State Building in Crisis Governance: Donald Trump and COVID-19

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THE STORY OF AMERICAN STATE BUILDING is one in which crisis, once episodic, has become a routine feature of American politics. At the heart of this development is the modern executive: emergency powers are presidential powers. The principal objective of this article is to highlight
institutional developments since the late 1960s that framed the Donald Trump administration’s actions during the COVID-19 pandemic and currently roil the American state: the expansion of administrative power in the White House, which is largely unconstrained by the institutional imperatives of the bureaucracy, Congress, or state governments, and the emergence of the modern executive as the repository of party responsibility, with both Democrats and Republicans dependent on presidents for messaging, fundraising, mobilization, and programmatic action. Together, these developments form a dynamic of executive-centered partisanship—a merging of partisanship and executive prerogative characterized by presidential unilateralism, social activism, and polarizing struggles about national identity that divide the nation by race, ethnicity, and religion.

Our account of executive-centered partisanship and how it affected the Trump administration’s response to COVID-19 sheds new light on contemporary crisis management and the political nature of administrative power. Other presidents would have responded differently, perhaps with greater success in stemming the spread of the virus; other presidents might have attempted to centralize administrative power more aggressively in fighting the pandemic, rather than deflecting responsibility to states and private entities. Nevertheless, Trump’s actions were not irresolute. They were defined by a purposeful pursuit of partisan objectives: a denigration of bureaucratic expertise and an attack on the “deep state”; the politicization and racialization of federal administrative procedures to crack down on legal and undocumented immigration; a campaign of “law and order” to quell civil rights demonstrations; and a punitive form of federalism, defined by partisan retaliation against “blue states.”

Contrary to dominant analyses that paint an administration in disarray, we argue that the Trump administration responded to the crisis through a tactical redeployment of national administrative power to fulfill partisan goals, within a party system beholden to executive power.1

As such, we conclude that given the current political and institutional context, American presidents are less likely to offer unifying leadership during national crises, or to suffer the political consequences for failing to do so. Instead of subjecting his party to the “blue wave” many Democrats hoped for, Trump’s polarizing leadership agitated a highly mobilized and

1Nicholas F. Jacobs, Desmond King, and Sidney M. Milkis, “Building a Conservative State: Partisan Polarization and the Redeployment of Administrative Power,” Perspectives on Politics, 17 (June 2019): 453–469.
fiercely contested election that sharpened, rather than ameliorated, partisan conflict. Republicans did better than pre-election prognostications implied down ballot, where they gained 11 seats in the House and maintained control of most state legislatures. Moreover, Trump’s term in office enabled Republicans to solidify a conservative majority in the courts. As a result, his successor, Joe Biden, came into office having to navigate public health and economic crisis with a bare majority in the Senate, statehouses and governors more deeply divided than Congress, and a judiciary in which 28 percent of all sitting judges were appointed by Trump, including three new justices on the U.S. Supreme Court. Most tellingly, despite his personal defeat, Trump reigned over his party and reveled in the adulation of its base supporters. In short, the American state offers modern presidents not only the opportunity to strengthen their commitment to partisan tactics under the cover of national emergencies, but also the power to do so without the traditional constraints of party, Congress, and the states. That this strategy mobilized the Republican base and did not arouse a national repudiation of the president’s leadership is evidence of the power bestowed on the modern presidency to advance partisan objectives in a deeply divided nation.

The article proceeds as follows: First, we argue that while the government’s response to COVID-19 is an exceptional case, scholars often learn much about the operating dynamics of the American state by exploring how crises shape and transform certain governing commitments. Students of American politics have long argued that national crises have been central to major political developments. Therefore, the absence of transformative change in the wake of the COVID-19 crisis—the stubborn persistence of the polarizing struggles over American identity that have intensified since the late 1960s—poses hard challenges to this prevailing perspective.

Second, we argue that executive-centered partisanship explains the discrepancy between received wisdom and the contemporary battle for the services of the administrative state. We identify three ways in which the Trump administration’s actions revealed and reinforced the dysfunctionalism of executive-centered partisanship during COVID-19: the delegitimization of bureaucratic expertise in partisan politics; the decay of constitutional forms that sustain the division and separation of powers; and the politicization of administrative procedures and policy implementation, now central to the partisan struggle to contend with a diversifying and politically fragmented America. Each of these factors, we argue, is symptomatic of the political pathologies that fester under executive-centered partisanship.
We conclude with an analysis of Trump’s legacy and its effect on the first few months of Biden’s presidency. We do not mean to suggest that Biden’s leadership is equivalent to Trump’s, or that the Democratic and Republican Parties share equal blame for routinizing presidential partisanship. Not only does the base of the Republican Party not apologize for violent insurrection and embrace conspiratorial tales about election fraud, Republican Party leaders in Congress and the states openly question foundational rules and precedent for short-term advantage. Nevertheless, from the early days of his presidency, Biden has struggled to escape from the cultural and institutional forces embedding executive-centered partisanship in American democracy. Despite claims to the contrary, Biden’s early performance in office, especially with respect to the COVID-19 crisis, has reinforced the essential features of presidential partisanship. Trump’s presidency, therefore, has further fused partisanship and executive administration, fanning, rather than dousing, the flames of social discord, all while testing the “resilience” of American democracy.

CRISIS, PRESIDENTIAL POWER, AND THE DEVELOPMENT OF THE AMERICAN STATE

Emergencies have routinely engaged the potential power of the American state and served as a rallying cry to unify the nation. Yet the public health and economic crises wrought by COVID-19 revealed how the worst emergency since the Great Depression failed to free American politics and government from the conditions that deeply divided the nation. Therefore, there is a need to distinguish COVID-19 from previous crises in American political development, and to reconsider the ways in which earlier emergency responses have affected the development of the American state. To do so, we place the emergence of COVID-19 as a national crisis within a richer historical context, one that accounts for the secular development of a politicized administrative state and the deterioration of partisan organizations.

Likewise, although the COVID-19 pandemic has been unique in many ways, it is a telling case for understanding the underlying factors that influence the partisan imperatives to use public crises and the authority they confer for partisan advantage. Indeed, unlike other crises fabricated

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2Nicholas F. Jacobs and Sidney M. Milkis, “Get Out of the Way: Joe Biden, the U.S. Congress, and Executive-Centered Partisanship during the President’s First Year in Office,” The Forum 19, no. 4 (2021): 709–744.

3Steven Levitsky and Daniel Ziblatt, How Democracies Die (New York: Broadway Books, 2019).
for partisan objectives—for example, the “war on drugs” that Richard Nixon declared in 1971—COVID-19 posed and proved a dire threat to public health. Paradoxically, the Trump administration sought to exploit the public health emergency, even as it denied its severity. As a result, COVID-19 deepened a political crisis that for decades had politicized the administrative state, subjecting it to a contest between liberals and conservatives for its services.

Crisis Governance and the Development of the American State

Our analysis takes a broader understanding of the American state. The idea of a “state” cannot be encompassed by Max Weber’s definition of “a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory.” Especially in the United States, with its fragmentation of power, the state should be understood as “negotiated arrangements between the central government and powerful subnational units, patterns of competition and contestation among political parties, and relations among ‘public’ and ‘private’ providers of social welfare.” The American state is not easily characterized as weak or strong—its power derives from a centralizing ambition amid a complex system of institutions that seeks to cultivate or impose a specific type of American community.

This American state is a legacy of unintended consequences, historical contingency, and the unique position of the presidency in the constitutional order. In particular, the rise of the modern state, especially in a political culture that presumes to proscribe centralized power, is inextricably connected to American wars and domestic emergencies, which are frequently characterized as the moral equivalent of wars. Unlike some other republican charters, the U.S. Constitution does not have formal provisions that establish prerogative executive power in times of emergency. However, crises have created opportunities for presidents to cut through the normal working arrangements of American politics. The central role of the presidency as a vanguard of institutional change has

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4Max Weber, “Politics as Vocation,” in H. H. Gerth and C. Wright Mills, eds. and trans., From Max Weber: Essays in Sociology (New York: Oxford University Press, 1946), 77–128 (originally published 1919).

5Desmond King and Robert C. Lieberman, “Review: Ironies of State Building: A Comparative Perspective on the American State,” World Politics 61 (July 2009): 547–588, at 549.

6For example, Article 16 of the French Constitution explicitly allows the president to take exceptional measures “where the institutions of the Republic, the independence of the Nation, the integrity of its territory or the fulfillment of its international commitments are under serious and immediate threat” (see https://www.constituteproject.org/constitution/France_2008). This provision was an important template of the Fifth Republic, formed in 1958, which transformed a parliamentary into a presidential system.
long been understood by scholars; furthermore, territorial expansion, globalization, and the nationalization of American political culture have encouraged the consolidation of an executive-centered state. The imperative to act—especially when confronted with the existential possibility of the state’s destruction—leads to creative extensions of existing administrative power and social policy.7

Emergencies are not only instrumental in episodic bouts of executive aggrandizement; crises and presidential emergency powers have also entrenched the American state’s more permanent features.8 Especially during major episodes of bellicosity, the terms of political conflict are redefined, and wartime presidents are central actors in defining these terms. Indeed, David Mayhew has written that wars “seem to be capable of generating whole new political universes.”9 All-consuming emergencies open up space for presidents to act unilaterally, permitting political outcomes in both foreign and domestic policy that are largely inconceivable absent the nationalizing and centralizing tendencies of national crises.10 As John Lapinski demonstrates, “crises often delegitimize existing government policies that are directly and, in some cases, indirectly linked to the event.”11 Although Congress and the courts do not vanish during protracted states of crisis or war, “modern presidents are undoubtedly the preeminent actors.”12 “Reconstructive presidents,” Stephen Skowronek argues, can bring about new political orders, but they typically do so only when the prevailing regime is in disarray—after the extant regime’s internal weaknesses are exposed, often because it cannot contend with governing exigencies.13 Therefore, for liberals and conservatives alike, the grandeur of an energetic executive has been

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7 Suzanne Mettler, Soldiers to Citizen: The G.I. Bill and the Making of the Greatest Generation (New York: Oxford University Press, 2005); William J. Barber, Designs within Disorder: Franklin D. Roosevelt, the Economists, and the Shaping of American Economic Policy, 1933–1945 (New York: Cambridge University Press, 1996); Karen Orren and Stephen Skowronek, “Regimes and Regime Building in American Government: A Review of Literature on the 1940s,” Political Science Quarterly 113 (Winter, 1998): 689–702; and Sheldon D. Pollack, War, Revenue, and State Building: Financing the Development of the American State (Ithaca, NY: Cornell University Press, 2009).
8 Robert P. Saldin, War, the American State, and Politics since 1898 (New York: Cambridge University Press, 2010).
9 David R. Mayhew, “Wars and American Politics,” Perspectives on Politics 3 (September 2005): 473–493, at 473.
10 William G. Howell, Saul P. Jackman, and Jon C. Rogowski, The Wartime President: Executive Influence and the Nationalizing Politics of Threat (Chicago: University of Chicago Press, 2013).
11 John S. Lapinski, “Policy Substance and Performance in American Lawmaking, 1877–1994,” American Journal of Political Science 52 (April 2008): 235–251, at 238.
12 Douglas L. Kriner, After the Rubicon: Congress, Presidents, and the Politics of Waging War (Chicago: University of Chicago Press, 2010).
13 Stephen Skowronek, The Politics Presidents Make: Leadership from John Adams to Bill Clinton, revised ed. (Cambridge, MA: Harvard University Press, 1997).
forged during the country’s most perilous, unpredictable moments in history.

**Politicking Presidential Prerogative**

More often than not, war and crisis are understood to be central to the development of foreign policy institutions within the presidency, such as the National Security Council. However, the fact that foreign crises are so central to redefining domestic priorities for presidential administrations suggests that emergency powers cut more deeply into the fabric of the modern political system.

Presidential state building is nurtured by large-scale, national crises, but the modern executive, dependent on loyal partisans, is not an institution that works on behalf of the “whole people” or rallies the country to tackle national crises through enduring reforms. Even in the work of administering less politically charged programs, such as disaster funding or decisions to close military bases, the modern presidency is electorally motivated and often acts to serve its core constituency. During emergencies, well-organized and highly motivated factions within a single party can leverage the institution to enact unpopular and divisive schemes. Moreover, the reliance on unilateral administrative measures to advance party objectives—disingenuously justified in the name of the “national interest”—further enfeebles legislative institutions during moments of crisis. With the country sharply divided by deep cultural rifts, such presidential unilateralism arouses fundamental struggles over inclusion.

For a time, the executive-centered administrative state was sustained by a fragile consensus that obscured partisan conflict over national administrative power. The extraordinary crises of the Great Depression and World War II led to institutional changes and policies that subordinated partisanship to administration, consolidating a New Deal state committed to a “coalition” between partisans of executive power and the proponents of expertise, or “neutral competence.” Politics was then a state building in crisis governance | 231

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14Bryan Mabee, “Historical Institutionalism and Foreign Policy Analysis: The Origins of the National Security Council Revisited,” *Foreign Policy Analysis* 7 (January 2011): 27–44.
15Douglas L. Kriner and Andrew Reeves, *The Particularistic President: Executive Branch Politics and Political Inequality* (New York: Cambridge University Press, 2015).
16Daniel DiSalvo, *Engines of Change: Party Factions in American Politics, 1868–2010* (New York: Oxford University Press, 2012).
17Neomi Rao, “Administrative Collusion: How Delegation Diminishes the Collective Congress,” *New York University Law Review* 90 (November 2015): 1463–1526.
18Herbert Kaufman identifies the “quest for neutral competence” and the “quest for executive leadership” as core commitments in the development of the administrative state. See Kaufman, “Emerging Conflicts
search for pragmatic solutions to the challenging responsibilities that America had to assume, at home and abroad, to secure economic and national security. However, public support for the New Deal state fractured in the wake of the cultural and political upheavals of the 1960s. The attempt to realize the Great Society exposed the liberal state’s central fault lines (notably racial inequalities), and with violent upheaval in Vietnam and in the nation’s urban core, the pragmatic center that buttressed the New Deal disintegrated. Once contested by conservative Democrats and Republicans as a threat to constitutional government, national administrative power gained acceptance on the right as liberalism expanded throughout the 1960s. In the wake of the cultural revolution of that decade, Republicans built a conservative base whose foot soldiers, most notably the Christian Right, rallied around the belief that liberalism had so corrupted the country that the national government had a responsibility to aggressively protect “traditional values” and uphold “law and order.”

As presidents have assumed the mantle of partisan leadership and as partisans increasingly owe their political fortunes to the president’s personal success, it has become more difficult to separate national goals from the president’s goals. In fusing the institutional interest of the presidency with the “interest” of the American people, emergencies offer even greater opportunity for presidents to act. Increasingly, they act on behalf of their partisan constituencies. As a consequence, partisanship in the United States is no longer a struggle over the size of the state. It has become an executive-centered struggle for the services of national administrative power.

**Executive-Centered Partisanship**

The routinization of executive aggrandizement has been deepened by partisan polarization in which Democrats and Republicans not only disagree on matters of principle and policy but also view their opponents as existential threats to the American way of life. Two ingredients of
this party conflict make it particularly dangerous. First, since the 1960s, struggles over race and religion have increasingly animated partisan combat, posing fundamental questions about what it means to be an American. These conflicts have been further aggravated by the expansion of presidential power, thereby joining executive aggrandizement to partisan conflict. As intractable party wars have deadlocked Congress, the legislative caucuses have become more dependent on presidents to cut through the Gordian knot and advance causes through executive action. During the George W. Bush and Barack Obama administrations, both Democrats and Republicans became dependent on presidents to pronounce their party’s message, raise funds, mobilize support, and advance partisan causes through unilateral action.22

Indeed, Republican presidents have pioneered the development of executive-centered partisanship. Responding to the explosion of social unrest in the 1960s, Richard Nixon was the first conservative president to braid the language of national emergency with a partisan vision of American society. With a rallying cry of “Law and Order,” Nixon identified new crises—at home, in the urban core, and abroad, in the jungles of Vietnam—that presupposed an “energetic” presidential administration and a conservative modern executive.23 As Jeffery Hart, editor of the influential National Review, editorialized at the time, conservatives could only undo the work of the New Deal and Great Society “through the action of a powerful president who is willing virtually to go to war within his own executive branch in order to carry out his mandate.”24

Like Nixon, Ronald Reagan demonstrated that the politicization of emergency powers did not stop at the water’s edge. Whereas the presidency’s increasing tilt toward unilateralism in foreign affairs had been a growing concern since the travails of Vietnam, the threat of an “Imperial Presidency” was inured to its partisan dimensions.25 On the one hand, Reagan’s foreign exploits, particularly the funding of the Contras in Nicaragua, is an exemplar of Theodore Lowi’s prescient observation that “deceit is inherent in the present structure” of the American presidency.26

22Sidney M. Milkis, Jesse H. Rhodes, and Emily J. Charnock, “What Happened to Post-Partisanship: Barack Obama and the New American Party System,” Perspectives on Politics 10 (March 2012): 57–76.
23Richard P. Nathan, The Administrative Presidency (New York: Wiley, 1983).
24Jeffrey Hart, “The Presidency: Shifting Conservative Perspectives?,” National Review, 22 November 1974, 1351–1355, quoted in part in Jack Goldsmith, “The Accountable Presidency,” The New Republic, 18 February 2010, 35.
25Andrew Rudalevige, The New Imperial Presidency: Renewing Presidential Power after Watergate (Ann Arbor: University of Michigan Press, 2006).
26Theodore Lowi, The Personal President: Power Invested, Promise Unfulfilled (Ithaca, NY: Cornell University Press, 1985), 175.
On the other hand, the Reagan administration’s careful and deliberate use of presidential power reflected a deeply held partisan commitment to overcome the Democrats’ “Vietnam Syndrome” and to infuse the Republican Party with a resolute defense of American power overseas. A generation later, George W. Bush conducted the global War on Terror in an ideological environment primed by modern conservatism’s embrace of a presidency-centered state. Not only did Bush 43’s legal team build a fortress of legal support for the presidency’s constitutional independence under the banner of the “unitary executive”—a team led, in part, by Donald Trump’s second Supreme Court appointee, Brett Kavanaugh—27 but the White House also took innovative steps to centralize the Republican Party’s messaging to transform the 2002 and 2004 elections into referenda on the president’s leadership in the War against Terror.28

Democratic presidents have also leveraged the additional flexibility that crises afford in order to extend their partisan ambitions. These dynamics are not solely dependent on the occupant of the White House; rather, they are endemic to executive-centered partisanship. Barack Obama was elected on the heels of the deepest economic catastrophe that the country had experienced in nearly a century. His presidency, it seemed, would be shaped by the inescapable demands of leading the country out of an economic emergency. Still, despite warnings and outright criticism from fellow partisans, the Obama administration used its sizable partisan victory to pursue health care reform, the most divisive and partisan policy arena, with perhaps the exception of immigration. The consequences are revealing. Democrats in Congress suffered historic losses from an electorate frustrated with the party’s namesake legislative achievement: Obamacare. Deprived of his congressional majorities after 2010, the language and ethos of crisis animated the president’s governing strategy long after the worst of the Great Recession had passed. As the president boldly proclaimed in the run-up to the 2012 election, “We Can’t Wait!”29 Obama built upon the centralizing ambitions of his conservative and liberal predecessors to advance through executive action the progressive causes of a potentially powerful but widely scattered “Coalition of the Ascendant”: youth, minorities, the LGBTQ community, and college-educated white

27Brett M. Kavanaugh, “Separation of Powers during the Forty-Fourth Presidency and Beyond,” Minnesota Law Review 93 (2009): 1454–1486.
28Sidney M. Milkis and Jesse H. Rhodes, “George W. Bush, the Republican Party, and the ‘New’ American Party System,” Perspectives on Politics 5 (September 2007): 461–488.
29Kenneth Lowande and Sidney Milkis, “‘We Can’t Wait’: Barack Obama, Partisan Polarization and the Administrative Presidency,” The Forum 12, no. 1 (2014): 3–27.
professionals, especially women.\textsuperscript{30} The Office of Management and Budget—the linchpin of the West Wing’s efforts to control the federal bureaucracy, and the creation of Richard Nixon—extended its reach deeper into the administrative agencies, using presidential powers over grantmaking processes, rulemaking, and personnel to link Obama’s management strategy directly to his grassroots support.\textsuperscript{31}

In sum, political crises often demand unified leadership and we remember the tendency for Americans to “rally around the flag.” But political upheavals also delimit who belongs in the community and who should remain outside. And, in the current structure of American partisanship, presidents are quick to seize power for partisan purposes. Crises are external shocks that presidents systematically exploit.

**DONALD TRUMP AND COVID-19**

If the past were prologue, Donald Trump’s mismanagement of the worst national crisis since the Great Depression should have sentenced him to the fate of “a late regime affiliate”—like Herbert Hoover or Jimmy Carter—and resulted in a severe political reckoning: “the final repudiation of a bankrupt conservative political order and the rise of a new progressive regime.”\textsuperscript{32} The Trump presidency radiated gross incompetence at nearly every stage of the pandemic. At the highest levels, Trump’s chief policymakers sent contradictory signals about the spread of the virus. Belying his boast that the president has “total authority” to battle the pandemic, Trump deflected primary responsibility to state and local governments, and, when calls for racial justice and police reform emerged in the midst of widespread lockdowns—a second, interrelated moment of reckoning for the country—he seemed unsympathetic to, and indeed stridently sought to resist, the swells of public discontent and demands for change. Only as the president’s public opinion polls cratered amid the twin diseases of the coronavirus and police brutality did he resume his daily press briefings—two months after declaring them a “waste of time.” Largely pro forma, these media rituals only highlighted

\textsuperscript{30}Ronald Brownstein, “The Clinton Conundrum,” *The Atlantic*, 17 April 2015, accessed at https://www.theatlantic.com/politics/archive/2015/04/the-clinton-conundrum/431949, 16 March 2022.

\textsuperscript{31}See, for example, Timothy J. Conlan and Paul L. Posner, “Inflection Point? Federalism and the Obama Administration,” *Publius: The Journal of Federalism* 41 (Summer 2011): 421–446; and R. Shep Melnick, *The Transformation of Title IX: Regulating Gender Equality in Education* (Washington, DC: Brookings Institution Press, 2018).

\textsuperscript{32}Richard Kreitner, “What History Tells Us about Trump’s Implosion and Biden’s Opportunity,” *The Nation*, 12 October 2020, accessed at https://www.thenation.com/article/politics/interview-stephen-skowronek/, 16 March 2022.
how the Trump administration repeatedly failed to recognize the threat that COVID-19 posed to public health and the economy.33

And yet, far from breaking the rules, Trump followed the playbook of partisan administration. Rather than attempt to reprise the modern executive as the steward of the public welfare, as many journalists and public figures had been taught to expect during a national crisis of the highest order, Trump further fused executive prerogative and partisanship. This was not just a matter of Trump’s many eccentricities. It was endemic to executive-centered partisanship—a governing stratagem that rationally deploys state power in pursuit of partisan interests, even during times of national emergency.

Three areas of Trump activism illustrate the dominance of partisan interests during the efforts to manage the COVID-19 crisis. First, we detail and contextualize the president’s sustained attack on the competency of federal bureaucracy, not only toward public health authorities, but also its larger attack on administrative neutrality. We then consider the politicization of intergovernmental administrative structures, which heightened the conflict between Democratic-led states and the administration over emergency public health measures as well as the president’s immigration reforms. This leads to a third consequence—the polarizing efforts undertaken by the Trump administration to connect the administrative response to COVID-19 to a divisive battle over American identity and culture, eventually implicating civil rights protesters as the real “emergency” confronting the United States. These three reactions to the crises that profoundly disrupted American life during 2020 do not cover the entirety of the Trump administration’s response to COVID-19. Taken together, however, these examples place the White House’s response to the pandemic in the broader context of what many commentators have described as a “Cold Civil War.” Determined to protect the country from the schemes of the “deep state” and the ravages of civil rights activists and undocumented immigrants, Democrats and coastal elites, and the global threat posed by China, the Trump administration engaged in a purposeful redeployment of state power, pursued through the onslaught of a deadly pandemic that would take the lives of more than 400,000 Americans during Trump’s final year in office.

33Michael D. Shear, Noah Weiland, Eric Lipton, Maggie Haberman and David E. Sanger, “Inside Trump’s Failure: The Rush to Abandon Leadership Role on the Virus,” New York Times, 15 September 2020, accessed at https://www.nytimes.com/2020/07/18/us/politics/trump-coronavirus-response-failure-leadership.html, 16 March 2022; and Michael C. Bender and Rebecca Ballhaus, “How Trump Sowed Covid Supply Chaos,” Wall Street Journal, 31 August 2020.
Attacking the Deep State: Denigrating Expertise for Political Gain

COVID-19 accentuated the ideological dilemma that had confronted the Trump administration since his first day in office: how does a president who has routinely mobilized his base by denigrating government use positive state power affirmatively on behalf of a narrow but strategically placed constituency?

Trump’s answer to that question was to embrace the conservative state-building approach that has been a staple of Republican administrations since Nixon. His administration escalated the partisan assault on the bureaucracy into a war on the “deep state.” This all-out struggle against bureaucratic expertise informed the White House’s response to the pandemic, which emphasized the private sector’s capacity and willingness to manage the public crisis and politicized long-standing administrative protocols in key public health agencies. The experience of battling legally protected and institutionally well-insulated careerists inside the federal bureaucracy—none more prominent than Dr. Anthony Fauci—galvanized the creation of a new classification scheme for civil servants central to policy and planning operations. Had Trump been reelected, such a move would have fully institutionalized the White House’s efforts to supplant administrative neutrality with presidential authority—a hallmark of executive-centered partisanship.

Liberals and conservatives alike have often viewed bureaucratic autonomy with scorn—an obstacle to their ability to remake American politics in their own image. But they have grasped administrative power with alacrity in pursuing their political objectives. Conservative presidents, especially Nixon, Reagan, and Trump, aggressively campaigned against “wasteful, muscle-bound government,” “big bureaucracy,” and “the swamp.” Nevertheless, despite rhetorical appeals to “limited government,” since the late 1960s, conservatives have sought to deploy state power as ardently as liberals. The conservative charade against central power often appears as a partisan struggle to deconstruct, roll back, or limit the state. Yet, such an interpretation neglects the strategic ways in which Republican presidents have reframed government power in the service of particular partisan objectives, such as advancing corporate financial interests and pressuring administrative agencies to make guidance and recommendations fit a narrative compatible with the White House’s messaging.

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34 Stephen Skowronek, John A. Dearborn, and Desmond King, Phantoms of a Beleaguered Republic: The Deep State and the Unitary Republic (New York: Oxford University Press, 2021).
35 John Herbers, “Nixon’s Presidency: Centralized Control,” New York Times, 6 March 1973.
One of the defining features of Trump’s response to the pandemic was his public refusal to embrace and legitimate public health experts’ recommendations regarding lockdowns and masks, while promoting specific state actions that fit a pattern of conservative mobilization.\(^{36}\) The day the administration declared COVID-19 a national emergency, President Trump made clear that the American response would be shaped and directed by private corporations. Calling together the CEOs from some of the country’s largest corporations, including Walmart, Target, and Walgreens, Trump promised that corporate America and the private marketplace would be at the forefront of the public health challenge: giving up parking lots for testing, creating new websites for locating resources, and creating viral tests. Few of these initiatives succeeded, and public authorities at the state and local levels had to fill the vacuum.\(^{37}\) Nevertheless, the markets heard the president’s message; the Dow Jones Industrial Average grew a record-breaking 9.4 percentage points that Friday.

Even during those fleeting moments when he acknowledged the public health dangers of the pandemic, President Trump routinely belittled public health experts’ dire warnings of new case surges if the national government and states did not remain vigilant. Stoked by his divisive rhetoric and actions, Democrats and Republicans engaged in a heated battle over the appropriate response to the virus, even fighting over whether to wear a face mask. Political psychologists puzzled over surveys that showed conservatives, who in the past had shown greater fear of communicable diseases traveling across the border (obsessing about “purity”), such as the Ebola outbreak during the Obama administration, backing the president’s politically calculated but medically brazen call to return to normalcy.\(^{38}\)

Even as a second wave (or a continuation of the first) crested, the president showed fierce determination to resist national calls to impose a mask mandate or to clarify reopening guidance for state and local governments. More insidiously, in promoting COVID-19 treatments and vaccines that he hoped would quickly diminish the threat that the pandemic posed to the economy, the president placed a premium on his

\(^{36}\)Laurie McGinley, Josh Dawsey, Yasmeen Abutaleb, and Carolyn Y Johnson, “Trump Rails against ‘Medical Deep State’ after Pfizer Vaccine News Comes after Election Day,” *Washington Post*, 12 November 2020, accessed at https://www.washingtonpost.com/politics/2020/11/11/trump-angry-about-pfizer-vaccine/, 16 March 2022.

\(^{37}\)Noah Weiland and Katie Thomas, “Trump Administration Moves to Speed Coronavirus Testing,” *New York Times*, 13 March 2020, accessed at https://www.nytimes.com/2020/03/13/us/politics/trump-administration-coronavirus-testing.html, 16 March 2022.

\(^{38}\)Thomas Edsall, “When the Mask You’re Wearing Tastes Like Socialism,” *New York Times*, 20 May 2020, accessed at https://www.nytimes.com/2020/05/20/opinion/coronavirus-trump-partisanship.html, 16 March 2022.
reelection prospects. The White House pressured the Food and Drug Administration (FDA) to grant emergency use authorization for hydroxychloroquine, an antimalaria treatment that Trump repeatedly promoted, even announcing he was ingesting it himself to immunize himself against COVID-19. When the agency reversed course, citing evidence that the drug showed serious side effects, including heart problems, Trump predictably was accused of putting politics ahead of science.

Not to be deterred, the White House continued its arm-twisting of the Centers for Disease Control and Prevention (CDC) and FDA in the service of expediting dubious therapeutics and possible cures. The CDC came under fire from a host of medical and public health groups and infectious disease experts for abruptly changing its guidelines for testing. It no longer recommended testing for asymptomatic people even if they had contact with an infected individual—a shift that coincided with the president’s stated desire to reduce testing and to deflect attention from the spiking caseloads in the states that had begun to reopen their economies. At a campaign rally in June, Trump laid bare the electioneering strategy: “When you do testing to that extent you’re going to find more people, you’re going to find cases,” Trump said. “So I said to my people, ’slow the testing down, please.’ They test and they test. We got tests for people who don’t know what’s going on.” And on the eve of the Republican National Convention in late August, Trump lauded the emergency authorization for convalescent plasma as a “very historic breakthrough,” a pronouncement originally backed by FDA commissioner Stephen Hahn. In the face of the scathing dismissal by scientists and public health experts that it was a gross overstatement, Hahn was forced to apologize for his claim that 35 of 100 people with COVID-19 “would have been saved because of the administration of plasma.” Hahn’s efforts to regain a measure of professional respect by promising that he and FDA experts would not be pressured into approving a vaccine before it had been proven through clinical trials drew an accusatory tweet from the president. The deep state at the FDA, he alleged, was trying to sandbag his election prospects by slowing progress on COVID-19 treatments and vaccines until after 3 November, Election Day.

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39Kaiser Health News, “’I Don’t Kid’: Trump Stands by Statement That He Ordered a Testing Slowdown,” 24 June 2020, accessed at https://khn.org/morning-breakout/i-dont-kid-trump-stands-by-statement-that-he-ordered-a-testing-slowdown/, 16 March 2022.

40Laurie McGinley, Yasmeen Abutaleb, Josh Dawsey, and Carolyn Y. Johnson, “Inside Trump’s Pressure Campaign on Federal Scientists over a Covid-19 Treatment,” Washington Post, 30 August, 2020, accessed at https://www.washingtonpost.com/health/convalescent-plasma-treatment-covid19-fda/2020/08/29/e39a75ec-e935-11ea-bc79-834454439a44_story.html, 16 March 2022.
The Trump’s administration’s political assault on the bureaucracy, which intensified during the pandemic, was not undertaken to dismantle it. Rather, the White House used the country’s preoccupation with a public health crisis to continue the deployment of administrative power for contested conservative policies pushed by advocacy groups and favored by his base. As one public administration scholar noted, the overarching motivation was to “keep calm and regulate on.”\(^{41}\) It was a rational strategy for an institution that derives its power from exacerbating partisan divisions, energizing its most ardent supporters, and flouting constitutional restraints in the name of “the people.”

Indeed, Trump’s populist commitment to find a rapid cure for the pandemic undermined what could be seen as the most effective initiative of his response to the coronavirus: “Operation Warp Speed.” Launched in March, the U.S. government, trying to defy the timelines that have governed the development of vaccines for decades, awarded almost $11 billion to seven companies to develop vaccines, three of which—Moderna, AstraZeneca, and Pfizer—had been in late-stage trials only five months later. Prior to the launch of this initiative, there was already a unit within the Department of Health and Human Services (HHS) whose responsibility was to give money to companies that were developing vaccines. Operation Warp Speed got more companies involved on a much greater scale, by limiting their liability and all but guaranteeing massive profits in the event of a failed trial. More novel, however, was the way the Trump administration approached manufacturing. Normally, a pharmaceutical company would not be willing to start to mass-produce its vaccine until the lengthy clinical trial period showed enough evidence to warrant FDA approval. To obviate this risk, the federal government paid companies to start mass-producing millions of doses of their vaccines before they knew that it was safe and effective. To further speed the manufacture and distribution of a vaccine, the White House enlisted the Department of Defense and its experience in logistics to quickly distribute a vast number of materials, whether for clinical trials, manufacturing, or vaccinating millions of Americans.\(^{42}\)

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\(^{41}\)Rachel Potter, “Why the Trump Administration Is Continuing to Regulate in the Midst of a Global Pandemic,” Brookings Series on Regulatory Process and Perspective, 19 May 2020, accessed at https://www.brookings.edu/research/keep-calm-and-regulate-on/, 16 March 2022.

\(^{42}\)“Inside Operation Warp Speed,” New York Times, 17 August 2020, accessed at https://www.nytimes.com/2020/08/17/podcasts/the-daily/trump-coronavirus-vaccine-covid.html, 16 March 2022.
Although Operation Warp Speed showed promise by the end of the summer, the White House’s partisan approach to the pandemic and the political pressure it imposed on the FDA and CDC aroused skepticism that it would deliver a safe vaccine that would immunize the nation by the end of 2020, as promised. Seven former commissioners of the FDA lambasted the administration’s politicization of the approval process, which included the unprecedented claims made by HHS secretary Alex Azar that he, not the FDA, determined which new medicines and medical devices would receive approval.43

A letter from Dr. Robert Redfield, director of the CDC, to the nation’s governors with an urgent request did little to assuage doubts that the upcoming presidential election was not paramount to the agencies’ considerations. The Trump administration wanted states to do everything in their power to eliminate hurdles for vaccine distribution sites and to be operational by 1 November. “The normal time required to obtain these permits presents a significant barrier to the success of this urgent public health program,” Redfield wrote. Setting a deadline that would offer the first vaccines to Americans just days before the presidential election caused concern that the timeline was more evidence that the Trump administration was subordinating science to politics—especially when public health experts warned that the target date did not account for the time it would take pharmaceutical companies to complete the final demanding phase of clinical trials. Public messaging reinforced these concerns. At the Republican National Convention that convened soon thereafter, President Trump, Vice President Mike Pence, and the president’s daughter, Ivanka, all celebrated the vaccine as the “miracle” Trump had wishfully anticipated at the outset of the crisis, and they flirted with the idea that the vaccine would be available just in time for Election Day.44

Just how deeply the White House’s political pressure on health experts threatened to poison the public’s faith in a vaccine was demonstrated in opinion polls that revealed declining public trust in the process—for example, only 42 percent of Americans surveyed by Yahoo News and YouGov in late July said they planned to get the COVID-19 vaccine,

43 Robert Califf, Scott Gottlieb, Margaret Hamburg, Jane Henney, David Kessler, Mark McClellan, and Andy von Eschenbach, “The Trump Administration Is Undermining the Credibility of the FDA,” Washington Post, 29 September 2020, accessed at https://www.washingtonpost.com/opinions/2020/09/29/former-fda-commissioners-coronavirus-vaccine-trump/, 16 March 2022.

44 Michael Wilner, “Urgent Request Sent to States in Push for Coronavirus Delivery by November 1,” McClatchy Report, 20 September 2020, accessed at https://www.mcclatchydc.com/news/coronavirus/article245406245.html, 16 March 2022.
down from 55 percent in May. Tellingly, this lack of trust not only afflicted Republicans, a rebuff that the president’s attack on public health experts had done a great deal to encourage, it also included Democrats, generally far more willing to accept medical advances, whose antipathy to Trump’s charged partisan rhetoric led to a decline from 70 percent to 55 percent over this three-month period. Desperate to renew trust in the White House’s stewardship of Operation Warp Speed, the HHS made plans to launch a $250 million public relations campaign to “defeat despair and inspire hope” in a COVID-19 vaccine. It remained to be seen whether such a marketing push could succeed in a polarized environment, especially since another stated goal of the public relations blitz was to “share best practices for businesses to operate in the new normal,” which, as one former HHS official put it, “sounded a little strange…. quite a stretch beyond what HHS does.”

Caught in the crosshairs of partisan conflict over the pandemic, the Trump administration halted the ad campaign in late October.

As the media and political commentators shined a light on the battle between the president and public health experts, the Trump administration used the cover of the pandemic to gain momentum in its war against the bureaucracy. Throughout his term, the Trump administration pushed the bounds of legal appointments to serve as agency heads, with a record number of Senate–confirmed positions being filled by “acting” heads. In late 2020, the administration’s political appointees leveraged their temporary positions to gain permanent employment in the agencies they once oversaw. While the conversion, or “burrowing,” of political appointees to permanent civil service positions is a Democratic and Republican tradition—especially before a presidential transition—the Trump administration went to new lengths to permanently shift the composition of the federal bureaucracy. Not only did the politically appointed head of Trump’s Office of Personnel Management stonewall an investigation by that agency’s Inspector General (IG) into increased

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45 Andrew Romano, “Yahoo News/You Gov Coronavirus Poll: Number of Americans Who Plan to Get Vaccinated Fall to 42%—New Low,” Yahoo News, 4 August 2020, accessed at https://www.yahoo.com/entertainment/yahoo-news-you-gov-coronavirus-poll-number-of-americans-who-plan-to-get-vaccinated-falls-to-42-percent-a-new-low-162000936.html, 16 March 2022.
46 Daniel Lippman, “HHS $250 Million Contract Meant to ‘Defeat Despair and Inspire Hope’ on Coronavirus,” Politico, 31 August 2020, accessed at https://www.politico.com/news/2020/08/31/hhs-contract-coronavirus-despair-hope-406361, 16 March 2022.
47 Julie Wernau, James V. Grimaldi, and Stephanie Armour, “Health Agency Halts Coronavirus Campaign, Leaving Santa Claus in the Cold,” Wall Street Journal, 25 October 2020.
48 Jerry Markon, “Watchdogs Are on the Lookout for Obama Appointees Burrowing In,” Washington Post, 30 November 2015, accessed at https://www.washingtonpost.com/news/federal-eye/wp/2015/11/30/whats-that-a-groundhog-no-its-a-federal-worker-burrowing-in/, 16 March 2022.
burrowing, the administration reaped its reward after systematically dismantling the IG system. The Trump administration had undermined oversight bodies since the president’s first days in office, blatantly flouting norms and violating ethics laws; however, it chose to launch an unprecedented attack against IGs in the middle of the pandemic.\textsuperscript{49} Much attention focused on the president’s firing of high-profile IGs, including Michael Atkinson, who shared the initial whistleblower complaint that led to the president’s impeachment. More consequential, in all likelihood, was the fact that the president had hollowed out IG offices in 16 federal agencies and departments by attrition, including those charged with overseeing the massive government spending in response to COVID-19.\textsuperscript{50}

In one of its most disruptive tactics, the Trump presidency extended the logic of presidential management to its limit. Throughout the pandemic, the Trump administration lambasted the perceived obstruction and dissent from career civil servants, especially long-serving members of the Senior Executive Service—the front line of the deep state. Just days before the election, the White House released a little-noticed but massive change to the classification of civil servants in “policymaking” roles. Claiming existing legislative authority reaching back to the 1939 Executive Reorganization Act, the Trump administration, with the stroke of a pen, created a new classification of federal employee—Schedule F—and mandated that a preliminary review of eligible positions be completed by 19 January 2021, the day before Biden’s inauguration. Under the rule change, any presidential administration could terminate someone in the new Schedule F classification without following the standard due process requirements, even if they were hired in positions that would have been covered by merit-based protections. Depending on how far-reaching the initial reclassification went, and the procedures established for reclassification, this order could have subjected hundreds, or possibly thousands, of “policymakers”—from agency heads such as Fauci to potentially lower-level careerists who had openly spoken out against a White House decision—to political retribution.\textsuperscript{51}

\textsuperscript{49}William Roberts, “Amid the Coronavirus Pandemic, the Trump Administration Targets Government Watchdogs,” Center for American Progress, 1 July 2020, accessed https://www.americanprogress.org/issues/democracy/reports/2020/06/01/485656/amid-coronavirus-pandemic-trump-administration-targets-government-watchdogs/, 16 March 2022.

\textsuperscript{50}Project on Government Oversight, “Inspector General Vacancy Tracker,” 19 November 2020, accessed at https://www.pogo.org/database/inspector-general-vacancy-tracker/, 19 November 2020.

\textsuperscript{51}“Creating Schedule F in the Excepted Service,” Executive Order 13957, 21 October 2020, Federal Register 85, no. 207: 67631–67635.
Administrative Politics, Federalism, and the Ambiguity of Central Control

In redeploying state power during the COVID-19 emergency, President Trump not only sought to denigrate governmental expertise, he also sought to leverage the state’s complicated administrative apparatus in ways that fit the stratagem of executive-centered partisanship. Past practice and preexisting public health protocols guaranteed that states and localities would have been active in procuring materials, issuing guidance, and enforcing public health orders, regardless of who was president. Nevertheless, according to traditional expectations of presidential leadership during national crises, Trump was expected to seize direct control over the multigovernment response and rally the country for a national offensive against the pandemic.\(^{52}\) Presidents have previously sought to overcome the institutional conundrum posed by divided authority, both by exercising emergency powers over constituent governments and by using the office’s prestige and public position to nurture cooperative relationships with the leaders of state, local, and tribal governments.

Instead, Trump followed the script of executive-centered partisanship, leveraging federalism not for cooperative purposes, but as an opportunity to shift blame to and even punish states that strayed from his preferred messaging.\(^{53}\) Although the coronavirus did not discriminate between “red” and “blue” states, President Trump used the state-led, patchwork response to the public health crisis to exacerbate partisan divisions in the months preceding his potential reelection. Although there are legitimate differences between the states that may distinguish various governments’ responses to a public health emergency, including disparate economic effects, the president’s partisan rhetoric and the politicization of administrative processes defied efforts to negotiate trade-offs between the economy and public health. Following a partisan strategy, Trump exploited the division of government powers to demonize Democratic governors, whom he insisted were the real danger to Americans. Just as the creation of Category F civil servants represented a logical extension of a months-long war with civil servants during the pandemic, so, too, did

\(^{52}\)Joel Achenbach, William Wan, Karin Brulliard, and Chelsea Janes, “The Crisis That Shocked the World: America’s Response to the Coronavirus,” Washington Post, 19 July 2020, accessed at https://www.washingtonpost.com/health/2020/07/19/coronavirus-us-failure/, 17 March 2022.

\(^{53}\)Greg Goelzhauser and David M. Konisky, “The State of American Federalism 2019-2020: Polarized and Punitive Intergovernmental Relations,” Publius: The Journal of Federalism 50 (Summer 2020): 311–343; and Nicholas F. Jacobs and Connor M. Ewing, “The Promises and Pathologies of Presidential Federalism,” Presidential Studies Quarterly 48 (September 2018): 552–569.
the Trump administration escalate the intergovernmental conflict with various states to the point that Democratic governors’ alleged incompetence became a justification for the transformation of the central government’s powers, especially as it related to a crackdown on unauthorized migrants.

When the Trump administration was first tested in the spring of 2020, many scholars and pundits speculated the national disaster might change everything—and for a few weeks, it seemed as if COVID-19 might bring the country together. Trump recognized the stakes, quickly labeling himself a “wartime president.”54 Such optimism seemed reasonable in late March, when the sharp partisan divisions in the country were suspended, as Democrats and Republicans quickly rolled out three relief bills in the hope of stanching the crisis. The most ambitious of these measures, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), was the largest economic stimulus package in American history. Seeking to take full political advantage of this sudden burst of bipartisanship, Trump placed his printed signature on the stimulus checks that distributed direct aid to tens of millions of people, the first time in history that an American president’s name was displayed on a disbursement check from the Internal Revenue Service.

It soon became clear, however, that the political response to the pandemic further aggravated rather than resolved the partisan warfare that divided red and blue America. Trump was a wartime president, but his was a war with dissenting governors and mayors whose involvement was necessary for a coordinated response. As the federal government’s medical supply stockpile dwindled, and as states struggled to find necessary personal protective equipment (PPE), President Trump eschewed any central responsibility, telling states that they should simply “try getting medical supplies themselves,” and that the federal government was not a “shipping clerk.”55 However, for some states, notably Florida, led by Republican governor Ron DeSantis, the federal government proved to be an able shipping clerk for needed medical supplies. Even as the more hard-hit states—particularly New York—struggled to find PPE for its hospitals, Florida received 100 percent of its first two requests to the federal emergency stockpile. As one White House official anonymously told the Washington Post, “The president knows Florida is so

54Caitlin Oprysko and Susannah Luthi, “Trump Labels Himself a ‘Wartime President’ Combating Coronavirus,” Politico, 18 March 2020, accessed at https://www.politico.com/news/2020/03/18/trump-administration-self-swab-coronavirus-tests-135590, 17 March 2022.
55See John Kincaid and J. Wesley Leckrone, “Partisan Fractures in U.S. Federalism’s COVID-19 Policy Responses.” State and Local Government Review 52 (December 2020): 298–308.
important for his reelection, so when DeSantis says that, it means a lot... He pays close attention to what Florida wants.”\(^\text{56}\)

Likewise, while the president held more than 90 conference calls with state, local, and tribal leaders in the first three months of the pandemic, far from offering direct guidance or taking the opportunity to coordinate the subnational response, the president used the high-profile meetings to shift blame to the states, and even to call out specific governors for their alleged mismanagement.\(^\text{57}\) Most calls ended with governors relying on back channels to reach Vice President Pence, who, according to press reports, was more sympathetic to the coordination struggles confronting the governors. Although the partisan quarreling was largely rhetorical, there is evidence that it spilled into administrative decisions. Seeking to curtail the efficacy of the Pence-led back channel, Trump admitted during a press conference that he had directly intervened at least once, telling Pence, “When they’re not appreciative to me, they’re not appreciative to the Army Corps, they’re not appreciative to FEMA, it’s not right ... don’t call the governor of Washington. You’re wasting your time with him. Don’t call the woman [Governor Gretchen Whitmer] in Michigan.”\(^\text{58}\)

With trillions of dollars at stake, the president, rather than attempting to unify the country, escalated his long-standing confrontation with Democratic governors and mayors into a full-throated attack on the communities they represented. Before the virus had begun to spread noticeably in rural, less densely populated counties, the administration was adamant that the most affected states—most of which had Democratic governors—would be left to manage the virus on their own. The Republican Party fell in with Trump’s partisan tactics; most GOP governors and congressional members fixed a jaundiced eye on any “bailout” for “blue states.” As thousands died across the country, the president tweeted, “Why should the people and taxpayers of America be bailing out

\(^{56}\) Toluse Olorunnipa, Josh Dawsey, Chelsea Janes, and Isaac Stanley-Becker, “Governors Plead for Medical Equipment from Federal Stockpile Plagued by Shortages and Confusion,” \textit{Washington Post}, 31 March 2020, accessed at \url{https://www.washingtonpost.com/politics/governors-plead-for-medical-equipment-from-federal-stockpile-plagued-by-shortages-and-confusion/2020/03/31/18aadda0-728d-11ea-77a8136ca1a6_story.html}, 17 March 2022.

\(^{57}\) Sarah Mervosh and Katie Rogers, “Governors Fight Back against Coronavirus Chaos: ‘It’s Like Being on eBay with 50 Other States,’” \textit{New York Times}, 31 March 2020, accessed at \url{https://www.nytimes.com/2020/03/31/us/governors-trump-coronavirus.html}, 17 March 2022; and Jonathan Martin, “Trump to Governors on Ventilators: ‘Try Getting It Yourselves,’” \textit{New York Times}, 16 March 2020, accessed at \url{https://www.nytimes.com/2020/03/16/us/politics/trump-coronavirus-ventilators.html}, 17 March 2022.

\(^{58}\) Aaron Blake, “Trump Ties Coronavirus Decisions to Personal Grievances,” \textit{Washington Post}, 28 March 2020, accessed at \url{https://www.washingtonpost.com/politics/2020/03/27/trump-suggests-personal-grievances-factor-into-his-coronavirus-decisions/}, 17 March 2022.
poorly run states (like Illinois, as example) and cities, in all cases Democrat run and managed.\footnote{Donald Trump (@realDonaldTrump), “Why should the people and taxpayers of America be bailing out poorly run states...,” Twitter, 27 April 2020, 10:41 a.m., accessed at https://www.presidency.ucsb.edu/documents/tweets-april-27-2020, 17 March 2022.}

The potential danger of the president’s strategy was vividly illustrated on Wednesday, 15 April 2020, as a group of protesters, many of them wearing MAGA hats and brandishing menacing firearms, assembled outside the Michigan statehouse in Lansing and demanded an end to the policy declared by its Democratic governor, Gretchen Whitmer, that locked down the state’s schools and businesses. Smaller demonstrations were mounted in Virginia and Minnesota. The movement spread rapidly across the country. By the weekend, rallies were being held in six other states, most of them led by Democratic governors, but also including Republican-led Texas and Maryland, where the governors had been cautious in their commitment to open the economy. Maryland governor Larry Hogan, a rare moderate in the Republican Party, had been especially harsh in his criticisms of the administration’s failure to provide fiscal support to the states.

The resemblance to the Tea Party demonstrations that had erupted during Obama’s first term was deliberate. Among those fighting the orders were FreedomWorks and the Tea Party Patriots, both of which had played pivotal roles in the beginning of Tea Party protests starting more than a decade ago. The very same conservative organizations that had been essential allies in mobilizing Trump’s base quietly worked to organize protests and to apply political and legal pressure to overturn local and state orders intended to stop the spread of the coronavirus.\footnote{Kenneth P. Vogel, Jim Rutenberg, and Lisa Lerer, “The Quiet Hand of Conservative Groups in the Anti-Lockdown Protests,” New York Times, 21 April 2020, accessed at https://www.nytimes.com/2020/04/21/us/politics/coronavirus-protests-trump.html, 17 March 2022.} Embodying the ties between presidential prerogative, grassroots mobilization, and party conflict that define executive-centered partisanship, President Trump seized the mantle of these demonstrations and placed himself at the vanguard of this revolt against blue states. He grabbed the attention of the media by strongly endorsing the protests, which took direct action against rules that subscribed to his own administration’s CDC guidelines for restarting the economy:

“LIBERATE MICHIGAN!,” the president tweeted on Friday, April 17.
“LIBERATE MINNESOTA!”
“LIBERATE VIRGINIA,” he concluded, adding that the protesters should also “save your great 2nd Amendment. It is under siege!”

This call to arms seemed all the more incendiary in early October, when the Federal Bureau of Investigation foiled a plot by antigovernment vigilantes to kidnap Governor Whitmer and try her for treason. Although there was no evidence that the planned insurrection was inspired by the president’s rallying cry, Governor Whitmer warned that the president’s rhetoric had helped spark the alleged plot and the vicious attacks against her on social media.

While the plot to capture Whitmer was the most extraordinary extension of Trump’s bellicosity, presidential partisanship also embroiled the statehouses in less dramatic but consequential conflicts. Republican governors, with a few notable exceptions, were the foot soldiers in the White House’s campaign to downplay the severity of the public health crisis; they joined Trump’s determined effort to shift the narrative from the coronavirus to the economy. It would collapse, save for Donald Trump’s resolute stand against the Democrats and their deep state allies. Loyal partisans who occupied the governors’ mansions in red states followed the president’s party leadership at nearly every turn: refusing to issue mask mandates (Georgia governor Brian Kemp even sued “Democratic-led” Atlanta after the city imposed one), reopening restaurants and bars in advance of CDC recommendations, and adopting the president’s general attitude that the virus’s threat was overstated and distant. As the virus continued to rage into the autumn, the single largest factor that determined whether a school district reopened in person was that district’s vote share for President Trump in 2016, not the number of cases in the community or its potential risk for community spread.

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61Sidney Tarrow, “There Go the People,” public seminar, 21 April 2020, accessed at https://publicseminar.org/essays/there-go-the-people-trump-whitmer, 17 March 2022.

62Rona Andrew DeMillo, “GOP Governors in Spiking States Strain for Silver Linings,” Associated Press, 11 October 2020, accessed at https://apnews.com/article/virus-outbreak-public-health-health-oklahoma-south-dakota-1c355d08a069e4551550d9e9af324e8, 17 March 2022; Cleve R. Wootson Jr., Issac Stanley-Becker, Lori Roza, and Josh Dawsey, “Coronavirus Ravaged Florida, as Ron DeSantis Sidelined Scientists and Followed Trump,” Washington Post, 25 July 2020, accessed at https://www.washingtonpost.com/national/coronavirus-ravaged-florida-as-ron-desantis-sidelined-scientists-and-followed-trump/2020/07/25/08008da-c648-11ea-b37-f971ff89ee46_story.html.

63Ron Brownstein, “An Unprecedented Divide between Red and Blue America,” The Atlantic, 16 April 2020, accessed at https://www.theatlantic.com/politics/archive/2020/04/covid-trump-pandemic/610075/, 17 March 2022.

64Michael T. Hartney and Leslie K. Finger, “Politics, Markets, and Pandemics: Public Education’s Response to COVID-19” (EdWorkingPaper 20-304, Annenberg Institute at Brown University, October 2020), accessed at https://doi.org/10.26300/8f8-3945, 17 March 2022.
Most analysis of the U.S. federal system’s response to COVID-19 during Trump’s final year in office has focused on its comparatively poor performance and the inaction of the president. However, given that the two parties disagreed on how much action or inaction was even appropriate, it is less than clear how much of the government response is attributable to structural failures in federalism, or whether it was a rational response to the deep partisan divisions that structure American politics, public opinion, and presidentialism.

With the subordination of party organizations to the White House, states did not tailor their response to local conditions, but rather to the electoral calculations of President Trump. For example, as the federal and state governments struggled over the authority to define the appropriate response to the pandemic, Trump was nevertheless adamant in using the levers of the administrative state to centralize other domestic policy commitments—including in areas far removed from the recommendations of public health authorities. Through the late spring and into the summer, the Trump administration advocated stricter curbs on voting, persisted in its efforts to undermine the Affordable Care Act and other social welfare programs, and intensified its efforts to redefine education policy, all under the guise of battling the coronavirus, albeit not in the way public health officials and Democratic governors and mayors wanted. No actions more fully reveal the power seized by the administration under the cover of the pandemic than its crackdown on immigration into the United States, including through legal pathways.

Limiting immigration was a priority. Using the coronavirus as a pretext the White House issued restrictive proclamations, without substantial explanation, to protect the public against the pandemic and American workers from its economic devastation. In June, the president extended a near-total ban that the White House had first announced in April on entry into the United States by immigrants seeking “green cards”

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65 Donald F. Kettl, “States Divided: The Implications of American Federalism for COVID-19,” Public Administration Review 80 (July–August 2020): 595–602; Rebecca L. Haffajee and Michelle M. Mello, “Thinking Globally, Acting Locally—The U.S. Response to Covid-19,” New England Journal of Medicine 382 (2020): e75; https://doi.org/10.1056/NEJMp2006740; and Davia Cox Downey and William M. Meyers, “Federalism, Intergovernmental Relationships, and Emergency Response: A Comparison of Australia and the United States,” American Review of Public Administration 50 (August–October 2020): 526–535.

66 Nicholas F. Jacobs, “Federalism, Polarization, and Policy Responsibility during COVID-19: Experimental and Observational Evidence from the United States,” Publius: The Journal of Federalism 51 (Fall 2021): 693–719.

67 Jacobs and Milkis, What Happened to the Vital Center, Chapter 6.
for permanent residency. The newly expanded version of the policy also severely restricted temporary work visas.68

From the earliest days of the Trump administration, the president’s White House adviser on immigration policy, Stephen Miller, who had close ties to anti-immigration organizations, had tried repeatedly, without success, to use an obscure law to protect the nation from disease overseas as a justification to tighten borders. In imposing restrictions under the cover of the pandemic, he relied not only on the public health authority, but also on section 221(f) of the Immigration and Nationality Act, which grants sweeping power to the executive, but under circumstances that set a high legal bar for its use. Miller took advantage of the pandemic to pursue policy goals, such as finding a way to quickly deport children who had traveled to the United States without a parent or guardian, while violating the substantial due process requirements designed to ensure that deportation would not place them in harm’s way.69 Although the coronavirus threatened the Trump administration’s agenda, the White House remained focused on its task—indeed, armed with emergency powers the pandemic bestowed, it sought to double down on its policy priorities.

**America First in a Global Pandemic**

Besides imposing draconian restrictions on immigration, the other major objective of the MAGA program was to protect the U.S. economy and workers against unfair trade deals, especially the disadvantages of economic relations with China. In the tariffs that the Trump administration leveraged against China and its renegotiation of the North American Free Trade Agreement accord, the White House had one principal objective: “an aggressive agenda of increasingly squeezing China out of global supply chains while pressing for structural change in Beijing.”70

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68“Suspension of Entry of Immigrants Who Present a Risk to the United States Labor Market During the Economic Recovery Following the 2019 Novel Coronavirus Outbreak,” Proclamation 10014, 22 April 2020, Federal Register 85, no. 81: 23441–23444; and Ilya Somin, “The Danger of America’s Coronavirus Immigration Bans,” The Atlantic, 28 June 2020, accessed at https://www.theatlantic.com/ideas/archive/2020/06/danger-americas-coronavirus-immigration-bans/613537/, 17 March 2022.

69Toulouse Olorrinipia, “Trump Forges Ahead with Broader Agenda Even as Coronavirus Upends the Country,” Washington Post, 9 April 2020, accessed at https://www.washingtonpost.com/politics/trump-coronavirus-immigration-environment-inspectors-general/2020/04/08/bc1590e2-79b9-11ea-b6f8-597f70df8f8_story.html, 17 March 2022; and Caitlin Dickerson and Michael D. Shear, “Before Covid-19, Trump Aide Sought to Use Disease to Close Borders,” New York Times, 3 May 2020, accessed at https://www.nytimes.com/2020/05/03/us/coronavirus-immigration-stephen-miller-public-health.html, 17 March 2022.

70Louisa Savage and John F. Harris, “Trump’s Method on the Madness of Trade,” Politico, 6 June 2019, accessed at https://www.politico.com/story/2019/06/06/donald-trump-trade-policy-global-translations-1355868, 17 March 2022.
However, the pandemic prompted the White House to turn retaliatory measures against China for withholding information about the coronavirus into a provocative and polarizing campaign. The Trump administration and its Republican allies in Congress explored drastic measures, including the elimination of China’s sovereign immunity, which would allow the U.S. government or victims to sue for damages. Seeking to absolve his administration of any responsibility for the devastation it wrought on public health and the economy, Trump and his political aides routinely described the “plague” in racist and stigmatizing terms, calling it the “Wuhan virus,” the “China virus,” and, most egregiously, the “Kung Flu.”

Most Americans agreed with the president that China had mishandled the initial outbreak and subsequent spread of the virus. A Pew Research Center poll taken in late July showed that 73 percent of U.S. adults said they had an unfavorable view of China, an increase of 26 percentage points since 2018 and a 7-point increase since March, when COVID-19 hit the country like a gale force. However, Republicans, echoing the visceral attacks of the president, were far more likely than Democrats to blame China for the global spread of the virus: 78 percent of Republicans held China responsible, while only 38 percent of Democrats did so. Scholars and pundits worried that the partisan and racist attacks on China precluded conventional diplomatic efforts to ease tensions. “I think we’re in a dangerous and precipitous spiral downward, not without cause, but without the proper diplomatic skills to arrest it,” warned Orville Schell, director of the Center on U.S.-China Relations at the Asia Society. The severity of the confrontation, he said, “has jumped the wall from specific and solvable challenges to a clash of systems and values.”

This clash over worldviews showed that partisan conflicts over state power during a crisis do not just involve administrative decrees that can be—and were—easily reversed by a new administration. However, the control of state power is not just consequential for the precedents it creates. Rather, it leaves a lasting imprint on the fabric of American

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71 Jeff Stein, Carol D. Leonnig, Josh Dawsey, and Gerry Shih, “U.S. Officials Crafting Retaliatory Actions against China over Coronavirus as President Trump Fumes,” Washington Post, 30 April 2020, accessed at https://www.washingtonpost.com/business/2020/04/30/trump-china-coronavirus-retaliation/, 17 March 2022.

72 Laura Silver, Kat Devlin, and Christin Huang, “Americans Fault China for Its Role in the Spread of COVID-19,” Pew Research Center, 30 July 2020, accessed at https://www.pewresearch.org/global/2020/07/30/americans-fault-china-for-its-role-in-the-spread-of-covid-19/, 17 March 2022.

73 Rick Gladstone, “How Cold War between U.S. and China Is Intensifying,” New York Times, 22 July 2020, accessed at https://www.nytimes.com/2020/07/22/world/asia/us-china-cold-war.html, 17 March 2022.
society and the public conscience because state power centers on profound questions of identity and belonging. Asian Americans feared that Trump’s demonization of China might irreparably damage their status in the country. As the coronavirus spread across the globe in February 2020, the World Health Organization urged people to avoid terms like “Wuhan virus” or “Chinese virus,” concerned that it could instigate a backlash against Asians. President Trump’s failure to take that advice had immediate repercussions. On 16 March 2020, he first tweeted the phrase “Chinese virus.” That single tweet, researchers later found, fueled exactly the kind of backlash the World Health Organization had feared: it was followed by an avalanche of tweets using the hashtag #chinesevirus, among other anti-Asian phrases. Not only did more people use the #chinesevirus hashtag days after Trump’s tweet, but those who did were more likely to include other anti-Asian hashtags in their tweets, according to a peer-reviewed study published by the American Journal of Public Health. Also well documented is the wave of racist attacks and threats against Asian Americans, which some advocates blamed on Trump’s persistent anti-Chinese rhetoric against the pandemic.74

_Law and Order._ The Trump administration made these pitched battles over who belongs in the American community central to its COVID-19 policies, and as it deployed state power against civil rights protesters in the wake of George Floyd’s murder. Trump’s response to the pandemic continued the strategy of executive-centered partisanship that had shaped his first three years in office, but the fusion of executive prerogative and partisanship became especially combustible as he claimed emergency powers to confront the protests that broke out in response to George Floyd’s death. The Black Lives Matter (BLM) protests were not simply a distraction from the public health crisis. Most people reported they had gone to protests because they believed in racial justice and supported the BLM movement; however, for many, particularly those who had never before turned out for a BLM protest, what pushed them into the streets was being harmed financially by the pandemic, which hit African Americans especially hard. The pandemic thus helped

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74 Yulin Hswen, Xiang Xu, Anna Hing, Jared B. Hawkins, John S. Brownstein, and Gilbert C. Gee, “Association of ‘#covid19’ versus ‘#chinesevirus’ with Anti-Asian Sentiments on Twitter,” American Journal of Public Health 111 (May 2021): 956–964; Andrea Salcedo, “Racist Anti-Asian Hashtags Spiked after Trump First Tweeted ‘Chinese Virus,’ Study Finds,” Washington Post, 19 March 2021, accessed at https://www.washingtonpost.com/s/nation/2021/03/19/trump-tweets-chinese-virus-racist, 17 March 2022; and Gerda Hooijer and Desmond King, “The Racialized Pandemic: Wave One of COVID-19 and the Reproduction of Global North Inequalities,” Perspectives on Politics, published online 11 August 2021, https://doi.org/10.1017/SPOL0102200183X.
fuel what scholars considered the broadest and most sustained social movement in U.S. history.\textsuperscript{75}

While the protests spread across the country—and eventually the world—an overwhelming number of Americans supported the demonstrators and accepted a truth long denied, or resisted: that Floyd’s death was a sign of systemic racial injustice.\textsuperscript{76} Defying the broad sympathy for the protests against racial injustice, Trump rallied his base against the BLM demonstrations, echoing Richard Nixon’s refrain that “law and order” was the “first civil right of every American.” He chose this moment of national reckoning over racial justice to declare himself “Your President of Law and Order”—praising most law enforcement officers as “great people” and threatening to treat the protesters, who were portrayed as “terrorists,” with overwhelming and “dominating” force. Trump believed, as Nixon did at the birth of a new Republican Party, that a “silent majority” supported his commitment to “traditional values.”

Living not just in rural and exurban areas, but also in working-class suburbs like Macomb County outside of Detroit, these voters and potential voters, even if disgusted by police violence, were not joining the protests.\textsuperscript{77} As the 2016 election showed, these communities were critical for President Trump’s Electoral College strategy, and he would have to rely on these disproportionately powerful counties once more in 2020.

BLM and the civil rights demonstrations across the country in the summer of 2020 had a tangential relationship to the state’s response to COVID-19; however, the use of the federal tactical units was part of the Trump administration’s effort to control BLM protests nationwide, embellishing his claim that state and local Democratic leaders were incapable of governing, and deflecting attention from his disruptive management of the COVID-19 crisis. When resisted by Secretary of Defense Mark Espers, Trump abandoned his threat to invoke the Insurrection Act, a law passed in 1807 that empowers presidents to deploy military and federalized National Guard troops within the United States to suppress civil disorder, insurrection, and rebellion. But employing various statutes that authorized the federal government to prosecute trespassing

\textsuperscript{75}Maneesh Arora, “How the Coronavirus Pandemic Helped the Floyd Protest Become the Biggest in U.S. History,” \textit{Washington Post}, 5 August 2020, https://www.washingtonpost.com/politics/2020/08/05/how-coronavirus-pandemic-helped-flold-protests-become-biggest-us-history/, 17 March 2022.

\textsuperscript{76}Maggie Haberman and Katie Rogers, “As Americans Shift on Racism, President Digs In,” \textit{New York Times}, 12 June 2020, accessed at https://www.nytimes.com/2020/06/11/us/politics/trump-on-race.html, 17 March 2022.

\textsuperscript{77}David Siders, “Trump Bets His Presidency on a ‘Silent Majority,’” \textit{Politico}, 3 June 2020, accessed at https://www.politico.com/news/2020/06/03/trump-suburbs-reelection-nixon-296980, 17 March 2022.
and vandalizing of federal and state memorials, the administration sent federal authorities into Portland, Oregon; Washington, DC; and other cities to quell demonstrations.\textsuperscript{78} Relying primarily on the Department of Homeland Security (DHS), which he had deployed to crack down on border crossings from Central America in 2018 and 2019, Trump crafted the image of a strongman willing to dominate protesters—an incursion that confounded most participants in the BLM demonstrations, who were peaceful, and those agitators at the margins of the movement, who took advantage of the unrest to burn and loot property.

Echoing the Trump White House’s joining of executive prerogative and partisanship in matters of immigration, this aggressive protection of the homeland from so-called domestic terrorists in American cities was closely tied to the president’s reelection.\textsuperscript{79} In the absence of department leaders who could win Senate confirmation, Trump filled key positions in the DHS with partisan figures, such as Acting Director Chad Wolf, Customs and Border Protection (CBP) commissioner Mark Morgan, and Ken Cuccinelli, whose political double-speak title remained “Senior Official Performing the Duties of the Deputy Secretary.” All three made regular appearances on Fox News, defending Trump as a strong leader who stood his ground against the chaos fomented by domestic violence and weak Democratic leadership.\textsuperscript{80}

Under this institutionally vapid system, with little oversight from Congress or the judiciary, federal agents assumed broad authority to enforce federal laws—for example, to protect a federal courthouse under siege in Portland, Oregon—even against the wishes of local authorities. However, DHS forces, redeployed from the crackdown on immigration, seemed to cross that line as they roamed American cities, intruding on local policing. Just as problematic, relying on CBP and Immigration and Customs Enforcement (ICE) agents who are accustomed to operating at airports and border crossings, where they are generally subject to fewer constraints than ordinary police officers, the Trump White House used a

\textsuperscript{78}“Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence,” Executive Order 13933, 26 June 2020, \textit{Federal Register} 85, no. 128: 40081–40084.

\textsuperscript{79}Anne Applebaum, “Trump Is Putting on a Show in Portland,” \textit{The Atlantic}, 23 July 2020, accessed at https://www.theatlantic.com/ideas/archive/2020/07/trump-putting-show-portland/614521/, 17 March 2022.

\textsuperscript{80}Nick Miroff, “DHS’s Changing Mission Leaves Its Founders Dismayed as Its Critics Call for a Breakup,” \textit{Washington Post}, 13 August 2020, accessed at https://www.washingtonpost.com/national/dhs-mission-creep-protests/2020/08/13/44a287ce-de8b-11ea-b4af-72895e22944d_story.html, 17 March 2022; and Tessa Berenson, “‘We’re Pawns in the Game’: Mayors Worry Trump’s Operation Legend Is More about Politics than Law Enforcement,” \textit{Time}, 13 August 2020, accessed at https://time.com/5878817/operation-legend-mayors-albuquerque-chicago-kansas-city/, 17 March 2022.
strategy that was as likely to aggravate as to subdue BLM protesters. The fact that many of those officers were not accustomed to dealing with urban unrest, critics charged, was a further indictment of the White House’s strategy.81

The White House and Department of Justice also deliberately targeted BLM protests—and seized authority from state and local law enforcement—with heavy-handed criminal prosecutions. In contrast with the way the government handled the COVID-19 protests against local government shutdowns and mask mandates, President Trump and Attorney General William Barr issued directives to press federal charges against BLM protesters. A study conducted by the Creating Law Enforcement Accountability & Responsibility clinic, associated with the City University of New York School of Law, found that in 92.6 percent of the criminal cases analyzed, there were equivalent state-level charges that could have been brought against defendants. Among those cases, 88 percent of the federal criminal charges carried more severe potential sentences than the equivalent state criminal charges for the same or similar conduct. Trump and Barr used these arrests and prosecutions, the report argued, to justify their rhetoric that the protesters were radical and violent agitators.82

In an episode that may come to define the Trump presidency, federal law enforcement using tear-gas, pepper-spray capsules, rubber bullets, and flash bombs removed peaceful BLM protesters from Washington’s Lafayette Park. They did so with the enthusiastic approval of President Trump, who moments earlier delivered Rose Garden remarks in which he declared himself “your president of law and order” and demanded that governors use police and National Guard units to “dominate the streets.” Trump then strode through the park to historic St. John’s Church—flanked by family members, administration officials, and camera crews—where he held up a Bible and said, “We have the greatest country in the world. Keep it nice and safe.”83

81Nick Miroff and Matt Zaposky, “Facing Unrest in American Streets, Trump Turns Homeland Security Powers Inward,” Washington Post, 21 July 2020, accessed at https://www.washingtonpost.com/national/facing-unrest-on-american-streets-trump-turns-homeland-security-powers-inward/2020/07/21/655c7822-cb71-11ea-89ce-ac7d5e4a5a38_story.html, 17 March 2022.
82Movement for Black Lives, “Struggle for Power: The Ongoing Persecution of Black Movement By the U.S. Government,” 18 August 2021, accessed at https://m4bl.org/struggle-for-power/#about, 17 March 2022.
83An Inspector General report released a year later raised doubts that Trump directly ordered federal law enforcement to remove the protesters, but it hints that the order came from Attorney General William Barr. Regardless of whether he gave the direct order, Trump praised the show of force in a tweet the following morning. Aaron Rupar, “What the New IG Report about Gassing the Protesters around La-
Embarrassing revelations soon surfaced that exposed just how reckless the federal surge to repress demonstrations in Washington had been. Disgruntled DHS officials revealed that the Trump administration flew immigrant detainees to Virginia, and circumvented restrictions on the use of charter flights for employee travel, to facilitate the rapid deployment of DHS tactical teams in Lafayette Square. ICE officials said the agency moved the detainees on “ICE Air” charter flights to avoid overcrowding at detention facilities in Arizona and Florida, a precaution they said was taken because of the pandemic. But a DHS Security official with direct knowledge of the operation, and a former ICE official who had learned about it from other personnel, said the primary reason for the 2 June transfers was to skirt rules that bar ICE employees from traveling on the charter flights unless detainees are also aboard. ICE statistics confirmed that the facilities the detainees came from were not near capacity on 1 June when the transfers were arranged. After the transfers, dozens of the new arrivals tested positive for the coronavirus, fueling an outbreak in the Farmville, Virginia, immigration jail that infected more than 300 inmates, one of whom died. The Trump administration was willing to use such dangerous and questionable methods to redeploy ICE units to shift attention from the pandemic—which reflected so badly on the White House—to law and order, a theme rallying the Republican base.

CONCLUSION: CRISIS GOVERNMENT AND AMERICAN DEMOCRACY
The Trump administration’s response to the pandemic was structured by institutional developments more than five decades in the making: the accumulation of administrative powers in the presidency allowed Trump to advance his priorities during a severe public health and economic crisis, and the rise of the president as the repository of party responsibility weakened the constraining role historically assumed by Congress and the states. These dynamics of executive-centered partisanship mean that Trump will leave a lasting imprint on politics and government in the United States.

fayette Square Actually Says,” Vox, 11 June 2021, accessed at https://www.vox.com/2021/6/11/22527796/ig-report-trump-bible-lafayette-square-protest, 17 March 2022.

84Antonio Olivo and Nick Miroff, “ICE Flew Detainees from Virginia So That Planes Could Transport Agent to D.C. Protests. A Huge Coronavirus Outbreak Followed,” Washington Post, 11 September 2020, accessed at https://www.washingtonpost.com/coronavirus/ice-air-farmville-protests-covid/2020/09/11/f70eb1e-e861-11ea-834454439a44_story.html, 17 March 2022.
Donald Trump’s four years in the White House confirmed that executive power is the vanguard of an enervating contest between liberal and conservative views of the state that sharply divides the country and weakens national resolve. The Trump administration’s response to the worst national crisis since the 1930s underlines how emergencies have encouraged presidents to pursue partisan objectives with the specious claim that they are protecting the national interest, in the name of “We the People.” Just how damaging such appeals to a faux national interest can be was dramatized by the refusal of Trump and his political allies, citing misleading evidence and bizarre conspiracy theories, to accept the verdict of the 2020 election—an incitement to the insurrection of 6 January the first attack on the Capitol since the War of 1812.

Combined, the routinization of crisis and Trump’s disruptive response threaten the resilience of American democracy. First, Republican espousal of limited government is paper-thin. Republican presidents are as keen to use federal power and executive authority as the most interventionist Democrat. Certainly, conservative presidential candidates will celebrate the virtues of fiscal rectitude and reduced government while campaigning, and keenly align themselves with an anti-government ideology. But in office, executive aggrandizement is the norm, wrapped up constitutionally in the doctrine of a unitary executive—a doctrine that a winning and stable majority of the Supreme Court now supports. The Reagan years exposed how retrenching progressive programs requires big government. Moreover, the modern conservative movement, with which Reagan allied, arose on the belief that the liberals had so denigrated traditional values and the ideal of American exceptionalism that national administrative power had to be redeployed to strengthen national and homeland security, law and order, and the rights of evangelical Christians. Conservative statism thus enflamed the festering religious and racial conflicts that erupted in the culture war of the 1960s, transmuting partisan disputes into existential crises.

Second, Trump used a pervasive sense of crisis, exacerbated by a global pandemic, to inflict exceptional change on government institutions. The power that presidents seize during emergencies and the changes they effect tend to endure; this is still true even though Trump lost at the ballot box. Executive-centered partisanship has not only strained the system of checks and balances and federalism, it also has attenuated the moderating influence that expertise might have on a president’s most visceral partisan tactics. The politicization of the bureaucracy reached an alarming culmination during the Trump administration. The civil service ethos has been decisively eroded, and President Biden, even though he
immediately rescinded the Trump-created Schedule F appointments that threatened to undermine the foundations of the merit system, has struggled to reprise the spirit of “neutral competence” within the administrative state. Even after the electorate rejected him, Trump and his political allies in key staff agencies like the Office of Management and Budget and the Office of Personnel Management continued, indeed intensified, the White House’s campaign to purge administrative departments and agencies of all but the most loyal supporters of the Make America Great program. Deconstructing the administrative state does not mean a smaller state, just a state less encumbered by oversight and more politically integrated into a partisan White House. A self-styled “disrupter in chief” succeeded in normalizing the disruption of bureaucratic protocols, sowing doubt in government and mistrust in administrative competence that may prove to be irreparable.

Third, paradoxically, because Trump so relentlessly reshaped the administrative state to shift the priorities and expand federal authority, all successive administrations might have no option but to expand and deploy government powers. During the 2020 campaign, Biden promised to restore civility to American politics. Celebrating his ability to broker legislative compromises with Congress, Biden managed to win the Democratic nomination by rallying the diverse coalition that Obama had summoned, which was united by the pragmatic imperative of beating Donald Trump. However, even before public health and racial crises engulfed the nation—and pushed the Democratic Party further to the left—Biden found himself on the defensive as ardent progressives Bernie Sanders and Elizabeth Warren promised to take aggressive executive action to jump-start another transformation of American politics. Progressive Democratic groups forewarned one another in a post–Election Day memo that the Biden administration would be forced to “use the full power of the executive branch to deliver immediate and tangible results.”

Acknowledging his precarious political position, and the crises he inherited from the Trump administration, Biden promised a wave of executive actions soon after he took office—to sign a series of executive orders to forecast immediately that his presidency would be guided by radically different priorities in matters of climate change, immigration, civil rights, and the pandemic. Progressives were determined to press the

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85Justice Democrats, Sunrise Movement, New Deal Strategies, and Data for Progress, “The Path Forward for Democrats,” 29 November 2020, accessed at https://www.washingtonpost.com/context/memo-on-the-path-forward-for-democrats/ba38467b-05fa-4334-a268-fe6c3e2b172d/?itid=lk_interstitial_manual_37, 17 March 2022.
new administration further, arguing that Trump had left a loaded administrative weapon on the desk of the Oval Office.86

President Biden launched his presidency with a dramatic display of executive-centered partisanship. During his first 100 days in office, he signed more executive actions than any other president since Franklin D. Roosevelt. The cascade of executive orders, memoranda, and other administrative actions demonstrated how intent the president was to address many of the immediate concerns of his most progressive partisan allies. About half of Biden’s actions reversed the most controversial policies of the Trump administration, with particular attention to undoing his predecessor’s immigration legacy by halting border wall construction, pausing most deportations, rescinding travel and immigration restrictions on several Muslim-majority countries, and safeguarding DACA (Deferred Action for Childhood Arrivals) protections for children of immigrants.87 Biden also issued new directives, such as prohibiting discrimination on the basis of gender identity and sexual orientation, directing federal agencies to take affirmative steps to secure these rights, and launching a new plan to battle the pandemic, including the creation of a COVID-19 coordinator who reported directly to the president and stepped-up efforts to distribute vaccines and medical equipment.88

However, this was not just administrative competence on display; there were clear partisan dimensions. The White House got behind, and used its honeymoon political capital, to rush through a massive new spending bill—the American Rescue Plan—on a party-line vote. Tucked between the lines of appropriations was a formula that directed federal spending to the states per unemployment rate, not per capita. Consequently,

86Sean Sullivan and Rachel Blade, “Criticized by Moderates and Pressured by their Base, Liberals Fight for a Voice in the Democratic Party,” Washington Post, 29 November 2020, accessed at https://www.washingtonpost.com/politics/democratic-party-future-liberals/2020/11/29/3da05bfc-2ba5-11eb-92b7-6ef17b3fe3b4_story.html, 17 March 2022.
87The Trump administration’s anti-immigration work meticulously pursued in the the Department of Justice and the Department of Homeland Security made reversing all of Trump’s immigration initiatives in short order impossible. Immigration rights activists showed some patience with the tedious redeployment in the various levels of the bureaucracy. However, they were deeply frustrated by the White House’s defense of Title 43, a public health order issued by Trump, as a way to expel most migrants without allowing them to seek asylum during the pandemic. That includes single adults and many families, though Biden allowed unaccompanied children to stay in the United States for humanitarian reasons. Immigration, therefore, has become a contentious issue between President Biden and the progressive wing of his party, as it was during Barack Obama’s first term in office. Anita Kumar, “Biden Railed against Trump’s Immigration Policies, Now Defends Them in Courts,” Politico, 10 August 2021, accessed at https://www.politico.com/news/2021/08/10/biden-trump-immigration-policies-503108, 17 March 2022.
88John T. Woolley and Gerhard Peters, “Biden in Action: The First 100 Days,” American Presidency Project, 30 April 2021, accessed at https://www.presidency.ucsb.edu/analyses/biden-action-the-first-100-days, 17 March 2022.
states that had kept stay-at-home orders longer and had high unemployment, like New York, were set to receive billions of dollars more, even if other states, like Florida, had larger populations. Florida at the time of passage had an unemployment rate 2.1 points lower than New York; consequently, it was to receive $6 billion less, or almost $2,000 per Florida resident. Also tucked away inside the massive bill was a provision—rejected by two federal courts, but under review in the U.S. Court of Appeals for the Sixth Circuit at the time of writing—that prohibited states—mostly Republican led—from using funds to “directly or indirectly offset a reduction in the net tax revenue... or delays the imposition of any tax or tax increase” through 2024. Establishing such a penalty on states that seek tax relief, conservative critics claimed, violated the Supreme Court decision in the 2011 Affordable Care Act case (National Federation of Independent Business v. Sebelius), which proscribed placing conditions on federal programs that would coerce states to reject badly needed funds.

Predictably, Republican members of Congress attacked Biden’s executive orders and the massive relief bill, denouncing the president for betraying his promise to foster a new spirit of bipartisanship. Biden’s promise to restore the country to normality during the campaign elided the transformation of the presidency and partisanship that governed the ebb and flow of executive power. Biden’s approval rating had the largest gap between Democrats and Republicans of any recent president at the 100-day mark: 96 percent of Democrats approved of his performance, but just 11 percent of Republicans. The stubborn tumor of partisan polarization tempted Biden’s patience, especially when the new delta variant of the coronavirus threatened his administration’s progress in dampening the curve. Although the president entered office committed to tempering the political tug-of-war between Washington and the states, he openly castigated Republican governors who refused to heed federal guidance on new mask mandates and vaccines. His prospects for a successful presidency thus appeared to depend less on his ability to reach the vanishingly small political center than to mobilize his fellow partisans.

8921-017 - Kentucky et al v. Yellen et al.  
90Simon Lazarus and Robert Litan, “The Republican Legal Assault on Biden’s COVID Relief Plan Could Be Devastating for Democrats,” The New Republic, 29 March 2021, accessed at https://newrepublic.com/article/161838/republican-ag-lawsuits-against-american-rescue-plan-biden-covid-relief, 17 March 2022.  
91Geoffrey Skelly, “Biden’s First Hundred Days Shows How Partisan Things Have Become,” FiveThirtyEight, 28 April 2021, accessed at https://fivethirtyeight.com/features/bidens-first-100-days-shows-how-partisan-things-have-become/, 17 March 2022.  
92Greg Sargent, “Biden’s Sharp Rebuke of GOP Governors Should Prompt a Democratic Rethink,” Washington Post, 4 August 2021, accessed at https://www.washingtonpost.com/opinions/2021/08/04/biden-rebuke-gop-governors-florida-texas/, 17 March 2022.
Trump’s presidency is testament to political developments that have fused executive power and fierce partisanship—and instilled in the country the false hope that a single individual, even with the tools of mass communication and social media, could ever truly serve as the sole steward of the public welfare. Although President Biden was able to reverse many of Trump’s policies, the early days of his presidency appeared to confirm just how entrenched executive-centered partisanship is in American democracy. Trump’s advancement of a racially tinged conservative nationalism that had been building in the Republican Party since the late 1960s and incitement of a populist uprising that disdained the “establishment” ensured that the fractious politics that hindered a national offensive against the pandemic would continue into the Biden administration—the outbreak of a partisan struggle over whether to take the vaccine being the most hazardous example. National crises and existential struggles over American identity have more deeply rooted the expectation that presidents will manage emergencies, which are increasingly exploited as opportunities to advance partisan objectives. Until this misplaced faith in a presidency-centered democracy is disabused, the prospect of restoring the constitutional norms and institutions of the American republic will remain a chimera.

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93Rogers M. Smith and Desmond King, “White Protectionism in America,” *Perspectives on Politics* 19 (June 2021): 460–478.