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**COVID, CARE, AND THE CARCERAL STATE: AMERICAN DISPOSABILITY  
POLITICS AND THE SELECTIVE WEAPONIZATION OF PUBLIC HEALTH  
GUIDELINES DURING THE COVID-19 PANDEMIC**

by

**UMA NAGARAJAN-SWENSON**

**SUBMITTED TO SCRIPPS COLLEGE IN PARTIAL FULFILLMENT OF THE  
DEGREE OF BACHELOR OF ARTS**

**PROFESSOR NANCY NEIMAN  
PROFESSOR THOMAS KIM**

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## Introduction

Just one month into the COVID-19 pandemic, Dr. Armen Henderson was arrested outside his Miami home while placing recycling on the curb for pickup. Dr. Henderson, a Black professor of medicine at the University of Miami, had been administering COVID tests to unhoused people in Miami as the pandemic began its spiral (Cetoute 2020). While the state lacked adequate resources to provide hospitals and individuals with necessary personal protective equipment (PPE), testing, and medical care, Dr. Henderson began testing unhoused populations in Miami at the onset of the pandemic, noting that they were most likely to get the virus and spread it, as well as being at higher risk of suffering from a variety of comorbidities and risk factors (Flechas 2020). He had been profiled by the *Miami Herald* just weeks before his arrest, and in this article Henderson described administering these tests—along with delivering fresh food and bringing mobile showers to unhoused people—as a clear act of “civil disobedience,” entailing community members going outside and on the streets (rather than staying inside, as was the countywide order) in order to keep the rest of the community as safe as possible (Flechas 2020).

Dr. Henderson’s story is just one of many that exemplify the American state’s response to the deadly pandemic which has, as of November 2, 2021, killed over 5 million people globally and 700,000 people in the United States of America alone (*NYT* 2021). The USA is responsible for around 15% of COVID deaths and 19% of COVID cases despite only housing about 4% of the world’s population. This disproportionate number should lend some insight into the problematic way the USA handled the pandemic.

The federal government’s early response to COVID-19 was one of denial and downplaying. In February 2020, then-President Donald Trump described COVID-19 as a

“Chinese hoax,” both stoking nativist, racist sentiments and undermining the very real threat of the novel coronavirus (Egan 2020). As the virus got worse, the federal response hardly got better: the combinations of an underfunded public health sector and an under-resourced, privatized healthcare industry left hospitals floundering for a lack of supplies to treat COVID patients (Yong 2020). The social safety net, which has been systematically dismantled over the past four decades, left millions of primarily Black and Latine<sup>1</sup> Americans with no choice other than to return to in-person work mid-pandemic and risk getting sick: an avoidable situation which led to devastatingly high sickness, hospitalization, and death rates among Black and Latine communities (Gould and Shierholz 2020).

The state did not completely ignore the pandemic though, as anyone reading this (who has presumably lived through COVID-19) would know. Initial responses included a slew of lockdown orders, mask mandates and recommendations, and business restrictions. Schools and businesses closed nationwide, but there was a noticeably absent federally coordinated response: most shutdowns were state- or county-wide, and to this day there has been no nationwide mask mandate (McCaskill 2020).

In this thesis I explore the state’s role in creating and exacerbating this crisis and how its response affected marginalized communities. I pose the question, to what extent did the US federal government’s response to the COVID-19 pandemic, especially towards historically marginalized populations, constitute an expansion or a withdrawal of the state? I primarily focus on the events that occurred and policies enacted between March 2020 (the pandemic’s onset in the USA) and December 2020. Joseph R. Biden took office in January 2021 with Democratic

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<sup>1</sup>Both “Latine” and “Latinx” are gender-neutral options to describe individuals of Latin American origin or descent. I use “Latine” because many native speakers have specified a preference for this given its more natural pronunciation. For further reading, see Benjamin Papadopolous’s “Morphological Gender Innovations in Spanish of Genderqueer Speakers” and Salvador Vidal-Ortiz’s “Latinx Thoughts: Latinidad With an X.”

control over the House of Representatives and the Senate, which had some impacts on the state's pandemic response and the policies they advocated for<sup>2</sup>. In addition, the early pandemic response largely shaped its outcome and the ongoing crisis America finds itself in (Bollyky et al. 2020).

I examine my research question through the lens of disposability politics. Though this frame is typically applied to capital, not the state, Henry Giroux has argued that a politics of disposability is openly in practice in America. This politics works in tandem with American racial capitalism to deem entire populations unworthy of aid. Giroux, whose work focuses on Hurricane Katrina, describes that the victims of that particular state-exacerbated natural disaster “laid bare the racial and class fault lines that mark... the emergence of a new kind of politic, one in which entire populations are now considered disposable, an unnecessary burden on state coffers, and consigned to fend for themselves” (Giroux 2006). This analysis applies almost seamlessly onto the pandemic we are still living through and will help frame my argument that the state expanded as an agent of surveillance, security, and incarceration but simultaneously withdrew as a provider of care, welfare, and public services. This maximized profit and state interests to maintain the dominance of the carceral state and prison- and military-industrial complexes.

### **Biopolitics, Necropolitics, and the Politics of Disposability**

Michel Foucault utilized the concept of biopolitics to describe a state retaining sovereignty over the lives and deaths of individuals. He describes that this phenomenon historically developed along startlingly asymmetrical lines: “sovereignty took life and let live. And now we have the emergence of... the power of regularization, and it, in contrast, consists in

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<sup>2</sup>I examine this further in the conclusion. Ultimately, although Biden's administration has enacted some large reforms, their dedication to policing and incarceration remains the same.

making live and letting die” (Foucault 1976, 247). Foucault emphasizes the power of the state to “let live” contrasted with their current tendency to “let die.” The phenomenon of biopolitical regularization, or state complicity and active participation in the normalization and “disqualification” of death, is discussed at length by Giroux with the example of Hurricane Katrina. Giroux uses it to frame the racialized poor in New Orleans: “Katrina... made visible many of the social mechanisms that render some populations disposable, spatially fixed, and caught in a liminal space of uncertainty that not only limits choices but prioritizes for some groups the power of death over life itself” (Giroux 2006, 30). This power is inextricable from the criminalization and demonization of the racialized poor in recent decades and neoliberal administrations’—from Reagan to Bush—subsequent gutting of the welfare state. Giroux argues that any contemporary definition of biopolitics must include the notion that the state now privileges some lives over others.

In the 21st century context of global capitalism, biopolitical sovereignty is inextricable from disposability. This concept has been gaining prominence recently among radical scholarship centering biopolitics, incarceration, and neoliberalism. Individuals who are no longer seen as useful to capitalism are rendered disposable; that is, primarily poor Black and brown people and workers in the global South are treated as a burden and their lives become subject to the state’s will. Under a system of neoliberal globalization, “the category ‘waste’ includes no longer simply material goods but also human beings, particularly those rendered redundant in the new global economy—that is, those who are no longer capable of making a living, who are unable to consume goods, and who depend on others for the most basic needs” (Giroux 2006, 27). The only response to this phenomenon has been a shoring up of carceral systems in the imperial core: military, police, and prisons.

Military responses ensure that imperial strongholds, such as the USA, can retain their hegemony and strong borders, keeping unwanted and undesired populations out. The threat of US military might alone settles international conflicts and asserts American global dominance. The USA has been in a continuous state of war since 2001 and utilizes this as both a profitable industry and “as a metaphor to define and criminalize those populations rendered as racialized others—whether they are Blacks, Latinos, immigrants, Muslims, or Arabs” (Giroux 2006, 62). Police and prison responses assert domestic state dominance in the face of a shrinking safety net. They ensure that in response to ever-growing poverty among especially the racialized poor (which has many turning to an underground economy), the solution is a profitable and power-maintaining system of incarceration.

The profit complexes of such systems strongly incentivize the systematic devaluing of life. A system of biopolitical sovereignty justifies the state’s capacity to assert power over bodily function. In “Necropolitics,” Achille Mbembe and Libby Meintjes expand on Foucault’s biopolitics framework, arguing that this concept is insufficient in the contemporary world to describe the situation of people suffering under late-modern colonial regimes. They argue that necropower and necropolitics uniquely account for “contemporary forms of subjugation of life to the power of death” (Mbembe and Meintjes 2003, 38-9). Additionally, necropolitics centers “new and unique forms of social existence in which vast populations are subjected to conditions of life conferring upon them the status of living dead” (Mbembe and Meintjes 2003, 39).

Giroux finds that the response to Hurricane Katrina by the Bush administration placed this status upon the racialized poor, essentially proving that they were already the living dead. All it took was a crisis to demonstrate it. The state, though not actively killing poor, primarily Black people, did not hesitate to “subjugate life to the power of death,” (in other words, let

people die through lack of action) in a situation where mass death was a threat. This became the case on a mass scale during the COVID-19 pandemic.

The state expanded its carceral capacity, specifically in surveilling Black people and policing social uprisings, with the justification of pandemic safety. It is already impossible to separate the prison from the concept of disposability, and this was placed into stark view during the pandemic. All those incarcerated were functionally left to die inside prison walls as the pandemic ravaged prisons nationwide. As Angela Davis describes, “the prison has become a black hole into which the detritus of contemporary capitalism is deposited” (Davis 2003, 16). When examining the “detritus of contemporary capitalism,” one can see the racial and class lines along which that is decided: who is disposable? In the following sections, I examine how the state expanded its surveillance and policing capacities to target Black and Brown poor people during the pandemic while simultaneously letting them die due to a systematic lack of welfare policies and unequal enforcement of health and safety protocols.

## **State Expansion During COVID-19**

### **Surveillance**

Police, as an arm of the state, disproportionately enforced mask mandates and COVID restrictions in Black and Brown communities during the pandemic, using it to expand the scope of their surveillance and the scale of policing in already over-policed communities (Bates 2020; Kaplan and Hardy 2020). A ProPublica report in May 2020 showed that Black people were four times more likely to be arrested for stay-at-home violations in Ohio’s three most populous jurisdictions than white counterparts (Kaplan and Hardy 2020). In Toledo, Ohio, a 19-year-old young Black man was arrested for taking the bus “without valid reason,” and six more were

arrested for simply sitting outdoors while Black (Kaplan and Hardy 2020). The pandemic was used to criminalize Black existence to an even more extreme extent than the prior norm: it could now be legally justified with “social distancing.”

This was not unique to Ohio: in New York City, 304 of 374 summons for violating pandemic guidelines during the pandemic’s first six weeks were given to Black and Hispanic individuals, and 92% of social distancing violation arrests were of Black and Hispanic people (68% and 24%, respectively) (Bates 2020). More than 1/3 of all arrests were made in the predominantly Black neighborhood of Brownsville, while none were made in predominantly white Park Slope (Southall 2020). In Chicago, all arrests were made in the predominantly Black and Brown South and West Side neighborhoods and 77% of those arrested were Black (Evans and Bauer 2020). The police expanded their surveillance strategies on the West Side, when they stationed officers on four city blocks to check IDs and ensure the only people accessing these streets were residents, which was argued to be a violation of constitutional rights (Sabino 2020). Meanwhile, people on the North Side and masses congregating in Millennium Park—both majority white areas—went completely ignored by the police (Evans and Bauer 2020; “Overview” n.d.). These examples point to a national trend backed by historical and current data. In previous public health crises, a criminal response unfairly impacting Black and Brown communities has been utilized. This was the case for the HIV epidemic: in the 1980s, laws criminalizing HIV positivity became commonplace. They are still on the books in 35 US states and are disproportionately enforced on Black communities. In many states with such laws, including California, Florida, Georgia, Virginia, Missouri, Nevada, and Ohio, Black people make up disproportionately high numbers of those arrested for and convicted of HIV-related “crimes” (Cann et al. 2019; “HIV” 2019). This was the case for venereal diseases in 1940s New York and

yellow fever in the Antebellum South (Dunbar and Jones 2020). American history parallels the above patterns of COVID-19 law enforcement: based on centuries of systemic racism ascribing Black people “criminal” statuses and devaluing their health in favor of carceral responses, police used the pandemic as a justification to surveil Black communities.

Their actions enforcing pandemic guidelines constituted an expansion of the state’s carceral capabilities and its ability to act as an agent of incarceration, violence, and policing. Under the guise of pandemic safety, police could keep a close eye on Black communities. However, its ongoing lack of efficacy points to how the rampant framework of disposability informed pandemic responses. In New York, the above arrest and surveillance disparities paired with the devastating first wave of the pandemic there suggest how over policing was never intended to work for the safety of marginalized communities. By April 2020, just one month in, the virus was already twice as deadly for Black and Latine people than for whites (Mays and Newman 2020). While Black and Latine people were being hyper-policed and surveilled, they were simultaneously dying at disproportionately high rates. According to the CDC as of November 2021, Black and Latine people are presently both 2.8x more likely to be hospitalized from COVID and 2.0x and 2.3x more likely to die from it, respectively. The true needs of people and communities for material safety went unmet. The state let COVID devastate marginalized communities, despite the claim that surveillance and policing were for their collective safety and well-being.

The state notably used wartime rhetoric to justify this strategy. Rather than framing COVID-19 as a humanitarian crisis, which would entail a welfare response, state actors were quick to frame COVID as a military crisis, thus justifying a police response. As early as March 18, 2020, then-President Trump claimed that COVID-19 was “worse than Pearl Harbor” and

declared himself to be a wartime president (ignoring, of course, that the United States has been in a state of perpetual war since 2001) (Trump 2020). The notion of the pandemic as a war was bipartisan, with Democratic presidential hopefuls Bernie Sanders and Joe Biden both framing it as such in speeches and in the first presidential debate (Cancryn 2020; “Democratic” 2020). This widely accepted rhetoric served a clear purpose: it justified a militaristic response to the pandemic. The tactics used in wars abroad, including espionage, violence, and imprisonment, were paralleled at home with surveillance, police brutality, and incarceration. America’s militarized police force was put to use battling the “war on COVID,” one which ended up being waged against the Black and Brown poor.

### Policing Social Unrest

The state used the pandemic as a justification to repress and subdue uprisings in the summer of 2020 that called for the shrinking of the carceral state. After the filmed murder of George Floyd by former police officer Derek Chauvin on May 25, 2020, protests erupted across the United States. They began in Minneapolis, MN on May 26th. The following day, there were protests in Los Angeles, Memphis, and St. Louis. The protests rapidly grew in size nationwide, and by May 28th, the national guard was mobilized in Minnesota. On May 29th, Derek Chauvin was arrested and charged, but the protests didn’t stop there. Floyd’s murder is widely attributed to be the trigger for this wave of uprisings, but they became about much more than that: as one protester in Memphis said, "I came out here to be supportive, because this is bigger than one person. This is about more than a list of hashtags that shouldn't even exist" (Kennedy et al. 2020). They were about more than this solitary instance of police murder, but rather about the frequent pattern of police violence against Black people. It widely became known as the “Black

Lives Matter Movement,” with the New York Times noting that it was the largest movement in human history (Buchanan et al. 2020).

These protests were largely grassroots, but there were several common themes and demands. They started with the clear assertion that “Black Lives Matter” (BLM), a phrase that gained momentum in 2014 after the police murder of Mike Brown and the 2013 acquittal of Trayvon Martin’s murderer<sup>3</sup>. In 2020, this phrase quickly worked its way into the mainstream: suddenly, it was on the homepage of Amazon, Google, and more, despite these companies’ ties to policing and to carceral institutions such as US Immigrations and Custom Enforcement (ICE) (Paul 2020). It was clear, though, that these protests were getting attention and gaining momentum. Congressional Democrats even showed up to session on June 8th wearing Kente cloth stoles— similarly seen as a performative act (Lee 2020). All of these actions were attempts at state co-optation and appeasement, as a key demand of the protests was to divest from and defund the police.

June 6th, 2020 was the largest recorded day of protest in American history: between 15 and 26 million people participated in these protests nationwide, and that was during a pandemic (Buchanan et al. 2020). The pandemic is exactly how the state defended its expansion of violent and coercive power amid calls to do just the opposite. Nationwide protests threatening the violent status quo were met with brutality from heavily militarized police in riot gear. This suppression was justified with the excuse that large gatherings were unsafe, as curfew orders from large cities demonstrate. New York City’s curfew order includes,

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<sup>3</sup> Some preferred the phrase “All Black Lives Matter” to center queer, disabled, and gender-marginalized Black folks, who are disproportionately targeted by police and affected by carceral systems (see *Invisible No More* by Andrea J Ritchie). This caused some controversy last summer (see Noname’s discussion with Boots Riley on Haymarket), but it’s been a key tenet of the Black Lives Matter organizational paradigm since its founding.

**WHEREAS** large gatherings increase the potential for spread of the virus...  
**WHEREAS**, the violent acts have been happening primarily during the hours of darkness, and it is especially difficult to preserve public safety during such hours;  
**WHEREAS**, the imposition of a curfew is necessary to protect the City and its residents from severe endangerment and harm to their health, safety and property;

and subsequently declares an 8pm-5am curfew, deeming any violation of it a Class B misdemeanor, punishable by three months of imprisonment and a \$500 fine.

Chicago and Philadelphia, among others, include similar rhetoric in their curfew orders. The state used the pandemic to justify expanding police powers, as they could now legally arrest people simply for being outside at the wrong time. First amendment protections forgotten, police made these arrests: the New York Times estimated that in New York City, over 2,000 people were arrested for curfew violations (Watkins 2020). More than 2,500 individuals were arrested for curfew and related violations in Los Angeles and over 2,000 were arrested in Chicago (Ho 2020; Misra 2020). In Chicago, nearly 80% of those arrested were Black, despite just 32% of people living in Chicago being Black and these protests being the most diverse in American history (Fisher 2020). There are reported instances of Los Angeles police officers stopping and arresting essential workers unrelated to the protests as a tactic to maintain control, justifying these with the curfew orders (even though the orders intentionally exempted essential workers) (Soren 2020). The state's rhetoric encouraged police violence, claiming militaristic brutality against unarmed protestors was in the name of public safety. Studies researched after the protests have shown that the summer's protests were not a significant source of new COVID cases or COVID transmission: protestors wore masks and stayed outside, two key steps to reducing viral spread (Ramjug 2020). Contrarily, arrests from curfew violations and protests led to a spike in cases at a jail in Chicago, which translated into a statewide increase as people were released while COVID-positive (Reinhart et al. 2020).

The White House's lackluster early COVID response spotlighted the federal government's practice of disposability politics for their own interests: Trump has admitted to initially downplaying the threat of COVID-19, not even to mention the lack of PPE and financial aid that the federal government sent to overburdened state and local hospitals (Keith 2020; Jacobs et al. 2020). The state weaponized public health for their own benefit, using COVID as an excuse to shut down protests that threatened the violently anti-Black, carceral status quo when it was clear they did not care about public health whatsoever.

The use of tear gas in protests clearly demonstrates the state's view of protestors as disposable. The reasons for this are twofold. First, tear gas can create permanent respiratory damage. Studies conducted by the US Army and with civilians in Turkey both found that exposure to tear gas causes acute respiratory infections, including chronic bronchitis, pneumonia, and asthma (Hout et al. 2014; Arbak et al. 2014). All of these are comorbidities and extreme risk factors for COVID-19, increasing one's risk of severe illness or death from the virus. Second, the physical effects of tear gas increased the likelihood of COVID spread. Tear gas depletes humans' antiviral defenses, our only defense mechanism against COVID (especially before we had access to a vaccine). It also causes coughing and sneezing, actions which spread high loads of viral particles through the air: enough to easily infect masses of people (Stone 2020). An open letter signed by nearly 1,300 physicians and public health experts, as well as the UC Berkeley School of Public Health and the UCSF School of Medicine, outlined similar points, writing that tear gas makes the "respiratory tract more susceptible to infection" ("Open" 2020). The police's use of tear gas did nothing but worsen the pandemic, despite its stated purpose to disperse the protests and enforce the curfews, which were allegedly to enforce pandemic safety. If any of these

actions had been about pandemic safety, however, the police's actions would not have been so clearly placing people at risk for COVID, illness, and death.

During the wave of protests in the Summer of 2020, the state expanded their politics of disposability to encompass anyone who was participating in the protests. It became clear, as demonstrated above, that they would do whatever was necessary to retain their monopoly on violence and undermine individual and communal demands to lessen this violence. This centered Blackness (as is typically the case when examining disposability and policing) as the protests were about police violence against Black people. The protests were some of the most diverse of all time: according to a Brookings study, 54% of all participants were white, a record-breaking number in protests for racial justice. Still, however, the state pulled out their most repressive tactics (at the cost of human life and well-being) to ensure that real change did not occur: in many cities, police budgets stayed the same or shrank by minuscule amounts, and in many cities where police were defunded, their budgets were later restored (Elinson et al. 2021). Even though a majority of Americans polled supported shifting some amount of funding from police, most changes that occurred for short-term appeasement were performative. The police have not been defunded in the vast majority of American cities (Zhou 2021). Rather than listen to what people nationwide were demanding, the state exercised their power to quash these protests, demonstrating just how disposable they viewed Black lives to be.

This reflects Giroux's analysis of disposability politics: "Having fallen through the large rents in America's social safety nets, [the racialized poor] reflect a governmental agenda bent on attacking the poor rather than attacking poverty" (Giroux 2006, 24). In the case of the pandemic, Black and Latine individuals were dying at higher rates than any other demographic, despite all the state's claims that expansion of their carceral capacities was for their well-being. While

Black and Latine people were being hyper-surveilled and arrested because of “COVID safety,” the state left them unprotected from the virus. The violent response to these protests, in contrast with predominantly white anti-mask protests, demonstrates the way this played out. Black people were ascribed a criminal identity, whereas white anti-maskers were treated as purely “political.” A closer examination into the anti-mask protests will demonstrate this phenomenon.

## **State Withdrawal During COVID-19**

### **Politicization of Masking and Anti-Mask Protests**

The state’s hesitance to provide welfare and favorable treatment of “some over others” was highly apparent in the rhetoric and occurrence of anti-mask protests, especially in contrast to the uprisings for racial justice (Giroux 2006). While their carceral arm grew in response to the protests for Black lives, it was virtually unused in response to anti-mask protests which violently advocated against pandemic safety. Masks are a scientifically proven strategy to combat the pandemic at little personal or physical cost: models predicted that a universal mask mandate in the US would have saved 125,000 lives between September 2020 and February 2021 (Reiner et al., 2020). However, politicized opposition due to the widespread lens of disposability made this impossible. Anti-mask protests grew to be a regular part of the pandemic. Primarily composed of white people and occurring nationwide, the causes of and responses to these protests are a case study demonstrating the state’s twisted priorities and the way they used the pandemic to politicize lifesaving measures, functionally ensuring the withdrawal of many state systems of care. Such protests exemplified the necropolitical state’s and individuals’ views of Black, Latine, and Indigenous people to be disposable; as “anti-maskers espouse rhetoric that performs a dangerous social calculus of who may be sacrificed so that they may return to a sense of

normalcy without masks, without restrictions, and without safety concessions” (Grunawalt 2020).

Policies around masking and anti-masking came to be a focal point of the COVID-19 pandemic. These were highly stratified along party lines from the start of the pandemic: even in mid-March 2020, 76% of Democrats believed that COVID-19 constituted “a real threat” as opposed to just 40% of Republicans (Allyn and Sprunt 2020). Republicans framed the debate about masks to be about individual liberties and freedoms. Texas governor Greg Abbott (R) stated that he “want[ed] to make sure that individual liberty is not infringed upon by government and hence government cannot require individuals to wear a mask,” in a June 2020 press conference (Hellmann 2020a). Alaska, Arizona, Florida, Georgia, Idaho, Missouri, Nebraska, Oklahoma, South Carolina, and South Dakota, all led by Republicans, were guided by similar rhetoric: even though in the majority of these states, individual counties, cities, or businesses could institute mask requirements, the governor refused to institute a statewide mandate. In July 2020, Georgia Governor Brian Kemp (R) overruled all mask mandates in the state and prohibited local municipalities from enacting new ones, an extreme case of state withdrawal (Klar 2020). This wasn’t the case for Democrat-ruled states, which generally kept mask mandates in place until case rates were stable or lower (Hellmann 2020a). In June 2020, a Pew Research Center study found that while the majority of both Republican- and Democrat-leaning individuals were wearing masks, just 53% of Republicans were wearing masks most or all of the time, compared to 76% of Democrats (Igielnik 2020).

Republican government leadership and the US federal government’s failure to create a unified state response to the COVID-19 pandemic as a whole are directly responsible for the politicization of mask wearing which led to anti-mask protests. On the 2020 presidential

campaign trail, then-President Trump refused to wear a mask for nearly all of his events and massive rallies and turned it into an attack strategy against opponent Joe Biden (D), effectively unifying his supporters in not wearing masks (Roberts 2020). The following Winter ended up being America's worst surge of the virus yet. Far-Right Senator Ted Cruz called a fellow Senator a "complete ass" on Twitter for asking him to put on a mask in November 2020, even following Trump's COVID-19 diagnosis (Hellmann 2020b). At first, the virus was a hoax from China according to Trump, and then (when it became clear that the virus was, in fact, real and China couldn't be scapegoated) masks were an infringement of civil liberties (Egan 2020). A politics of disposability was practiced and preached at the highest levels of government from the start of the pandemic, setting the precedent for Trump and Republican Party supporters to act as they did.

Anti-mask protests became a common phenomenon during the pandemic. Jordan Grunawalt examined the rhetoric used by protestors, arguing that they exemplified a necropolitical ideology of disposability which deemed certain lives sacrificable: a sign at one protest read "Sacrifice the weak. Reopen TN," as others had statements along the lines of "Give me liberty or give me COVID-19" (Grunawalt 2020). This rhetoric created a (false) dichotomy between maskers and anti-maskers; or those who are "weak," believing in the virus, and those who are "strong" and possess the mental and physical fortitude to simply get it and recover. To anti-mask protestors, a return to normalcy was worth the deaths of primarily Black and Brown individuals (at the time of Grunawalt's paper, the death count in America was 558,000). A study based on the COVID impact survey during the first three months of the pandemic found that White people (especially men) were the least likely to report wearing masks (Hearne and Niño 2021). Protestors frequently carried guns and shouted racist slogans, referring to COVID-19 as the "Kung Flu" and furthering racist stereotypes of East Asians which ran rampant (DeBrabander

2020; Grunawalt 2021). While during the pandemic, Black people were fighting for the right to live, white people were explicitly fighting for the right to kill.

Mbembe's analysis of survival in wartime helps to explain the self-satisfied rhetoric present at these protests. As he describes,

“The survivor is the one who, having stood in the path of death, knowing of many deaths and standing in the midst of the fallen, is still alive. Or, more precisely, the survivor is the one who has taken on a whole pack of enemies and managed not only to escape alive, but to kill his or her attackers... in the logic of survival one's horror at the sight of death turns into satisfaction that it is someone else who is dead” (Mbembe and Meintjes 2003, 36).

In the case of COVID, we can frame the virus as the faceless “attacker” and an anti-masker as “the survivor.” As death raged on around them and COVID-19 claimed life after life, individuals who weren't infected or killed by this virus almost inevitably saw it as a personal success. Trump's infection and recovery arc certainly pushed this “individual survivor” narrative, which under Mbembe's logic, inevitably places the survivor at odds with the victim. This rhetoric, combined with the fact that a disproportionate number of deaths were Black and Latine, ideologically reinforced white supremacy and its eugenicist underpinnings.

Not only did the protests themselves exemplify views of disposability, but the state responses validated their existence and demonstrated the state's practice of necropolitics based on disposability. Their withdrawal of pandemic restrictions as a response to anti-mask protests, and their lack of police response in contrast to the past Summer's protests for Black lives, demonstrates the state's interest in profitability and disregard for lives lost, specifically Black lives. Even when anti-mask protests in states like California turned violent, there were no arrests or injuries (Stanton 2020). Although Los Angeles Mayor Eric Garcetti said anti-mask protesters would be arrested starting in January 2021 after a group of anti-maskers descended on a mall and harassed customers and employees, no arrests were made (“Anti-Mask” 2021). Vox compared

images from anti-mask protests and Black Lives Matter protests, showing several pictures of armed, majority-white crowds storming capitol buildings or threatening lawmakers with no legal repercussions or violent police response (Zhou and Amaria 2020). To be clear, I am not advocating for carceral solutions or arresting protestors. Rather, I'm pointing out the drastically different responses to these two protest situations. During the Summer 2020 uprisings for racial justice in Los Angeles, hundreds of protestors would be arrested in a single night simply for being out past 8pm. White anti-maskers were actively putting others' lives at risk during the peak of the pandemic, though, and they just got warnings (if that). The state selectively weaponized public health interests, subjecting the racialized poor to their necropolitical regime and maintaining the carceral status quo. The public pressure from these protests also played into the push to reopen the economy faster, promoting a premature resumption of "normal" life at the expense of the working class.

### Treatment of the Working Class

The state's treatment of the working class highlights the gaping holes in the social security net, specifically demonstrating where the state withdrew as a provider of care. This was most apparent both in the lack of Medicare expansion and in the way they actively encouraged people to go back to work in the middle of a deadly pandemic rather than sufficiently expanding welfare, essentially encouraging them to die for the economy's well-being.

Within six weeks of the pandemic's onset, 20.6 million individuals had lost their jobs, resulting in a 14.7% unemployment rate (Soucheray 2020). Although these numbers were expected to recede after the economy had reopened, the virus's persistence made a full reopening near impossible. People were either forced to go back to work in unsafe conditions, or they were

still unemployed. By November 2020, although the official unemployment rate was 6.7%, over 25 million workers had still had hours cut, dropped out of the labor force, or were unemployed due to the pandemic (Shierholz 2020). This had devastating impacts on Americans' health insurance statuses: nearly half of Americans had insurance plans tied to employment, often reliant on the number of hours worked (or having a job at all) ("Health" 2019). As mentioned above, Black and Latine adults are overrepresented in the uninsured, even uncovered by Medicaid and other state programs. Uninsured adults are also disproportionately low-income (Berchick 2017). Right before the pandemic, nearly 87 million Americans were under- or uninsured, and nearly one in three COVID deaths and 40% of COVID infections were tied to gaps in insurance (Dorn and Gordon 2021). According to that same study, every ten percent of the population that was uninsured in any county corresponded to a 70% increase in COVID-19 cases and a 48% increase in COVID-19 related deaths. On the state level, there was no healthcare reform. The state's level of responsibility to provide healthcare is a contentious topic. However, in a deadly pandemic, in order to ensure the ongoing inalienable right to "life," as is promised in the founding document of this country (see the Declaration of Independence, 1776), it is the state's imperative to do anything in its power to save lives, which providing healthcare access would do (Dorn and Gordon 2021). The welfare policies that the state did enact, such as the CARES Act of 2020, were always intended to be temporary. The state's opposition to any structural reform demonstrates their resistance to materially support the part of the population viewed as disposable.

The treatment of essential workers was a key component of the state's intentional negligence. First, it is critical to note that the majority of workers in industries deemed "essential," or those whose work is critical to ensure the state's smooth functioning, were Black

and Latine (Lancet 2020). According to the CDC, these industries and workplaces include healthcare and public health, grocery stores, manufacturing, education, food and agriculture, the USPS, meatpacking, and first responders. A study from November 2020 found that nearly 74 million essential workers were at high risk for contracting COVID-19, and over  $\frac{3}{4}$  of them were unable to work from home (Reinberg 2020). These numbers were deeply stratified by race, with over  $\frac{4}{5}$  of Black workers and over  $\frac{5}{6}$  of Latine workers still needing to work in person throughout the pandemic (Gould and Shierholz 2020). The uneven toll on workers was reflected in actual numbers of COVID infections and deaths: a UC Merced study showed that in California, essential workers made up 87% of COVID deaths within the first ten months of the pandemic, with warehousing, agriculture, and bars being the most deadly sectors. The racialized nature of this is deeply apparent, with national hospitalization rates for Black and Hispanic people specifically being 2.8 times higher than white people and death rates hovering around 2 times higher, according to the CDC.

There's a deadly irony here, which lies in the very nature of American "essential work". While these workers have been termed "essential" for the economy, they were simultaneously treated as disposable. As evidenced by the above numbers, they were essentially left to die. This exemplifies the logic of American capitalism: people are only as useful as the profit and labor that can be extracted from them. There is no inherent value to life in this system, especially not Black and Latine life, from whom "surplus" labor has historically been extracted and then disposed of. Although their labor was seen as essential, the people were not. In order to protect the lives and health of all Americans, the state could've simply sent robust stimulus checks and allowed workers—other than those in truly essential industries—to stay at home until the virus was completely under control (Lipson et al. 2020). However, neoliberal biopolitics "inscribes

into its power relations the logic of redundancy and disposability in order to eliminate all vestiges of the social contract, the welfare state, and any other public sphere not governed by the logic of profit or amenable to the imperatives of consumerism” (Giroux 2006, 28). In this case, as in every other neoliberal regime that embraces disposability, the economic costs of saving lives apparently outweighed the lives themselves, so people were allowed to die for the economy.

Even non-essential work was considered critical to the functioning of America (and American racial capitalism), more so than protecting people and communities from illness and death. During all stages of the pandemic, there was a consistent desire to reopen the economy (as was described in the last section) (Thomson-DeVeux and Cox 2020). This led, at one point, to the reopening of the economy- in California, working at a bar was the third-deadliest job during the pandemic. Bars are not essential, and they did not need to be open. However, they (along with restaurants, nightclubs, etc.) helped the American profit machine keep moving at hyperspeed, and the workers who died were deemed replaceable.

The above case reflects truth in Giroux’s analysis of the contemporary neoliberal state: “As the nation-state was transformed into the market state, it became clear that the role of the state was to generate financial rewards and privileges, while the welfare of those marginalized by race and class was now viewed with criminal contempt” (Giroux 2006, 47). The protection of workers was hardly considered as economic growth was prioritized above all else. The working class was rendered redundant and disposable during the pandemic, especially during times when they were unable to work. The state’s immediate response to prioritize the economy over the lives of the racialized poor demonstrates a commitment to criminalize these individuals and

communities, a response which has been used to justify decades of mass incarceration and inhumane treatment inside prisons (Giroux 2006; Alexander 2010).

### Treatment of Incarcerated People

The state's treatment of systems-impacted individuals, specifically incarcerated people, demonstrated a massive withdrawal of the state's welfare capacities. I use "systems-impacted" here to describe individuals who are directly impacted by prisons and policing, including those who have been arrested or incarcerated without conviction. Prisons and jails are a vector for transmission given the high turnover rates and increased comorbidity rates, along with the inability to distance and general lack of hygienic measures (Kinner et al. 2020). A model published by the ACLU and university researchers found that a lack of reduction in jail populations during 2020 would be responsible for 100,000 deaths ("COVID-19" 2020). Another team of researchers found that 15.7% of all cases in Illinois could be traced back to a single Chicago jail: the very jail that protestors arrested for violating curfew were held at (Reinhart et al. 2020). As the carceral state was expanding, those who were completely under its rule—incarcerated individuals—were treated as disposable to an extent never seen before in America.

Examining the racialized history of America's incarceration system helps to explain the phenomenon of disposability in prisons as we currently see it and as it was practiced during the pandemic. Although the original American penitentiary was not designed to replace the system of slavery, it functionally became that. The Southern "Black Codes" instituted following slavery's abolition ensured an easy way to criminalize Blackness and functionally allow slave labor to continue (Davis 2000). Similarly to the dehumanization of incarcerated people, slaves were systematically and consistently dehumanized, as Angela Davis states: "Slaves were not

accorded the social status of individuals. If they were granted individuality at all, it was corporal in nature, defined by their value on the market, their laboring potential, and the punishment they received " (Davis 2000, 66). The same analysis can be followed through to today: incarcerated people (who are disproportionately Black) are not accorded the social status of individuals. They are purely defined by their criminality and subsequent potential to create profit inside a carceral facility, be that a prison, jail, or detention center. This framework gives no inherent value to human life, especially Black life.

The state exhibited their clearest disregard for life and the most glaring practice of disposability in carceral facilities. At the beginning of the pandemic, there was a large push to un-crowd US state and federal prisons and local jails, which led to an overall 14% population drop between 2019 and early 2020. However, by late 2020, the jail population had gone back up by 10% (Kang-Brown et al. 2021). These numbers also varied by location: rural areas had more dramatic declines and smaller rates of subsequent growth, while jails and prisons in more urban areas, which were more likely to be hard-hit by COVID-19, shrank less and grew back stronger. Even in March 2020, experts were calling for mass decarceration. A Prison Policy Initiative article references a report written by formerly incarcerated Indiana citizens and experts who worked in their prison, which suggested a minimum 21% decrease in the Indiana prison population. It describes quarantine sites for those released, so as to ensure that upon re-entry, the virus wouldn't be spread, and it includes stipulations about PPE and cleanliness standards for prisons.

None of those suggestions were taken seriously, leading to dire and devastating impacts. According to data collected by the Marshall Project and the Associated Press, approximately 3 in 10 people in state and federal prisons contracted COVID-19 over the course of the pandemic.

That number is agreed to be a dramatic undercount given a lack of testing. Between April 2020 and April 2021, incarcerated people had a case rate of 30,780 per 100,000 people, compared to the national case rate of 9,350: an incidence rate 3.3 times higher. At its peak in December, there was a 5.5 times higher rate of COVID inside of prisons compared to the rest of the US (Marquez et al. 2021). In Florida, the life expectancy for incarcerated people decreased by four years due to COVID, compared to the national life expectancy decrease of one year (Widra 2021). Some facilities intentionally stopped testing for COVID: they would simply assume symptomatic individuals were infected and asymptomatic individuals weren't (Park et al. 2021). Once incarcerated people did test positive, they were rarely given access to medical care or treatment. Rather, they were placed into solitary confinement, utilized as a form of torture in the contemporary prison system (Corradini et al. 2013). Prison officials transferred people with confirmed positive cases to different prisons, as well, which spread the virus freely between facilities (Park et al. 2021).

Immigration and Customs Enforcement Detention Centers were even worse epicenters of the pandemic. A large part of this can be theoretically attributed to detainees' existence on multiple axes of oppression which render them disposable. As migrants from the Global South, primarily Mexico and Central America, undocumented migrants and asylum-seekers are inherently racialized upon entry into this country. After attempting to enter "illegally," their identities are inherently ascribed with criminality. The carceral mentality and system in America functions such that once someone is deemed to be "criminal," that is part of their identity forever. After a felony conviction, one is unable to travel internationally, attend most colleges, apply for most jobs, or access most welfare programs. Individuals designated to be "criminal" are treated as disposable upon release from prison (or ICE detention centers, in this case).

Undocumented immigrants are also grouped and profiled as a highly redundant representation of surplus labor from the global South. They are primarily fleeing violence and poverty as a result of economic unrest, a huge amount of which stems from the impacts of global capitalism (“The World’s” 2020). The labor of undocumented people in the United States is deeply undervalued, and during the pandemic millions of undocumented workers were on the front lines as essential workers (Montecinos 2020).

The perceived disposability of migrants compounded onto the perceived disposability of incarcerated people to make ICE detention centers one of the worst sites of the virus. A study released in January 2021 found that deaths in ICE custody increased sevenfold from April 2018, despite fewer people being in custody, with 72% of all deaths being attributed to COVID-19 (Hopper 2020). ICE also participated in inter-facility transfers, hugely contributing to community spread: one study found that over 1,200 cases in El Paso could be attributed to an ICE detention facility (Hooks and Libal 2020). There have been a total 29,892 cases reported in ICE detention centers nationwide, according to ICE’s website tracker. However, those numbers are also drastically undercounted: migrants reported being placed into solitary confinement for asking for COVID tests at one facility in Alabama, and those at another facility in Minnesota reported they couldn’t access any tests whatsoever (Donnelly-deRoven 2020; Peters 2020).

This horrifying treatment in all carceral facilities, from jails to prisons to ICE detention centers, exemplifies the state’s practice of disposability politics. It is in the very definition of incarceration that the state takes complete control over an individual’s body and therefore has an obligation to it. Incarceration is a unique microcosm of both state withdrawal and expansion, as we saw the state expanding its carceral powers while reducing the care given to individuals inside their facilities and under their power. The state was demonstrably negligent and complicit

in thousands of illnesses and deaths under their direct purview. The people existing within prison walls were not seen as worth saving: their lives had already been made disposable.

As cases and deaths increased directly under the state's watch, prison almost began to look like a death sentence. It is already estimated that incarceration decreases one's life expectancy by two years for every year incarcerated (Patterson 2013). Imprisonment is a form of slow violence, subjugating incarcerated people to long-term trauma and an inability to recreate a life outside of prison<sup>4</sup> (Nixon 2011). During the pandemic, however, the violence was no longer "slow." The emergence and effects of a deadly virus allowed the US carceral state to take casualties with a speed never before seen. This was exacerbated by prison guards, many of whom were stringently against protective measures like masks and (later on) vaccines: an estimated 48% of prison guards have received at least one shot, and there are dozens, if not hundreds, of documented cases of prison officials refusing to comply with or vocally opposing mask mandates. Prison guard mask mandates have had little to no effect on curbing transmission or case rates, indicating noncompliance and lack of enforcement (Wallace et al. 2020). The actual lives of those rendered disposable were worth so little to officers and guards that they refused to adopt even basic protections, leading to the devastatingly high death and case rates we still see. They did not enforce or attempt to create any of the social distancing restrictions, mask mandates, or other protective measures that were enforced on the outside. The treatment of incarcerated people during the pandemic was tantamount to the state killing them<sup>5</sup>.

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<sup>4</sup> This is not to discount the immediate violence enacted upon incarcerated people, often taking forms such as harassment and violence from guards, being held against one's will, solitary confinement, and more. Prisons are inherently violent, and that takes many forms.

<sup>5</sup> On November 18, 2021, a judge ruled that the California Department of Corrections and Rehabilitation's (CDCR's) actions at the San Quentin prison in August 2020, which had one of the largest outbreaks of anywhere in the country, constituted "cruel and unusual punishment"

## **Conclusion**

The American COVID-19 pandemic response was a clear example of a state “subjugat[ing] life to the power of death,” taking full advantage of its necropolitical power to justify hundreds of thousands of deaths (Mbembe and Mentjes 2003, 38-39). Millions of Americans fell ill, hundreds of thousands died, and virtually all experienced trauma, grief, and loss in some form (and still are: the pandemic rages on to this day). People were falling through the gaping holes in the social safety net, even more so than before the pandemic due to the higher rates of poverty and generalized suffering. Cries for help, even in the form of the largest protests the USA has ever seen, were ignored or co-opted. The state utilized its historical practice of disposability politics throughout the pandemic by denying the racialized poor sufficient aid to survive while simultaneously criminalizing and surveilling them. It had a carceral response, rather than a social one. This serves one key function: to maximize profit. The profit incentives to expand the carceral state at every juncture are unquestionably tempting. For example, one can turn a formerly "redundant" individual into one which can now be put to work for meager wages, now adding value to the economy (and the Prison-Industrial Complex) at little cost to state resources. When looking at the question of whether to provide healthcare, which would cost billions of dollars to provide Americans at a large scale, or scale up prisons, which create profit and provide the state an ultimately beneficial level of social control, the economical choice was obvious. This state prioritizes economic well-being above the lives of the racialized poor, and their pandemic response threw that into stark view.

It is easy to solely blame this on the Trump administration and Republican Party leadership. Their actions and words were surely responsible for a huge amount of the damage incurred upon marginalized communities of all sorts. Having this president, one who has openly

been racist in both rhetoric and action, under a pandemic created a perfect storm (McElwee and Daniel 2016). Prior to COVID-19's onset, the Trump administration had slashed the budget or reduced staffing in key public health agencies, getting rid of the global health "czar," as well as disbanding the global health security team within the National Security Council. These positions and offices would've been responsible for coordinating a cohesive federal pandemic containment strategy (Morris 2020).

The state's practice of disposability politics towards marginalized communities has deep, decidedly nonpartisan roots. It's reflected in the (Republican) Reagan administration's response to the AIDS crisis in the 1980s, a disease which was almost certainly fatal at the time and primarily infected gay men. By 1989, it had claimed at least 89,000 lives, though specific data is nearly impossible to come by (due to the Reagan administration's prior defunding of the CDC, reminiscent of Trump's) and this is likely an undercount ("HIV/AIDS" 2019). The practice of disposability is also visible in the (Democratic) Clinton administration's passage of the 1994 Crime Bill, which had lasting harms to today: it expanded the use of the death penalty (often referred to as a "direct descendent of lynching"), implemented new three-strikes laws, and dramatically increased penalties for youth convicted of felonies. All of the above disproportionately affect Black and Latine populations: 74% of all people recommended for the death penalty are people of color and 44% are Black, a hugely disproportionate number to both prison and overall population numbers; 67% of people serving life sentences are people of color and approximately 50% are Black; and 80% of children sentenced to life in prison are people of color with 55.1% being Black ("Still Life" 2017). The second Bush administration practiced disposability in their response to Hurricane Katrina, as Giroux details. Disposability politics are nothing new.

When Joe Biden took office in January 2021, many people had hope that his pandemic response would significantly differ. To date, the most thorough piece of legislation the administration has enacted is the Infrastructure Investment and Jobs act. The trillion-dollar bill, aiming to upgrade America's transportation, water systems, internet, and "tackle climate change" is expected to add millions of jobs to the economy and significantly strengthen our infrastructure. However, it was written with big business in mind: the US Chamber of Commerce, America's largest business association, openly supports it. This bill was also written with little targeted funding for marginalized communities, largely leaving it up to state governments. As the first \$7 billion to target water infrastructure in 2022 is distributed to states, state leaders and governments will decide where the money goes. Race neutral policy has no promise to help those who were most hurt by the pandemic and by years of racist infrastructure divestment in marginalized communities. In *When Affirmative Action Was White*, Ira Katznelson discusses how past laws, including many New Deal policies, were ostensibly "race neutral" but ended up disproportionately benefiting white communities (Katznelson 2005). Biden also, along with the Democratic House and Senate, enacted the American Rescue Plan Act (ARPA) in March 2021. Some of its critical components were \$1,400 stipends to eligible adults (notably including incarcerated people and adult dependents) and expanding eligibility for the Child Tax Credit and Earned Income Tax Credit, which did significantly help Black and Latine parents who were previously ineligible for these credits ("American" 2021). However, it was severely insufficient to address the dual crises of a pandemic and economic recession which unequally hurt Black and Latine communities. As of November 2021, 28% of Black renters and 20% of Latine renters are not caught up on rent: just 5% fewer Black renters and the exact same amount of Latine renters who were behind at this bill's enactment. Race-neutral policy does not benefit marginalized

communities. In addition, state and local governments were explicitly told they could spend the \$350 billion available to them for community infrastructure improvement from the ARPA on strengthening law enforcement agencies. Local lawmakers are not required to spend this money on policing, but the fact that they are able to is a worrying demonstration of the Biden Administration's commitment to strengthening the state's carceral capacity.

Biden's administration is no less in favor of the ever-expanding carceral state than previous ones. Three days after the Infrastructure Bill's passage on November 15, 2021, Biden signed three laws giving funding to and expanding power of law enforcement agencies. Together, these will cost at least \$28 million and expand the prosecutorial power of ICE and American courts. That same day, the US Department of Justice announced a \$139 million grant to law enforcement agencies to hire 1,066 new officers. For Fiscal Year 2022, Biden has asked for a \$300 million increase in funding to the Office of Community Oriented Policing Service's "COPS Hiring System" ("Justice" 2021). All of these were touted as bipartisan bills, each getting fewer than 10 total "no" votes in both chambers. Despite the uprisings last summer, there is currently a massive, Democrat-led effort to give police departments excessive funding. The fact that it's so much easier to pass these bills, rather than welfare bills such as the ARPA or the Build Back Better bill (which is presently being cut down to the barest bones before even centrist Democrat Joe Manchin will support it), shows the state's non-partisan commitment to policing. Disposability politics continue to inform nearly all actors in the state.

The state's actions during the pandemic demonstrated to marginalized communities that they were responsible for their own well-being. People created community and mutual aid networks to support one another in especially hard-hit areas, setting up community fridges and mutual aid funds to try and provide for each other. Many community-based organizations were

able to leverage their deep ties with local communities in order to provide care and help during the pandemic. Detroit Women of Color, Inc., a nonprofit serving women of color in Detroit, began a care package program for girls in their program, working to try and support their mental health needs however possible. They also began doing home wellness visits which both preserved an element of their in-person community and strengthened a non-carceral safety system. Strategic Actions for a Just Economy (SAJE), an organization fighting for economic justice in Los Angeles, raised over \$15,000 at the pandemic's onset for community members and advocated against eviction during the pandemic ("Organizing" 2020). Mutual aid funds became commonplace on college campuses, with students advocating for better policies and conditions as well as raising hundreds of thousands of dollars for one another (Marcus 2020). This type of organizing became so widespread that the CEO of GoFundMe, a popular crowdfunding site whose popularity skyrocketed during the pandemic, wrote an Op-Ed describing the state's failures to provide for its people (Cadogan 2021). While the community responses to hold one another up were deeply inspiring, they shouldn't have been necessary. The state's obligation to protect its people and guarantee their right to life went unrealized.

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