

WEDNESDAY OPINION

A better tomorrow is finally here for Muscogees

BY JONODEV O. CHAUDHURI

This past October, I sat in a hospital and held my Mamgee's hand as she took her final breath. Her death was painful, complicated by diabetes and systemic medical negligence. But she never complained. Like so many Muscogee women before her, Mamgee (which means "little mother") laughed, smiled and prayed as she endured the legacies of federal policies designed to dismantle our Muscogee (Creek) Nation.

Mamgee, my aunt, was our last living matriarch. With her death, we lost our family's last fluent Muscogee speaker. And I lost an irreplaceable connection to who we are as Muscogee people.

I thought of her last Thursday. I screamed with joy when I read the first paragraph of Supreme Court Justice Neil M. Gorsuch's majority opinion in *McGirt v. Oklahoma*. And I beamed with pride when I ran upstairs to tell my two boys that their reservation had not been destroyed. I thought of Mamgee, and I cried.

For generations, our people have persevered through insurmountable loss. Our ancestors survived the massacres committed by Andrew Jackson and the U.S. military. We survived the loss of our homelands and the Trail of Tears. My grandparents survived almost in 1906, although we lost our family's land as a result of deception and fraud. My mom and Mamgee's generation survived violent boarding schools and federal policies designed to eradicate our Muscogee language.

Despite this barrage of tragedy, they always kept going in the hope that someday, we would win. They never gave up hope for a day when their children, or maybe their grandchildren, would finally be able to be who they truly are as a Muscogee people.

That day has finally come. In *McGirt*, the court declined Oklahoma's request to disestablish our Creek Nation Reservation. Writing for the majority, Gorsuch held that once a reservation is created by a treaty, it can be disestablished only by an act of Congress—not a court and certainly not a state. And if Congress is to do so, they must show their face to the world when they do it.

The ruling recognizes what we have always been: a sovereign nation with a sovereign territory. This does not mean—as alarmists have misleadingly extrapolated—that Oklahoma cannot prosecute crimes on the Creek Nation Reservation. Under federal law, Oklahoma maintains criminal jurisdiction over non-Indian perpetrated crimes committed everywhere in the state, including on our reservation. Indians will be prosecuted by the federal government, Creek Nations' government or both. We will continue to work under the cooperative agreements we already had in place to ensure that federal, state and other tribal law enforcement remain cross-deputized and capable of responding to crimes within our borders.

Contrary to hyperbolic statements made in the media and at oral argument, the court's decision will not affect the status of individual land ownership within our borders. Not one inch of land has changed hands, nor will it—unless an owner elects to sell his or her land.

Truly, nothing in the Supreme Court's decision constitutes a seismic shift in the jurisdictional scheme that already existed. What, then, you may ask, is the big deal here?

When I was little, Mamgee and my mom used to take me to Tulsa, where we would eat at the restaurant Coney Islander. And it was there—enjoying the best chili cheese dogs humankind can make—that my mom would explain that "Tulsa" comes from our word "Tulasi," meaning "Old Town." And Mamgee would explain that at the end of the Trail of Tears, Tulasi is where we deposited the ash that we carried in our ceremonial fires and her buried umbilical cord—a connection to our land that no federal law or policy can ever dismantle. Mamgee sang our cherished Muscogee hymns to me her entire life, and on her final day, I sang these hymns to her, at her bedside. Like the generations before them, Mamgee and my mom persevered with the steadfast hope that their children or their grandchildren would someday be recognized as Muscogee in their hearts.

"Don't ever let anyone tell you Tulasi isn't your home," Mamgee would say. "You're Muscogee," my mom would add with pride. "We are still here."

For my Mamgee and my mom, home has always been a place of systemic erasure. But they never gave up. Mom always took me to visit the lands and the museum of Tulsa that contained the burned remnants of her childhood home and her buried umbilical cord—a connection to our land that no federal law or policy can ever dismantle. Mamgee sang our cherished Muscogee hymns to me her entire life, and on her final day, I sang these hymns to her, at her bedside. Like the generations before them, Mamgee and my mom persevered with the steadfast hope that their children or their grandchildren would someday be recognized as Muscogee in their hearts.

For me and for thousands of other Muscogees, the court's ruling is more than legal confirmation of a treaty. It is confirmation that the sacrifices of my mom, my Mamgee and all of our ancestors were not in vain. That my children won't be erased in their own home. That we are still here.

The writer is an ambassador for the Muscogee (Creek) Nation.



A volunteer distributes free face masks in Miami on July 7.

CHRISTINA HERRERA/ALAMY/CONTOUR/SHUTTERSTOCK

No president has politicized the CDC's science like Trump

BY TOM FRIEDEN, JEFFREY KOPLAN, DAVID SATCHER AND RICHARD BESSER

America begins the formidable task of getting our kids back to school and all of us back to work safely amid a pandemic, public health experts face two opponents: covid-19, but also political leaders and others attempting to undermine the Centers for Disease Control and Prevention. As the debate last week around reopening schools more safely showed, these repeated efforts to subvert sound public health guidelines introduce chaos and uncertainty while unnecessarily putting lives at risk.

As of this date, the CDC guidelines, which were designed to protect children, teachers, school staffers and their families—no matter the state and no matter the politics—have not been altered. It is not unusual for CDC guidelines to be changed during a clearance process that moves through multiple agencies and the White House. But it is extraordinary for guidelines to be undermined after their release.

In recent days, the administration has cast public doubt on the agency's recommendations and role in informing and guiding the nation's pandemic response. On Sunday, Education Secretary Betsy DeVos characterized the CDC guidelines as an impediment to reopening schools quickly rather than what they are: the path to doing so safely. The only valid reason to change released guidelines is new information and new science—not politics.

One of the many contributions the CDC provides our country is sound public health guidance that states and communities can adapt to their local context. Expertise even more essential during a pandemic, when uncer-

tainty is the norm. The four of us led the CDC over a period of more than 15 years, spanning Republican and Democratic administrations. We cannot recall a single time when political pressure led to a change in the interpretation of scientific evidence.

The CDC is home to thousands of experts who for decades have fought deadly pathogens such as HIV, Zika and Ebola. Despite the inevitable challenges of evolving science and the public's expectation of certainty, these are the people best positioned to help our country emerge from this crisis as safely as possible. Unfortunately, their sound science is being challenged with partisan potshots, sowing confusion and leading to a sharp rise in infections and deaths. America now stands as a global outlier in the coronavirus pandemic. This tragic indictment of our efforts is even more egregious in light of the disproportionate impact we've witnessed on communities of color and lower-income essential workers. The United States now has more cases and deaths than any other country and the sixth-highest death rate of any large country in the world—and we are gaining on the other five.

Sadly, we are not even close to having the virus under control. Quite the opposite, in fact. That's what makes it hard to plan for schools. Any parent with a young child knows that classrooms, cafeterias and school buses are petri dishes for colds and the flu, even in normal times. And although children are at lower risk for serious illness and death from covid-19, the same is not true for the adults who work in schools, nor for the families that children and school staffers go home to each evening. Safer school policies, including those the CDC released, are essential to reopening our schools—and our economy—as safely as possible. This cannot happen equitably without additional federal and state resources to ensure that every school district can take the necessary measures to protect children, teachers and staffers. Black, Latino and Native American communities have suffered disproportionately during the first six months of the pandemic. We cannot let this same tragedy unfold this fall in our schools.

The CDC's guidance is a call for all of our nation to work together so as many schools as possible can reopen as safely as possible. This will mean wearing masks correctly, increasing distance—including by closing bars and restaurants in many places—and tracking and stopping the spread of the virus by supporting patients and protecting contacts.

Trying to fight this pandemic while subverting scientific expertise is like fighting blindfolded. How well and how quickly we adhere to the advice of public health experts at the CDC will determine whether, how soon, and how safely our schools and economy can reopen.

It is not too late to give the CDC its proper role in guiding this response. But the clock is ticking.

Tom Frieden was director of the Centers for Disease Control and Prevention from 2009 to 2017. Jeffrey Koplan was director from 1998 to 2002. David Satcher was director from 1993 to 1998 and Richard Besser was acting director in 2009.

terfering. Social conservatives argued that AIDS was the result of a moral crisis, not a health one. Activists had to battle for increased federal spending on research. They also had to defeat proposed mass-testing programs that would have driven the most vulnerable communities, who were already on the margins of society, further underground and heightened the stigma around the disease.

Surely, Fauci must be seeing the parallels now, as even such basic measures as wearing a mask in public have become politicized signifiers.

Scientific understanding can grow and evolve even in the case of ancient diseases. The World Health Organization's declaration in 1980 that smallpox had been eradicated, for instance, marked one of the most spectacular public health success in history. But the final breakthrough became possible only after research in the 1960s showed the disease could not be defeated by mass vaccination alone; vaccination had to be backed up by surveillance and contact tracing.

In other words, ending smallpox was a war that had to be fought on multiple fronts—and with international scientific solidarity. Another lesson that applies today.

Trump, who is allergic to admitting error, has apparently decided that he doesn't want to listen to Fauci's expert advice anymore—or if, in fact, he ever really did. But as for the rest of us, we should be learning and adjusting as we go. We should be understanding the difference between life and death.

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MEGAN MCARDLE

Covid-19 makes systemic racism deadly

Why is covid-19 killing more black people than white people in America?

For many on the left, the answer is easy: "systemic racism." That answer drives conservatives bonkers. Covid-19 comes from a virus; it does not care whether victims are white or black and, indeed, doesn't have eyes to distinguish.

Conservatives, I understand why you feel this way. But on this issue, the left is, well, right.

Already, your blood pressure may be rising at the idea that the left might have something to teach you. Mine certainly does when people suggest I've missed something important. But give me 600 more words to prove that systemic racism exists and hurts people. If you're not convinced by then, you never have to read me again.

Let's start with what "systemic racism" is, which is *not* "systems full of racists." Black people aren't dying in such numbers because all or even most white people around them hate them and want bad things to happen to them. But they probably are dying because we enslaved their ancestors.

I say "we" even though my personal ancestors never, as far as I can determine, enslaved anyone or even set foot in the South. But I am a U.S. citizen and the United States legalized slavery, even to the extent of helping some whites pursue runaway to free territory. "We," as a nation, did that. They, as a people, suffered.

All modern Americans inherit a legacy stained by that suffering. But black Americans also inherit the suffering, which did not end when slavery was abolished. It went on and on, through the legal strictures of Jim Crow and through rampant private discrimination, which still unfortunately continues in diminished form.

Well-designed studies show the discrimination against various signifiers of "blackness" persist in our labor markets. That's one reason black Americans are disproportionately concentrated in the least skilled, lower-paid service and manufacturing jobs that require their physical presence, and where many of them were exposed to the coronavirus, while the white office workforce safely telecommuted this year.

Note that this could happen even if the people making discriminatory decisions have no particular animus against black people. All it takes is a slight preference for people whom they perceive to be "like me." That even slight preferences can cascade into dramatic effects is illustrated by something that many of us on the right complain about a lot: the left-wing skew in mainstream cultural institutions. The enduring legacy of slavery is not only stubbornly pernicious problem in American history, of course, but some of the social dynamics operate similarly.

That is to say, media and academia aren't leaning ever further left because a bunch of lefties got into a room and decided to oust the conservatives. Mostly it happened because human beings tend to think that others who agree with them must be especially fine people. That "affinity bias" influences hiring decisions, often unconsciously. The fewer conservatives there were, the more prominent and Richard Besser was acting director in 2009.

Now, of course, there is a muscular young generation that is explicit about wanting to "cancel" conservatism and that's a new phenomenon, and the tilt is decades old. If anything, the causation is reversed: Only when almost all the conservatives were gone did it become feasible to say that universities, magazines, awards ceremonies and the like should be explicitly left-wing projects. And if they do succeed, the skew will become self-maintaining; no one will voice a commitment not to hire conservatives, because conservatives won't apply to places they see as hostile to their interests, their ideas, their selves.

If you understand how those institutions could arrive at a stable, non-conservative equilibrium even without overt hostile action, then you understand part of the social dynamics behind systemic racism. The way small decisions cascade into major social forces is how Americans who profess no racial hatred—and declare their implacable hatred for racism in all forms—could nonetheless engage in contributing to patterns of residential, educational and employment segregation that left the average black American with fewer opportunities for well-paying work than the average white person.

In a world with covid-19 racing around, that disparity isn't simply unjust; it's deadly. I think the public health experts who've cautioned against lockdowns, dangerous risks to their credibility. But one part of their message was indisputable: Systemic racism kills.

One can acknowledge this without endorsing every solution advanced by social justice activists. But if you think that it is a major social problem, then the interests of people are pushed to the margins of important aspects of American life—well, then you should believe that it's a problem even when you aren't one of those marginalized. And if you believe in the ideals of the American founding... in the American Dream... then you should believe that we must keep working at this problem until we've finally kicked it.

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KAREN TUMULTY

Trump shuts his ears to Fauci's truths

That the Trump White House is treating the nation's leading infectious-disease expert like some kind of political opponent tells you a lot about why the United States is doing worse than so many other countries in the battle to contain the novel coronavirus.

It was bad enough that Anthony S. Fauci, director of the National Institute of Allergy and Infectious Diseases, has been "sidelined," according to a report over the weekend by The Post. What that means is that President Trump, who has refused to be guided by the evolving scientific knowledge in dealing with this new pathogen, no longer even wants to hear what it is.

But now, Trump and his minions are going even further. They are also trying to destroy Fauci's reputation.

There is no doubt some envy here. A poll conducted by the New York Times and Siena College last month found that 67 percent of Americans trust Fauci as a source of accurate information about the virus. Only 26 percent felt that way about a president who keeps putting himself on the back for a job well done as the U.S. death toll surpasses 132,000 and the number of new cases his record levels.

So White House aides have begun circulating talking points to undermine Fauci, documenting how many times he has said things that have turned out to be wrong. Some of the quotes come from back in January, before covid-19's impact in the United States had even begun to be felt. And as my colleague Aaron Blake noted, many of the Fauci statements being circulated by the White House are incomplete and taken out of context.

Those who put together this dossier do not see any irony in the fact that, in most of these instances, Fauci's error was in playing down the danger—which is something that Trump does practically on the hour.

What's different is that Fauci, unlike Trump, is willing to recognize and admit his mistakes. He has the experience to know how it works when you are trying to figure out how to deal with a new public health threat.

That was the case, for instance, with the AIDS epidemic. When the first mysterious instances of catastrophic immune failure arose in 1981, Fauci—who at the time headed the National Institutes of Health's immunoregulation lab—became intrigued, though he acknowledged in a 2018 interview with me that the nature of the disease and who might be vulnerable to it were "kind of a mystery at the beginning."

"At first we thought it was gay men, and then it was injection drug users, and then Haitians—which was a mistake," he said. "Heroin groups, including people who had received blood transfusions, started becoming ill."

"I spent a considerable amount of the next few years trying to do research, which we did. But the patients were still sick. We really had to spend a lot of time with the patients. So I was knee-deep in the suffering of this group," he said. "They didn't have any idea how they got infected. They were just doing what they did in their lives."

Eventually, science figured it out, though coming up with effective treatments took many more years—in no small part because politicians kept in-

Plan to require foreign students to take in-person class is dropped

BY NICK ANDERSON
AND SUSAN SVRLUGA

The Trump administration on Tuesday dropped its much-criticized plan to require international college students to leave the United States unless they are enrolled in the fall term in at least one face-to-face class.

The abrupt reversal, disclosed in a federal court in Boston, came a little more than a week after U.S. Immigration and Customs Enforcement issued an edict that stunned U.S. higher education leaders and students worldwide.

Under the July 6 policy from ICE, international students enrolled in U.S. colleges and universities for the fall semester faced a mandate to take at least one course in person. Those students, ICE said, "may not take a full online course and remain in the United States."

That mandate posed a major obstacle to plans for online teaching and learning that colleges are developing in response to the

novel coronavirus pandemic. In the spring, the federal government had given schools much more leeway to teach international students online.

Harvard University and the Massachusetts Institute of Technology had sued to block the new policy. In a hearing in that case on Tuesday, held before U.S. District Judge Allison D. Burroughs, the judge announced that the schools and the federal government had reached an agreement that made the lawsuit moot.

"The government has agreed to rescind the July 6, 2020, policy directive and the frequently asked questions, the FAQs, that were released the next day on July 7," Burroughs said, according to a transcript of the hearing. "They have also agreed to rescind any implementation of the directive."

The judge said the agreement reverted policy to "the status quo" that had been developed in March, when schools nationwide were forced to halt in-person

teaching because of the pandemic. Campuses have been sparsely populated in the months since.

An assistant U.S. attorney who participated in the hearing, Raymond A. Farquhar, confirmed the judge's understanding of the agreement, according to the transcript.

The Department of Homeland Security and ICE, a unit of the department, had no immediate comment.

Harvard has about 5,000 international students and MIT, about 4,000.

In their suit, Harvard and MIT argued that the Trump administration's action violated the Administrative Procedure Act, which governs how federal agencies make rules. They also claimed the ICE decision was a political move calculated to force universities to reopen campuses and hold classes in person despite the soaring toll of the coronavirus in death and illness.

Scores of universities supported their lawsuit, along with more

than 70 higher education associations. So did Google, Twitter, Facebook and more than a dozen other tech companies.

Separately, 20 state attorneys general had also challenged the guidance in court in recent days.

Massachusetts Attorney General Maura Healey, a leader in that effort, celebrated the outcome. "This ICE rule was senseless and illegal the minute it came out, and the Trump Administration knew it didn't have a chance," Healey said in a statement. "This is why we take action in court, why we stand up for our values, and why we will remain vigilant in protecting our international students from these harmful disruptions."

Other universities had pushed back as well. Last week, Johns Hopkins University filed suit in federal court in the District of Columbia, arguing that the ICE rule was illegal and unconstitutional.

A coalition of 20 universities in the western United States, in-

cluding Stanford University, the California Institute of Technology, the University of Southern California and the University of Oregon, had also filed a lawsuit Monday seeking to overturn the order.

"We are deeply grateful that the administration agreed to drop this poorly designed, counterproductive policy regarding international students," said Terry W. Hartle, senior vice president of the American Council on Education. The council represents college and university leaders nationwide.

"The administration just had a clunker," Hartle said. "At the end of the day, they decided they didn't even want to try to defend it."

There are hundreds of thousands of international students in the United States. Tuesday's news signaled a reprieve from a policy that threatened to disrupt their education.

"Oh man, I'm ecstatic," said Azan Zahir Virji, 25. "I'm so glad

to hear it. I'm so thankful."

In the last week, Virji had panicked, worried that he would not be able to continue his education at Harvard Medical School. His parents in Tanzania, a former hairstylist and an electrician, were trying to find money for a flight home for him.

So when Virji saw the news, through a tweet from another international student popping in at the end of an online class Tuesday, he raised his arms in the air, thrilled and relieved.

Even in the midst of his celebration, he still had a worry, he said. When he came to the United States in 2013 to attend Yale University, the idea of a visa being revoked or a student being deported seemed all but impossible, he said. Now, he feels differently. "I think this sentiment against immigrants is going to continue to grow. That's in the back of my mind, thinking, 'Am I still welcome here?'"

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White House swiftly derided over 'Find Something New' job campaign

BY HAMZA SHABAN

Ivanka Trump urged out-of-work Americans to "Find Something New" on Tuesday as part of a new jobs initiative designed to tout the benefits of skills training and career paths that don't require a college degree.

But the effort — complete with website, advertising campaign and virtual roundtable featuring Apple CEO Tim Cook and IBM chair Ginni Rometty — was swiftly derided on social media as "clueless" and "tone-deaf" given the pandemic, recession and Trump's own familial employment history.

This initiative is about challenging the idea the traditional 2 and 4-yr college is the only option to acquire the skills needed to secure a job. President Trump's eldest daughter and White House adviser said in a Twitter post.

"This work has never been more urgent."

The campaign comes with the country in the midst of a public health crisis that has upended entire industries and kicked off a recession that has sent the nation's unemployment rate shooting above 11 percent. The nation currently has 5.4 million job openings, according to the Labor Department, which is not nearly enough for the nearly 18 million Americans who are officially unemployed and the 33 million who are currently receiving unemployment benefits.

Many saw the campaign as insensitive given the suffering of Americans whose livelihoods disappeared as the pandemic forced companies to shutter or sharply curtail operations. And for many, Ivanka Trump — the daughter of a billionaire and a multimillionaire in her own right — is the wrong

person to speak to the challenges of finding a job.

"Go find something new in the middle of this pandemic while no one is hiring! Perhaps your father will hire you!" Jessica Huseman of ProPublica said in a Twitter post.

The campaign's website lists several "rising careers" that the Bureau of Labor Statistics projects will see job growth. But many of the positions are in lines of work that President Trump has rallied against explicitly or indirectly.

Among the roles is wind turbine technician, which is projected to grow 57 percent through 2028. Yet the president has repeatedly ranted about wind turbines, describing them as "monsters" that botch the visual aesthetics of farms and fields. Research has shown turbines significantly reduce carbon emis-



JAHN BOTSFOORD/THE WASHINGTON POST

Ivanka Trump urged 18 million unemployed workers to "Find Something New" in a jobs initiative designed to tout the benefits of skills training and career paths that don't require a college degree.

sions. And wind energy has one of the smallest carbon footprints of any electricity-generating power source.

Another long-term career prospect the website recommends is contract tracer: the public health workers who race against time to reach people who may have been exposed to covid-19 and other contagious diseases, steering

them to get tested and to quarantine. President Trump has repeatedly contradicted the public health guidance of his own government, which infectious-disease experts say sends mixed messages that have made it harder to slow the spread of the virus. So far, 3.3 million people in the U.S. have been infected and at least 132,000 people have died of

covid-19.

The nonprofit Ad Council created the "Find Something New" campaign in partnership with more than 20 organizations, including Apple, IBM, AT&T, Walmart, Lockheed Martin and the Business Roundtable. A corresponding website links to education and training options.

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MOORE GILES

Growth of debt market

Nod for trading in defaulted debt securities helps

DEBARSH MALICK

SEBI has permitted trading in defaulted debt securities. This order could be an important step forward for growth of the secondary debt market in India. The move is also key to towards trading in junk bonds — an asset class suitable for investors with a high risk appetite. In the absence of a specialised domestic investor community for such assets, FIIs and other overseas investors permitted by SEBI will initially be active in this market segment.

As observed in recent years in the equity segment, a strong domestic investor class adds to market stability and can resist any unidirectional mass exit by overseas institutional investors. The beneficial impact of the said SEBI order is likely to be visible over the medium-to-long term, and will be determined by policy initiatives adopted to facilitate entry and growth in number of market participants, creation of a domestic investor class, inflow of adequate market liquidity, and encouraging of introduction/supply of such securities in the market, by institutions, banks, ARCs, etc.

The need for development of a vibrant long-term debt market and a secondary debt market for corporate papers has been discussed intensively. The discussion gained prominence, when the first set of PPP projects were proposed in the infrastructure sector. The need to put physical facilities in the road, port, telecom and power sectors was assessed to be too large for the banking sector alone to finance. A vibrant long-term debt market was considered an important supplementary source.

As the initial thoughts on the development of debt market emerged, all discussions were concentrated only on the long-term market. The shorter end of the market was also not active, but there was then no felt need for a market segment across maturities, as the need of the short/medium maturity segment was then being met by

banks. The Covid crisis and the lockdown may push up NFAs in the Indian banking sector significantly, and make availability of bank finance difficult. A vibrant debt market across maturities is thus likely to become increasingly important.

Notwithstanding the above, the long-term debt market and secondary debt market did not develop in proportion to the needs of the economy. There have been multiple reasons for this, which have been examined and widely discussed.

In recent years, with the permission accorded to FIIs to invest in Indian corporate securities, emergence of specialised debt funds and increasing institutional appetite for debt investment, the situation has somewhat improved. The medium-to-long term debt market and secondary debt market have also been facilitated by measures like allowing repo in corporate bonds.

Indian financial markets are well organised. Reliable institutional mechanisms to facilitate ease of delivery/transferability, clearing and settlement have already developed. Trading in any market is, however, essentially a function of the underlying demand and supply. A well-performing deep market requires large number of participants, availability of adequate liquidity, ability to trade in any time horizon, across risk matrices and at various price points. The bond/corporate debt market is no exception.

The measures mentioned above, have brought in new participants with additional liquidity, and thereby infused new liquidity in the system. This has improved the demand side of the market. For vibrancy in trading, and to meet the varied risk appetite of participants, the market requires supply of debt papers/securities in a mix across asset quality and price points. And, the recent SEBI move could facilitate trading across all asset class and time horizons in the market.

The writer is former Deputy MD of EXIM Bank and former MD & CEO of IBI Asset Management Company

Disengaging Indian economy from China

To reach self-sufficiency, India needs to reduce Chinese imports. But it must do this in a way that does not violate WTO norms

SANJIB POHIT

The India-China relationship is now at a nadir following border clashes in the Ladakh region. The 'Boy to China' war cry reverberates across India. Though it emanates mostly from common people or commentators, the government has also indicated in one or two cases that Chinese investments are not welcome.

Indian industries, on the other hand, have provided a measured response, saying that disengagement with China is not possible in a short span as the supply chain of production has been geared towards imports of Chinese intermediate goods. The search for alternative suppliers may begin if the government wishes so, but it would take some time to reorient production with alternative suppliers.

In hindsight, if the Atmanirbhar Bharat initiative is to succeed, there is no alternative but to bring down the imports of cheap Chinese products, a large part of which result from the Chinese exchange rate policy and the dumping of goods with underwritten government subsidy to their exporters. Furthermore, India needs to adopt a balanced approach so that the policy action adheres to the WTO norms and the country does not have a loss of face.

Here are some measures India can consider:

Restrict FDI flows from China: The Department of Promotion of Industry and International Trade recently revised its policies on foreign direct investment (FDI), restricting funds coming from five countries that share a border with India.

Since investment is neither covered under the GATT, TRIMS or GATS, which India has committed to, the move is not a vi-

olation of any WTO commitment. This is indeed a good tactical move by the government.

Impose uniform rules across private and PSUs: In the wake of the attack by China's People's Liberation Army, the Department of Telecommunications (DoT) has asked Bharat Sanchar Nigam Ltd (BSNL) to rework its tender for the upcoming 4G business, by excluding Chinese equipment.

BSNL had shortlisted Chinese suppliers because of the low cost. However, when it comes to commerce, introducing such a fat for PSUs and not imposing the same set of rules for private players (but only exploring them to reduce their dependence on Chinese equipment) does not set a good precedent. This practice will kill PSUs in the telecom sector and in other sectors too, if replicated.

Set the right perspective for public procurement: Annually the Central government spends nearly 13 per cent of the GDP to acquire supplies, services, and capital assets. The large size of procurement outlay empowers the government to leverage the same to implement select national policies.

Government entities can, for example, require that contractors adopt fair employment practices, encourage purchases from MSMEs, and promote innovation. Countries across the world do use public procurement as a tool to set their own agenda. This needs to be a decisive tool if Atmanirbhar Bharat is to succeed.

However, we need to refine our public procurement system. By and large, the government has adopted the two-bid system, where vendors are requested to submit both technical and financial bids in sealed envelopes while tendering for any project/service.



Gradual separation Reorienting India's industry sans Chinese imports cannot be done immediately

First, the technical bids of the various vendors are evaluated as per the standard laid out, and subsequently the financial bids of the qualified vendors are opened to find the entity with the lowest bid. The contract is given to the lowest bid among the technically qualified vendors.

In this two-bid system, the procurement agency has very little room in ensuring quality standard. Of course, one can argue that the selection criteria of a technical bid are more of a checklist than guidelines to identify standard/quality of the bid or to fulfil the desired objective. Adopting 1:1 may not be the way to promote Atmanirbhar Bharat.

Use of anti-dumping duty judiciously: Given that India and China are both members of the WTO and have extended the MFN (most favoured nation) status to each other, India is not in a position to impose additional import duty select-

ively on Chinese imports. However, we can impose anti-dumping duties on Chinese goods keeping within the WTO rule-book.

It is a known fact that China follows an aggressive pricing policy to export goods, and many a time with tacit financial support from the government. Among WTO member-countries, India is an active player in respect of imposition of anti-dumping duty. However, most levies are usually negated by the WTO dispute settlement body after examination of evidences submitted by the Indian government. India needs to build its technical capacity in this respect.

A close interaction between government industry bodies and economists are a must for filing evidences to the WTO panel which can rightly put forward India's stance.

Discourage imports of finished Chinese goods though Nepal: If India becomes vigilant on the imports of Chinese goods, one can expect that Chinese consumer goods will be routed through Nepal

through the informal channel. These products directly compete with Indian products in the heartland of northern India, especially in Tier-II and -III cities. Strong action is required on this front.

Make use of trade facilitation measures: Since the rules of the same are not well laid out in the WTO, India has much leverage to use this channel to discourage Chinese imports. For instance, imposing a tighter standard may simply discourage Chinese imports.

Frequent scrutiny of Chinese imports for complying with various sanitary and phytosanitary standards would give the message to the traders/industrialist that Chinese imports are not wanted. Once they get the signal, they will surely alternative supply lines for their required imports.

The writer is Professor, NCAER. Views are personal

SHORT TAKE

+ Global hunger, obesity worsening due to Covid

AGNIESZKA DE SOUSA

Hunger and malnourishment are increasing around the world as the coronavirus crisis pushes more people into poverty and limits access to healthy diets, according to the United Nations. Almost 690 million people were undernourished last year, the most since 2009, and the direct impact of the pandemic is expected to push many as 132 million people into chronic hunger by the end of this year, the UN said in a report. At the same time, obesity has risen on the rise as healthy foods remain out of reach for billions of people, a problem that will be compounded by the economic fallout from the virus.

"The pandemic is creating a problem not of food availability, but of food access, because people will have less income because of the recession," said Massimo Torero, chief economist of the UN's Food and Agriculture Organization, which co-authored the report. "More people are shifting to cheaper, less healthy food, which could boost overweight and obesity levels," he said.

Climate change, conflict and economic downturns have exacerbated hunger in recent years, and outbreaks of crop-damaging desert locusts — particularly in Africa — have hurt economic prospects this year. That means the world won't reach a target to eliminate hunger by 2030, the UN said, calling for governments to take unprecedented action to tackle the issue.

Most undernourished people live in Asia, though the number is growing fastest in Africa. It trends continue, those affected by hunger around the world will surpass 840 million by 2030, a level last seen in 2004, according to UN data.

While it's too early to assess the full impact of the lockdowns and other virus-containment measures, another 83-432 million may go hungry this year due to the global economic recession. Addressing Covid-19's impact on hunger and nutrition would require an extra \$10 billion in government spending this year, say researchers.



AKHIL NALLAMUTHU

STATISTALK

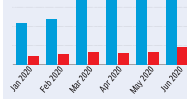
While the coronavirus pandemic hit most segments of the economy, the stock market witnessed heightened activity. The trading volume was higher in stocks, but tepid in currency and commodity derivatives



Daily cash turnover in equity has doubled since the beginning of the year

— NSE (LHS) — BSE (RHS)
Average daily turnover (₹ cr)

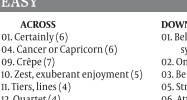
Index options have more than doubled this year



Trading activity in currency derivatives has largely remained flat

— NSE (LHS) — BSE (RHS)
Average daily turnover (₹ cr)

Daily turnover in commodity derivatives has declined



Index futures attract more trading interest

— Index (LHS) — Stocks (RHS)
Average daily turnover (₹ cr)

Source: NSE, BSE

Amid Covid, equities prove to be a trader's best friend

BusinessLine

TWENTY YEARS AGO TODAY

JULY 15, 2000

Hindalco seeks higher stake for India in UKAl

Close on the heels of Hindalco Industries Ltd formally taking over the management control of Indian Aluminium Company Ltd (Indal) from Alcan Aluminium Company of Canada, the Aditya Birla group company has made a strategic move to raise India's equity stake in UKAl Alumina International Ltd (UKAl), which is being jointly promoted by Hydro Aluminium of Norway, Alcan and India. In UKAl, which is setting up an export-oriented alumina project of one-million-tonne capacity in Orissa, the revised shareholding pattern, after the latest withdrawal as one of the promoters, is: Hydro-45 per cent, Alcan-35 per cent and India-20 per cent.

Goat for drastic steps to boost FDI

The Group of Ministers (GoM) meeting on foreign direct investment today recommended drastic measures to remove the remaining hurdles in FDI to achieve \$10-billion annual inflows in the next few years. The GoM meeting attended by the Finance Minister, Mr. Yashwant Sinha, the Commerce and Industry Minister, Mr. Murasoli Maran, and the Communication Minister, Mr. Ram Vilas Paswan, discussed specific measures to enable massive growth in FDI inflows in the country, sources said.

Petroleum Ministry clears use of diesel in power

The Petroleum Ministry on Friday, agreed to the use of high speed diesel (HSD) as a fuel for power generation. According to an official release, this follows a meeting held between the Minister for Power, Mr. P.R. Kumaraswamy, and the Minister for Petroleum, Mr. Ram Naik. The Power Ministry had circulated a draft notification to the Petroleum Ministry, some time in September last year, for its nod on the use of HSD for power generation.

EASY

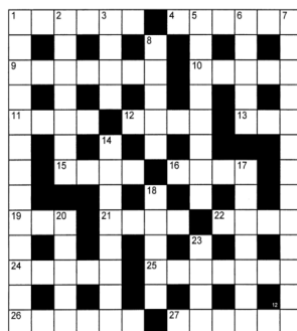
ACROSS

01. Certainly (6)
04. Cancer or Capricorn (6)
09. Crêpe (7)
10. Zest, exuberant enjoyment (5)
11. Tiers, lines (4)
12. Quartet (4)
13. That woman (3)
15. Egg yellow (4)
16. Swallow nervously (4)
19. Faucet (3)
21. Undressed hide (4)
22. Washing compound (4)
24. Type of green (5)
25. Supply completely (7)
26. Spatter with liquid (6)
27. Make dear (6)

SOLUTION: BL Two-way Crossword 1656

- ACROSS 01. Populate 07. Obese 08. Candour 09. Overdue 10. Load 12. Treadle 14. Castled 17. Stun 18. Vintage 21. Avarice 22. Bend 23. Assorted
- DOWN 01. Pickle 02. Pendants 03. Look 04. Throat 05. Ranch 06. Severe 07. Openers 11. Unleash 13. District 14. Covers 15. Dreams 16. Intend 19. None 20. Halo

BL TWO-WAY CROSSWORD 1657



NOT SO EASY

ACROSS

01. With American backing, depend on it with confidence (6)
04. Line on the map, something to be discussed when about right (6)
09. Peak can be formed in making crêpe (7)
10. Zest for goat's milk (5)
11. Arguments otherwise spoken if one is a weebob (4)
12. A number having nothing wrap it in sable (4)
13. Haggard woman starts saving her earnings (4)
15. Yellow you don't finish starts looking hipperish (4)
16. Swallow down a mention on the air if it's returned (4)
19. Sort of root to turn on wanting water (3)
21. A raw hide will come down hard (4)
22. Overdose when in South Africa on soft drink (4)
24. Nothing broadcast as it happens provides one with oil (5)
25. Supply one with cod when about to be given the runaround (7)
26. 22 from the syphon makes something of a headline (6)
27. Make people like one finish with a bit of corn (6)

DOWN

01. Thinking black cat is lucky pet: ours is to get new suit (13)
02. Bolter scoring one at cricket on opponents' ground (7)
03. Incline to be fat-free (4)
05. Unsparring way I go right for it in turning sour (8)
06. Takes up a period of change pops the question (5)
07. Ballet arranger has a household task: ergo, harp arrangement (13)
08. Yellow as elm turns if there's no upturn (5)
14. Mules, sure-footed? Slightly not (8)
17. 25 one for a period of change when about five (7)
18. A split Conservative leader abandoned (5)
20. Bottle or bucket, form of which includes hydrogen (5)
23. Breakfast food may preclude inclusion of sugar finally (4)

Wednesday 15 July 2020 The Guardian

World
Wildlife

29

Cull of the wild

Is Canada right to kill wolves to save the caribou?

▼ Caribou are becoming endangered in western Canada, though they once ranged right down to Idaho in the US
PHOTOGRAPH: KAYRAM/GETTY



'Wolves are being used as a scapegoat for government negligence'

Ian McAllister
Pacific Wild

considered sufficient to make far-reaching decisions on killing animals and where to place conservation priorities," said Spribille.

He anticipates the findings will generate controversy, largely because in some cases, killing wolves has been shown to save caribou and increase herd numbers. "I have no doubt that the authors, in response, will find examples of cases where a wolf is pursuing a caribou and you shoot that wolf, it saves the life of that caribou," he said. "Does that mean that that can be scaled up to herds where wolves are not even a major predation issue? Does that mean it can be scaled up to a province wolf cull programme?"

For environmental groups opposed to the cull, the findings come as little surprise. Wolves have been an easy villain, but a focus on predation ignores a more complex web of factors. "When you remove top-level apex predators, like wolves, you see a collapse of ecosystems from insects to riparian areas, to the predator-prey relationship to the forest cover itself," said Ian McAllister, executive director at Pacific Wild, a conservation organization. "Wolves in every meaning of the word are being used as a scapegoat for government negligence."

Ever since it was established, the cull has been deeply controversial, for its outcome and its tactics.

Hunters have faced allegations that wolves are being killed using a technique known as the "Judas wolf" – where an unsuspecting lone wolf is fitted with a GPS collar to unknowingly guide hunters back to its pack, "betraying" other wolves, which are then killed.

The province has denied this technique is being used.

While wolves make for an easy-to-spot culprit, Spribille and colleagues believe habitat degradation, in the form of clear-cut logging practices, inflict far greater harm on the caribou. By chopping down old trees, loggers remove both critical food sources, as well as valuable shelter. It takes roughly 80 years for a forest to mature to the point that it produces a suitable amount of lichen, says Spribille, the main staple of the mountain caribou.

A study published in May found that over the last five years, the British Columbia government has permitted more than 900 sq km of land to be logged, despite the forests listed as critical caribou habitat. In the last year, 314 logging cut-blocks have been approved in areas where the caribou are most vulnerable.

"If we're serious about mountain caribou, we're going to have to address the complexity of this problem," said Spribille.

"And that means we're going to have to have some uncomfortable conversations."



Leyland Cecco
Toronto

With their ability to drift silently through snow and vanish into forests, mountain caribou have been called the "grey ghosts" of western Canada. But in recent years, a steep drop in their population has raised fears that the knobby-kneed ungulates may disappear for ever.

The rapid decline in numbers left biologists and government officials alarmed, prompting an aggressive response. In 2015, British Columbia experimented with bounty on wolves, which the province believed to be a threat to the dwindling herds. The cull is estimated to have killed more than a thousand of the apex predators. A new study, however, published in the journal Biology

and Conservation, suggests this approach is wrong – and that the slaughter of hundreds of wolves in the name of conservation is doing little to save the most vulnerable caribou populations.

For decades, the mountain caribou – an ecotype of woodland caribou that once ranged from Alaska down to Montana and Idaho in the US – have suffered catastrophic decline. In addition to the clearcutting of forests, human incursions by snowmobile and along ski trails have created corridors for wolves to more easily stalk caribou.

Today, there are roughly 46,800 mountain caribou in Canada. Of those, the central and southern mountain ecotypes are endangered, with only 1,825 remaining. They live almost exclusively in the province of British Columbia, having all but disappeared from the United States.

In 2019, an influential study suggested that culling wolves and creating fenced refuges for pregnant

females could help slow the demise, justifying the 2015 policy. The paper received a flurry of media attention and the British Columbia government cited its findings to establish an expanded wolf cull, believed to have killed more than 460 wolves in the last year – part of the province's multimillion dollar caribou recovery plan.

In the new paper published in Biology and Conservation, researchers used the same data results from the influential 2019 paper but added a "self check" meant to determine if a pattern was real or part of a random variation.

To their surprise, the team could find no statistical support for claims that culling wolves and penning in

460
Number of wolves believed to have been killed in British Columbia in the past year, under the new cull

▲ Since 2015 British Columbia has authorised killing of wolves to halt the decline of caribou populations

PHOTOGRAPH: JOHN E. MARBOTT/GETTY IMAGES

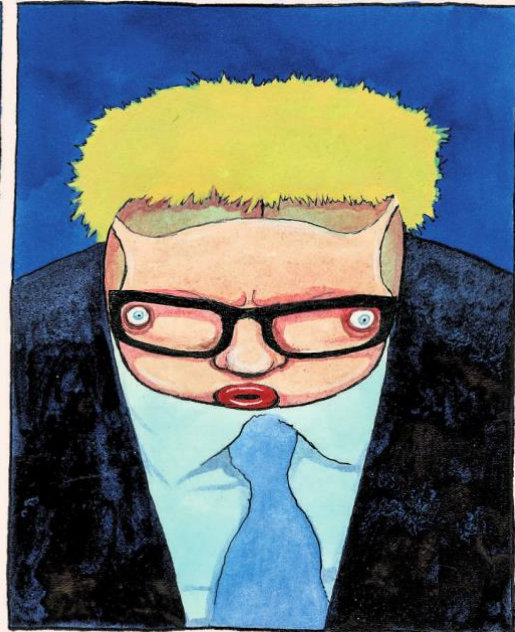
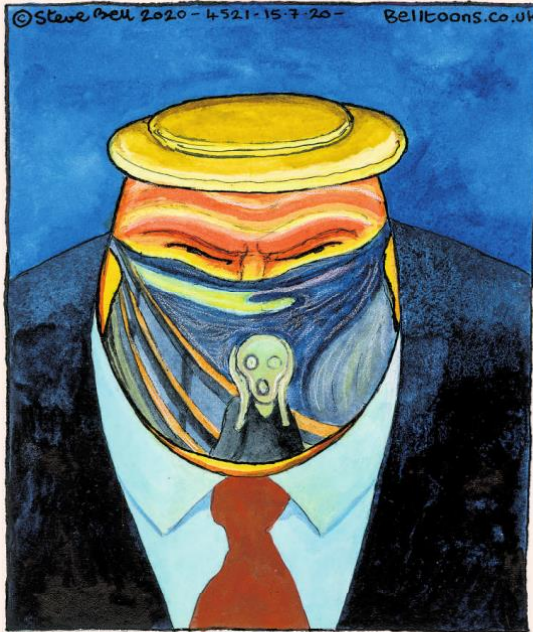
pregnant caribou offset populations decline – especially in the most vulnerable populations.

"No matter how you cut it and no matter how many additional people you show it to, the statistics were simply not done according to proper procedures," said the University of Alberta's Toby Spribille, a biologist and co-author of the new paper. "It's very difficult to un-see these errors. We had to live with knowing that major policy decisions had been made heavily informed by this paper."

In the case of the endangered Wells Grey herd in central British Columbia, which have suffered one of the worst declines, wolves were not a big predator: bears, cougars and Wolverines were far more deadly. "The [2019 study] cannot be

4

Opinion



'Make Britain lonely' was not a Brexit slogan

Rafael Behr



It is not a secret that Britain is leaving the EU. The coronavirus crisis has dominated 2020 but not obliterated memory of the years before. Still, to be on the safe side, the government is spending £93m on a Brexit refresher campaign with the slogan "Check, change, go". The essential issue here is that Brexit can make EU membership go away, but not the EU itself.

When the only problem was being inside, escape was the only solution worth talking about. Hardline Eurosceptics were no more bothered by the issue of how an ex-member state might manage relations with Brussels than arsonists are interested in what to do with ashes. It is important to distinguish strategic European policy from the detail of borders, tariffs and regulations. The UK has a detailed agenda for that

stuff, and negotiations are continuing. If those talks fail, there is always the World Trade Organization (as Brexit ultras never tire of pointing out). But even if it were economically sensible to fall back on WTO rules (and it isn't), the question of Britain's geopolitical alignment would still remain unanswered.

The rubric for the current talks is "the future relationship", but the UK has narrowed the discussion to exclude everything apart from trade. Johnson took foreign policy, security and defence cooperation – the stuff international alliances are made of – off the table. The UK position is consistent with the Eurosceptic doctrine of pristine sovereignty. In that view, EU institutions eat national power. The whole point of new, "global" Britain, as an upgrade from the old, European version, is that it is freer to deal with other global players peer to peer.

The limitations of that approach are becoming clear. In January the government announced that it would allow the Chinese telecoms company Huawei a limited role in developing British 5G infrastructure. Yesterday the limit became an exclusion, starting next year.

The shift follows pressure on Johnson from Tory MPs who complain, with good reason, that Huawei has the potential to be a conduit for Beijing security interests. The more decisive factor is US sanctions against the company, and the demand from Washington that Britain be more demonstrative in its transatlantic loyalty. The unambiguous message from the White House is that trade and security policy are intertwined. A country that wants a deal to access US markets can expect to have its foreign investment relations vetted for intimacy with undesirable states. Beijing has warned of trade retaliation against countries deemed hostile to Huawei.

Any prime minister would prioritise the security alliance with the US over a commercial deal with China. But Johnson happens to be the first prime minister to

be confronted with the choice in stark, binary terms, because his trade policy is a blank sheet of paper, and Donald Trump is holding the pen.

As an EU member, Britain's trade deals were brokered by the European commission, which mobilised the scale of the single market – 28 countries, with 450 million consumers – as leverage in negotiations. That is what concessions in national sovereignty buy, and every government that has felt the benefits considers it a price worth paying. The UK was no exception.

In less volatile times, an independent seat at the WTO would have been meagre compensation for losing Britain's influence as one of the big three EU members. As international trade policy gets ever more deeply submerged in geopolitical manoeuvres, that swap looks like the worst part-exchange in strategic history, even if you throw in a new royal yacht and call it Britannia.

Johnson knows it, too. If the prime minister thought the WTO was where the action happens, he would nominate a credible, intelligent statesman with a reputation for probity as Britain's candidate to be the next director general. He offered Liam Fox instead. (Fox will not get the job.)

The UK is sliding into a strategic void because its only foreign policy is a plan that devalues old European alliances and shifts the balance of power to other continents when trying to make new deals. Johnson cannot address this challenge without exposing the basic flaw in Brexit, which is that the sovereignty he so jealously demands from Brussels buys no clout in Washington, Beijing or anywhere else.

The UK national interest requires a new strategic partnership with the EU, but Johnson refuses even to include that concept in the negotiation. The obstacle used to be confidence that Britain had no need of Europe. It looks now more like fear of admitting how much of Europe Britain still needs.

6

Obituaries



Michael Glickman Architect who wrote about the mathematical sophistication of crop circles

For the last three decades of his life, Michael Glickman, who has died aged 78, was fascinated by crop circles, the patterns that appear unobserved and apparently spontaneously in farmers' fields. His previous experience as an architect, industrial designer and inventor equipped him to appreciate their intricate craft and to enjoy them as art. He systematically analysed them, drew them with great precision and wrote about them, most notably in *Crop Circles: The Bones of God* (2009), with a blend of seriousness and dry wit.

He had an exceptional ability to discern harmonious proportions and numbers woven into the design of these beautiful geometric patterns, which usually appear overnight. The vast majority have occurred in the south of England, particularly in Wiltshire, although appearances elsewhere in the UK and in other countries are not unknown.

The English formations often

appear adjacent to ancient sites, such as Stonehenge, Avebury and other stone circles. Swirled into the crop, without cutting or otherwise damaging it, they can happen at any time between April and the August harvest. They have varied in diameter between 10ft and 900ft, as with the epic formation at Milk Hill in Wiltshire in 2001.

Having become close friends in the north of England, Michael and I shared a student flat in London, a sense of humour and a spirit of inquiry: for him, how things look, work and embody meaning; for me, how people live their lives, and how that can be conveyed on stage and screen. Both paths can lead to controversy: in the case of the circles, are they man-made? Do they result from natural processes? If they are devised intentionally, is that in order to convey any meaning? The mathematical thoroughness with which Michael researched these questions was deeply impressive.

Clearly some formations are indeed the work of humans, but scrutiny of others poses a torrent of questions. How do these creations,

often of great complexity, come into being so rapidly? Many people, including me, have experienced tangible changes of energy on entering one. Your mobile may cease to function; yet the moment you step outside, it returns to normal.

In *Crop Circles: The Bones of God*, Michael rejected as dogmatic scientism all insistence on rational explanation in line with the consensus view of the world. He pointed to how crop circles seem to represent an affront to it, and liked to suggest that, whoever the circle-makers may be, they offer the formations as toys on the nursery floor – just to see what we will make of them.

Born in Manchester, to Charles, an electrical goods retailer, and Florence (nee Werner), Michael developed chronic bronchitis aged seven, which necessitated a family move to Lytham St Annes, Lancashire, where he attended King Edward VII school. Then came the Architectural Association School of Architecture in London, where Michael was in his element as a student social organiser.



The massive formation at Milk Hill, Wiltshire, in 2001, was at the large-scale end of the crop circles that Glickman, below, analysed
STEVE ALEXANDER;
ROB LUCKINS

Glickman's Wiltshire cottage became a focal point for 'croppies' from around the world

After graduating in 1965 and assisting several distinguished architects, in 1968 he established his own practice, designing Ronnie Scott's jazz club in Soho and Island Records studio in Notting Hill. A growing interest in product and furniture design took Michael to Cambridge, Massachusetts, to work for Urban Systems (1971-72), followed by teaching at Boston Architecture College, Rhode Island School of Design and the University of Southern California, where he was assistant professor of architecture. He then spent a year with the furniture designers Charles and Ray Eames as their exhibition designer.

Returning to the UK, he joined the Milton Keynes Development Corporation as head of the city structure group (1974-77), designing street furniture, lighting and bridges. Next came concrete paving. He invented several interlocking systems. The most ingenious was the G-Block, which locked into place both horizontally and vertically.

Michael was now writing regular columns in the architectural press and teaching at the Architectural Association, the Bartlett School of Architecture, and at the Royal College of Art. He returned to the US to teach 3D design in Los Angeles, but by this time he had experienced the epiphany that would change his life.

In 1990, intrigued by a photograph in the Guardian of a crop circle, he and his son drove down to Wiltshire to have a look. Still based in LA, he combined frequent visits to Wiltshire with lecturing on crop circles in California and Arizona, publishing his first book, *Corn Circles*, in 1996.

But by 1999 he had been diagnosed with multiple sclerosis. He returned to the UK to be near his sons and live in the Vale of Pewsey. Settling near Devizes, he produced more books, of which *The Bones of God* is regarded as the definitive work on the formations. He was a keynote speaker at the annual Glastonbury Crop Circle Symposium.

His Wiltshire cottage became a focal point for "croppies" from around the world, his "teatimes" a must for visiting groups. Irrepressibly sociable, he maintained telephone communication with his wide range of friends, family and colleagues. A call from Michael might last only a minute while he told you a joke (always funny) or you might be treated to an hour of in-depth discussion. I visited him often, our reflections on life and art in general, and Hollywood films in particular, stretching late into the night.

In 1971 he married Patricia McCauley; they divorced in 1991. He is survived by his partner, Holly (Carol) Wood, his sons, Louis, Ben and Max, from his marriage, his grandchildren, Cassius, Tulah, Odette, Maceo and Otis, and his sister, Frances.

Mike Leigh

Michael Neil Glickman, cereologist and architect, born 16 May 1941; died 1 May 2020

Justices Shrug Off Politics

Akshil Reed Amar

AS THE Supreme Court ends its term and a momentous presidential election looms ahead, the contrast between the Roberts court and the country could hardly be starker. Much of American government and politics is dysfunctional. Each party panders to extremists in its base, and media outlets have correspondingly polarized. Presidential politics, congressional politics and local politics have all suffered. Each side produces and consumes the news and facts it prefers, and almost every leading politician hesitates to ever cross the aisle.

Fortunately, there is no aisle on the Supreme Court bench, literally or figuratively. True, most justices most of the time vote in line with their partisan affiliation. But their partisan affiliations do not invariably result in partisan decisions.

In some of the biggest cases of the modern era, justices have in fact “swung.” Most notable was Justice Anthony Kennedy, who retired in 2018. He joined fellow Republican appointees on most issues, but sided with Democratic appointees in four major gay rights cases and split the difference on abortion and affirmative action. He sided with liberal free-speech advocates in major cases involving legal aid and flag-burning, and with conservative free-speech advocates in important cases involving political advertising.

But Justice Kennedy has not been the only one on the Roberts court to defy ideological pigeonholing. Chief Justice John Roberts has cast his lot with Democratic appointees to uphold *Obamacare* (twice), block President Trump’s flawed census policies, keep alive President Barack Obama’s DACA program for

One place, at least, where party isn’t everything.

young immigrants and invalidate Louisiana’s draconian abortion law.

Justice Neil Gorsuch, joined by Democratic appointees and Chief Justice Roberts, wrote a landmark ruling last November on behalf of employees with nontraditional gender identities. He also wrote a major decision, joined only by Democratic appointees, upholding tribal rights in *Oklahoma*.

Justice Clarence Thomas has likewise led the charge for certain liberal causes, insisting that the rights of criminal defendants to confront witnesses against them should be unflinchingly enforced and suggesting that police officers should pay damages when they misbehave.

Justice Brett Kavanaugh has championed the right of people of color to be free from racial discrimination in the jury selection process. He also found the sweet spot on a deeply contested issue of separation of powers. It was he, as a Court of Appeals judge, who foreshadowed a major ruling by the Roberts court last week: Independent agencies, beloved by New Deal liberals, should be upheld, but conservative adherents to the “unitary executive” theory should prevail whenever the president seeks to control a cabinet head or comparable executive-branch czar.

This month, Justices Kavanaugh and Gorsuch also joined liberals by concurring in a judgment by Justice Roberts allowing prosecutors in New York to investigate the financial records of President Trump, who put them both on the court.

Justices on the left have also opened themselves to good arguments on the right. Justice Elena Kagan closely parses statutory texts in ways that Justice Antonin Scalia would have loved. Justice Stephen Breyer has written and joined major opinions reflecting deep respect for the rights of religious traditionalists.

To be sure, a justice need not “swing” to enrich American jurisprudence. Justice Ruth Bader Ginsburg has brilliantly championed gender-equality rights and voting rights at the heart of the 13th, 14th and 15th Amendments, while Justice Samuel Alito has dazzlingly deployed those same amendments to protect the rights of Americans to keep guns in their homes and to remain free from anti-Catholic bigotry.

Justice Sonia Sotomayor has championed the legitimate interests of Puerto Ricans, who lack full representation in the federal government. And her penetrating questions at oral argument in the first *Obamacare* case may have been the proverbial nail that saved the kingdom, stressing that the individual mandate could be upheld as a simple tax law.

It’s also true that the court makes many mistakes. I have doubts about some things that the justices said in two key cases last week about so-called faithless electors. But there was nothing remotely partisan in this error, if it was. The court was in fact unanimous in its result.

How have the members of the Roberts court managed to outperform the other branches and the media? By listening carefully to one another and to the parties who come before them. By paying close attention to the facts of each case and the letter and spirit of the laws at issue. By hiring law clerks who do not always share their political leanings. By not needing to raise money from party bosses or pander to party extremists.

It is not clear that this recipe would work for other branches of government or civic institutions. But it is working for the court, and that is good news for all Americans, at a time when we could use some good news.

Akshil Reed Amar is a professor at Yale Law School.



CIRIS MADALONE/ROLL CALL, VIA GETTY IMAGES

‘Indian Country’ Gets Its Due

Joy Harjo
TULSA, OKLA.

IT WAS an ordinary July morning in the Arts District of the Muskogee Creek Nation territory here. Already hot and set to get hotter. I was inside my house fooling with some lyrics when my husband burst in. “We won!” he announced. The cellphone in his hand carried the breaking news. “We won the *McGirt v. Oklahoma* decision!”

I froze, caught on an inhale, in disbelief and shock. How could any Native tribal nation win any decision with this conservative Supreme Court? And at a time in American history like this when justice seemed so imperiled? My husband and I teared up.

We were part of a collective cry that went up in what we call Indian Country when the decision landed. We spent much of the rest of the day checking in with friends and family confirming the news was real.

Writing for the majority, Justice Neil Gorsuch, nominated for the court by President Trump, ruled that because of

an 1866 treaty that the Creek Nation signed with the United States, much of Oklahoma is still sovereign tribal land, and so Indigenous people who allegedly commit crimes on that land must face justice in tribal or federal courts, not state ones.

“Today we are asked whether the land these treaties promised remains an Indian reservation for purposes of federal criminal law,” Justice Gorsuch wrote. “Because Congress has not said otherwise, we hold the government to its word.” But the ruling was about so much more. It was about validity, personhood, humanity — the assertion of our human rights as Indigenous peoples and our right to exist.

Justice Gorsuch continued: “On the far end of the Trail of Tears was a promise. Forced to leave their ancestral lands in Georgia and Alabama, the Creek Nation received assurances that their new lands in the West would be secure forever. In exchange for ceding ‘all their land, east of the Mississippi River,’ the U.S. government agreed in treaty that ‘the Creek country west of the Mississippi shall be solemnly guaranteed to the

Creek Indians.”

All day, I kept thinking how this decision was girded by centuries of history, how the news would be received by the parents, grandparents and great-grandparents who have left this world.

The elders, the Old Ones, always believed that in the end, there would be justice for those who cared for and who had

A Supreme Court ruling proves the wisdom of my elders’ teachings.

not forgotten the original teachings, rooted in a relationship with the land. I could still hear their voices as we sat out on the porch later that evening when it cooled down. Justice is sometimes seven generations away, or even more. And it is inevitable.

When you understand history this way — as linked stories — then it is no longer a misty past. My ancestor Monahwee, six generations back, was one of the Red

What a Second Trump Term Would Look Like

Eric Posner

BACK when Donald Trump was running for president in 2016, Republican leaders claimed to believe that, as president, Mr. Trump would respect the rule of law.

“I still believe we have the institutions of government that would restrain someone who seeks to exceed their constitutional obligations,” Senator John McCain said. “We have a Congress. We have the Supreme Court. We’re not Romania.”

Romania is looking pretty good these days. Freedom House, an organization that monitors political freedoms in countries around the world, has downgraded the United States to a score of 86 out of 100, just three points higher than Romania, and far below America’s erstwhile democratic peers like Britain and Germany. (The United States received a score of 94 in 2010.) Mr. Trump has both benefited from, and contributed to, this alarming decline.

But to give Mr. McCain his due, the president has not yet in a clear sense violated the laws or Constitution of the United States. He has blustered and threatened to break the law but always pulled back at the last minute in the most important cases.

The president’s damage to the country has come through his poisoning of the public discourse with lies and insults; his efforts, largely unsuccessful, to direct criminal investigations against his enemies; his politically motivated manipulation of his office to enhance his standing at the expense of American foreign policy and the broader public interest; his appointment of hacks to high positions in government; and his terrible policy choices, including his neglect of the coronavirus pandemic.

All of this was legal, alas, with the ambiguous exception of his (mostly unsuccessful) obstruction of criminal investigations of his aides.

All of which raises the question: What will happen if Mr. Trump is re-elected? John Bolton, hardly a member of the “Resistance,” has called his former boss a “danger for the Republic” if re-elected. Will Mr. Trump in a second term finally burst the bounds of the Congress, as so many critics have predicted since he entered office in 2017?

The answer is most likely no, and for two reasons. First, American institutions, while damaged, remain robust. They have mostly pushed back when Mr. Trump tried to push them aside.

The courts have frequently ruled against, and even condemned, Mr. Trump. The press has been unfazed by Mr. Trump’s harassment of journalists. The states ignored Mr. Trump’s orders to lift their Covid-19 lockdowns or to suppress protests against police brutality. The military balked when Mr. Trump threatened to send personnel against protesters. While wobbly, the Justice Department has mostly followed through on investigations of Trump allies — with the withdrawal of the prosecution of Michael Flynn a rare exception.

Second, and surprisingly for some, Mr. Trump has not tried to expand his powers. There is a long history in other countries of democratically elected leaders seiz-



DOUG MILLS/THE NEW YORK TIMES

More mismanagement, and a weakened presidency that would embolden our foes.

ing dictatorial powers in an emergency, and Mr. Trump’s critics expected the same from him.

But when an authentic crisis struck the United States in the form of the pandemic, Mr. Trump was conspicuously uninterested in seizing power or even using the powers he already possessed. By contrast, Viktor Orban, the leader of Hungary, followed the demagogue’s playbook by demanding and obtaining near-dictatorial powers from the legislature.

The brute political fact that distinguishes Mr. Trump and Mr. Orban is that Mr. Trump is exceedingly unpopular and widely distrusted — and has been since his election in 2016. He lacks political support for any authoritarian ambitions he may harbor. Americans, with a long if fraying tradition of democracy that countries like Hungary lack, still seem uninterested in a king.

All this is not to argue for complacency in case the president is re-elected but to suggest that we focus on the damage that Mr. Trump is likely to do rather than worst-case scenarios that are unlikely to occur.

As long as Republicans remain in power in the Senate, Mr. Trump will continue to have a free hand to appoint loyalists like Attorney General Bill Barr, who has increasingly shielded Mr. Trump and his allies from investigations and prosecution. Angered by adverse rulings by Republican-nominated justices on the Supreme Court, Mr. Trump will probably choose a lackey if a vacancy opens up.

Mr. Trump has compiled an astonishing record of failure for his regulatory agencies — according to one count, courts have blocked agency actions (including derogatory actions) against Mr. Trump’s business allies) almost 90 percent of the time.

We can expect further mismanagement of U.S. agencies during a second term. Many civil servants are demoralized by the administration’s hostility to regula-

Stick warriors who fought directly against Andrew Jackson, against the illegal theft of our lands in the Southeast, at the Battle of Horseshoe Bend.

The Old Ones have always reminded us that we will be here long after colonization has worn itself out. An elder explained to me once, pressing her fingers together, “See this?” I could see no light between her fingers. “This is the time since European settlement.” Then, she spread her arms from horizon to horizon: “This is the whole of time.”

The Supreme Court decision last week affirmed what those of us who live close to our history here know already. Still, we weren’t sure what was going to happen because we do not usually fare well in courts. We have always been dogged by legal fictions and false narratives. In the Declaration of Independence we are referred to as “the merciless Indian savages” on “our frontiers.”

That a conservative nominee to the Supreme Court stood with four other justices and followed the rule of law, instead of bowing to political arguments, is striking: a decision of integrity. It provides hope that the rule of law upon which this country is based can be applied equally.

The Old Ones understood the truth that “we are all related,” and now, as a nation reckoning with racism, maybe more of us are beginning to understand it, too. We tribal nation citizens will continue to go about our lives here as ordinary U.S. and Oklahoma citizens: going to public schools, working jobs, paying taxes, holding positions of public trust and raising our families.

And still, we will have our lives apart from the mainstream. You will find us in our Creek churches, ceremonial grounds and community centers, situated in our rural communities, at the edge of the towns and cities, out there in the trees, the land.

There you will hear our language spoken and sung, calling us back to that circle around our nation. You will hear our principles of living: “eyaskev” or humbleness, and “vnoketkv” or love.

It is important to stop here, in the moment, and to recognize all that it has taken to arrive at this act of justice. There was the resolve, struggle and battle, the food cooked to help those working long hours.

There were those who picked up, who took care of the children. Those who kept walking the long distance of heartbeat to arrive, in a reservation, and start all over again. And at last, on the far end of the Trail of Tears, a promise has been kept.

Joy Harjo, the United States poet laureate, is a member of the Muskogee Creek Nation.

tion; others resent political pressure from above. Many of these people, who represent a deep well of expertise on everything from nuclear power to epidemiology, may quit rather than endure four more years of contempt and harassment.

Mr. Trump has used many legal resources at his disposal to block foreigners from working and taking refuge in the United States and to disrupt foreign trade. Expect more of the same, with further damage to America’s economy and its relationships with its allies.

We should also expect Mr. Trump to continue to abuse the presidency’s powers over foreign affairs to the detriment of American foreign policy.

Mr. Trump may finally indulge his impulse to withdraw the United States from NATO. Disgusted with Mr. Trump’s penchant for cozying up to dictators and offering concessions in return for support for his electoral interests, Western democracies will continue to distance themselves from the United States.

And unconstrained by the prospect of electoral backlash, Mr. Trump will use his pardon power even more flagrantly than he already has to reward political allies who broke the law.

At the same time, if Mr. Trump remains unpopular even after winning re-election, it seems likely that the courts, the agencies and Congress will continue to hem him in, preventing him from acting forcefully even when he should. A weakened presidency, whoever occupies the office, will be unable to address significant domestic problems — including the pandemic and the growing unease about policing — and will embolden dangerous foes, from Russia to Iran.

Donald Trump is a danger to democracy, it is not because he will overthrow the Constitution. It is because his contempt for American values and institutions, and his ineptitude as a leader, may persuade Americans, by his example if nothing else, that democracy just does not work. While we still seem to be a long way from that point, four more years of Mr. Trump will bring us that much closer.

ERIC POSNER is a professor at the University of Chicago Law School and author of, most recently, “The Demagogue’s Playbook: The Battle for American Democracy From the Founders to Trump.”

Opinion

The New York Times

EDITORIAL

Congress, Jobless Americans Need Help



GEORGE ETHERIDGE FOR THE NEW YORK TIMES

Unemployment benefits provide people who lose jobs with a little help for a little while. The money is not really enough to live on, by design. People are supposed to find a new job.

During an economic crisis, however, people can't find jobs. They need money to live on.

Congress recognized this reality in March when it responded to the arrival of the coronavirus pandemic by increasing unemployment benefits. But the expansion expires at the end of this month, even as the pandemic continues to rage. Congress, after dragging its feet for months, has all but run out of time to prevent a lapse in the distribution of extra aid.

The nation's elected representatives need to act immediately to extend emergency benefits, and to authorize the extra aid to continue for the duration of the crisis.

Because crises are both inevitable and unpredictable — and because the federal government is slow to react whenever a crisis begins to unfold — the government also needs a set of rules that automatically switches the unemployment benefits program from normal mode to crisis mode, and back again, based on the evolution of economic conditions.

The need for more unemployment benefits is just part of a broader set of measures Congress must take to shore up the economy. State and local governments urgently need help, including funding for schools. So do businesses that the pandemic has shuttered, and health care providers it has overwhelmed.

But those who have lost jobs are singularly vulnerable — especially because pandemic job losses have been concentrated among low-wage workers with little money in the bank.

The program created in March has two main components. First, Congress expanded eligibility for unemployment benefits to include self-employed workers, gig workers and others who were previously ineligible. Americans deserve to have that adjustment made permanent. It moves the safety net of unemployment benefits more squarely beneath the modern work force. As of the end of June, more than 14 million American workers had qualified for benefits under the expansion out of a total of 33 million workers drawing unemployment benefits.

The second component of the rescue package gave unemployed workers a \$600 weekly payment from the federal government on top of their standard unemployment check, which averages \$373 a week, although the amount varies widely by state. The average recipient is thus getting nearly \$1,000 a week. People also can collect the benefits for up to 39 weeks, up from as little as 13 weeks before the crisis.

Federal aid, including the expansion of unemployment benefits, has helped to stabilize the finances, and thus the lives, of millions of American households and the communities of which they are a part. It's not as good as a job. Among other things, millions of people have lost their health insurance. But even as the pandemic has pushed unemployment to the highest levels since the Great Depression, research suggests the aid is preventing any meaningful increase in the share of families living in poverty.

These are individual benefits with societal impact. Workers on federal aid can afford to make rent payments, easing the pressure on landlords. They can afford to shop at local stores, supporting hard-pressed small businesses.

When Congress slapped a July expiration date on the program, there was reason to hope that the United States might have brought the pandemic under control by now. Other nations have done so. But the United States has failed to control the spread of the virus, and fear continues to curtail economic activity. The need for continued aid is undeniable.

The House of Representatives passed a bill in May that would extend the aid program through January, but few economic analysts expect the economy to recover by then — particularly as the first wave of the coronavirus continues to spread rapidly across the Sun Belt. While any arbitrary deadline risks another battle over reauthorization, a January deadline would be particularly fraught. After the Repub-

lican Party lost control of the White House in 2009, during the last economic crisis, congressional Republicans decided it was politically expedient to oppose federal spending that was needed to revive the economy. Democrats would be wise to take the lesson.

The size of the \$600 bonus is also a subject of controversy. The figure was chosen because lawmakers wanted to provide workers with the money they would have earned, but the antediluvian conditions in many state unemployment offices made it impossible to tailor benefits. Instead, Congress picked a figure that would make the average worker whole.

The White House, and some congressional Republicans, are upset that some workers are getting more money than they earned in their former jobs. They argue this could discourage workers from seeking new jobs.

This is not an immediate problem: At the moment, the United States is suffering a lack of jobs, not a lack of willing workers. Moreover, there is a ready solution: a plan to reduce the payments as the economy recovers.

Senator Chuck Schumer, Democrat of New York, and Senator Ron Wyden, Democrat of Oregon, introduced legislation early this month to continue the emergency aid on a state-by-state basis until the jobless rates in each state recede. Expanded eligibility would last until unemployment dropped to 5.5 percent. Expanded benefits would drop by \$100 when the rate fell below 11 percent, and by another \$100 each time the rate dropped by another percentage point, ending when the rate hit 6 percent.

Congress can avoid the need for similarly ad hoc policymaking during future crises by providing funding for states to fix the problems that have impeded the distribution of benefits — and by adopting rules to automatically expand and contract supplemental benefits.

Claudia Sahm, then a Federal Reserve economist, wrote in a paper published last year that the movement of the unemployment rate could be used as a reliable indicator. She found that since the 1970s, when a three-month average of the unemployment rate rose half a percentage point above the lowest rate during the previous year, the economy was in a recession.

Ms. Sahm, now the director of macroeconomic policy at the Washington Center for Equitable Growth, has proposed using this "Sahm rule" as a trigger to initiate aid programs such as supplemental unemployment benefits. The emergency aid would then continue until the unemployment rate fell back to that threshold. In the current crisis, emergency aid would continue until the unemployment rate, now 11.1 percent, receded to 5.3 percent.

That would be a smarter way to provide workers with necessary and timely aid.



LETTERS

Grappling With Opening Schools Safely

TO THE EDITOR:

So students, parents, teachers and staff are worried about going back to school before it's safe ("Week of Fear and Anger as Teachers Feel Pressure to Return to Class," news article, July 12)?

Let's tell the president we'll go back, when we can do the same testing, tracing and quarantining at our schoolhouses as they do at the White House.

Our kids' lives are worth as much as our leaders' lives, aren't they?

WILLIAM HOEJEL
WEATOGUE, CONN.

TO THE EDITOR:

It is with difficulty but with firmness that I support the American Academy of Pediatrics' recommendation that we should move toward physical reopening of schools this fall.

While no decision during this pandemic is an easy one, over the last few months our experience and data have taught us that school closures are harming more than benefiting our children. Furthermore, this is disproportionately affecting our children of color and of low socioeconomic status, further widening the lifelong disadvantage gap.

The precise timing of reopening must be individualized based on the local pandemic situation. When schools are deemed ready to reopen, I propose the following principles to do so as safely as possible:

First and foremost, prioritize the reopening of schools above non-essential businesses. Second, consider opening first for those for whom physical school is most crucial and virtual school least effective, such as children with special needs and in younger grades. Lastly, put in place enhanced protective measures for essential educational staff to minimize risk.

With these principles in addition to continued practice of distancing and hygiene, we can provide safe education for our next generation and avoid what could be detrimental effects for decades to come.

STEPHANIE WANAMAKER
PHILADELPHIA

The writer is a pediatrician.

TO THE EDITOR:

Re "Minimizing Risks, Trump Presses Schools to Open" (front page, July 8):

President Trump's demand that schools reopen in the fall will have little impact on a majority of parents. They will decide for themselves when it is safe for their children to return. But ardent

Trump supporters are being asked to make a decision: Are you willing to risk the life of your child to demonstrate your faith in him?

PAUL ROUD, LEVERETT, MASS.

TO THE EDITOR:

As it is now clear that breathing in what others breathe out is a significant route of transmission of the coronavirus, there should be a national push to improve ventilation in all indoor spaces. Keeping such places as bars and restaurants closed until that happens is a cost to society, but the costs of keeping schools closed are far greater. Therefore federal assistance to schools, including institutes of higher education, should be a priority. The benefits in improved performance and health will more than make up for the investment.

RICK REIBSTEIN, LEXINGTON, MASS.

The writer teaches environmental law and policy at Boston University and in Harvard's continuing education program.

TO THE EDITOR:

Re "New York City Set to Stagger Classes in Fall" (front page, July 9):

We have two complementary problems: not enough space in schools for social distancing and too much space that won't be reopened in restaurants and corporate buildings. Why not let schools negotiate with their neighbors and neighbors' landlords to take over these spaces for the school term and assign groups of children to them?

For corporations already paying for more space than they currently can use, they could receive a tax break treating the rent as a donation. For restaurants it could forestall bankruptcy if the city was paying some of the rent. For teachers there's a large force of substitutes and educated unemployed people who could be put to work.

LESLIE PARYZER, BRONX

TO THE EDITOR:

Reopening school in the fall will be at great risk to the health of students, teachers and other school personnel. Since there is concern about the time in school that our children are missing, why not, when it is safe to reopen, add a 13th (or 14th) grade to school to make up for the lost year (or years)? One advantage would be that students would be more mature when they begin college.

ELLEN SHAFFER MEYER
WILMINGTON, DEL.

The Real Afghan Story: The Need to Get Out

TO THE EDITOR:

Re "Trump Knew, and Did Nothing" (Op-Ed, July 13):

Douglas London is right to raise questions about what President Trump knew about U.S. intelligence reports describing possible Russian bounty payments to the Taliban. But as troubling and confusing as this entire story is, it's hardly the most important subject.

If competitors and adversaries like Russia, Iran and Pakistan are deliberately encouraging Taliban

fighters to target U.S. troops, it's because doing so is an easy way of keeping Americans mired in a decades-long civil war with no end in sight. All three are taking advantage of the situation.

If President Trump wants to deprive the Russians of this opportunity, he should extricate the United States from the conflict. The temptation in Washington will be to escalate in Afghanistan and complicate Moscow's own plans in the country. But this would translate only into more U.S. investment for little gain.

Mr. Trump should instead do the sensible thing and finally pull the roughly 8,000 U.S. troops out of an unwinnable war. A withdrawal would not be a favor to Russia; it would be a favor to ourselves and a belated acknowledgment that long military deployments very often have negative, unforeseen consequences.

DANIEL R. DEPTERIS
ASTORIA, QUEENS

The writer is a fellow at Defense Priorities, a foreign policy think tank.

Fill Out the Census

TO THE EDITOR:

Re "Rich New Yorkers Take Off, and Census Takes Hit" (news article, July 14):

Throughout the 2020 Census, I've been monitoring response rates closely. I expected to see lower response rates in traditionally hard-to-count communities, but I was surprised to see that rates are lagging in neighborhoods that have historically seen higher turnout. I know that we can do better.

The census takes five minutes to complete online but will determine the next decade of funding and representation for New York City.

I head the House Oversight Committee, which released a staff report last month showing that if just 1 percent of our city is undercounted, we could lose \$7.3 million in federal funding for our schools and nearly \$3.7 million for jobs programs. This funding for these programs is critical as we work to recover from the economic downturn caused by the coronavirus pandemic.

Our city has faced unprecedented challenges this year, but New Yorkers have always taken care of our own. That is why I'm asking every New Yorker to help secure a brighter future for our city by logging on to my2020census.gov and filling out the census.

CAROLYN B. MALONEY, NEW YORK

The writer represents New York's 12th District in the House.

Don't Subsidize Employers

TO THE EDITOR:

Re "How to Give Workers a Raise," by Bharat Ramamurti and Lindsay Owens (Op-Ed, July 6):

It's a lovely idea to have the government provide workers the difference between their low-paying job and a decent-paying one. But let's be clear: This is a government subsidy for businesses. Now they can continue to shortchange workers, while diverting their profits into more wealth for themselves and their shareholders.

Wouldn't it be preferable to pass a strong minimum-wage bill that compels businesses themselves to pay their workers more? The growing wealth disparities between rich and poor are no accident; more profits now go to the top than ever before. This proposal won't change that. A strong wage bill would.

CHERYL GREENBERG
WEST HARTFORD, CONN.