BUILDING A BETTER RACE: GENDER, SEXUALITY, AND EUGENICS FROM THE TURN OF THE CENTURY TO THE BABY BOOM* (2005); William Beveridge, *Eugenic Aspects of Children’s Allowances*, 34 *EUGENICS REV.* 117 (1943).

After the war, there was bipartisan commitment to the New Deal's welfare state. Medicare—health insurance for older Americans—was enacted in 1965 as one of President Lyndon B. Johnson's Great Society programs. But the initial proposal originated in the Republican administration of Dwight D. Eisenhower. The political consensus mirrored a postwar society in which social ties were strong, at least among social similars and sometimes broader than that. The G.I. generation practiced civic and social engagement. To paraphrase political scientist Robert D. Putnam, they did not bowl alone.²⁶

THE COUNTERMOVEMENT

The late historian Judith Stein called the 1970s a pivotal decade.²⁷ Memories of the Great Depression were fading. The economy was vexed by an unprecedented economic problem—stagflation—in which inflation was accompanied by unemployment and a deceleration of growth rates. Keynesian economics could not offer a solution beyond wage and price controls. The economists who favored Keynes and the New Deal were supplanted by a younger cohort skeptical of regulation and fiscal activism.

It was President Jimmy Carter, a Democrat, who first put into practice the new thinking about government and markets. As is well known, Carter rolled back transportation and energy regulations that dated to the 1930s. Less well known is his Regulatory Flexibility Act, which sought to balance regulation's social concerns by attending to its impact on business. Anticipating Bill Clinton, Carter said in his 1978 State of the Union address, "We really need to realize that there is a limit to the role and the function of government."²⁸

Also during the 1970s, a group of libertarians and their think-tanks swept the Republican party with plans to "starve the beast" of activist government. After Ronald Reagan's election in 1980 came a full-bore attack on New Deal institutions. Deregulation continued apace, now accompanied by privatization—the substitution of markets for public provision.²⁹

Reagan wanted to privatize Social Security and Medicare but doing so was politically precarious. Instead, he sought privatization in other realms, one example being government vouchers for housing and schools, and

26. ROBERT D. PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY* (2000).

27. JUDITH STEIN, *PIVOTAL DECADE: HOW THE UNITED STATES TRADED FACTORIES FOR FINANCE IN THE SEVENTIES* (2010).

28. MARTHA DERTHICK & PAUL QUIRK, *THE POLITICS OF DEREGULATION* (1985); Matt Welch, Opinion, *Democrats These Days Hate Deregulation, But Once Upon a Time They Loved It*, L.A. TIMES (Feb. 8, 2018, 4:05 AM), <https://www.latimes.com/opinion/op-ed/la-oe-welch-deregulation-carter-20180208-story.html>.

29. NANCY MACLEAN, *DEMOCRACY IN CHAINS: THE DEEP HISTORY OF THE RADICAL RIGHT'S STEALTH PLAN FOR AMERICA* (2017).

another the closure of public hospitals, especially in rural areas, or their sale to private hospital chains. The number of hospitals and the number of beds declined. Chopped into smaller pieces were programs serving the needy: Medicaid (health insurance for the disabled and poor), food stamps, and public-employment jobs. Reagan also eliminated automatic extension of jobless benefits for the long-term unemployed.³⁰

In an attempt to expand the Democrats' base, Bill Clinton positioned his policies between Reagan and Roosevelt. He sought but was unable to obtain national health insurance, although he successfully secured health insurance for children, the Children's Health Insurance Program (CHIP). On the other hand, Clinton advocated the transfer of federal social responsibilities to civil society and private initiative. He trimmed payments to the poor with policies that evoked the workhouse. Democrats turned to employer mandates that cost the government nothing. Clinton's Family and Medical Leave Act (FMLA) of 1993 compelled companies to provide leave for new parents and for medical care, although they were not required to pay workers when they took leave. The United States remains the only OECD nation without legally-mandated paid family leave and one of only two globally without paid sick leave.³¹

Meanwhile, the welfare state's second tier was deteriorating. Weaker unions and the ideological *zeitgeist* disinhibited companies from cutting back on workplace insurance and forcing workers to bear more risk. Gone was the implicit contract that employers would provide stable jobs and wages in return for loyalty and hard work. The 1980s and 1990s saw several rounds of mass layoffs and concession bargaining by unions. Employers converted pension plans promising a fixed benefit into tax-deferred savings accounts promising nothing. The share of health insurance premiums paid by employees rose steadily, as did their out-of-pocket expenses.³²

Another way employers moved out of the risk-insurance business was to reclassify employees as self-employed independent contractors. As such, they receive neither corporate benefits nor many types of social insurance, including minimum wages, workers' compensation, overtime pay, and jobless benefits. Among the reclassified are today's gig workers, epitomized by Uber drivers.³³

30. PERSPECTIVES ON THE REAGAN YEARS (John L. Palmer, ed. 1986); Mimi Abramovitz, *The Privatization of the Welfare State: A Review*, 31 SOC. WORK 257 (1986).

31. SHELDON DANZIGER & PETER GOTTSCHALK; AMERICA UNEQUAL (1995); Steven K. Wisensale, *Two Steps Forward, One Step Back: The Family and Medical Leave Act as Retrenchment Policy* 20 REV. POL'Y RES. 135 (2003).

32. Lori G. Kletzer, *Job Displacement*, 12 J. ECON. PERSP. 115 (1998); *Benchmark Employer Survey Finds Average Family Premiums Now Top \$20,000*, KAISER FAM. FOUND. (Sept. 5, 2019), <https://www.kff.org/health-costs/press-release/benchmark-employer-survey-finds-average-family-premiums-now-top-20000/>.

33. DAVID WEIL, *THE FISSURED WORKPLACE* (2017).

Then there are the sins of omission. Because of failure to raise the minimum wage in line with the cost of living, its inflation-adjusted value in 2019 was 29 percent less than a half century earlier, a devastation for the working poor. The tax base and monetary reserves for paying unemployment insurance benefits were left to shrink during the 2010s, leaving the system unprepared for the mass layoffs associated with COVID-19.³⁴

The most important part of the safety net is health insurance. The United States is the single affluent society without national health insurance. Instead it has a patchwork system that leaves millions without adequate protection. The first part is Medicare for the elderly (50 million participants), which resembles national health insurance. Costs are covered by the federal government. Second and largest is employer-provided insurance (157 million participants), the legacy of welfare capitalism. The third is Medicaid, originally intended for the poor. Like some other parts of the safety net, it's jointly administered by states and the federal government. Next is CHIP, which covers nearly half the nation's children. Finally, there's the 2010 Affordable Care Act (ACA), enacted under President Barack Obama. It's the major exception to decades of diminishing social protection.

Until the ACA, around 50 million individuals had no health insurance. Four large uninsured groups were the working poor, the jobless, the self-employed, and noncitizens. The ACA, popularly known as Obamacare, created state-run insurance exchanges offering commercial policies at below-market prices. The price wasn't low, however. The more affordable plans have deductibles ranging between \$6,000 to \$8,000 for families, although subsidies are available to some.

The ACA offered incentives for states to extend Medicaid from the poor to the next income tier, the working poor, those who cannot afford the exchange policies and do not receive insurance from their employers. The federal government pays 90 percent of extension costs; states pay the remainder. The ACA has brought health insurance to roughly 21 million people who were previously uninsured. Yet, 28 million people remain without.

The ACA—"Obamacare"—has been the *bête noire* of Republicans, who've sought to eliminate it with a flurry of lawsuits. Twenty-five states, led by Florida, filed a lawsuit contending that the ACA was unconstitutional. In 2012, the Supreme Court upheld the law in a 5 to 4 ruling, but invalidated as "coercive" the requirement that states expand Medicaid coverage to the working poor. Fourteen states have since refused to participate in the ACA-Medicaid arrangement, even though the federal government pays the lion's share. All are red states that elected Republican governors during the 2010s.

34. Christopher O'Leary & Kenneth J. Kline, *State Unemployment Insurance Reserves Are Not Adequate*, (Upjohn Inst. Working Paper 20-321, 2020); Ben Zipperer, *Gradually Raising the Minimum Wage to \$15 Would be Good for Workers, Good For Businesses and Good for the Economy*, ECON. POL'Y INST. (Feb. 7, 2019), <https://www.epi.org/publication/minimum-wage-testimony-feb-2019/>.

Ninety percent of the uninsured come from these states. A recent study finds that Medicaid has been racialized: whites are less likely than other groups to support its expansion; state adoption decisions are related to white opinion.³⁵

Meanwhile, the Trump administration has been trying to further unravel the safety net. Its 2020 budget paid little heed to the “third rail” and proposed cuts to Social Security, Medicare, and support for poor families. After the 2020 presidential election, the Supreme Court is scheduled to hear a case challenging the constitutionality of the entire ACA. The Trump administration has repeatedly stated that it favors the plaintiffs, a group of twenty red states led by Texas.

Karl Polanyi was at pains to emphasize that laissez-faire did not take hold naturally. Instead, said Polanyi, free markets were the result of deliberate state action on behalf of business interests, with intellectuals supplying respectable justifications for niggardliness. This was the social reality that lay beneath Maine’s law of progress. The last forty years have witnessed a new generation of business interests and conservative policy entrepreneurs seeking to roll back government’s role in markets and social provision. Updating Maine, one might say that these efforts have given birth to a “law of regression,” a movement from status back to contract.

CORONAVIRUS 2020

And then came the pandemic. It revealed how tattered the welfare state had become, how utterly inadequate it was when most needed. One of the first problems that came to light was the dearth of hospital beds, the result of earlier privatization and funding cuts. Compounding the problem were the millions of people who lacked health insurance. One of several reasons that Hispanics and Blacks are dying from COVID-19 at higher rates than whites is that they are overrepresented among the uninsured. A Harvard Medical School physician commented, “If you’re poor and uninsured, you already don’t get the kind of health care you need. But that happens under the radar.”³⁶

In March and April 2020, a majority of Congressional Republicans voted in favor of four economic stimulus packages, even though the legislation is built on the foundations of the much-hated New Deal. The stimulus is Keynesian pump-priming on a massive scale, costing more than

35. Colleen M. Grogan & Sunggeun Ethan Park, “*The Racial Divide in State Medicaid Expansions*,” 42 J. HEALTH POL., POL’Y & L. 539 (2017). See also Adam M. Enders, *A Matter of Principle? On the Relationship Between Racial Resentment and Ideology*, POL. BEHAV. 1 (2019).

36. Fred Guterl, *Who Should Doctors Save? Inside the Debate About How to Ration Coronavirus Care*, NEWSWEEK (Apr. 4, 2020), <https://www.newsweek.com/2020/04/24/who-should-doctors-save-inside-debate-about-how-ration-coronavirus-care-1495892.html>. On Black mortality, see Gregorio A. Millett et al., *Assessing Differential Impacts of COVID-19 on Black Communities*, AMFAR, FOUND. FOR AIDS RES. (May 2, 2020), https://ehc.amfar.org/Assessing%20Differential%20Impacts%20of%20COVID-19%205-3-20_final.pdf.

twice what was spent during the 2009 financial crisis. The government is distributing up to \$1200 to every adult taxpayer and \$500 per child. The legislation raises unemployment benefits and their duration, and it extends unemployment insurance to some of the self-employed, including gig workers.

The stimulus packages also contain employer mandates. Small firms (under 500 employees) receiving Federal loans must offer employees ten fully-paid sick days if they're under quarantine, and twelve weeks of paid family leave to care for stricken family members. Loans to mid-to-large-sized companies can be forgiven if the recipients retain 90% of their employees.

These pro-worker provisions were the price Republicans paid to get Democrats to support the overwhelmingly pro-business stimulus bills. But with Republicans controlling the Senate and White House (and, some would say, the Supreme Court), they had bargaining power to keep the price low. The legislation heaped largesse on banks and corporations, who received eighty percent of the funds. Workers and their families walked away with one-tenth of the money, the rest going to states, localities, schools, and the health sector.³⁷

The packages are riddled with loopholes. Higher jobless pay expires in July. As of this writing, Republicans say that it will not be extended again.³⁸ Employment stabilization expires in December. Large companies are exempt from the leave mandates, even though only thirty percent of their workers received paid family leave before the pandemic. (Paid sick leave is more widespread among large firms.) Treasury Secretary Mnuchin is authorized to eliminate the leave mandates for small companies judged unable to afford them. Labor Secretary Eugene Scalia, who like other Republicans believes that the new jobless benefits are too generous, plans to limit eligibility for the self-employed, including low-paid gig workers.³⁹

The stimulus bills are proving insufficient to stanch the misery. In late May, the House approved yet another stimulus bill with a price tag of \$3 trillion. It provides additional payments to taxpayers, another round of extended jobless benefits, and aid to cash-strapped cities and states. Senate Republicans, who are counting on a quick recovery after states re-open businesses, warn that the bill will be dead on arrival.

What about healthcare? The federal government announced that it will pick up the cost of virus testing and reimburse hospitals for treating victims. Many of the commercial insurers who underwrite health insurance have

37. Robert L. Borosage, *We're Going to Need a Bigger Bailout*, THE NATION (Apr. 3, 2020), <https://www.thenation.com/article/economy/coronavirus-bailout-unemployment-editorial/>.

38. Seung Min Kim, *Trump Expresses Opposition to Extending Unemployment Benefits Enacted in Response to Pandemic*, WASH. POST (May 19, 2020), https://www.washingtonpost.com/politics/trump-expresses-opposition-to-extending-unemployment-benefits-enacted-in-response-to-pandemic/2020/05/19/19ae0e50-9a12-11ea-a282-386f56d579e6_story.html.

39. Heather Long et al., *Labor Dept. Takes Heat Over Emergency Help for Workers*, WASH. POST (Apr. 12, 2020).

promised to temporarily waive costs for COVID-19 testing and treatment, after pressure from state governments. But twenty-two states—the usual suspects—are not seeking waivers from insurers doing business in their state.

Federal subsidies to hospitals are limited to the cost of caring for U.S. citizens; noncitizens are excluded. Although the jobless who previously had employer-provided insurance can continue their policies for eighteen months after separation, the continuation payments are prohibitively expensive; the administration has refused to provide subsidies. Some of the unemployed without insurance can afford—at least for now—purchasing private policies sold on the ACA's exchanges. However, the enrollment period is not until the fall. Despite urging, the administration has denied requests to immediately open a special enrollment period.

Medicaid programs for the poor and the working poor are beset with problems. Healthcare providers are reluctant to treat Medicaid patients because the government reimburses them at lower rates than for those with private policies. It's not a new problem, but COVID-19 has intensified it. The worst off are those without any kind of health insurance. In mid-March, a clinic in California turned away an uninsured teenager with COVID-19, who died not long thereafter. Meanwhile, states are running out of money and tightening Medicaid payments to providers.

Dealing with the pandemic depends crucially on essential workers in industries such as supermarkets and drug stores, janitorial services, and home health care for the elderly and disabled. These low-wage workers—many of them nonunion—are exposed to a variety of economic risks. Now, there's the added health risk of interacting with the public, despite the fact that essential workers are less likely to have health insurance than others. The workers are disproportionately Black and Hispanic, and in janitorial services they are disproportionately foreign born.⁴⁰

Unions do not exist at many of the giant companies that are playing a crucial role in the pandemic economy. Nevertheless, there've been safety-related strikes by workers at Amazon, Instacart, Target, and Whole Foods, and at fast-food restaurants. Unions are attempting to organize these workers and are behind some of the strikes.

Unionized workers, such as postal workers and meat packers, are also protesting. On the legislative front, organized labor has sought tougher safety rules, while California unions won a state measure that provides supplemental sick leave to persons exposed to the virus or who become ill from it. But as of now the walkouts and protests are isolated occurrences. The number of participants is small as compared to the upwelling of the 1930s. There are no mass movements of the unemployed.

40. Hye Jin Rho, Hayley Brown, & Shawn Fremstad, *A Basic Demographic Profile of Workers in Frontline Industries*, "CTR. FOR ECON. & POL'Y RES. (Apr. 2020), <https://cepr.net/wp-content/uploads/2020/04/2020-04-Frontline-Workers.pdf>.

The response to the dual crises—health and the economy—divides along partisan lines. Blue states are moving more slowly and cautiously than red states to re-open public spaces and business. Whether or not to wear a face mask or to engage in social distancing have become partisan divides. Often the issue is framed around the primacy of individual rights. The governor of South Dakota pledged that she would not order residents to stay at home because “personal responsibility” was preferable to government compulsion. Some red states are using the crisis as an excuse to introduce restrictions on abortion and immigration.⁴¹

Physicians, researchers, and public health officials have issued dire warnings against the rush to restore economic normalcy. Yet the Trump administration has ignored them, while censoring and firing government scientists. The disregard for expertise of any kind sometimes is surreal. The head of the COVID-19 taskforce at the Department of Health and Human Services is Brian Harrison, who previously owned a company that bred labradoodles, a crossbreed dog. Meanwhile Trump has repeatedly endorsed medicines for treating COVID-19 that physicians warn are ineffectual and dangerous.

Treating science with contempt is an American tradition, one that historian Richard Hofstadter labeled “anti-intellectualism.”⁴² Anti-intellectualism had several sources but Hofstadter placed particular emphasis on evangelical and fundamentalist doctrines such as biblical literalism. Nearly a century ago, the state of Tennessee charged a high school teacher with violating the state’s ban on teaching evolution in the schools, which led to the so-called Scopes Monkey Trial. The issue has resurfaced in recent years. Texas and some other states have authorized high school teachers to discuss religious theories of evolution such as creationism and intelligent design.⁴³

We are on terra incognita. The U.S. has never experienced anything like the one-two punch of a pandemic plus an economic collapse of breathtaking rapidity. The situation may worsen, not improve, in the coming months. Companies were carrying large debt loads before the pandemic hit. Economists predict that 165 large corporations will be bankrupt by year’s end. Some think the number will be higher if there’s a rout in the junk bond

41. Ashley Kirzinger et al., *KFF Health Tracking Poll - Late April 2020: Coronavirus, Social Distancing, and Contact Tracing*, KAISER FAM. FOUND. (April 24, 2020), <https://www.kff.org/coronavirus-covid-19/issue-brief/kff-health-tracking-poll-late-april-2020/>.

42. RICHARD HOFSTADTER, *ANTI-INTELLECTUALISM IN AMERICAN LIFE* (1962); Gary Abernathy, Opinion, *What’s Really Behind Republicans Wanting a Swift Reopening? Evangelicals*, WASH. POST (May 20, 2020), <https://www.washingtonpost.com/opinions/2020/05/20/whats-really-behind-republicans-wanting-swift-reopening-evangelicals/>; Brad Plumer & Coral Davenport, *Science Under Attack: How Trump is Sidelining Researchers and Their Work*, N.Y. TIMES (Dec. 28, 2019), <https://www.nytimes.com/2019/12/28/climate/trump-administration-war-on-science.html>.

43. Katherine Stewart, *The Religious Right’s Hostility to Science is Crippling Our Coronavirus Response*, N.Y. TIMES (Mar. 27, 2020), <https://www.nytimes.com/2020/03/27/opinion/coronavirus-trump-evangelicals.html>.

market.⁴⁴ At the end of May, the civilian unemployment rate based on initial unemployment insurance claims was 24.9 percent.⁴⁵ Many of the unemployed will have no jobs to return to after businesses reopen. One estimate is that two out of five pandemic-related layoffs will result in permanent job loss. After the 2009 financial crisis, it took ten years for unemployment to sink back down to pre-crisis levels. The U.S. is facing another prolonged period of job scarcity, one that likely will last longer than before.⁴⁶

Over the coming months, tens of millions will be released from quarantine and unable to find work. By then, they'll have long since exhausted their unemployment benefits. Already 10 percent of households report they are not getting enough food.⁴⁷ As during the financial crisis, there will be defaults on personal debt, including mortgages, but this time the levels will be higher. Four years ago, voters scarred by the financial crisis put their faith in Trump's nationalism and his promises to "drain the swamp" of government. What about now?

It's possible that the dislocations caused by the pandemic will further strengthen right-wing chauvinism, hostility to social others, and the withdrawal of government from society and markets. These are the same vectors along which the Trump administration is moving. An increasingly-cited parallel to Trumpism is McCarthyism. As with Trump, Senator McCarthy's supporters admired him for being tough, anti-cosmopolitan, and anti-intellectual. They understood that his attacks on Communists were a dog whistle implicating the New Deal and efforts to improve opportunities for Blacks.⁴⁸

For now, however, the news is filled with touching stories of human kindness, of individuals helping strangers with food, money, and even plasma

44. *America Inc Faces a Wave of Bankruptcies*, THE ECONOMIST (May 16, 2020), <https://www.economist.com/business/2020/05/16/america-inc-faces-a-wave-of-bankruptcies>.

45. The cited rate is the ratio of initial claims for unemployment from March through late May (38.6 million) divided by the civilian labor force in April. The statistic is not calculated in the same way as the official unemployment rate and should not be compared with it. The advantage of relying on an initial-claims measure is that it improves the long-term forecastability of unemployment during periods when it is rapidly increasing, such as now. Alan L. Montgomery, Victor Zarnowitz, Ruey S. Tsay, & George C. Tiao, *Forecasting the US Unemployment Rate*, 93 J. AM. STAT. ASS'N 485 (1998); JM Rieger, *The Trump Administration Keeps Downgrading Its Economic Projections Amid the Coronavirus Pandemic*, WASH. POST (May 19, 2020), <https://www.washingtonpost.com/politics/2020/05/18/trump-administration-keeps-downgrading-its-economic-projections-amid-coronavirus-pandemic/>.

46. Jose Maria Barrero, Nick Bloom, & Steven J. Davis, *COVID-19 is Also a Reallocation Shock* (U. Chicago Becker Friedman Inst., Working Paper No. 2020-59, May 5, 2020).

47. Jane Callen, *Weekly Census Bureau Survey Provides Timely Info on Households During COVID-19 Pandemic*, U.S. CENSUS BUREAU (May 20, 2020), <https://www.census.gov/library/stories/2020/05/new-household-pulse-survey-shows-concern-over-food-security-loss-of-income.html>.

48. ELLEN SCHRECKER, MANY ARE THE CRIMES: MCCARTHYISM IN AMERICA (1999); Nelson W. Polsby, *Towards an Explanation of McCarthyism*, 8 POL. STUD. ASS'N 250 (1960); Michael Rogin, *Wallace and the Middle Class: The White Backlash in Wisconsin*, 30 PUB. OPINION QUARTERLY 98 (1966).

donations. There's sympathy not only for doctors, but also for those of modest means who risk their lives to help the rest of us. Telecommuting could not exist without them.⁴⁹

Gratitude has its limits. It doesn't provide secure jobs, paid family and sick leave, decent pensions and health insurance, employee voice, affordable housing, and adequate support for the poor, the working poor, and the jobless. To move in that direction will require new political coalitions, stronger unions, and checks on the courts. Needed most of all is the replacement of selfishness with solidarity. It may not happen quite yet; it may never happen.

But there are glimmerings that bedrock values are shifting slowly beneath the surface. National surveys conducted on March 18th and April 2nd 2020 found that between those dates there was a small but significant increase in the number of respondents who put at least as much weight on societal interests as their own. Another study found that the share of people who have high trust in others rose between 2018 and the end of March 2020, also a small but significant change.⁵⁰ The economic and health risks associated with COVID-19 have once again put dissimilar people in the same boat. Ultimately, the future depends on the willingness of Americans to widen the circle of "we."

V. EPILOGUE

On May 25th, 2020 a white police officer in Minneapolis brutally murdered George Floyd, a Black man. The killing caused a social eruption, as hundreds of demonstrations took place over the following two weeks. The issues raised by the protests spilled over from police brutality to the myriad other tribulations faced by Black Americans. Framing the complaints was the pandemic. Protesters pointed out that Blacks suffered from inadequate health care, higher pandemic-related death rates and layoff rates, and overrepresentation in frontline jobs. Not all of the protesters were unemployed but many were, allowing them to march day after day, night after night.

There's been a sea change in racial views. White voters who expressed a favorable opinion of the Black Lives Matter movement nearly doubled from where they stood three years earlier, rising from 31 percent in

49. Telecommuting is a privilege of the affluent. Prior to the pandemic, sixty-two percent of those in the top income quartile could work from home if necessary, whereas the option was feasible for only nine percent in the bottom quartile. *Job Flexibilities and Work Schedules Summary: Table One*, U.S. BUREAU LAB. STAT. (Sept. 24, 2019), <https://www.bls.gov/news.release/flex2.nr0.htm>. Thanks to Miriam Hendl for the reference.

50. Alexander W. Cappelen et al., *Opinion, What Do You Owe Your Neighbor? The Pandemic Might Change Your Answer*, N.Y. TIMES (April 16, 2020), <https://www.nytimes.com/interactive/2020/04/16/opinion/coronavirus-inequality-solidarity-poll.html>; Lee Rainie & Andrew Perrin, *The State of Americans' Trust in Each Other Amid the COVID-19 Pandemic*, PEW RES. CTR. (April 6, 2020), <https://www.pewresearch.org/fact-tank/2020/04/06/the-state-of-americans-trust-in-each-other-amid-the-covid-19-pandemic/>.

August 2017 to 56 percent in June 2020. It's not known the extent to which the shared experience of a pandemic accelerated the attitudinal shift. But it mattered.⁵¹ Outside the church where George Floyd's funeral was held, Savant Moore, a Black college graduate, repeated a view he'd posted on Facebook: "It really took a global pandemic with no sports, no concerts, no vacations to get the world to sit down and have no choice but to watch what's really happening to Black people in America with zero distractions."⁵² The circle has been widened.

51. Eli Yokley, *Voters Increasingly Likely to Prioritize a Person of Color as Biden's VP Pick*, MORNING CONSULT, JUNE 10, 2020 at <https://morningconsult.com/2020/06/10/biden-running-mate-black-lives-matter-polling/>; Giovanni Russonello, *Why Most Americans Support the Protests*, NY TIMES, June 5, 2020.

52. Vivien Ho, "'He'll Change the World': George Floyd's Family Pays Emotional Tribute as Crowds Flock to Funeral," THE GUARDIAN, June 9, 2020. After the murder of George Floyd, William Spriggs, chief economist for the AFL-CIO and Howard University professor, called on the economics profession to eliminate its racial biases. Said Spriggs, "Modern economics has a deep and painful set of roots that too few economists acknowledge. The founding leadership of the American Economic Association deeply and fervently provided "scientific" succor to the American eugenicists' movement. Their concept of race and human interaction was based on the "racial" superiority of white, Anglo-Saxon Protestants. And they launched modern economics with a definition of race that fully incorporated the assumed superiority of that group and bought into [it] a notion of race as an exogenous variable." William Spriggs, *"Is Now a Teachable Moment for Economists? An Open Letter to Economists,"* n.d., at <https://www.minneapolisfed.org/people/william-spriggs>.