

# Acceptable Deaths: Killing and Letting Die in the Covid-19 Conjuncture

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**Abstract:** The coronavirus pandemic has both revealed the extent of the damage inflicted by neoliberalism on the infrastructure of public services and has reshaped the terrain of class struggle. The current period is marked by a combination of intensified state repression aimed particularly at the African-American and Latinx communities and its apparent opposite, a withdrawal and the calculated abandonment of the working class to the ravages of covid-19. The present conjuncture becomes intelligible only to the extent we understand the precise configuration of forces, the sites of their confrontation, and the effects of the outcome. Our interventions, even in theory, are only as true as the conjunctural effects they produce.

**Keywords:** Covid-19, neoliberalism, biopower, mass movements, Agamben

I want to begin by examining two apparently contradictory tendencies at work in the current conjuncture in order then to consider the specific conditions of what I will argue is their convergence, and the theoretical and political problems this convergence raises. We are in a war, not against the coronavirus, but a war in which the virus serves different strategic purposes depending on the objectives, both short term and long term, of those best equipped to exploit the resources it offers them. I will speak primarily of the US, where it is now impossible to deny the existence of this war, given its unmistakable visibility, above all the visibility of its violence. No one in the US would even think to claim that “we” are united against the virus when a significant part of the state appears determined to facilitate its progress. The pandemic is a terrain on which our war and the complex of alliances that unite and divide the forces in conflict, a thoroughly racialized class war, is fought. While this war is constitutive of the nation itself, its history is neither linear nor progressive, but is scanned by crises, reversals and periods of acceleration and deceleration. The pandemic allows us to see the asymmetrical accumulation of forces, the articles of their unification and the strengths and weaknesses of the coalitions that have formed on either side of the fundamental divide that characterizes the current conjuncture. The skirmishes that have taken place in the last few months instruct us to prepare for the possibility of a period of relatively open conflict (no matter what the outcome of the impending elections), the stakes of which are very high. Powerful forces have united to take advantage of the opportunity the pandemic offers to reverse every gain won by the working class and by anti-racist movements over the past century. Without in many cases knowing it or intending it, these diverse forces have formed a coalition of those who are convinced that covid-19 can be utilized, if managed correctly, as a kind of biological weapon that,

if allowed to spread throughout the population, will diminish the people's capacity to resist even the most draconian reforms. We have already seen that, at a certain level of efficacy, the ravages of the virus allow the addition of a supplement of violence (by state and non-state actors) to the lethal power of the pandemic. This is a war without an outside or neutral space: denying it is simply a way of participating in it. To cite Pascal, *cela n'est pas volontaire, vous êtes embarqué*.<sup>1</sup>

**Tendency 1.** The pandemic has created the conditions for the implementation of a new form of siege warfare that, forsaking a direct assault, seeks to break the enemy by withholding, or simply slowing the arrival of needed supplies and medicines, by discouraging or blocking the adoption of the sole available measures known to stop or slow the spread of covid-19, and by harnessing the coercive potential of the market to compel workers to return to work even when the pandemic is surging. The objective here is to create the conditions in which a devastated and terrorized working class will accept concessions unimaginable in other circumstances. In siege warfare, hunger and disease are the most effective weapons of the attackers, and time is on the side of those who control the flow of provisions and medicines. In the present case, the national state, dominated by white supremacists and market fundamentalists, exercises its power, less through direct repression and violence, than through withdrawal and contraction, by refraining from any action in relation to the pandemic, except the act of “letting the market decide,” where and in what quantity resources (and lives) are allocated. Accordingly, the spread of the virus and the mortality it brings is secured, but indirectly, by invoking the wisdom of the market, manifestly superior to any merely human plan, or the moral principle of the individual freedom to decide for oneself whether or not to wear a mask in public, irrespective of the daily number of new cases or deaths in a given area. It became clear early on that the moralizing dicta “we are all in this together” or “the virus does not discriminate,” would not apply in the US, where mortality rates correspond to the existing racial inequalities very closely, especially where they intersect with class: African-American and Latinx workers are significantly overrepresented in the occupations defined as “essential,” meaning they were both exempt from shutdown orders and ineligible for unemployment benefits, and thus forced to work no matter how unsafe the conditions, exposing the workers, their families and communities, to the coronavirus.<sup>2</sup> This strategy is based on the calculation, not a subjective decision by an individual or a group, but an objective or non-subjective calculation, a cause immanent in its effects,

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1 Pascal 1671, p. 21.

2 Hanage et, al. a 2020.

that the possibility of significant gain from the ravages of covid-19 is greater than the risk of revolt or social collapse.

**Tendency 2.** The strategy of “letting die” has never implied a relinquishing of direct state violence, which remains necessary, if only to compel those who refuse unnecessary death. In the case of the current pandemic, the widespread fear caused by the rapid spread and increasing mortality of covid-19 and the demoralization in the face of state inaction, above all at the federal level, had the effect of encouraging unrestrained violence on the part of police forces around the nation. Both the ubiquity of unexpected deaths, and the general distraction aided by the media's focus on the pandemic to the exclusion of other issues, including the ongoing police killings of African-Americans, created an atmosphere in which police and other law enforcement agencies decided that the moment had come to reassert their rightful prerogative of killing with impunity. In reality, there had never been a hiatus in the killing of unarmed African-Americans; the pandemic simply made the police more brazen and less concerned about the visibility of their crimes. The assumption that mass movements in defense of the right not to be killed or allowed to die could not arise in the midst of a pandemic, however, proved wrong. In fact, the frequent attempts to conceal the number of deaths from covid-19, together with the increasingly apparent racial disparities in mortality (promptly blamed on the victims), overdetermined the explosive reaction to the police killing of George Floyd and the killing of Ahmaud Arbery by White vigilantes. The killing of unarmed African-Americans by police or white citizens with near impunity suddenly appeared as a pandemic of racist violence that, as in the case of the coronavirus, would be allowed to run its course. Destitution, disease, and deadly force combined to produce a revolt of enormous magnitude that quickly drew Latinx and Whites (the latter feeling for the first time, in most cases, the effects of tear gas and police beatings). This movement was not purely spontaneous, but took shape thanks to the organizing efforts of Black Lives Matter; it dealt a massive blow to the Right and its mass base, and laid the groundwork for future mobilizations.

The spectacle of the first few months of the pandemic was difficult to believe: rather than use the opportunity to carry out massive repression, 60 county sheriffs across the nation (above all, those who harbored a special animus towards Black Lives Matter) refused to enforce laws mandating the wearing of masks, while judges routinely declared such ordinances unconstitutional and invalid. Governors in a number of states have forbidden cities to require the wearing of masks and the Attorney General of the US likened “shutdowns” as a response to a rapid increase in the spread of the coronavirus to chattel slavery. At the same time, all of those named above, together with their very vocal (and armed) mass base, advocated a total resumption of economic and social activity.

Another, quite distinct, group, urban, educated and liberal (in the American sense), and which tends to support not only the use of masks and social distancing, but in many cases the enactment of laws to require these measures, nevertheless advocated a full or partial re-opening of the economy and schools and universities. Moreover, they did so without regard to the status of the pandemic, and without any credible plan for preventing the assembling of millions of people (not only students, but teachers, administrators and service workers) in relatively confined classrooms or workspaces from leading to new outbreaks and prolonging or deepening the pandemic (as in fact happened and continues to happen). The nation, we were told, by liberals and conservatives alike, simply could not afford the economic and emotional costs of what was in fact never more than a partial shutdown. Few, however, followed this line of argumentation to its conclusion: the nation therefore “cannot afford” to reduce the ever-increasing number of deaths from covid-19, or to prevent the now well-documented long-term effects of the disease on as many as half of those who survive it. The phrase “we cannot afford to” is necessarily surrounded by silence: if explained, it might well provoke demands for the redistributive actions that would interfere with the progress of capital accumulation, broadly considered as the only meaningful measure of the nation’s wellbeing.

If we examine all but the most direct expressions of the policies that lead to the allowing of a great number of preventable deaths from covid-19, it is possible to discern a particular rhetorical strategy at work that may well come to serve as a sign of the specific relation between the visible and the invisible, and the utterable and the unutterable proper to this historical moment. This strategy is certainly not the result of an individual or collective intention, but is imposed upon the advocates of such positions by the prevailing equilibrium of forces. As a strategy, it is relatively crude, but effective enough to raise the general confusion to a level sufficient to allow the statements listed above to circulate without any real attempt to understand how the ideas they contain, stated or unstated, came to be thinkable or what the concrete results of their implementation would be. I refer to the now ubiquitous formula that consists of stating a premise that, in context, can only lead to a conclusion that cannot be stated, and whose absence in consequence must itself be effaced. Thus, “If we don’t get the economy going, the following will occur: . . .” becomes “We must get the economy going ( . . .).” I have placed the ellipsis between parentheses to mark the conclusion present, but in suspension, hovering just beyond the threshold of the sentence. The absence of the conclusion from the sentence itself serves a number of functions. 1) It allows a variety of different and incompatible conclusions to be supplied by different readers, without any need to confront and attempt to resolve them. Further, it gestures at a cataclysmic event, some form of economic and social collapse, rather

than to the less dramatic redistribution of wealth to develop the ability to counter the threat of the pandemic, or to the supposed psychological effects of a temporary shutdown, as opposed to the psychological effects of 250,000 to 500,000 deaths and the long and painful recovery periods for an indeterminate number of the millions of survivors. 2) It forecloses possible objections that might be raised by the conclusion (e.g., that the effects of the uncontrolled spread of the coronavirus might have far worse and longer lasting effects on the economy than a temporary shutdown). 3) It allows the speaker to advocate or even simply to entertain policies that are certain to lead to much higher death rates, meaning that the largely preventable death of hundreds of thousands of people is acceptable, and preferable, to expensive measures undertaken by the federal government for a period of several months, without having to explain the grounds on which this level of mortality could be judged the lesser evil.

The ubiquity of this rhetorical strategy is striking; it reached the height of its popularity in May and June in the debates over the necessity of the resumption of in-person education at schools, colleges and universities. While many liberals, otherwise opposed to Trump, quickly saw the folly of restarting the economy while the coronavirus was spreading throughout the country, a significant number shared his approach to the question of whether schools, colleges and universities should open in fall 2020. Remote instruction (based on the chaotic experiences of March 2020) was deemed a greater threat to students than covid-19 (the threat to their families and communities was elided) and we were told we simply had to get the students back to school. Perhaps the most instructive of the published versions of this argument was made by Christina Paxton, president of Brown university: “Colleges Must Reopen in the Fall.”<sup>3</sup> Avoiding any hint of denialism, and assuring students and their parents with proposals for testing, quarantine, and “perhaps” separate rooms for students in the dorms, concrete enough to offer reassurance but vague enough not to invite criticism, she appeared to offer a reasonable compromise—if, that is, faculty would accept a reasonable amount of risk. Risk here, of course, was individualized; it was a matter of an individual’s ability to tolerate a certain (moderate) degree of risk, which because the education of the nation’s youth was a stake, took on a moral dimension, evoking, without having the effrontery to actually utter the word, the ideal of courage (and of course, its contrary, cowardice bolstered by selfishness). There was little recognition of fact that no risk can remain individual in a pandemic. In the end it was the resistance of workers in the “essential industries” to the combination of empty assurances and crude threats, their superior knowledge of the particulars of the workplace, including the conditions under which specific individuals became infected with covid-19, that inspired teachers

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3 Paxton 2020.

and professors, now treated as front line workers, to organize to confront such initiatives. Although most colleges and universities finally decided not to move to in-person instruction, the number of schools that did so was sufficient to result in tens of thousands of cases of covid-19 within the first week of Fall term, with colleges and universities acting as super-spreaders. This was the absolutely predictable consequence of a decision, whose repeatedly declared, but never fully explained, necessity could be sustained only by a rendering absent of the obvious outcome from any communication of this decision. In fact, the exposure of hundreds of thousands to covid-19 was deemed preferable to a semester of remote-learning for the nation's students, a judgment its advocates could never quite bring themselves to acknowledge.

Certain politicians, less prudent but just as committed to the postulate that the nation cannot in principle afford a "shutdown," even for a very short period, proved unwilling to ignore the problem of death on a mass scale, and publicly drew the conclusions that others were afraid to state, or perhaps even think. On March 23, 2020, the Lieutenant Governor of Texas, Dan Patrick, announced during an interview on Fox News that the inhabitants of his state over the age of 65, himself included, would certainly prefer to die from covid-19 than see the economy of Texas hurt by the temporary closure of a significant number of its businesses. On the assumption, soon to be disproved, that covid-19 was primarily a disease of the elderly, he insisted that if they knew that by dying of coronavirus they could safeguard the ongoing accumulation of wealth, and save younger generations from the terrible burden of the public debt necessary to the effort to stop the spread of the virus (above all, by providing subsidies to wage earners and small businesses), he was sure that many of the 3.7 million people over the age of 65 would be willing to sacrifice themselves. This would be, he concluded, the "biggest gift" grandparents could give their grandchildren.<sup>4</sup> A few weeks later, marking a month of the optional shutdown, a member of the US Congress, Trey Hollingsworth of Indiana, argued publicly that of the two threats, death from covid-19, and continuing the month-long economic shutdown in parts of the nation, death was the lesser evil.<sup>5</sup> While most representatives of the governing party have adopted a rhetorical strategy that allows them to avoid statements as direct as Hollingsworth's, a strategy based on a general skepticism concerning medical research and the recommendations of epidemiologists, expressed in a series of sometimes incompatible arguments (e. g., covid-19 is a hoax, it is no worse than the seasonal flu, the number of deaths in the US is wildly exaggerated, and the great number can be explained by other factors), their positions led in practice

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4 Beckett, 2020.

5 Le Blanc, 2020.

to the conclusion articulated above. In fact, as they engaged in some form of denialism, hospitals in the Northeast were overflowing with the dead and dying, refrigerator trucks were parked outside hospitals because the morgues and funeral homes could not accommodate the numbers of the dead, and New York had begun to prepare mass graves.

How do we explain the widespread acceptance among politicians, CEOs and in media outlets of a great number of otherwise preventable deaths and their continuing advocacy of policies proven to facilitate the spread of the coronavirus? Or the drive to expose millions to covid-19 with no recognition of the potential damage not simply to the economy, but to every aspect of life in the US, even as the virus becomes more contagious and, if not more deadly, far more harmful to its survivors than was previously thought? Of course, the responses so common in the US are in no way typical of the rest of the world, although they certainly have their echoes in many nations. In fact, they stand in stark contrast to the means employed by the Chinese government, whose policies corresponded very closely to Foucault's notion of the biopolitical regime. As he explained, the objective of protecting and "fostering life," the life of a population, easily gives rise to coercive and even violent measures.<sup>6</sup> In some European countries as well as in Latin America, governments have used the pandemic as a pretext to initiate repressive measures against mass movements, particularly in indigenous-majority regions or urban areas with high concentrations of immigrants or racialized minorities, confining them in densely populated housing without any means of preventing the spread of the virus. This too is explicable in biopolitical terms: a calculated use of exposure with the aim of protecting some areas by confining covid-19 to others, those already deemed dangerous or undesirable, and allowing it to do the work of "threat-reduction" in a way that is both efficient and apparently natural and thus not the result of any action by the state.

The pandemic specific to the US, not only the virus and its frequent mutations, but the rapidity of its spread and its severity, was long in the making; the nation is now a kind of laboratory, better suited than any thus far available, in which a massive experiment is underway whose object is to determine the degree to which neoliberalism can defend the territory it has captured, and expand beyond what have long been regarded as immovable limits on the accumulation of capital. The experiment: what is the number of otherwise preventable deaths that may be permitted to occur under the conditions of a pandemic or other "natural" disaster (e.g., hurricane or earthquake) before a massive social explosion or collapse takes place. In the US, in particular, the completely unexpected severity and ease of transmission characteristic of covid-19 initially prevented any mobilization against the refusal of the federal government to organize

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6 Foucault, 1976, 138.

the medical and financial support to the people necessary to contain the pandemic. Further, in contrast to a number of other countries, there has been little enforcement of the stay at home orders (where they were issued at all) by state and local governments. In fact, when the mass demonstrations in response to the killing of George Floyd, the largest in a generation, took place, the pandemic seemed merely a backdrop. Rightwing commentators cited the shutdown as one of the determining factors of the protests; millions who would otherwise have been at work or school joined the movement to escape the boredom of staying at home, providing yet another reason to “restart the economy.” Few discerned any connection between the racial inequity revealed in the demographic details of the 100,000 deaths then attributable to covid-19, and the constant police killings of unarmed Black men and women: the former appeared to be a result of a virus beyond human control, while the latter constituted a pattern of deliberate acts motivated either by institutionalized racist hatred or the criminal actions of the victims. I want to argue that, without conflating the two phenomena or reducing them to “capitalism,” we can and in fact must see the links, both theoretical and practical, between the apparatuses that foster death rather than life, allowing a great number of people to die by refraining from the actions necessary to their survival, and those that simultaneously organize the regular killing of African Americans, and confer de facto and to a certain extent de jure immunity on their killers.

Several months ago, I referred to the “covid-19 conjuncture” as an apocalyptic moment, that is, a moment of revelation inaugurated by the rapid spread of the coronavirus globally, which in turn forced into the open, into visibility, what had previously remained, if not hidden, unseen and unnoticed.<sup>7</sup> This revelation neither frees us, nor does it herald a salvation to come, but it has delivered to us a wealth of information about the recent past. It allows us to see that the catastrophe we are living has been advancing gradually for decades, beneath the threshold of visibility. Covid-19 unveiled all at once the almost unimaginable tableau of the plunder and destruction of public resources over the last few decades, including those concerned with public health. It turns out that the destructive “reforms” demanded of the debtor nations of the global south by the IMF and the World Bank, the structural adjustment programs that reduced state spending for healthcare and education, ended the subsidies that made food affordable and liquidated emergency food supplies set aside for times of scarcity, were hardly peculiar to “struggling nations.” In the US, however, the extent of the selling off of public resources and the outsourcing or privatization (and degradation) of public services, was carried out stealthily, more gradually, and often with little public notice or debate, over a period of nearly fifty years. The

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arrival of the coronavirus quickly revealed not only the human cost of the absence of universal healthcare, the inequalities this absence produced and the barriers it created to containing the pandemic, but even more strikingly, a healthcare infrastructure devastated by neglect, privatization and liquidation.

The problem was not simply that the nation was unprepared, but that, despite the warnings of epidemiologists concerned about the rapid succession of new viruses, SARS (2002-2003), avian flu (2008), and MERS (2012-present), the very notion of anticipating and preparing for such an eventuality was increasingly regarded as an inefficient use of resources. A more responsible approach, it was said, would be to calculate the actual risk of the kind of pandemic predicted by epidemiologists and to weigh this risk against the cost of preparing for it. Accordingly, as federal programs were eliminated, and states and municipalities looked for sources of revenue lost through tax cuts and declining revenues, more than 300 hospitals were closed between 2005 and June 2020, and another 100 are now in danger of closing.<sup>8</sup> Hospitals were no longer seen as necessary public services, and were redefined as commercial enterprises expected to earn a profit. As they inevitably fell into debt, they were purchased by private equity firms and ultimately sold as real estate, their equipment dumped on the world market or simply discarded. The number of beds available for a mass event such as a pandemic declined significantly even in the hospitals that remained open, as emergency rooms and critical care units were closed or reduced, with investment directed to far more profitable areas (e.g., plastic surgery) in the name of efficiency and rationalization. Even the personal protective equipment, the lack of which has so far contributed to the deaths of nearly a thousand medical personnel in the US from covid-19, had become so scarce that within a few weeks of the pandemic's arrival, stocks were depleted, forcing physicians and nurses to wear the same disposable mask for a week or wear garbage bags for surgical gowns.<sup>9</sup> Soon after, patients were forced to share ventilators, and even this expedient, undertaken against all recommendations, failed to keep up with the rapid spread of the coronavirus. In both the Northeast and in populous states like Texas and Florida, patients without beds were left on gurneys in hallways, while doctors working twelve hour shifts seven days a week could not keep up with the influx of cases.

Taking only the case of health care, one among many similar disasters, it is indeed tempting and finally unavoidable to speak of the abject failure, not simply of neoliberalism in some general sense, but of the Trump administration in particular: it has failed and continues

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8 Coleman-Lochner and Hill, 2020.

9 Taddonio, 2020.

to fail to take effective action to stop the spread of the coronavirus, and has refused on principle to organize a unified national response. The term failure, however, serves in its vagueness to obscure the strategic coherence of the intervention: the Trump administration acted by refraining from action, by engaging in the act of letting things be, allowing the market to the greatest possible extent, and at the pace proper to it, to supply everything hospitals so desperately lacked, from masks, gloves and gowns to ventilators and CPAC units. This was the ultimate act of faith: to place the lives of 400 million people in the hands of the market. And despite the retrospective criticisms levelled by the leaders of “the private sector” in their belated attempts to distance themselves from the disastrous consequences of letting the market decide, they had been advocating this very policy for decades. Trump attempted to conceal the results of this course of action by making individual states responsible for procuring the supplies their hospitals needed, forcing them to compete with each other for scarce resources in a process to which the scale of need of the different states was irrelevant. As a result, the market even today remains flooded with defective products, and entire states continue to be defrauded by shadowy middlemen; by the beginning of September 2020, an estimated 150 million dollars had been lost to fraud. The administration’s response to the shortages of essential equipment was to eliminate or reduce the health and safety regulations that declared it necessary: hospital hygiene and safety standards, defined as fetters on the business of medicine, were relaxed or unenforced as a matter of policy. Legal limits on work hours were extended, and the responsibility for the protective gear to safeguard the health of doctors and nurses and to prevent the spread of covid-19 was shifted to those affected by its absence.

It was at this very moment that the Trump administration announced and soon demanded a re-starting of the economy: everyone should return to work, schools should re-open, along with stores, restaurants and bars. In addition, they denied additional covid-19 relief funds to replace lost wages, precisely to compel people to return to work, exposing them to infection without any reference to state of the pandemic. Trump and his supporters both inside and outside of government have not only not appealed to the findings of epidemiologists or virologists, but have repeatedly denied the validity of these findings because they point to a course of action incompatible with the campaign to send people back to work without masks. Their mass base, a significant part of which was already mobilized against the mandatory vaccination of school children, took up the anti-shutdown cause quite readily, already convinced that the medical profession could not be trusted.

In this way, Trump helped to mobilize a coronavirus denialist movement, a coalition of white supremacists, armed militias and the anti-vaccination movement, whose once distinct paranoid fused into

the conviction that covid-19 is a hoax perpetrated by the media and the supposedly liberal “deep state” (that is, the Jews). This movement, whose goals were never supported by more than 30% of the population, succeeded in intimidating politicians, as well as public health officials, whose warnings and recommended precautionary measures were regarded as little more than attempts to secure obedience of the populace through fear. Bringing loaded automatic and semi-automatic rifles to every mobilization, the anti-lockdown movement exercised an influence far beyond its numbers. Trump not only supported it, but repeatedly called on its activists to “liberate” their cities and towns from the tyranny of health officials who attempted to force an entire population to wear masks. However complicated the causes that combined to produce this unlikely movement, its effects are clear: it provided an activist base and a right-wing rationale for the capitalist push to re-start the economy, framing the few effective measures available to stop or slow the spread of covid-19 as evidence of the creeping totalitarianism of the government and an outrageous violation of individual freedom. The rural sheriffs and urban police chiefs who have announced publicly that they have formally refused to enforce ordinances requiring the wearing of masks, calling upon the public “not to be sheep,” have essentially withdrawn and left it to individuals, often the workers most likely to be exposed to the disease (grocery and warehouse store workers, healthcare workers, from physicians to janitors and receptionists, among others), to enforce the few measures shown to be effective in preventing covid-19. Emboldened by the anti-mask attitudes expressed by Trump and other rightwing politicians, far right activists have assaulted hundreds of workers across the country for asking that they wear masks.

It is not accidental that many of these same police departments and sheriffs’ offices have adopted a similar attitude towards the public display of fully loaded semi-automatic and even automatic rifles by the informal militias organized by far right and white supremacist groups. In a number of recent cases, police have expressed support for these groups as they move to confront the usually unarmed Black Lives Matter movement. The militias and other rightwing armed groups are de facto exempted from laws (which vary from state to state) restricting “brandishing” or “pointing,” a loaded weapon, or in some cases, even carrying a loaded weapon at all. Increasingly, law enforcement agencies have ceded to these groups the right to determine whether a crime has been committed, to identify the crime and to decide if the use of deadly force is warranted. The fact that it is Black Lives Matter that has elicited the most violent responses from these groups is itself revealing

The intellectual complement to the campaign to prevent the adoption of measures actually effective in slowing or stopping the coronavirus on a national scale, was based on the assertion that what was necessary was precisely allowing the unrestricted transmission of

the virus throughout the nation. In this way, the population as a whole will achieve herd immunity, a concept originally developed to explain how a high level of vaccination in a given population can cause specific, well-known diseases to disappear. In its popularized form (particularly attractive to economists) herd immunity could be achieved without the cost of testing or vaccinating hundreds of millions of people, simply by allowing diseases to “run their course,” unchecked (on the assumption that the antibodies produced as a result of the infection would guarantee lifetime or at least long-term immunity). Widespread infection would serve as a natural means of developing immunity, which by that fact was deemed superior to “artificial” means such as vaccinations. By permitting the virus to spread as widely as possible through the population, herd immunity would very quickly be reached. Because covid-19 was thought to pose a risk only to a relatively small percentage of the population, consisting primarily of the elderly and those afflicted with chronic diseases, some advocates gestured vaguely at protecting those at risk. Many others, however, careful not to draw the obvious conclusion themselves, pointed to their already advanced age or the responsibility those at risk bore for the “underlying conditions” that made them abnormally susceptible to covid-19, and noted the onerous cost of treating them.

In fact, an entire discourse consisting of eugenicist and openly racist myths arose in response to the vulnerability of millions of people, whose numbers, if reported, would present an insurmountable objection to this conception of herd immunity: in addition to the 50 million people over 65 in the US, 30 million have diabetes, 25 million have asthma and 18 million have coronary artery disease. Instead of calling the neoliberal version of herd immunity into question, however, the notion of co-morbidity provided a quasi-legal justification for the policy of letting die: the afflicted individuals alone were responsible for their underlying conditions. Overeating produced their diabetes, smoking produced chronic lung disease, while poor diet and a lack of exercise led to heart disease. The higher incidence of diabetes among African-Americans and Latinx, compared to Whites, for example, became a sign of their physical and moral weakness, if not inferiority. Covid-19 seemed thereby something like the invisible hand of natural selection, meaning that, as in Smith’s allegory of market rationality, only human interference with nature’s providential design could create a genuine crisis. Only by allowing a certain number of people, a number impossible for us to know and thus to set limits on in advance, to become infected and develop antibodies can we achieve herd immunity. Left unstated is not only how many people would have to die in this experiment, but who: the unproductive elderly, African-American, Latinx, and Native Americans, and those whose “bad choices” are the cause of their afflictions. White supremacist groups early on discussed ways of spreading the disease

within these communities, but soon discovered such efforts were unnecessary. Outside of the elderly, those most susceptible were also those most exposed to the virus by virtue of their jobs, their mode of transportation, and the population density of their communities, as well as the lack of access to healthcare prior to the pandemic.

From the beginning, workers in the industries deemed essential were forced to work to escape destitution, but neither their employers nor the state, at any level, made any significant effort to provide the PPE or secure the working conditions necessary to safeguard their health and reduce their exposure to covid-19. It was left to the workers themselves to force the employers to do so through thousands of job actions and community mobilizations. The overwhelmingly white anti-shutdown movement has, in response, particularly targeted healthcare workers, accusing them of participating in a massive defrauding of the public for personal gain, and repeating Trump’s claim that the shortage of PPE was a result of doctors and nurses stealing masks and face shields in order to sell them at exorbitant prices. In addition, far right activists continue to oppose rules requiring masks in grocery stores, in essence demanding that workers (disproportionately Black and Latinx) allow themselves to be exposed to the virus. Further, the profoundly reactionary mass base of the anti-shutdown movement allowed it to reorient quite easily to oppose a new adversary, Black Lives Matter, charging that the reports of police killings are media fabrications, and that protests and demonstrations against them are pretexts for looting and arson. It now functions as an extralegal arm of the Trump administration, threatening and attempting to silence even medical personal and public health officials who contest Trump’s demand to ignore the pandemic and get on with business as usual. Its success constitutes a significant part of the reason for the persistence of covid-19 and the high rates of infection and death in the US relative to the rest of the world.

How do we begin to explain this panorama of irrationality, deception and self-deception, as something other than the collective somnambulism of a great number of people determined by an inexplicable automatism to walk off a cliff and take others with them? By what casuistry did “the economy” (from *oikos*, meaning household, the place where lives originated and were sustained) become separate from, and given greater value than, life (the lives of individuals, as well as life in a global sense)? For many, the explanation is perfectly obvious: Donald Trump, the personification of senescent narcissism with its petty hatreds, irrational greed and crude racism and misogyny. This is a convenient illusion: it tells us that ridding ourselves of Trump will allow the nation to return to something resembling normality. The reality, however, is far less comforting: Trump (and Trumpism) did not bring the catastrophe, the catastrophe brought him, the prophet incapable of comprehending his own prophecies, and whose very weaknesses are the means by which

there has occurred an acceleration of the destructive tendencies at work for nearly a half-century, aided by the leaders of both parties.

We have arrived at the moment when the conception of the market as a secular theodicy, self-organizing and self-correcting and therefore incapable of failure in any true sense, threatens the existence of an ever-increasing part of the world's population. The market corrections deemed necessary to its efficient operation and therefore to the rational distribution of necessities (food, medicine, housing) pose a direct threat to human life: this is the contradiction in which neo-liberalism is caught and which if allowed to develop will lead to breakdown and self-destruction (neither of which are necessarily favorable to mass resistance). Further, it is not an accident that the promoters of the infallible rationality of the market are also promoters of the model of a self-regulating nature that infallibly produces herd immunity—if only well-intentioned epidemiologists and fearful politicians would refrain from interfering in its delicate mechanisms. Despite appearances, what is understood as failure is act of allowing the correction necessary to restore the health of the population or of the economy. If there is any doubt in the theologico-political origins of the popular version of herd-immunity, we need only point to the assumption, made without evidence and before much was known about the disease, that covid-19 antibodies would guarantee long term immunity, an assumption that now appears highly questionable. When we add to this the increasing evidence of long-term effects, including permanent damage to the heart and lungs, as well as the proven inability of the healthcare system to handle even a fraction of those who would require hospitalization if the coronavirus were allowed to spread throughout the population, we can see the extent of the denial necessary to any advocacy of any other herd immunity than that made possible by the widespread administration of a vaccine. To advance any other notion as a means of ending the pandemic is nothing more than the imposition of an abstract model (like that of the market, derived from the notions of providence and theodicy in which justification constantly overrides explanation) imposed on the reality of an as yet incompletely understood virus that, in turn, is rapidly mutating into a multiplicity of distinct variants. To subject the population of the US to an experiment of this magnitude, moreover, would mean persuading or coercing at least 200 million people (50% of the US population, a figure quite possibly too low to guarantee herd immunity) to allow themselves to be exposed to covid-19. But by what means would the state insure that the requisite number would agree to expose themselves? What measures beyond denying any form of government subsidy or assistance could effectively compel the unwilling to refrain from wearing masks and practicing social distancing, practices that inhibit the spread of the virus? It is true that in some states at an earlier point in the pandemic, there was talk of prohibiting the wearing of masks on the grounds that they interfered with

the facial recognition technology said to be necessary to the security of the community. But in reality, there is no need for such a law. Far right groups have mobilized against every attempt to require the wearing of masks in public, including in workplaces. It has been left to workers to impose such a requirement on their employers and on the public, store by store, workplace by workplace. It would not be easy to prevent them from continuing to do so.

With substantially less access to healthcare and as a result a higher than average incidence of diabetes, coronary artery disease and respiratory ailments, diagnosed and undiagnosed, and often working under unsafe and crowded conditions, the African-American and Latinx communities would see their suffering compounded if they found themselves through the coercion of the market or the law forced to accept a near total exposure to the coronavirus. Such measures would mark the fusion of necropolitics and necro-economics and their operation both outside the law, in the spaces from which the law withdraws, thereby leaving exposed those who inhabit them, but also within the law, in the interstices, silences or ambiguous spaces that exempt the use of deadly force by law enforcement agents from legal judgment. In this way, the most racialized effects of the law operate in the outside that the law has opened within itself. Phrases like “only if he feels there exists a threat to himself or others” or “only if he believes the subject is armed with a deadly weapon,” held up as limits to the use of force are generally non-falsifiable: only the policeman in question knows what he feels or believes, just as it is left to him to define “threat” and “deadly weapon” (a phrase by no means limited to a firearm or a knife and which could be applied to a long list of objects, from rocks and pieces of wood to any object of a certain weight that the subject is able to throw). The legitimacy of police killings of unarmed subjects rests on whether the officer in question “believed” or rather states that he believed at the moment he fired his weapon that the subject was armed. This does not constitute a limit on deadly force; it is nothing more than the dissimulation of the absence of such a limit.

But perhaps most remarkable are the reforms, carried out in the name of individual responsibility and the need to reduce reliance on the state characteristic of neoliberalism, by which states have ceded law enforcement responsibilities and legal privileges to private citizens. In the medieval period, the Roman adage *necessitas non habet legem* was invoked in canon law to exempt the poor who stole to survive from legal penalty. The modern version in contrast concerns the necessity of killing anyone I believe might pose a threat to my wellbeing or property, a necessity on which the state cannot legitimately impose any limitation or qualification. Not only has the category of justifiable homicide expanded from self-defense in the strict sense (killing another person or persons who demonstrably pose a direct, unavoidable threat to one's life or the

life of others) to homicide in cases where a perceived threat to life is avoidable, or is simply a threat to one's property (valued at more than \$500 in some states and \$1000 in others). The effect of these laws is to render a significant number of homicides legally indeterminable or to give the prosecuting attorneys and even individual police broad discretion in deciding whether to charge those who have killed others. The racial effects of these reforms are clear: homicides committed by Whites against African-Americans are determined to be justifiable at a rate ten times that of homicides committed by African-Americans against Whites. A number of observers have argued that the ease with which a killing of a black male can be justified as self-defense has created a new form of lynching, made possible by the opening of an exception within the law.

The withdrawal of the state under these circumstances has the effect of legally exposing Black and Latinx populations to the racist violence of vigilantes and militias (the latter especially on the US-Mexico border), just as the freedom not to wear a mask (a freedom exercised overwhelmingly by Whites), and the freedom of employers not to provide masks, exposes the same populations (and the White workers who labor with them) to covid-19 under the most dangerous possible conditions. We are now confronted with the paradox that the era of mass incarceration and the militarization of the police at every level, was simultaneously the era when ordinary citizens in nearly half the states in the US were granted the freedom to kill those "who posed a threat to their property" using the vast array of military grade weaponry they were legally permitted to acquire. Tens of thousands formed armed militias to safeguard the nation's southern border from the invasion of rapists and murderers they were warned was imminent, to protect cities threatened by Black Lives Matter, or to prevent a tyrannical government from requiring the populace to wear a mask in public. In the spaces abandoned by law, or the zones of exception the law hollowed out within itself, a new form of fascism took shape.

Law as abandonment, zones of exception: in one sense, the work of Giorgio Agamben allows us to understand how states can exercise power by refraining from action at certain precise moments, like a pandemic, when in the absence of a mobilization of institutions, personnel and resources, hundreds of thousands, perhaps millions, will die, while many more will suffer long term or permanent effects. Like all of Agamben's formulations concerning the exception, the notions of ban and abandonment, too, are ideal figures abstracted from the configuration of forces that characterizes their concrete existence. The state of exception, decreed by the sovereign power as imagined by both Schmitt and Agamben, remains nothing more than a juridical ideal that can never be realized, given that the forces against which it is declared will never be reduced to zero and more often than not continue to resist, although from a position unthinkable in Agamben's terms, a position neither inside the

law nor within the outside that remains the law's outside. The theoretical and political price Agamben pays for this error is considerable; it is compounded when the concept of exception is tied to Agamben's notion of "*la nuda vita*," or "bare life," a notion whose contradictions he has recently resolved, guided by the spirit of Hannah Arendt rather than Walter Benjamin, in a manner that is politically catastrophic.

In the face of a pandemic that he initially insisted was a hoax perpetrated by the state to extend its control over the population, and no worse than the seasonal flu, his text, "Clarification," shows that the problem is less the state or the sovereign power (totally absent from his text in which the state of exception simply "is declared" ) imposing, by the threat of force, strict limitations on movements and gatherings, than the people themselves:

Our society no longer believes in anything but bare life. It is obvious that Italians are disposed to sacrifice practically everything — the normal conditions of life, social relationships, work, even friendships, affections, and religious and political convictions — to the danger of getting sick.

*La nostra società non crede più in nulla se non nella nuda vita. È evidente che gli italiani sono disposti a sacrificare praticamente tutto, le condizioni normali di vita, i rapporti sociali, il lavoro, perfino le amicizie, gli affetti e le convinzioni religiose e politiche al pericolo di ammalarsi.*<sup>10</sup>

Let us leave to the side Agamben's attempt to reduce the threat of covid-19 to that of "getting sick," a not very subtle attempt to trivialize the suffering and death already evident in Italy in mid-March. What is far more significant is the assertion that the people have become "so accustomed to living in perennial crisis and perennial emergency" that they are prepared "to sacrifice practically anything" to avoid even the inconvenience of "getting sick." Among the sacrifices, inserted between "social relationships" and "friendships, affections, and religious and political convictions," is "work." Out of fear of the pandemic (at least he does not use the word "cowardice," although it is hovering nearby) the people are willing to sacrifice work. What Agamben fails to note are the number of people sacrificed to work, to "the economy," working without the proper equipment and under unsanitary conditions and dying by the thousands, the doctors, nurses, hospital cleaners, ambulance drivers, administrative staff at hospitals, and any health and social care workers working in the community or other settings, the people working in public services (such as emergency response, public transport workers, trash collectors,) as well those working in businesses allowed to remain open during the pandemic such as grocery stores and people providing delivery services. Then, of course, there were those who could not afford to sacrifice work, the migrants who perform nearly all the agricultural labor,

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10 Agamben 2020.

whose living and working conditions proved ideal for the transmission of the coronavirus and who were blamed for bringing the pandemic to Italy.

But the most revealing statements are that “our society no longer believes in anything but bare life [*la nostra società non crede più in nulla se non nella nuda vita*]” and that “bare life — and the danger of losing it— is not something that unites people, but blinds and separates them

[*la nuda vita – e la paura di perderla – non è qualcosa che unisce gli uomini, ma li acceca e separa*]. The first concerns belief or faith: the people no longer believe in anything other or more than bare life, which he himself defines as their biological existence. To go on living, to avoid death and to enjoy what is necessary to our vital existence, become for Agamben contemptible actions, a reduction of what is authentically the human to the animal (even if our biological existence would appear to be the condition of “anything more”). But how many mass movements have arisen from a fear of hunger or some other physical necessity, and quickly became a force of active, collective indignation? From the poor gathering wood in the Prussian forest with the aim of preventing hypothermia, the landless peasants who seize a few acres of land to grow crops to feed their families, to the workers who strike because a cut in wages means that both they and their communities will go hungry: are these too reducible to animalistic bare life? In fact, these movements are irreducibly collective in nature, composed of individuals unified by the conditions of their labor and the imperatives of the struggle in which they are engaged. The workers today fighting for the ability to protect themselves against the pandemic are not acting out of panic, but neither can they afford to adopt some form of denialism (above all, high-sounding and utterly empty phrases, like “medicine is the new religion”). Among so much obfuscation and deception (the most destructive form of which is self-deception) their struggle, like the struggle against police killings (another struggle for bare life?), touches the real. The place they occupy is the site from which the present phase of racialized class war, and the place of the current pandemic (and those certain to come) in it, become intelligible: *a conoscere bene la natura de' principi, bisogna essere popolare* (Machiavelli). We have everything to learn from the working class and the popular masses as they wage their struggle for life and against death.

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Volume 7  
Issue 3

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Volume 7  
Issue 3