# **Closing Reflection: The Way Forward**

Patricia J. Williams, JD, Northeastern University School of Law

#### **An Entanglement of Policies**

One of the most difficult challenges facing the Biden administration will be undoing a profoundly unwise entanglement of policy decisions. To understand the true dimension of that problem, it helps to look at the document that most succinctly captures the thinking behind the Trump administration's policy regarding the pandemic: The Great Barrington Declaration. Although it was not published until October 2020, it summarized the thinking of the administration's most hyper-libertarian advisors, including Dr. Scott Atlas, and the Secretary of Health and Human Services, Alex Azar. The authors, a loose collective of epidemiologists and doctors, proposed a strategy they called Focused Protection. They asserted that "current lockdown policies" are causing "irreparable damage, with the underprivileged disproportionately harmed" (Great Barrington Declaration, 2020). It is worth noticing that in this version of reality, the more active agent of harm is not the actual virus, but "lockdowns." The expressed goal of the authors was "reaching herd immunity" by opening up everything - period - and soldiering through. According to them, encouraging community spread would "allow those who are at minimal risk of death to live their lives normally to build up immunity to the virus through natural infection, while better protecting those who are at highest risk." Sunetra Gupta, one of the three principle authors, told The Daily Telegraph: "[W]e're saying, let's just do this for the three months it takes for the pathogen to sweep through the population." Martin Kulldorff, another principle author, told Canada's National Post what he envisioned: "[A]nybody above 60, whether teacher or bus driver or janitor I think should not be working-if those in their 60s can't work from home they should be able to take a sabbatical (supported by social security) for three, four or whatever months it takes before there is immunity in the community that will protect everybody" (Kirkey, 2020).

There are innumerable ethical questions raised by such a proposition, not least its unproved assumption that the human population is anywhere near the happy status of "building up" immunity. There's the thoughtlessly impractical description of what "better protection" for those at higher risk would look like: "[N]ursing homes should use staff with acquired immunity" — as though there's a work force of the certifiably immune just waiting to be hired. (There is not. And even though the existence of vaccines provide hope, Trump's appalling neglect in investing in a systematic national roll-out seems consistent with the lazy assumption that "acquired immunity" would be an easier or surer option than actual

preparation for mass production and distribution.) The document also made the casual assertion that "Retired people living at home should have groceries and other essentials delivered to their home. When possible, they should meet family members outside rather than inside" — as though there's a world in which "retired" people come neatly segregated in separate homes, apart from non-retired family. Indeed, even the use of the term "retired" as a cipher for age, seemed to skirt around the degree to which many people older than the age of 65 have to keep working because Social Security did not cover the costs of living even before the pandemic became a factor.

Most astonishing was this throw-away: "A comprehensive and detailed list of measures, including approaches to multigenerational households, can be implemented, and is well within the scope and capability of public health professionals." But to a hungrily contagious virus, any in-person mingling - school, bar, gym, office — is the absolute equivalent of a "multigenerational household." A young member of a "multigenerational house" who visits a gym or a school may as well be bringing her great grandparents with her. This reality of unbounded human sociality is of course, the crux of the problem, and precisely what is missing from the declaration's analysis, as well as the Trump administration's response: If there were such a "list of measures," we should have had it posted on every public billboard long ago. If the development of guidelines is "well within" the scope and capability of public health officials, there ought to have been urgent endorsement of the same from the highest national office. If there had been clearly-enunciated and vehemently endorsed protocols all along, perhaps there wouldn't have been so many lost souls drinking disinfectants and plotting to kidnap the governor of Michigan.

Instead, the declaration called for nothing more specific than "[s]imple hygiene measures, such as handwashing..." Mask-wearing was not even mentioned in the declaration. Maintaining physical distance was not mentioned. True to its libertarian origins, the plan treated the pandemic not as a biological phenomenon, but as ideology, as something that could be contained effectively by individual decision-making. That is a mindset that will take a lot of public education to reform. Within this ideological filter, the elderly and the sick were left to exercise their right to self-isolate "if they wish," configured as autonomous actors for whom rational choice is uncomplicated, a mere mental commitment to self-

This Chapter is a continuation of Chapter 36 in Volume I, "Closing Reflection: The Endless Looping of Public Health and Scientific Racism".

COVID-19 POLICY PLAYBOOK: LEGAL RECOMMENDATIONS FOR A SAFER, MORE EQUITABLE FUTURE • MARCH 2021 • WWW.COVID19POLICYPLAYBOOK.ORG • 227 This preprint research paper has not been peer reviewed. Electronic copy available at: https://ssrn.com/abstract=3844055

removal from public space. The good choice for everyone else was merely to get back out in the world, back to school, back to work, back to "normal." Not mentioned in the declaration is the Centers for Disease Control and Prevention (CDC) data showing that Black people and Latinos, disproportionately employed as low-level "essential workers," constitute 43% of all deaths from COVID-19, although they represent only 12.5% and 17% respectively of the population of the United States (Gold et al., 2020). In other words, the employment and living conditions of people of color are as important mortality risks as age. Dr. Uche Blackstock, CEO of Advancing Health Equity, observes, "It's almost as if living in a country with racism ages people ... to the point where even people who are not elderly ... are still susceptible to dying from this virus is in a way that's very similar to people who are elderly" (Haglage, 2020). These long-standing health disparities among racial minorities have been incalculably exacerbated by Trump's neglectful policies. Nor is this catastrophe merely one of unequal health outcomes: the fall-out includes disproportionate burdens of debt, job loss, homelessness, educational deficits, child welfare, trauma, and grief. The cascading consequences of such social disruption will be one of the greatest challenges facing the new administration.

One of the most appalling aspects of the declaration was its substitution of the term "herd immunity" for the "community spread" it was actually proposing. In epidemiology, herd immunity is defined as immunity attained by widespread programs of vaccination — typically between 60% and 80% of a population (Higgens-Dunn, 2020). That in turn depends upon the existence and availability of a scientifically efficacious vaccine that ensures immunity for a stable and significant period of time. In contrast, the term "community spread" means the promiscuous, relentless virility of infectious disease. Community spread of a deadly pathogen results in precisely the situation we face: widespread community devastation exacted by skyrocketing mortality rates attributable to said deadly pathogen.

Moreover, it is far from clear whether infection guarantees immunity, or for how long (Kelland, 2021). As has been obvious from endless spikes among partying college students and professional athletes, the young and the buff are more susceptible than the Great Barrington Declaration allows; and even if they seem to represent a lesser proportion of immediate fatalities, they may suffer disproportionately from long-term cardio-pulmonary syndromes and disabling vascular disorders. Most perniciously, the declaration is entirely complacent about the reality that COVID-19 may be spread by those with no outward or visible symptoms; its authors make no mention of the need for widespread, repeated, reliable testing of the asymptomatic.

At this writing, just after Biden's inauguration in February 2021, the United States has seen about 28 million documented infections since March 2020, with more than 500,000 deaths. As high as it is, that infection rate represents fewer than 10% of Americans. Herd immunity requires that 60%-80% of a given population be immune. Again, the Great Barrington Declaration did not propose that herd immunity happen through vaccination. Its suggestion that those levels be acquired "naturally" refers to those left standing after untold greater calamity: first, those for whom exposure does not result in death; second, those who sufficiently recover to have developed enduring antibodies; and third, those not left with long-term or permanent disability. The Great Barrington Declaration's advocacy assumed, in other words, that at least 200 million more Americans ought to just go forth, business as usual, amid the deadliest contagion in centuries - to say nothing of its exponentially spreading, rapidly mutating variants. This was the declaration's astonishing bottom line: for only at such stratospherically devastating levels of exposure, with its attendant death toll, would unvaccinated vulnerable people (what's left of them) have a hope of being protected. To get to that point without a vaccine means tolerating millions more deaths - not to mention socially destabilizing rates of grave and protracted illness. As intentional policy, this ends up not looking like "survival," even of the fittest, but instead like an intentionally induced avalanche of slaughter. For the Trump administration to have pursued such a path as a "goal" constitutes, in my opinion, a crime against humanity.

#### **Confusions of Value**

A second major challenge for the Biden administration will be the degree to which deeply contested hierarchies of legitimacy, and a jabbering bewilderment of competing sources, all laying claim to "truth" assisted the propagation of deadly confusion about basic medical science. Although the Great Barrington Declaration claimed to be endorsed by tens of thousands of medical professionals, the vetting of signatories lacked rigor (hence, endorsements from such eminent authorities as "Dr. Johnny Bananas" and "Dr. Person Fakename") (Manthorpe, 2020). In short, it is a crowd-sourced ideological tract sponsored by the American Institute of Economic Research, a libertarian umbrella group located in Great Barrington, Massachusetts, which adheres to Austrian school economic notions of methodological individualism. Major donors include Charles Koch, and the Bradley J. Madden Foundation, which has worked to evade and erode the FDA's regulatory mechanisms and processes designed to ensure health and safety protections in the approval of new drugs and vaccines. The institute's other sponsored tracts include titles like "Brazilians Should Keep Slashing Their Rainforest." Consider a recent post on the institute's website written by one of its research fellows, John Tamny (also editor of RealClearMarkets.com), entitled "Imagine If the Virus Had Never Been Detected." He asserts that:

[T]he coronavirus is a rich man's virus...People live longer today, and they do because major healthcare advances born of wealth creation made living longer possible. We wouldn't have noticed this virus 100 years ago. We weren't rich enough. ...What is most lethal to older people isn't much noticed by those who aren't old. A rapidly spreading virus was seemingly not much of a factor until politicians needlessly made it one. ... The virus didn't suddenly start spreading in March of 2020 just because politicians decided it had. The likelier beginning is 2019. Early 2020 too. Life was pretty normal as a virus made its way around the world then. Politicians made it abnormal. Let's never forget the sickening carnage they can create when they find reasons to "do something."

Let me underscore that this is a post dated February 4, 2021.

Unsurprisingly, the glib laissez-faire recommendations of the Great Barrington Declaration were opposed by the overwhelming consensus of public health experts, including organizations like the National Institutes of Health, the Centers for Disease Control and Prevention, the World Health Organization, Britain's National Institutes of Health, the Mayo Clinic, Johns Hopkins Medical School, as well as globally regarded scientists like Drs. Anthony Fauci and Frances Collins (Medical Daily Staff, 2020).

All that said, the Great Barrington Declaration became dark reality because its free market approach was embraced at the highest levels of American governance — as well as at the lowest levels of online media circulation. This stance was aligned not only with Ayn Randian ultra-libertarianism, but also became entangled with the sovereign-citizen movement — militant anti-maskers and antivaxxers willing to take up arms to resist stay-at-home guidelines; belligerent anti-government souls whose extremism inspired them to descend upon legislatures in bids to ensure we may all live to die for a free-market economy.

This convergence of anti-regulatory sentiment likely means not only that the pandemic will continue to rip through certain sectors of our polity unabated for the foreseeable future, but also that the tragedy of such massive loss will imprint itself upon us as enduring collective trauma. And at a moment when fact sometimes seems to have been locked behind an inscrutable cosmic paywall, the bipartisan angst emerging from a national sense of siege should not be underestimated as its own governing force. This is an altogether dreadful moment. And dread eludes logic or law or rational discourse; it is a powerfully destabilizing force as well as powerfully directive.

#### **Addressing Punitive Eugenic Beliefs**

Among the more troubling left-overs of the Trump administration's official embrace of community spread is a certain cynical resignation on the one hand ("Gotta die one way or the other") and something like a gambler's resolve on the other ("Survival is all about your genetic lottery..."). There is something quite grim in those formulations, a transformation of the libertarian's credo of "live and let live" into the eugenicist's commitment to "live and let die." We may well worry that there is something like a death wish in this limp capitulation to nihilism.

In her book *Precarious Life: The Powers of Mourning and Violence*, philosopher Judith Butler writes of the "national melancholia" that proceeds from "disavowed mourning" for unremarked, "ungrievable deaths" (Butler, 2004). The Great Barrington Declaration reads precisely like a disavowal of mourning. We are trapped in a season of funeral after funeral after funeral — and yet even as we stand with heads bowed at multiple gravesides, there's a call from the boss telling you to just get over it and haul your butt back to work NOW. Or else You're Fired! Or you'll lose the car. Or you won't be able to stay in university. Or you can forget about health insurance. What else was it but disavowal of loss, ungrievability of death, when Dan Patrick, Lt. Governor of Texas, opined on Fox News, "Let's get back to living ... And those of us that are 70-plus, we'll take care of ourselves" (Devega, 2020). These statements are transactional in a blatantly macabre way. It puzzles me deeply, this eager swarm toward euthanasia. This profession of willingness to die for the sake of "living" is structured as sacrifice, as obedience to a higher order. This is an attitude that sees disability - including economic disability - as a social burden and an unaffordable drain. In the economically devastated period following World War I, and leading up to the full-scale grip of Nazi rule in Germany, hospitals became overwhelmed, children with birth defects became an economic burden, and poverty slowly became merged with eugenic and germophobic legal stances on behalf of the body politic. "Mercy killing" of "useless eaters" gradually became labeled as "therapy," and elimination as "treatment." Hospitals and mental institutions quietly initiated more systematized bureaucracies of killing: children deemed "unsustainable" were marked for execution by a plus-sign on their paperwork, their ultimate destiny identified as "disinfection," "cleaning," "therapy," and "treatment" (Mostert, 2002). This, of course, metastasized into the mechanics of mass murder known as The Final Solution. But I mention it here only to underscore the slow, hypnotically encroaching cultural violence when the nation's body is prioritized in competition with or in opposition to the stricken human body.

I wonder if the immorality of the Great Barrington Declaration would be taken as more urgently alarming if we challenged its entire framing: it gussies up a "cost-benefit" analysis of threats to the nation's economic health as the fair equivalent of human health. Without that cost-benefit frame, I think we might more readily redesignate any policy of laissez-faire do-nothing-ism as reckless and depraved endangerment of human life. To be clear, I am not, in general, an advocate of shaming or punishing those who spread communicable disease. As we saw during the AIDS crisis, there are unintended public health costs to such an approach, including hesitancy to seek medical attention. It is not easy to assign intentional fault in the middle of a pandemic: after all, we're all taking risks by going to the grocery store, we're all imperfect in our need to reach out to others, and we're all ignorant to some degree about the protocols of prevention. But as a matter of political decision-making, our leaders make choices of an entirely different dimension. Watching the White House become host to multiple super-spreader events was jaw-dropping. The presidency has power to distribute public benefits that affect the life chances of all people, and there are standards of professional conduct that must be insisted upon, that ought to have been enforced. And there is precedent for such holding-to-account. So, for example, in Massachusetts, two hospital administrators were recently charged with criminal neglect, infliction of bodily harm, and reckless endangerment of human life - they were in charge of nursing homes run by the Veterans Administration. Charged with that care, they knowingly put coronavirus patients in the same units as uninfected patients and then later actively misrepresented the numbers of stricken residents. This outbreak started one of the first major spreads in Massachusetts.

Yet, the malign behavior of these administrators was not so very different from President Trump's actions. Even after hosting unmasked balls and outbreak events that threatened national

security by sickening dozens of White House staff, Secret Service personnel, members of Congress, and of the Joint Chiefs of Staff — Trump intentionally and defiantly held subsequent rallies and town halls where thousands of maskless attendees packed together, like patients in a nursing home, like lemmings at Jonestown, all supposedly begging "to kiss me."

For at least 10 months of 2020, the degree of federal non-action was simply mind-boggling. Indeed, breaking with a 208 year tradition of non-partisanship, the editors of the *New England Journal of Medicine* published "Dying in a Leadership Vacuum," a blistering condemnation of the Trump administration's handling of the crisis: "Anyone else who recklessly squandered lives and money in this way would be suffering legal consequences."

But if what has happened thus far is indeed a crime against humanity, more worrisome still is the long-term fallout: the lethality of the virus was greatly exacerbated by months of failing to institute widespread testing while encouraging people to go about business "as normal." This habit of conduct has compounded the catastrophes we now face, for the virus, being a virus, is (predictably) mutating into various strains of yet greater contagiousness. Vaccines surely must be mass-produced as quickly as possible. But hospitals are already strained to the breaking point, people continue to lose jobs and homes, the numbers of people who are homeless continue to skyrocket, children have lost their teachers, parents, grandparents, while incarcerated people and staff in prisons and detention centers fall ill at epic rates because they are not deemed "essential." In other words, this purposefully unchecked disease has left us to navigate a treacherous and still-brewing social storm.

The American history of state-mandated, involuntary confinement of sick and individuals with disabilities isn't foremost in public discussion or anticipation right now – but we forget at our peril its invocation in the name of economic uplift during the first half of the 20th century. Growing from the American Eugenics Movement's appeals to survival of the fittest, movements to sanitize the collective national body were institutionalized in Supreme Court decisions like Buck v. Bell, which counseled sterilization of "those who already sap the strength of the State." (In the ultimate irony, of course, Justice Holmes wrote that the benefits of compulsory vaccination were rooted in a principle "broad enough to cover cutting the Fallopian tubes.") In other words, recent American political and juridical discourse valuing the strong over the weak is not merely grounded in economics, but contains intimations about racial, ethnic and class preference. Therefore, it would serve us well to be attentive to situations where neglectful inaction in the name of free market ideals accomplishes the same disabling end that compulsory action might have done in another era. In his 1927 Buck v. Bell opinion, Holmes enabled structures of thought that distinguished the "the best citizens" from the "socially inadequate" and "manifestly unfit" who may be sacrificed "to prevent our being swamped with their incompetence." The consequence was widespread state action to detain and constrain everyone from epileptics to "imbeciles," from "incorrigible" youth to wanton women to syphilitics. Today, as we watch more and more people sickening, dying, falling out of the workforce, wandering the streets,

being detained in shelters, incarcerated in prisons, orphaned in institutions, camped out in tent cities and buried in potters' fields, I worry that "laissez-faire" policies have brought us to very much the same divided social end.

We should worry, too, about what might happen if the tide of public emotion turns on people who move through public space with the illness – as happened with "Typhoid Mary" Mallon. She spent the last 23 years of her life involuntarily detained in an asylum on North Brother Island in the Bronx, coalescing backlash against Irish immigrants after she persistently violated guarantine orders. I don't know if such animus might emerge from the right or the left, but I can imagine the appearance of a single demonized or intentional super-spreader becoming the justification for confinements that would draw even deeper and more irrational lines than we see now. Too much of our public health infrastructure has been transferred to or is being monitored by police rather than actual public health agencies, or policies informed by good medical practice. Consider, for example, the investment some police departments are making in drones that can take temperatures aerially of people walking down public streets. That data will be part of an overall architecture of technological surveillance that is already worrisome, but may be particularly susceptible to backlash based on blame, whether based on "bad behavior," or other configurations of biological or political danger.

If we were to remain inflected by the Great Barrington Declaration's emphasis on "personal choice" and survival-of-the-fittest as a viable response to deadly pandemic, one could foresee privately subsidized, choice-driven, even militarized health police serving as our new-age public health monitors. Since it will be a very long time before we can hope to see 80% of Americans "naturally immune," we can predict some competition for the preservation of sub-communities of such perfected bodies through enforced segregation instead. In a culture where many are yearning for, even cultivating, civil war, we might anticipate geolocation-enforced guarantine, physical segregation by algorithmically determined susceptibility based on education level, preexisting medical condition, ZIP code, gender, race, ethnicity, as well as old age. Our recent presidential election was a distressingly close one. In other words, we came very close to having the wealth of public health entities distributed according to the free-market ideological preferences of a Dr. Scott Atlas, rather than the professional public health ethics of a Dr. Anthony Fauci. As discussed in Volume I in this Chapter, some of those preferences have already been embedded in chilling forms of algorithmically-triaged resource allocation. What we have grown to tolerate in the casual demarcation of some people as economic "parasites" – as Trump called immigrants - signals that guite a few of us may be left to die as "useless" devourers of costly resources.

The Great Barrington Declaration claimed public space only for those who supposedly are brave enough, strong enough, young enough, and most of all, economically productive enough, to endure, and who could face down the invading, polluting, contaminating, economically corrupting enemy. This aesthetic fusion of viral "enemies" and economically unproductive bodies is dangerous. This cleansing of public space and assignment of inherent value to those who remain standing (particularly without considering how lethally contagious the asymptomatic may be) is foolhardy and a recipe for chaos.

#### **The Danger of Imaginary Bodies**

One of the forces I found most mysterious in discussions of this pandemic has been the almost cult-like reverence for imaginary bodies, false icons and composited fictional entities whose ideations were mythologized, even immortalized, as greater in importance than human biological systems. Of course we humans are metaphor-machines — to one degree or another we all believe in imaginary bodies. As a lawyer, I understand the dignity accorded to "the corpus of law." As a patriot, I respect the symbolic power of embodied national values for which soldiers in wartime would lay down their lives, a precept for which Gold Star families stand in courageous sorrow. As a consumer advocate, I reject the fiction of "corporate personhood" even as I comprehend the legal creativity of its construction.

But here's what has felt so impenetrably other-worldly to me during the annus horribilis that was 2020: the former president of the United States was engaged in a mask-less danse macabre. It was nothing less than a drawn-out, hubristic flirtation with death – a pushing of scientific limits, logical limits, ethical limits. What I mean is neatly summarized by the ever-succinct, if nonsensical, Glenn Beck. Speaking of older Americans who may be statistically and immunologically more vulnerable to contracting COVID-19, he said, "Even if we all get sick, I would rather die than kill the country" (Concha, 2020).

This does not make much sense if one believes "the country" is synonymous with "we, the people" who "all get sick." As human beings, we are united in our vulnerability to COVID-19. This disaggregation of the country from its people hinted at an important conceptual shift in American identity. There was enough evidence to suppose that Beck and Trump, like the authors of the Great Barrington Declaration, were immortalizing the economy, or perhaps capitalism, as the eternal lifeblood of our nationhood. This is a perilously fragile dream in which to stick one's head — if we all die, much more than the economy will be ruined.

But my point here is to make visible the ideational bodies we have invented through such relatively common verbal gestures. Beck essentially created a golem of an embodied national Economy. He invented a mythic entity with the power to do apocalyptic battle with our fear. It is certainly understandable. COVID-19 is invisible, uncontrollably amorphous — the temptation is irresistible to "see" it as an "enemy" that can be rebuffed in some material form. Our yearning for control tempts us into conjuring various imaginary counter-forces, benevolent specters that will stand up to the virus's murderous voraciousness. At one point and for some, The Wall became the imagistic cure, as though steely barricades could block the dewy clouds of breath and death from supposedly "alien" migrants. Some prayed instead to the Winged Victory of Vaccination. Others bowed down to the Valkyries of Inherited Vitality. (In Norse mythology, Valkyrie translates as "chooser of the slain.") Perhaps most powerfully, immunity itself has been reconfigured in some quarters as Free Radical Individualism — a brave and muscled man, frequently armed with bullet proof-vest, military grade weaponry, but, alas, no face mask. In July 2020, Vice President Pence, impersonating this kind of warrior, faced down doctors at the Mayo Clinic, radiating strength as well as his wet breath. It was, unfortunately, a colonial stance as well, whether intentional or not: if one takes a moment to acknowledge that masks are not only about protecting oneself, but also and perhaps primarily others, it ceased to look like fortitude and more like recklessness toward others.

Pence later said he did not wear masks because he wanted to look at people "eye-to-eye." Given the fact that masks do not cover the eyes, it is clear that "eye-to-eye" meant something more than just the ocular. It referred to an aesthetic, a gaze of controlled statesmanship, to be read in conjunction with firmly pressed lips and a sculpturally jutting jaw, all signifying stout resolution. With a mask obstructing that profile of nose, lips, jaw, the eyes alone become helpless, disengaged from the expressive personality of the rest of the face, beseeching and vulnerable above the anonymity of an obliterating blue medical patch. "Eye-to-eye" is a fiction of masculinity, in other words, a fantasy of the strong leader who stands bare in the face of battle. Of course it is also magical thinking, this idea of walking into the fray and dodging bullets, and emerging unscathed. It's myth-making; a way of performing miracles. Be gone coronavirus!

If we can control nothing else, we can rein in our wandering imaginations by more carefully curating our profusion of fears, and projected golems. We can choose to tell ourselves better stories. What could we come up with if we were imagining broad "social security" not for a few elderly isolates, but rather for all. If, as virologists predict, a substantial number of us can be vaccinated within a year or so, why not dream into being even-just-temporary subsidies and housing policies for all until that comes to pass? Classics scholar Paul Kosmin has written that in very ancient times of catastrophe and great death, the measure of time was stopped and, most importantly, debts were forgiven. I wonder how different would be our sense of imagined survival if we could reset the clock, and forgive the catastrophic debt ordinary people have accumulated over the past year. We need a time of pause, and amnesty, to manage the unprecedented traumas of this time. Why not dream of a plan that would keep more of us fed and housed, and truly able to choose to stay sheltered as a way of not overburdening every bit of our infrastructure with grief, with the sick, with the dying, with the dead?

In the summer of 2020, essayist Sabrina Orah Mark wrote a piece, "I'm So Tired," in *The Paris Review*, "I tell my mother about North Brother Island. 'Maybe we should buy it,' she says. 'I need somewhere to go.' What I don't tell my mother is that we have already gone somewhere. We are already in this place where the world we once knew is rushing out of us" (Mark, 2020). These words have stayed with me. If there is any consistency to what I feel, it is captured by that paragraph: There's such affecting particularity in that vision of the external world not just changing around us, but of interior worlds "rushing out of us."

#### Conclusion

I have no answer for the deeply divisive fissures of race, ethnicity, and American political identity that COVID-19 has exacerbated, although I truly wish I could think my way to a happy ending. So, I read and study and reread those statistics about how ethnic minorities, Black men, and Black women are dying at higher rates. I am not an epidemiological statistic – yet I have no doubt that my body will be read against that set of abstracted data points. I, and we all, will be read as the lowest common denominator of our risk profiles at this particular moment. Not only are we no longer a "we," I am no longer an "I" in the time of coronavirus. Meanwhile, COVID-19 makes snacks of us. The fact that there may be variations in death rates based on age or exposure or pre-existing immunological compromise should not obscure the overall bottom line of its lethality. It kills infants, it kills teenagers, it kills centenarians. It kills rich and poor, Black and white, overworked doctors and buff triathletes, police and prisoners, fathers and mothers, Democrats and Republicans. At the beginning of this pandemic I hung a picture of Nelson Mandela's prison cell over my desk. He spent 25 years in that little stone room. If he could emerge strong, gentle, patient, and wise, then we surely can do months, even a few more years, waiting for vaccines and subsidence of the pandemic. I have faith there will be an end to this. I believe our lives are worth preserving. This once-great heart of a country, and the world, needs compassion, space, forgiveness, if any are to survive. We can divide ourselves up into races, and castes, and neighborhoods, and nations all we like, but to the virus - if not, alas, to us - we are one glorious, shimmering, and singular species. 🤍

## **About the Author**

Patricia Williams, JD, a pioneer of both the law and literature and critical race theory movements in American legal theory, holds a joint appointment between Northeastern University's School of Law and the Department of Philosophy and Religion in the College of Social Sciences and Humanities. She is also director of Law, Technology and Ethics Initiatives in the School of Law and the College of Social Sciences and Humanities, and an affiliate of the Center for Law, Innovation and Creativity.

### References

Butler, C. (2004). Precarious Life: The Powers of Mourning and Violence. London: Verso.

Centers for Disease Control and Prevention (CDC). (2020). What is community spread? Retrieved February 25, 2021, from https://faq.coronavirus.gov/what-is-community-spread/

Concha, J. (2020). Glenn Beck: 'I'd rather die' from coronavirus 'than kill the country' from economic shutdown. The Hill.

DeVega, C. (2020). Trump's death cult finally says it: Time to kill the "useless eaters" for capitalism. *Salon*.

Gold, J. A. W., Rossen, L. M., Ahmad, F. B., Sutton, P., Li, Z., Salvatore, P. P., ... & Jackson, B. R. (2020). Race, Ethnicity, and Age Trends in Persons who Died from COVID-19 – United States, May-August 2020. MMWR, 69(42), 1517-1521.

The Great Barrington Declaration. (2020). Retrieved February 25, 2021, from https://gbdeclaration.org/

Haglage, A. (2020). CDC: Black, Latino people make up nearly 43 percent of COVID-19 deaths. *Yahoo Life*.

Higgins-Dunn, N. (2020). 'The death toll would be enormous,' Fauci says of herd immunity to coronavirus in the U.S. *CNBC*.

Kelland, K. (2020). COVID-19 infection gives some immunity, but virus can still be spread, study finds. *Reuters*.

Kirkey, S. (2020). New declaration calls for 'focused protection' to achieve COVID-19 herd immunity. Critics say it would be deadly. *National Post*.

Manthorpe, R. (2020). Coronavirus: 'Dr Johnny Bananas' and 'Dr Person Fakename' among medical signatories on herd immunity open letter. *Sky News*.

Mark, S.O. (2020). I'm So Tired. The Paris Review.

Medical Daily Staff. (2020). Dr. Fauci, Other Top Scientists, Condemn Use of Herd Immunity. Medial Daily.

Mostert, M. P. (2002). Useless Eaters: Disability as Genocidal Marker in Nazi Germany. The Journal of Special Education, 36(3), 157-170.