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The 2016 deal that ended 50 years of war in Colombia required FARC guerrillas to lay down their arms in exchange for the promise of integration into society. What happens if that promise is broken?

By Jonathan Levi and Marta Orrantia
Eyes Wide Open

I write to thank you for Arran Skinner’s beautiful and timely article about the victims of oppression who are being found on the riverbanks and beaches and in the detention facilities of autocratic regimes in many places [“On Not Looking Away,” July 29/Aug. 5]. This article reminds us, in nearly every sentence, of what is missing in the current political discussions. Compassion. Empathy. The recognition that each of these victims is as human and as valuable to the future of the planet as ourselves. America will never become great again until we absorb—and express—this truth.

FRANK SOUTHWORTH
NEW YORK CITY

Sanders’s Exceptionalism?

I have long been a fan of Greg Grandin’s historical writing, but his latest essay, “Bernie’s Challenge to American Exceptionalism” [July 29/Aug. 5], does not present a compelling argument that Sanders is unique among the candidates for the Democratic nomination or that he is the best choice to beat Trump in 2020.

While Sanders has been most aggressive in portraying himself as heir to Franklin Roosevelt’s call for an economic or social bill of rights, surely Elizabeth Warren is making the same pitch: Rein in corporate power, reduce income inequality, guarantee access regardless of income to social goods such as medical care and college, etc. And if our model for social rights is FDR, who compromised with Southern segregationists in ways that would make even Joe Biden blush, then most of the Democratic pack is far ahead in breaking the link Grandin identifies between racism and hostility to social rights.

Leftists, it has been said, can be categorized as either lumpers or splitters. Grandin here is among the split ters, emphasizing Sanders’s differences from his rivals because of his alleged ideological purity. Better that we be lumpers, emphasizing that most of the Democratic candidates (OK, not Biden) are far enough to the left that progressives could legitimately support any of a number of candidates.

ROBERT SHAFFER
MECHANICSBURG, PA.

Correction

News You Can Lose

A few hours before the second round of Democratic presidential primary debates began in Detroit’s opulent Fox Theatre, union activists and their allies gathered around 13 miles away at a United Brotherhood of Carpenters and Joiners hall near General Motors’ transmission plant in Warren. The factory was scheduled to be unallocated—corporate-speak for closed—the day after the Democrats left town, leaving 260 United Auto Workers members and another factory town as victims of President Trump’s lies. The Carpenters and Joiners’ union hall has a large auditorium and would have been a much better site for a Democratic debate. A forum in Warren on the eve of a plant closing would have put an urgent focus on deindustrialization and the future of work—issues that got scant attention in Detroit. If Warren was too far for the motorcades to travel, the candidates and the moderators could have walked two blocks from the Fox Theatre to the historic Central United Methodist Church, where Michigan Representatives Rashida Tlaib and Debbie Dingell gathered on the afternoon of the second Detroit debate to show solidarity with families that have sought shelter in local churches to avoid deportation. What a remarkable debate that would have been if the candidates had gone to that epic sanctuary to take questions from immigrants, refugees and the activists who have rallied to defend them against the “send her back” cruelty of our times.

Unfortunately, the point of the two nights of debates in Detroit wasn’t to go deep on policy or recognize the anxiety of working Americans. Since the politicians elbowed the League of Women Voters aside in the 1980s, presidential debates have become ever more elaborate made-for-TV spectacles. So far this year, the showbiz kids have outdone themselves, with boxing ring introductions for the political pugilists and provocative questions intended to get them trading rhetorical blows. The triumph of commercial and entertainment impulses over civil and democratic values was so clear that some candidates even called out these pathologies from the stage. “You know what the talking heads couldn’t stop talking about after the last debate?” asked Andrew Yang. “It’s not the fact that I’m some-how number four on the stage in national polling. It was the fact that I wasn’t wearing a tie. Instead of talking about automation and our future, including the fact that we automated away 4 million manufacturing jobs—hundreds of thousands right here in Michigan—we’re up here with makeup on our faces and our rehearsed attack lines, playing roles in this reality TV show. It’s one reason why we elected a reality TV star as our president.”

Yang’s point was well taken, but he didn’t speak to the worst part of the debates at the Fox: the embarrassingly biased questions. Drawn not from the concerns of the communities and people hurting in this country but from what Julia Hollar of the watchdog group Fairness & Accuracy in Reporting identified as “right-wing assumptions and talking points,” the questions asked by the CNN moderators in Detroit were deliberately dumbed down and narrowed the discourse. It got so bad during a discussion of Medicare for All that Vermont Senator Bernie Sanders, fed up with the hosts suggesting that getting rid of private insurance companies and replacing them with a robust national health care plan was politically untenable, took the fight directly to the network’s Jake Tapper: “What I am talking about and others up here are talking about is no deductibles and no copayments, and Jake, your question is a Republican talking point. And by the way, the health care industry will be advertising tonight on this program.” Tapper’s response was a curt “Thank you, senator. Your time is up.” He wasn’t going to allow a discussion about the influence of corporate advertising on the corporate media—especially considering that the Partnership for America’s Health Care Future, a coalition
El Paso’s Smoking Gun

How environmental anxiety fused with racism to trigger a massacre.

Here are compelling reasons not to quote from the manifesto of the person who is alleged to have murdered 22 people and injured more than two dozen in El Paso, Texas, on August 3. It was written by a white nationalist copycat who cited as inspiration the massacre at a mosque in Christchurch, New Zealand, in March. The El Paso and Christchurch slaughters are both manifestations of a global white nationalist movement that relies on stochastic terrorism. Unlike traditional terrorism, which is organized by mass political movements with some level of centralized discipline, stochastic terrorism spreads hateful messages on social media to radicalize lone wolf actors. Manifestos written to be discovered and advertised after the bloodbath are very much a part of this meme-driven strategy. They are the seeds of future violence.

Yet averting our eyes to the sources of evil is never a solution. Whatever personal problems the alleged killer might have had, he committed an act of ideologically motivated violence. Ideas matter, even foul ones. They can’t be combated without being understood. The lone wolf nature of the killings should not blind us to the fact that the manifesto writer was the product of a political zeitgeist.

Much of the manifesto echoes the familiar litany of Trumpian complaints: Immigrants are “invaders,” and the news media spreads “fake news.” The shooting thus falls into the all too common pattern of political violence incited by nativist rhetoric coming straight from the White House.

But even as we condemn Donald Trump for fanning the flames of white nationalism, it’s important to realize that those who take inspiration from the president are moving beyond standard right-wing racism.

As with the Christchurch killer, the writer of the El Paso manifesto styles himself as an environmentalist.

“The decimation of the environment is creating a massive burden for future generations,” the alleged El Paso shooter argues. “So the next logical step is to decrease the number of people in America using resources. If we can get rid of enough people, then our way of life can become more sustainable.”

Writing in *New York* magazine in March, Eric Levitz predicted that the climate emergency could easily lead to two wildly divergent paths away from the current unsustainable model of economic growth: a Green New Deal vision of the future, in which socialist policies are used to remake the American and global economies to be more ecologically sustainable, or an extreme-right model based on immigration restriction and opposition to economic growth in the Global South.

Levitz conjectured that a right-wing response to climate change could lead to a revival of Malthusian politics. The social theorist Thomas Malthus famously argued at the end of the 18th century that population increases were bound to crash headlong into the limits imposed by a scarcity of resources, particularly food. While population increases at an exponential rate, he argued, food production increases only at a linear rate, inevitably leading to famines. Although his conclusion is often dismissed for failing to take technological innovation into account, climate change could return the world to a new age of scarcity. Such a scenario might prompt a ruthless power politics by wealthy nations (and wealthy individuals) seeking to grab resources for themselves, practicing a kind of Malthusian fascism.
As Levitz wrote, “If one insists that the U.S. government must put ‘America first,’ then taking the most dire implications of climate science for granted makes Trump’s zero-sum, nationalist worldview appear more coherent, not less.”

What Levitz offered as a theoretical possibility is already here, as the El Paso manifesto makes clear. In fact, its environmental arguments were made in a manifesto allegedly written by the Christchurch suspect. The apocalyptic worldview of both fuses racism with environmental despair, a belief that different races are already pitted against one another in a struggle for survival that will only escalate as the environment gets worse.

This type of Malthusian fascism will almost certainly grow in strength. Climate change has opened up a generation gap on the right. Cynical septuagenarians like Trump are happy to keep talking about climate change as a hoax for the simple, selfish reason that they are old enough to enjoy the profits of fossil fuel extraction while leaving the costs to their children and grandchildren.

But younger conservatives don’t have that luxury. As The New York Times recently reported, “Nearly 60 percent of Republicans between the ages of 23 and 38 say that climate change is having an effect on the United States, and 36 percent believe humans are the cause. That’s about double the numbers of Republicans over age 52.”

The formula for Malthusian fascism, then, is no mere speculative possibility; it’s already coalescing in the hothouse atmosphere of social media sites like 8chan, where lone wolf violence is egged on. The combination of white nationalism with angst about the prospects for human survival is a perfect recipe for radicalizing young right-wingers and taking Trumpian themes to a new level of extremism. Instead of the merely restorative daydream of “Make America great again,” the extreme right is using social media agitprop and the propaganda of the deed to harden young white Americans for a global race war fought over diminishing resources.

At the dawn of the last century, Rosa Luxemburg said politics came down to a choice between socialism and barbarism. Barbarism, in the form of fascism, won at least a temporary victory in the Central European nations where she was most active, before it was defeated by an alliance between liberalism, social democracy, and communism.

In our century, the choice might come down to green socialism or eco-fascism. The day before the attack in El Paso, The New York Times published an op-ed by anti-immigrant polemicist Christopher Caldwell mocking climate activist Greta Thunberg. But he belongs to the old guard of the right, destined to be dumped in history’s landfill. The real battle to come is between Thunberg and the emerging Malthusian fascists.

JEET HEER

Smearing BDS

H.Res.246 stooped to McCarthy-era tactics.

On July 23, the House of Representatives passed Resolution 246 targeting the grassroots global Boycott, Divestment, and Sanctions (BDS) movement for Palestinian rights that I helped found in 2005. Sadly, H.Res.246, which fundamentally mischaracterizes our goals and misrepresents my views, is only the latest attempt by Israel’s supporters in Congress to demonize and suppress our peaceful struggle.

H.Res.246 reinforces other unconstitutional anti-boycott measures, including those passed by some 27 state legislatures, that are reminiscent of “McCarthy era tactics,” according to the American Civil Liberties Union. It exacerbates the oppressive atmosphere that Palestinian rights advocates already face, further chilling speech critical of Israel at a time when President Donald Trump is publicly smearing members of Congress who support Palestinian freedom.

In response to these repressive legislative measures, Representatives Ilhan Omar and Rashida Tlaib and 13 other cosponsors, including civil rights icon John Lewis, introduced H.Res.496, which defends “the right to participate in boycotts in pursuit of civil and human rights at home and abroad, as protected by the First Amendment to the Constitution.”

Inspired by the US civil rights and South African anti-apartheid movements, BDS calls for ending Israel’s 1967 military occupation, full equality for Palestinian citizens of Israel, and the UN-stipulated right of Palestinian refugees to return to the homeland they were uprooted from. BDS categorically opposes all forms of racism, including anti-Semitism. Contrary to the false claim in H.Res.246, BDS does not target individuals but rather institutions and corporations that are implicated in Israel’s systematic violations of Palestinian human rights.

Both H.Res.246 and its companion in the Senate, Resolution 120, parrot a smear against me from the American Israel Public Affairs Committee by quoting a single out-of-context sentence from a talk I gave in 2013. In it I advocated for a single democratic state that recognizes and accepts Jewish Israelis as equal citizens and full partners in building and developing a new shared society, free from all colonial subjugation and racial discrimination and separating church and state. Everyone, including repatriated Palestinian refugees, would be entitled to equal rights, regardless of ethnic, religious, gender, sexual, or other identity. Any exclusionary; supremacist Muslim state, Christian state, or Jewish state, I argued, would by definition deny equal rights to citizens of different identities and fore-

(continued on page 8)
Brianna Wu is not your traditional congressional candidate. Raised in the South in a conservative family, she got into video games at an early age and eventually became a successful game designer. But in taking on the industry’s sexism, she found herself a high-profile target of the Gamergate harassment campaign. Wu got used to fighting bullies, and after Donald Trump became president, she was ready to take the fight to Washington. In 2018 she challenged the conservative Democratic incumbent in a Massachusetts congressional primary. She lost. Undaunted, Wu is back in the running for 2020.

—John Nichols

JN: What drew you to gaming?

BW: My parents moved to Mississippi, where the culture was church and high school football. In the 1980s they made the terrible mistake of buying me a Nintendo for Christmas, and I was just gone. Final Fantasy is a way more interesting world than Mississippi was.

JN: You spoke out about these issues, and people went after you.

BW: Yeah. Most people know me from Gamergate. It was our industry’s reckoning with 30 years of extreme sexism. I and other women in our field advocated for more women to be hired, more women to be promoted. And for this, Steve Bannon and the alt-right set me in their sights. The most surreal moment was watching Law & Order reenact the death threats that had been sent to me. I had people show up at my college impersonating me, trying to get my records released. I had a brick thrown through my window just a couple of months ago. Their goal is to make the cost of speaking out so high that most women choose to be silent.

JN: You entered the congressional race against an entrenched Democratic incumbent.

BW: Yeah. I want to take you back to the early 2000s. This was after Matthew Shepard was murdered and Gwen Araujo was murdered, and the gay community was hurting. I remember picking up the paper and reading about a Massachusetts congressman pushing to get rid of hate-crimes prosecutions in our state. That man’s name was Stephen Lynch. I’ve been frustrated with him for 20 years. And it’s not just LGBTQ issues. When it comes to climate change, he doesn’t do anything. He voted against Obamacare. He voted to send many of my friends to die in the Iraq War. I just think Massachusetts can do better than one of the most conservative Democrats in the United States.

Adapted from John Nichols’s Nation podcast, Next Left.

The most surreal moment was watching Law & Order reenact the death threats that had been sent to me.
A British friend who suffers from irritable bowel syndrome has nicknamed her condition “Boris Johnson-itis.” I wouldn’t ordinarily repeat such a degrading aspersion—after all, I was voted “most lady-like” in high school—but sometimes, one vulgarity can only be conveyed with another.

Besides, I have an ax to grind with Boris.

The year was 1997. Although the trend was largely ignored in the United States, much of the rest of the world had formally declared it a year to be dedicated to the goal of combating prejudice in all its forms, including xenophobia, anti-Semitism, anti-Roma, and other anti-minority sentiments. The European Union had named 1997 as the Year Against Racism. The World Council of Churches had marked it as the Ecumenical Year of Churches in Solidarity With Uprooted People. And following a long tradition, the United Nations had designated March 21 of that year as the International Day for the Elimination of Racial Discrimination.

In 1997, Britain was still churning from the 1993 murder of 18-year-old Stephen Lawrence, a black student and champion runner who had been studying to become an architect. Lawrence was killed at a bus stop by a gang of white men who called out racial slurs as they stabbed him to death. The subsequent investigation was botched, and badly: Only two suspects were charged, but the charges were dropped, and allegations that the Metropolitan Police Service was tainted by institutional racism roiled public discussion. That year, then–Home Secretary Jack Straw opened an inquiry into the handling of the case, which resulted in the 1999 Macpherson report, concluding that there was indeed racism in the police service. Still, it was not until the case was reopened in 2011 that two of the suspects were convicted.

I was in Britain in 1997, having been invited to present the BBC’s annual Reith Lectures. I was specifically asked to address the issues of the day and the themes of the year, so I spoke about the genealogy of racism. That was not an easy task. For all the “Kumbaya” exhortations at the international level, on the ground the culture wars were in full force. Perhaps unsurprisingly, I was pilloried as too politically correct, too unscholarly, and too muddle-minded. The *Daily Mail* described me as descended from “slave stock,” a “militant black feminist who thinks all whites are racist and that the family is wrong.” Conservative think tanks in the United States weighed in to denounce me as a poor choice, someone who was “no Toni Morrison.” (Although, really, who is?) And Johnson, then working for *The Daily Telegraph*, wrote a disparaging column titled “Lecture One: the tedium is the message,” whose last sentence read, “Only the Americans could reward this kind of mumbo-jumbo with a professorship.” It stung, frankly, but in a column he wrote a year later, he quoted me favorably: “As Professor Patricia Williams was saying in last year’s Reith Lectures, you can see the danger of pretending that [racism] does not exist.”

Then, with the happily incoherent straddling for which Johnson is now known, he looped my idea into a strange endorsement of the fascist Enoch Powell’s contention that “racism is part of human nature.”

A lot has happened for Boris since then. He went on to become the mayor of London twice, then foreign minister of the UK, and now prime minister. He has continued to entertain the world with his signature grumblings: To him, the entire continent of Africa is “that country”; gay men are “tank-topped bumboys”; black people are “pickaninnies” with “watermelon smiles”; women figure as “blubbing blondes” with “ample bosoms” whose bottoms may be patted before sending them on their way—unless they wear niqabs, in which case they are closer to “bank robbers” or “letter boxes.”

And did you know that voting Tory will give your wife “bigger breasts,” that Papua New Guinea is rife with “orgies of cannibalism and chief-killing,” and that gay marriage is akin to bestiality? Boris seems certain of it. While campaigning for
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Brexit, he even claimed that the European Union is a return to the Roman Empire, similar to what “Napoleon, Hitler, various people tried...and it ends tragically.” He and Steve Bannon hang out like best buds.

But for the record, here’s an ironic little story about what didn’t make it into print when Johnson interviewed me for that Telegraph article. He had arranged with the BBC to meet me at the bar of London’s very posh Langham Hotel. When I arrived, he spent most of the time holding forth about how young black men should only “naturally” receive more scrutiny in public spaces, including by police—not because of any inherent criminal disposition but because they “stand out” like the black sheep on the farm at his country house.

“One can’t help seeing them differently,” he pronounced. “And they’re just going to look like criminals.”

Then a man walked into the bar, and he turned out to be Darius Guppy, a friend of Boris since their days at Eton and Oxford. Johnson interrupted his disquisition to warmly embrace Guppy, crying out, “Old friend! Old chum!” The two men hadn’t seen each other for some time, because Guppy had been sentenced to several years in prison for committing insurance fraud against Lloyd’s of London and had only recently been released. But he and Johnson were close; most notoriously, they’d even communicated about a plan to intimidate journalist Stuart Collier out of writing about Guppy’s affairs in 1990.

When Johnson and Guppy finished slapping each other on the back, Boris returned to our table. “Funny,” I said carefully, after he brought up who his friend was. “He doesn’t look like a criminal.”

Boris responded as Boris does. “Ho, ho, ho!” he boomed. “Touché! Touché!”

(continued from page 5)

close the possibility of a true democracy and a just and sustainable peace. The House and Senate resolutions, using AIPAC’s deceptive propaganda, remove all that context, intentionally distorting my views.

Regardless, this is my personal opinion, not the BDS movement’s position. As a broad and inclusive human-rights movement, BDS does not take a position on the ultimate political solution for Palestinians and Israelis, whether two states or a single democratic state with equal rights for all.

As a human-rights defender, I am not only subjected to routine vilification by Israel and its anti-Palestinian supporters. I have also been placed under a de facto and "arbitrary travel ban by Israel," in the words of Amnesty International, including in 2018, when I was prevented from going to Jordan to accompany my now deceased mother during cancer surgery. In 2016, Israel’s intelligence minister threatened me with targeted civil elimination, drawing Amnesty International’s condemnation. And for the first time ever, in April I was barred from entering the United States, missing my daughter’s wedding and a meeting in Congress. Israel is not merely intensifying its decades-old system of military occupation, apartheid, and ethnic cleansing against Palestinians; it is increasingly outsourcing its repressive tactics to the US administration.

Trump is unabashedly supporting and shielding from accountability Israel’s far-right government as it shatters the lives and livelihoods of millions of Palestinians living under occupation and siege in Gaza; facing dispossession and forcible displacement in the occupied West Bank, including East Jerusalem; and being denied equal rights in present-day Israel. In July he escalated his incitement against supporters of Palestinian rights, attacking progressive members of Congress known as the Squad, all women of color, telling them to "apologize" to Israel and "go back" to their countries of origin, even though three of them were born in the United States.

Despite all this, Israel’s desperate war on BDS, fought with fabrication, demonization, and intimidation, as exemplified by this newly approved House resolution, is failing. Our hope remains alive as we witness an inspiring shift in public opinion in favor of Palestinian human rights, including in the United States. The ugly reality of Israel’s apartheid regime and its alliances with xenophobic and patently anti-Semitic forces are becoming irreconcilable with liberal and democratic values everywhere.

Led by communities of color, progressive Jewish groups, mainline churches, trade unions, academic associations, LGBTQ groups, indigenous justice movements, and university students, many Americans are abandoning the ethically untenable progressive exception on Palestine stance. Instead, they are adopting the morally consistent principle of being progressive including on Palestine.

Being progressive today entails being morally consistent, standing on the right side of history by supporting us as we strive for our long-denied freedom, justice, and equality.

Omar Barghouti is a Palestinian human-rights defender and cofounder of the Boycott, Divestment, and Sanctions movement for Palestinian rights.
Decolonizing Climate

We are in the middle of a mass extinction. After centuries of industrial pollution, bonobos, blue whales, and Bengal tigers (in addition to about a million other plant and animal species) could soon join the ranks of the dodo, woolly mammoth, and passenger pigeon.

A new study proposes a way out. Researchers at the University of British Columbia analyzed species data from three of the world’s largest countries (Australia, Brazil, and Canada). The study found that the biodiversity of birds, amphibians, reptiles, and mammals is highest on lands managed by indigenous communities.

Around the world, the rates of biodiversity on indigenous-managed lands were even higher than on wildlife preserves. From burning grassland in Australia to swidden farming in the Amazon, “it’s the land-management practices of many indigenous communities that are keeping species numbers high,” said Richard Schuster, the lead author. “Going forward, collaborating with indigenous land stewards will likely be essential in ensuring that species survive and thrive.”

This bolsters indigenous calls to give the land back to the people who know it best. “Our lands, waters and territories are at the core of our existence,” the Indigenous Environmental Network wrote in a proposal for decolonization. “We have a distinct spiritual and material relationship with our lands and territories, water, ecosystems and all life; they are linked to our survival.”

—Molly Minta

Sleazy Science

Jeffrey Epstein’s scientist “friends” should know better.

I t’s the scientists that get to me. I can live with the idea that the 1 percenters who hang out with the financier Jeffrey Epstein are frivolous, heartless people who either don’t care if he sexually abused underaged and barely of-age girls or spent decades living in a cave. I can be bewildered by Ghislaine Maxwell, who apparently had nothing better to do with her money and her fancy Oxford degree than to act as Epstein’s majordomo, social secretary, and procures. I’ve read my Evelyn Waugh and my Edward St. Aubyn, and I get it: The British upper crust is famously decadent.

As for the politicians, it’s no surprise that Donald Trump and Epstein go way back. Two masters of the universe with mansions in Palm Beach and a taste for very young women—why wouldn’t they like each other?

It’s not just a Republican thing, either. From 2001 to 2003, Bill Clinton flew on Epstein’s private jet (also known as the Lolita Express) four, 11, or 26 times, depending on who’s counting, and always, his spokesperson insists, with staffers or security agents and on Clinton Foundation business.

As of now, there’s no evidence Clinton—or, for that matter, Trump—indulged in whatever sexual services were on offer on the plane. But when you read the list of powerful people Epstein was acquainted with, including Prince Andrew, Woody Allen, Larry Summers, and of course the billionaire friend of Chelsea Clinton’s wedding in 2010, two years after Epstein’s Florida conviction, and that they vacationed together on a yacht; and when this is waved away as happening only because Maxwell was friends with a billionaire friend of Chelsea Clinton and her husband, then you glimpse the same world now familiar to us from #MeToo, one in which wealth, sleaze, privilege, social climbing, and sex intertwine, facilitated by private investigators and lawyers ready to pounce on victims who speak up.

But never mind the terrible people in Epstein’s orbit. Forget Alan Dershowitz, who has made a long career of defending likely guilty men accused of horrific crimes against women and who now seems so out of touch with reality, he doesn’t see how absurd he looks talking about his “perfect, perfect sex life.”

What I can’t get over is Epstein’s weaseling his way into science at the highest level by cultivating major figures in the field socially and spreading his wealth around. Science! The very temple of the pursuit of truth. Call me insufficiently jaded, but am I wrong to expect more of those we rely on to combat all of the nonsense swirling around us? I mean, Oliver Sacks? Stephen Jay Gould? I revere these men.

The list of scientists whom Epstein wined and dined is like a Nobel Prize dinner table in Stockholm. Besides Stephen Hawking, there’s Murray Gell-Mann, who proposed the existence of quarks; the cognitive scientist Marvin Minsky; the theoretical physicist Lawrence Krauss; and many more. “As some collect butterflies, he collects beautiful minds,” cooed a 2002 profile of Epstein by Landon Thomas Jr. in New York magazine.

Beautiful young women were said to always be in attendance—but, as Daniel Engber observed in Slate, almost all the beautiful minds were male.

And what did the beautiful minds think of Epstein’s conviction? “I never actually believed this underage thing,” computer scientist Roger Schank told Slate. “They might have been in their early 20s or late teens, but when I talked to them...they were always in college or had just graduated college or something like that. They were not high school girls.” And Schank is not the only Epstein science crony to pooh-pooh the idea that Epstein’s girls were underage. “As a scientist I always judge things on empirical evidence and he always has women ages 19 to 23 around him, but I’ve never seen anything else, so as a scientist, my presumption is that whatever the problems were I would believe him over other people,” said Krauss—who, for his part, chose to retire from Arizona State University in

Katha Pollitt
The Nation.

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2018 after accusations of sexual harassment spanning a decade and a university investigation that found he had grabbed a woman’s breast.

The Harvard psychology professor Steven Pinker has vociferously denied being part of the Epstein circle. “I could never stand the guy and always tried to keep my distance,” he told BuzzFeed News. But as far as I know, as of this writing, the only scientist to apologize for his closeness to Epstein is the biologist George Church, who also teaches at Harvard. “There should have been more conversations about, should we be doing this, should we be helping this guy?” he told the health news website Stat. “There was just a lot of nerd tunnel vision.”

The most grotesque aspect of this high-IQ sausage-fest, of course, is Epstein’s fantasy of transhumanism: improving the human race scientifically by inseminating women—perhaps 20 at a time—with his own sperm on his ranch in New Mexico. This sounds about as smart as his other idea, which was to have his head and penis cryo-genically stored after his death for resuscitation in the future. This is the guy some of the most brilliant (male) minds of our era took seriously? Well, maybe they just took the Dom Pérignon and fancy conferences on his private island seriously, to say nothing of the $6.5 million grant to help found Harvard’s Program for Evolutionary Dynamics (which the university has no intention of giving back). Maybe they tolerated him only in the hope of obtaining funding for their own projects. Or maybe they just worship the rich on general principles, as so many people do.

As sad as that is, I hope that’s the case. Because it’s even more painful to think they privately sympathize with eugenics and couldn’t even see what a crackpot idea this particular version of it was.

IN MEMORIAM

Remembering Toni

Toni Morrison, the Nobel Prize-winning novelist and longtime member of The Nation’s editorial board, died on August 5 at the age of 88. In the 150th anniversary issue, she called on writers and artists to keep creating in the face of injustice.

Rest in Power

Toni Morrison

“There is no time for despair, no place for self-pity, no need for silence, no room for fear. We speak, we write, we do language. That is how civilizations heal.”

JOHN RATCLIFFE AS A DIRECTOR OF NATIONAL INTELLIGENCE NOMINEE

He was loyal to Trump, thus the White House was sure He was right for the post he’d be getting. But his résumé, even when padded, was thin. They persist in forgetting the vetting.
The 2016 deal that ended 50 years of war in Colombia required FARC guerrillas to lay down their arms in exchange for the promise of integration into society. What happens if that promise is broken?

By Jonathan Levi and Marta Orrantia
Deep in the undergrowth, 200 yards from the edge of the Colombian jungle, a web of black nylon hides an oven of mud and stone. A rusted chimney pipe pokes its nose horizontally out of the canopy, the better to disperse smoke into the brush, undetectable by helicopters patrolling above the treetops. “Un horno vietnamita,” Mintú tells us. Just like the ones the Viet Cong used.

The oven and a few tent poles are all that remains of a guerrilla camp that, until two years ago, housed former members of the Fuerzas Armadas Revolucionarias de Colombia, or the FARC. As part of the 2016 peace treaty signed by the leaders of the FARC and the Colombian government, those guerrillas traded their rifles and tents for a village of adobe and zinc and running water. Since then, the ex-combatants of Frente 33 have lived in Caño Indio in the Catatumbo region of northeastern Colombia on the border with Venezuela, growing yuca and raising cattle on an 86-acre plot, protected by a battalion of soldiers based a few miles away.

At the end of August, this peaceful scene might come to an end. Funding will run out for Caño Indio and 23 other camps around the country. These Espacios Territoriales de Capacitación y Reincorporación, or ETCRs, were constructed by the Colombian government to provide safe havens and to reintegrate the former militants into the workforce and social life of their country during the transition from war to peace.

Along with the Jurisdicción Especial Para la Paz, or JEP, an independent court set up to try war crimes like murder, kidnapping, and rape by all the actors in the conflict, including the army and the government, the ETCRs are at the heart of the peace plan of former Colombian president Juan Manuel Santos, who was awarded the 2016 Nobel Peace Prize for negotiating an end to over 50 years of civil war.

The current president, Iván Duque, has other ideas. Sworn in to succeed Santos in August 2018, Duque is a protégé of Santos’s predecessor, Álvaro Uribe, who has dedicated himself—from a position just off Duque’s right shoulder—to challenging the legality of the JEP and the basic wisdom of the peace process. Although the peace plan was the result of a negotiation between the Colombian government and an armed group that was never defeated, Duque says that the deal gave the FARC too much, including amnesty and positions in Congress. At root, he and Uribe would like to see the ex-FARC disappear, like the smoke from un horno vietnamita.

On August 31, they might see their wish fulfilled. With the dissolution of the ETCRs, the protection that the army provides for the ex-combatants will also disappear. In addition to civilians seeking revenge, other guerrilla groups that have remained at war with the Colombian state, like the Ejército de Liberación Nacional (ELN) and the Ejército Popular de Liberación (EPL), are itching to recruit or eradicate the former FARC militants. Finally, many of the leaders of right-wing paramilitary groups dedicated to the destruction of the FARC have been released from prison after serving sentences following an earlier armistice. The United Nations estimated in 2008 that these paramilitary units have been responsible for 80 percent of the killings in Colombia since narco-traffickers began forming militias to fight the left-wing guerrillas in the 1970s—compared with 12 percent by the FARC and other left insurgents and 8 percent by the armed forces.

This fear has driven many of the younger ex-combatants in Caño Indio to slip away to the comfort of their families, for those who still have one, or to the anonymity of Bogotá. Others who have lost faith in the promise of amnesty and reintegration have rearmed. No longer protected by the terms of the peace process, these dissidents are now considered common criminals and may be eliminated by the armed forces with maximum prejudice.

At 59, Mintú is out of choices. He carries the potbelly of a grandfather and several pounds of shrapnel in his legs from 30 years of fighting in the jungle.

In this great mountain of concrete, Sharing all in these events,
I remember the smile of hunger
Of the one who grows the coca and has no food.

Mintú wants to write poetry.

Úcúta is the saddest place on earth. The bridge across the Río Táchira into Venezuela was like one of Doré’s prints of the entrance into the Inferno. Blocking the border were the burned-out carcasses of three flatbed trucks inadvertently torched in February as they took aid from Colombia to its starving neighbor. Dozens of people moved back and forth across the bridge in silence. A
little boy, apparently with a stomach flu, wandered back from a makeshift toilet beneath one of the trucks, holding the waist of his unbelted jeans to keep them from falling down. Finally he settled on the curb in the middle of the bridge next to his mother, who was selling sweets. One year ago, she had a three-bedroom house with air-conditioning on Isla de Margarita. Now she has the sweets, very few customers, and no cure for her son’s fever.

Venezuela is the big story in the region. More than 4 million refugees have fled the collapse of the economy and society; 1.3 million have crossed the border into Colombia in search of food and medicine.

But we flew from Bogotá to teach former guerrillas how to write.

As journalists, we had interviewed former combatants of the Colombian conflict. Now we wanted to try something else: giving the tools of writing to former guerrillas and paramilitaries, putting the power of storytelling into their hands.

We went at the invitation of the Agencia para la Reincorporación y la Normalización, or ARN. Launched under the Uribe government to help the ex-paras and guerrillas who deserted, the program was reworked in the wake of the 2016 peace agreement to integrate disarmed and demobilized FARC combatants. Since the course of reintegration never did run smooth, the ARN gave us a guide with guns.

Our Virgil for the descent into Caño Indio was Gen. Diego Villegas, the comandante of Batallón Vulcano. A moon-faced optimist with a graying cowlick, he has appeared before the JEP for episodes that occurred in 2008. At the time, he was the commander of a battalion in Antioquia that has been accused of killing innocent civilians—falsos positivos—in order to inflate the body count and augment the apparent success of the army’s battle against the FARC.

But when we walked into his air-conditioned office, we found Villegas standing at the head of a conference table, leading 20 executives in a recitation of Psalm 27:

The Lord is my light and my salvation; whom shall I fear? The Lord is the strength of my life; of whom shall I be afraid?

When the wicked, even mine enemies and my foes, came upon me to eat up my flesh, they stumbled and fell.

Though a host should encamp against me, my heart shall not fear: Though war should rise against me, in this will I be confident.

**Thumbs down:**

Former president Iván Duque (left) and current President Iván Duque (left) have undermined the peace deal.

**Roads would make it easier for small farmers to replace coca with legal crops.**

The host encamped in Catatumbo is, without a doubt, a challenge. The region, in the state of Norte de Santander, is a paradise for smugglers. For decades, the FARC and the ELN controlled large swaths of the territory, protecting narco-traffickers and thousands of small-farm coca growers. It is a land without roads, without electricity, without order.

“If you don’t believe in God,” Villegas said as he greeted us, “it’s hard to survive emotionally in Catatumbo.”

His congregation that April morning included executives from Ecopetrol, the national oil company, as well as intelligence officers and foot soldiers tasked with protecting the industry that helps drive the national economy. In the first four months of 2019 alone, the ELN placed more than 10 bombs along the Caño Limón pipeline, which connects the oil fields of Catatumbo to the Caribbean coast, causing not only economic losses but also huge environmental damage. Armed with a whiteboard and a Power-Point button, the 50-year-old Villegas presented the challenges and opportunities of Catatumbo with the assurance of a McKinsey consultant. On the one hand, there are four mountain ranges, ideal sanctuaries for bandits and guerrillas to run their drugs south to Cúcuta and north to Maicau, a notorious smuggling hub. On the other, there are great opportunities for legitimate development. Cacao, corn, rice, plantains, and oil palms grow there as easily as coca.

“What’s missing are roads to bring the crops to market,” he said. Roads would make it easier for small farmers to replace coca with legal substitutes and more difficult for bandits and guerrillas to harass them. “Eventually things are going to change. I am an optimist. But if they don’t, my job is, at least, to make sure they don’t get worse.”

His job was also to ensure that we arrived at Caño Indio. Since the roads are not safe, he entrusted us to the care of Lt. Col. Alejandro León and a Vietnam-era Huey.

“You gringos don’t need these anymore,” Villegas said. “But they are very useful in Colombia.” We threaded our arms through cargo straps as the helicopter lifted off. As we tracked a snake of a river, León pointed to different shades of green below—cacao, oil palms, “and yes, coca,” he said. After 20 minutes, we descended toward the army base. Two soldiers with us stood at either side of the helicopter and pointed their mounted machine guns at the jungle below. How easy it would be, we thought, to hide in the chaos.

**At the entrance to the ETCR of Caño Indio**

there is a restaurant, advertised with a placard painted with a pastoral scene—a steep-humped Zebu bull and a giant rooster guarding a chicken. Another huge chicken roosts on the mural of a building nearby, a guerrilla riding victoriously on its back,
while former Venezuelan president Hugo Chávez looks on beatifically from a painting hanging on a tree. Agriculture is at the heart of the 86 acres that the former combatants have been given. After decades in the jungle, many of them still believe that Chávez’s brand of petroleum socialism is the solution to hunger.

In addition to the restaurant, there is a bar with a foosball table and blocks of white-washed barracks kitted out with iron cots topped with children’s mattresses, sheets decorated with Transformers and airplanes, and checked camp blankets. The doors have jungle locks—strings leading from the inside latch and dangling inconspicuously outside. Sometimes they work.

Karina has sent her bodyguard to pick us up. As one of the two ex-comandantes of the FARC’s Frente 33, she has been given protection, mostly to escort her to and from her appearances at the JEP. Although we drive in the bodyguard’s Toyota, half a dozen soldiers decide to tag along. Her barrack is at the edge of the camp, and as we approach, more soldiers appear from the forest, radio packs on their backs, rifles in their arms, patches of sweat on their camouflage in the late-afternoon tropical heat.

At the age of 54 with a graying bun of hair, Karina is one of the ETCR’s elders. Raised on the Caribbean coast in a family of over 10 children, she joined the FARC in 1985. After fighting for 19 years in Catatumbo, she directed the first socioeconomic census of the FARC after the peace treaty was signed and is one of the 111 members of the newly formed FARC political party.

Karina built a patio outside her barrack on a cracked concrete slab, fenced in with two-by-10 boards and covered with a zinc roof. A bottle of cooking gas leans in the corner of a makeshift kitchen, with a yellowed plastic tube stretching inside to draw water. Flowers hang from the patio roof in planters made of plastic bottles cut in half. Every time she returns to Caño Indio after traveling on FARC business, her companion, Cristo, surprises her with a new addition to the house. After over 30 years in the jungle, she has begun to believe in the permanence of this home.

Karina offers us coffee. León and Captain Castañeda accept. For an hour and a half they talk, possibly for our benefit, to show that there are no hard feelings between two groups of combatants who, for half a century, waged bitter war. The passion and the improvised kitchen have a single message: She won’t be leaving Caño Indio on August 31.

“I will look for all the possible legal means to stay on this land,” she says, with more emphasis on “legal”
than on “land.”

Castañeda and León nod. They swap jokes as a young woman appears with a newborn. There is a baby boom in all the ETCRs, after decades of FARC protocol strictly forbidding more children. Cristo dandles the baby. A brown and white dog, anesthetized by the heat of the air and the cool of the concrete, sleeps through our chatter and the call of the crickets. All is peace and tranquility. But as the air cools and the jokes grow spikes, the dog wakes up and begins to circle under our plastic chairs, scratching his backbone in agitation as he passes.

“Please,” Karina asks the soldiers as they stand to leave, “don’t force us off the land.” Castañeda and León say nothing.

We ate dinner in the restaurant with Violeta, one of only two non-ex-combatant residents of Caño Indio.

When the disarmed FARC members arrived at Caño Indio, they decided to name their ETCR after a fallen comrade. They voted to commemorate a much-loved comandante who had recently been killed in an ambush along with his companion while the peace accord was in its final stages of approval. His nom de guerre, El Negro Eliécer Gaitán, is memorialized in a painted sign across from the restaurant.

In 1948 the original Jorge Eliécer Gaitán was running as the Liberal candidate for the presidency of Colombia. One of the central themes of his campaign was land reform, an issue that has stymied Latin America since the time of Simón Bolívar. Small farmers who have been driven into poverty and famine by the consolidation of large farms in the hands of the few have limited choices. They can abandon their land and move to the city, they can die of hunger, or they can revolt.

According to a possibly apocryphal story, Gaitán asked the Conservative candidate Laureano Gómez how he made his living.

“And where did he get it?”

“He inherited it from his father.”

After a little more serve and volley, Gómez finally admitted that his family “took the land from the natives.”

“We want to do the opposite,” Gaitán said. “We want to give the land back to the natives.”

Gaitán’s assassination in Bogotá on April 9, 1948, is the Kennedy assassination of Colombia, with just as many conspiracy theories. It sparked 10 hours of riots, known as the Bogotazo, which saw the deaths of 3,000 people. In the 10 years after the Bogotazo, the pitched battle between Conservatives and Liberals continued. Over 200,000 people died in that decade, and over 1 million were displaced from the countryside to Bogotá and other cities.

Many Colombians believe that if Gaitán had not been murdered, he would have led the country into agrarian reform. Others think he would have developed the excesses of other populist leaders, like Argentina’s Juan Perón. The FARC, born in 1964 with land reform at the center of its militant agenda, was a child of Gaitán’s assassination.

“The armed fight had to stop,” Violeta says, as the waitress brings us the plate of the day: some kind of meat, a scoop of broken rice, and yuca. Lots of yuca. “Back in the days when the farmers needed weapons, the FARC gave them weapons. Now the country needs peace, so the comandantes are giving them peace.”

The daughter of a FARC leader, with a violet streak across the top of her pixie haircut, Violeta saw her father on only a handful of occasions before he died in battle 11 years ago. After spending 16 of her 23 years in Cuba, studying ballet as a young girl and history later on, she returned to Colombia. The community adopted her and put her in charge of educational programs in the region. Her library at Caño Indio includes about 1,000 volumes—mostly political theory, with a sprinkling of Dostoyevsky and Stendhal and a Spanish translation of Christopher Hitchens’s God Is Not Great. She began merchandising FARC T-shirts and baseball caps. And she started a reading and writing group, partly as an excuse to write a memoir.
As Violeta cuts the meat from the gristle, she struggles to figure out where it all went wrong. In the 1970s, the drug trade exploded in Colombia. To fund its revolution, the FARC turned to protecting narco-traffickers and kidnaping wealthy Colombians and strategic foreigners.

“Caño Indio started with over 300 ex-combatants,” she says. “But some have slipped away. Back to their families.” She won’t say how many have rearmed. But there are reports of a new Frente 33 on the border with Venezuela.

León picks us up early the next morning for a road show. The army has just completed a 10-mile stretch of road from Tibú to La Gabarra. We climb into a Chevrolet D-Max with the officer in charge of the project, Col. Luis Pineda Huertas, a middle-aged manager more at home with asphalt than assault. We stop regularly to admire the three-ply surface of the road, the 15-foot retaining walls, the bridges. We learn the definition of “box culvert.” And every time we step out of the truck, 14 soldiers fan out from two other vehicles in front and behind, rifles at their hips. Even the soldiers hoisting picks and shovels in the midday sun have guns slung over their backs. In the past month alone, four bombs went off along this road. Two weeks before our arrival, a mine exploded, killing two soldiers and two civilians passing by on a motorcycle.

“One of the soldiers had just buried his 2-month-old baby,” Pineda says. His soldiers give presents to local children on Christmas and Halloween. They try to solve little emergencies—driving villagers to the clinic in Tibú after accidents, fixing problems caused by winter floods.

The colonel and Karina help each other. One time, she lent him Caño Indio’s diesel generator. “We are so close, I tease her that we’ll end up getting married.”

“The colonel almost lost his job over the mine,” León says as he shows us the escape route the bomber took between two farmhouses. “Everyone knows who did it, of course, but no one’s talking.”

The new road passes through villages like El Mirador, with graffiti daubed on doors testifying allegiance to the ELN. The new road also leads to a one-room schoolhouse, a long, low, green-painted barrack in the shade of a grove of palm trees, now more accessible thanks to the road. There are 30 children, ranging from 5 to 10 years in age, all in uniform, some sitting in front of computers. Four of the children dream of being soccer players. One wants to be a palm oil engineer.

Farther down the road, half a dozen UN officials in blue vests have commandeered a local community center made of cinder blocks and zinc. About 100 coca farmers are sitting with the officials on plastic chairs around plastic tables.

“The farmers don’t want to grow coca,” Leon tells us as we walk in, “but they do it because the harvest is small. It fits in a suitcase, and everyone has a motorcycle. Better roads are the only way to advance peace and get other products to market.”

The farmers are well dressed, wiping their faces in the heat with ponchos draped around their necks, sipping Pony Malta, a popular soda, from liter bottles. They have come here to sign the final agreement to replace their crop with legal cacao. They don’t have much choice. Those
who don’t sign would find the army spraying their fields with the herbicide glyphosate.

In Colombia, eradication is as elusive a dream as land reform, but it matters to the United States. While President Trump has refrained from criticizing Duque’s opposition to the peace process, he did complain in March that when it came to cutting the coca supply, Duque “has done nothing for us.” Although Colombia is the United States’ strongest ally against Venezuela, the threat of financial disaster is the not-so-hidden message.

“We don’t want any more problems,” one local leader says. His left hand grips a copy of the agreement while his right cuts the air in impatience. On one side there is the army; on the other is the ELN, threatening them if they stop supplying it with coca. The farmers are caught in the middle. They can’t grow their crops; they can’t live in peace. They are being killed for obeying one side or the other. They are the ones who have lost in this war.

“I went to the ELN to talk to the comandantes,” the farmer continues. “I told them that if they wanted to kill me, here I am. Otherwise, let me do my job.”

At Caño Indio, Jimmy Guerrero wants to speak with us. Born Erasmo traslaviña Benavides 61 years ago, during his 18 years as comandante of Frente 33 in Catatumbo, Jimmy planted car bombs, blew up electrical towers, masterminded the bombing of Caracol Radio in 2010, and worked with the leader of the EPL, who went by the name Megateo and until his death in 2015 controlled the drug traffic in Catatumbo, according the Colombian news site La Silla Vacía. Jimmy has been described as the second in command to the last leader of the FARC, Rodrigo Londoño, alias Timochenko, who is currently president of the FARC’s political party.

“When we arrived at Caño Indio,” Jimmy tells us, “all the soldiers had old photos from the years they hunted me. They made jokes and told stories about the times they almost killed me. And I told them about my escapes.”

Once famous for his long white beard, Jimmy today is clean-shaven and looks more like a farmer than a revolutionary.

“I never meant to be a militant,” he says. “I took up arms just in defense.” The only blood he lost during his 35 years in the FARC, he boasts, was from insect bites and leishmaniasis. “I was protected by my mother’s prayers.”

Jimmy is the only ex-combatant who refused to occupy the barracks that the government built for the FARC at Caño Indio, preferring the tent of his fighting days. The perimeter is lined with a stove, a microwave, a refrigerator with an ice machine. In the center of the space, cartons of dry goods sandbag a well-made double bed.

“We need title to this land,” Jimmy says. “How can we raise cattle, how can we plant yuca if we don’t know if we’ll still be here in four months?” Although petroleum is a major business in Catatumbo, Jimmy worries that palm oil companies have their eye on the property. Yet it’s the government that concerns him the most. “This president is not interested in peace. The families of Duque and Uribe have never lived in the middle of war. Instead, they’ve made money. Put them through two hours of combat, and they’d make different decisions.” (Uribe’s father was kidnapped and killed by the FARC in 1983.)

There’s a rumor that, after August 31, the government will move the residents of Caño Indio to an area in the south controlled by their old enemies, the paramilitaries. Since taking office, Duque has attempted several times to have the JEP disbanded and essentially gut Santos’s peace process.

Jimmy is too old to take up arms again. “We promised to help the community,” he says. “We can’t abandon them.”

Karina is less sanguine. “If the army turns against the FARC after August 31, that would be terrible for the history of the country. Betrayal means we start again from zero. But soldiers, after all, are employees of the government. We can’t count on the military. If we’re not respected, we’ll reorganize.” She doesn’t say “rearm,” but one wonders.

“I persuaded my comrades to join the peace process,” Jimmy says. “I’m sorry I couldn’t deliver.”

“I’m only sorry,” Karina says with a smile, estimating our ransom value, “that I didn’t meet you a few years ago.”

Along the watchtower: A mine exploded at this section of the road, killing two soldiers and two civilians.

“We can’t count on the military. If we’re not respected, we’ll reorganize.”

— Karina, an ex-comandante of the FARC’s Frente 33

Two weeks after we left Caño Indio, a very bad thing happened. On April 22, local villagers discovered soldiers from Villegas’s Battallón Vulcano in the act of burying the body of a demobilized FARC combatant named Dimar Torres. He’d been tortured and his body mutilated before the rushed burial. Defense Minister Guillermo Botero immediately denied that the armed forces had anything to do with the killing, claiming that Torres had died accidentally while trying to steal a soldier’s rifle.

Over the past two years, nearly 130 ex-combatants like Torres and over 400 social leaders like the ones we met in Catatumbo have been killed. There are nearly as many explanations for these deaths as there are corpses. The Santos administration pointed to crimes of passion and jealousy. Duque blamed the ELN, although many of the killings occurred in regions overrun by paramilitary splinter groups and with little ELN presence.

(continued on page 26)
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In 2014, Kristine Webb was working at an Olive Garden restaurant in Rapid City, South Dakota, when a coworker told her about an opening at a local AT&T Mobility store. Her coworker seemed “really excited” about his new position, Webb recalled, so she applied there, too.

Webb got the job and quickly came to love it. “It was a really good place to work,” she said. She grew close with her managers and coworkers. She started out as a sales representative, selling cell phones, tablets, and data plans; then she became a sales support rep, doing back-office work like inventory. “I actually really enjoyed going to work every day.” She decided that if there was a chance to go further at the company, “then absolutely I would want to take it.” She said that a couple of years in, she started discussing with her manager the possibility of getting promoted. “He was more than willing to help me.” Around the same time, she was accepted into the company’s Build the Bench program, which trained employees for advancement.

As she was completing that program in early 2017, Webb found out she was pregnant with her first child. But she didn’t expect it to be a problem. “Honestly, I wasn’t worried at all,” she said. “I had really great relationships with the managers and everyone at the store…. I just figured everyday work life would go on.” But then she developed hyperemesis gravidarum—severe morning sickness, with extreme and constant nausea and vomiting—and it “was pretty much an all-day event.”

Webb had planned to keep working through her pregnancy and then return to AT&T when her maternity leave ended. But one morning she fainted as she was getting ready for work. Her husband took her to the emergency room, where she was told that she was very dehydrated and kept for the morning to get fluids. She knew that AT&T Mobility’s absence policy required notifying managers at least an hour before missing a shift, so as her husband drove her to the hospital she texted her manager and tried to report the situation using an app on her phone. “Having such a strict policy as you’re on your way to the emergency room, and you have to try to log in to an app to let your work know that you can’t make it—it’s really stressful,” she said. Still, she added, “I never imagined that I would get the points for being in the hospital.”

By “points,” Webb meant the system that AT&T Mobility uses for absences, which assigns a fraction of a point to a full point when an employee comes in late, leaves early, or misses a full shift. The penalty kicks in as soon as someone is late by as little as five minutes. After accumulating four points, an employee may lose out on a promotion or the ability to transfer to another store. After eight points, that employee will be fired. Points stay on someone’s record for a year. Absences, late arrivals, and early departures are considered excused only if they fall under one of 13 categories, which include approved vacation, recognized holidays, jury duty, military leave, and court subpoenas. There is no provision for sick leave, except in states or localities where it’s required by the government. Handing in a doctor’s note might not excuse an employee from getting a point.

Despite letting her managers know about her absence an hour before her shift began, Webb said she was still given a full point. She was told that the only way to have her absence excused would be to file paperwork under the federal Family and Medical Leave Act (FMLA), which allows workers to take unpaid, intermittent leave related to pregnancy without penalty. Although she filed that paperwork, the point was added to her record. As her pregnancy progressed, Webb attempted to avoid further points by forcing herself to go to work even when
she felt sick, only to run to the bathroom every 10 or 15 minutes to vomit. On days when she was helping customers, that meant asking another manager to take over while she excused herself. They “made it seem like it was a burden on them to have to do that,” she said.

About a month into her pregnancy, “it was a different atmosphere. I definitely felt like I was being almost targeted.” Her managers’ attitudes seemed to have changed; she got curt replies or was told they were too busy to help her with work-related questions. “I had always had such a good experience working there—I always had good performance reviews, we were just discussing possibly advancing within the company—and then all of a sudden, it was just a complete turnaround,” she said. “My work ethic didn’t change. Performance-wise, nothing had changed. So to me, it was very apparent that it was because I was pregnant.”

The changes took a toll. “It went from a job that I absolutely loved and I thought that I was going to make a career out of into something that you wake up every day and have to talk yourself into wanting to go to work.” But she didn’t have many options other than to tough it out. “Quitting a job when you’re seven, eight months pregnant—financially, I didn’t know if we would be able to do it,” she said.

Eventually Webb realized she didn’t have a choice. By June, she said, she had accumulated enough points to be fired. Seeing the writing on the wall, she decided she had to find another job. She got one with Cricket Wireless, at about half the pay she was earning with AT&T. She put in her two weeks’ notice, but, she said, her manager told her that the company wouldn’t accept it and had decided to fire her instead. Because she “pointed out,” she’s ineligible to be hired by AT&T Mobility ever again. Webb left the store in tears. “To work there for three years and have great relationships with everybody and then for that to completely change in seven months—I don’t even know if I have words to explain that,” she said. Pregnancy is “something that you should enjoy the best you can, and it should be something that’s really special for you and your family. And I felt like a lot of that was taken away from me.”

In June, Webb filed a lawsuit against AT&T Mobility, represented by Kalpana Kotagal, a partner at Cohen Milstein, a national plaintiff-side law firm, and Gillian Thomas of the American Civil Liberties Union. Kotagal and Thomas argue that AT&T Mobility’s policy violates the Pregnancy Discrimination Act. Passed in 1978 as an amendment to Title VII of the Civil Rights Act, the PDA prohibits employment discrimination on the basis of pregnancy, childbirth, or related conditions. AT&T Mobility’s policy discriminates against pregnant workers on its face by excluding their needs from its list of excused absences, the lawyers argue. “Pregnancy, pregnancy-related complications, and childbirth are just not even on the list [of reasons for absence],” said Kotagal. “They’re nowhere there. It’s oblivion.”

In response to a request for comment, an AT&T spokesperson said, “The facts don’t support this lawsuit, and we deny the allegations. We do not tolerate discrimination of any kind, including for an employee’s gender or pregnancy.”

The fact that AT&T Mobility’s list of approved reasons for absences doesn’t mention pregnancy points to the larger issue. Women make up about half the workforce. Almost 85 percent will become mothers during their working lives. And yet pregnancy at work is regularly treated as an aberration from the norm. “Workplaces are constructed around the ideal worker, which is the male worker,” Thomas explained. “That it’s just not even taken into account in these workplaces is a huge lacuna in our public consciousness.”

All pregnant workers will need at least some time away from work for prenatal doctor appointments. Many others experience complications that require emergency medical care. But these needs are often met with a penalty. “Pregnant women who have gone for just a day or two to the hospital come back to find out that they lost their jobs,” said Dina Bakst, a copresident of A Better Balance, an organization that promotes better leave policies. “They lose their health insurance, lose their jobs, end up sleeping on somebody’s couch.”

So-called no-fault attendance policies are common for “clock in/clock out jobs,” Thomas said. Until recently, Walmart, the country’s largest private-sector employer, had a no-fault attendance policy. A Better Balance brought a class-action lawsuit last summer on behalf of two people who were fired after being told that absences for visits to the hospital to care for their pregnancies were unauthorized. In February, Walmart announced that it would change its policy so that pregnancy-related absences would generally not result in points—the first “major victory,” Bakst said, against a strict absence policy on the basis of its impact on pregnant workers.

Some no-fault attendance policies should excuse short pregnancy-related absences under the FMLA. But to be eligible for leave under that law, an employee must work for a business with 50 or more employees and must have been on the job for at least a year. That excludes 44 percent of private-sector workers. And as Webb can attest, the confusing policy landscape means that even when employees are covered, their requests for FMLA leave are not always successful. When they are, employees may find that they’re eating into the precious 12 weeks of maternity leave they may have wanted to use after their child arrives. Some may end up with no leave at all by the time they go home with a newborn.
Pregnancy discrimination rears its head in every sector of the economy, from law firms, tech companies, and banks to fast-food chains and retailers. Studies show that pregnant women are perceived as unreliable and mothers are seen as less competent; unsurprisingly, then, women file complaints of pregnancy discrimination in every industry. Some are simply fired after telling their employers they’re pregnant. That’s illegal but common. According to a review of Equal Employment Opportunity Commission data done by the National Partnership for Women & Families, being fired is the reason cited most frequently by workers filing charges of pregnancy discrimination. Others were refused jobs or promotions.

But in service-sector jobs, the discrimination that pregnant workers face is not just about asking whether someone is getting on the so-called mommy track at work. It’s wrapped up with the overall disempowerment most employees face. “Low-wage workers are often seen as expendable and interchangeable in a way that highly compensated professionals are not,” said Liz Morris, the deputy director of the Center for WorkLife Law. So a pregnant woman’s request for a small change in her schedule or working conditions may be met with a no—or worse, retaliation. “You have less power in the workplace and less bargaining authority,” she added, “because there is a perception that if you’re not willing to do it without complaining, somebody else will.”

Policies in low-wage workplaces often leave little wiggle room to arrive a bit late, take extra bathroom breaks, or drink more water. Low-wage workers like Webb “don’t have a lot of autonomy or control over when, where, and how they do the work,” Morris noted. “They’re often under strict work restrictions in a way that a professional who works in an office environment...is not.”

And yet such workplaces are where many pregnant workers are employed. According to a new report from the National Women’s Law Center, more than one-fifth of pregnant workers hold low-wage jobs, such as retail cashiers and salespeople, restaurant servers, customer-service representatives, and cleaners. These jobs tend to be more physically demanding, requiring a lot of being on one’s feet or lifting heavy objects. The center reports that many of the jobs most commonly held by pregnant workers require long periods of standing and continuous repetitive motion, which can trigger health consequences in pregnancy.

Pregnancy discrimination appears to be particularly prevalent in low-wage, service-sector industries. The complaints filed with the EEOC that name an industry were concentrated in low-wage sectors, including retail, accommodation and food services, and administrative services. According to data the agency shared with The Nation, from 2013 to 2018 those three sectors consistently accounted for about a third of complaints in which the industry was given. Retail was second only to health care and social assistance (including social workers and child care workers) every year.

Betzaida Cruz Cardona didn’t think her doctor’s note saying she shouldn’t lift more than 25 pounds would interfere with her work as a cashier at Savers in Henrietta, New York. But a half hour after she gave it to her manager—adding that she wanted to keep working—she was fired and told she should “stay home and take care of [her] pregnancy,” she said. She wound up homeless, moving between family members’ and friends’ houses while 32 weeks pregnant.

Courtnee Dean was fired from her job at Olive Garden in Philadelphia, supposedly for losing a coupon, shortly after informing her manager that she was pregnant. She struggled to find another job; then she ran out of unemployment benefits. “I’m the full provider for my family,” she told ThinkProgress. The job “was how I made my money.”

Although Reyna García, who sued the California grocery chain Albertson’s in 2013, showed her managers three doctor’s notes that recommended that she should have her job duties restricted because of a high-risk pregnancy, she alleged that she was made to keep lifting heavy goods and climbing ladders. One day she experienced pain and asked to leave work early, but her request was denied, and she continued to do heavy lifting. She went into labor that night and was rushed to the hospital, where she gave birth to a baby who lived only a few minutes. According to her lawsuit, her baby’s death was the most painful thing Ms. García had ever experienced.

Peggy Young was working as a United Parcel Service driver in Landover, Maryland, when she became pregnant. Her doctor prescribed a light-duty job, but the company forced her to take unpaid leave rather than shift her responsibilities. Yet UPS provided such accommodations to employees with other medical conditions and even for those who had DUI convictions. Young filed a lawsuit that made it to the Supreme Court, which in 2015 ruled in her favor.

It was a victory for Young, but it did little to address the larger scourge of pregnancy discrimination. The Young v. UPS decision set a standard in which plaintiffs must prove that a company provided a similar accommodation to another employee in order to get one themselves. When employers refuse to make such accommodations, women can press their rights in court, but the Young standard has proved difficult to meet. In a recent review of cases brought after the decision, A Better Balance found that in two-thirds of the cases, judges held that employers
were legally able to deny pregnant workers accommodations.

Even when a lawsuit provides some measure of justice and financial payback, those remedies often come too late. “Most women just want to be able to get the accommodation they need to stay healthy and on the job,” Bakst said. “By the time they litigate, it takes months, it takes years.” And by that point, the women may have already lost their job, their income, their health insurance, and their financial security. “It actually snowballs and compounds into lasting economic disadvantage…because they’re not able to stay attached to the workforce.”

Just like Webb, Cynthia Allen enjoyed her job at various AT&T Mobility stores in New York City. She found it exciting to work with technology, and the pay and hours were great. “I was one of those [who] would open and close if needed just because I enjoyed what I did,” she said.

The first time she became pregnant, she suffered a miscarriage, requiring her to spend time in the hospital. Her second pregnancy ended the same way. At the time, she was able to get excused for all the work hours she missed.

But things had changed by 2016, when Allen became pregnant a third time. She developed hyperemesis gravidarum and other complications, landing her in and out of the hospital. “For me, it was very frustrating because I’m this person that’s used to working, working, working,” she said. “I was just worried [about] what’s going on at work and how I’m going to pay bills with me taking all this time off.” But she said she didn’t think things would be different from her first two pregnancies. She went through the same steps as before to get excused for the days she had to take off. But, she said, the company never told her she was accruing points.

It wasn’t until she transferred from her store in New York City to one in Las Vegas to be near her mother that Allen found out otherwise. She was given a write-up and called into her manager’s office one day for having accrued so many points. Allen, who said she had never gotten a write-up before, was confused. “I’m like, ‘I never get in trouble, and this is something that’s going to be on my employee record,’” she remembered thinking. “I actually had to take a moment to myself and kind of cry.” Eventually she started using unpaid FMLA leave early to avoid getting more points.

When she returned to work after maternity leave, Allen was told that she had accrued 18 points and was put on final notice, she alleged. But she still needed to take time off to care for her son, who had a variety of health issues, including severe eczema, asthma, and fevers. “I have a legitimate reason [to be absent]—my son’s in the freaking hospital,” she said. “It’s just common sense.”

She arranged with her manager to make up the time she took off by working other shifts. She brought in doctor’s notes and the hospital discharge papers for her son and tried to file for FMLA leave. None of it worked. Three weeks after her son went to the hospital, Allen was fired for her absences. “I honestly didn’t expect it until the day that [my manager] brought me and another manager into the room,” she said. “And that’s when I knew that I was going to get fired.”

That meant she lost her income just as she was trying to figure out how, as a single mother, she would pay for all of her son’s medications and medical bills on top of regular expenses like day care and diapers. Like Webb, Allen was able to land another job, although she, too, had to take a big cut in pay. “I kind of went into debt,” she said. “It was really a struggle.” She nearly lost her car, and she had to switch her son to a less expensive day care center.

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Allen wasn’t able to catch up financially until she moved in with her father in Ohio. While she’s now working at a job that she loves in the psychiatry clinic at a children’s hospital, she can’t afford to live on her own.

She decided that she wouldn’t stay silent. She filed a lawsuit in May 2018 against AT&T Mobility with another plaintiff, Katia Hill, claiming that the company violated their rights under the Pregnancy Discrimination Act. Webb’s mother noticed an article about the lawsuit and sent it to her daughter. That’s when Webb realized, “Wow, this isn’t something that… only happened to me, but it’s something that’s happening to a lot of different women.” She reached out to Hill on Facebook, who connected her to Kotagal and Thomas.

“The biggest part of it was knowing that it wasn’t just me, that there are other women that had to go through that and feel the exact same way that I did and I still do,” Webb said. “It made me want to do something about it so that other people don’t have to go through that.”

Advocates argue that the Americans with Disabilities Act offers a model for finding solutions that can keep pregnant women at work. Under the ADA, employers are obligated to work with employees with disabilities to make accommodations that work for both sides. “The assumption [is] that we will in most cases be able to make it work if we think creatively and we have a solution-oriented mind-set,” Kotagal said. That mind-set hasn’t carried over to how employers approach pregnancy. When businesses ask Thomas how they’re supposed to accommodate a pregnant worker, she responds, “If this were not a pregnancy but if it were jury duty, what would you do?… What if I told you I had cancer? How would we handle that?” Most have an answer for the other questions. But in the case of pregnancy, they either haven’t taken the time or don’t want to take the time to find a way to make it work.

Policy solutions can help push things forward. Twenty-seven states have enacted legislation, often dubbed Pregnant Workers Fairness Acts, that require employers to give pregnant employees reasonable accommodations so that they can keep working—rather than requiring employees to prove first that the employer would have made the accommodation for an employee with a disability. When lawmakers in South Dakota debated a pregnancy accommodation bill in 2017, one of the Republicans offered a different solution. “It’s not prison. You can quit,” said state Senator Wayne H. Steinhauser. These state-level laws have succeeded in red states like Kentucky and South Carolina as well as deep blue ones, passing with bipartisan support. Anti-abortion-rights organizations filed an amicus brief in support of Peggy Young in the Young v. UPS case.

And it’s clear that once on the books, the laws work. A Better Balance has seen a reduction in pregnancy discrimination litigation in many of the states with such laws. “Providing an explicit right to accommodation…makes it easier for pregnant women to get what they need without having to litigate,” Bakst pointed out.

A federal version of the Pregnant Workers Fairness Act was introduced in Congress in 2012. In 2015 it garnered some Republican support—from then-Senators Kelly Ayotte of New Hampshire and Dean Heller of Nevada—for the first time. But the bill has never had a hearing. It was reintroduced this past May, but no further action followed.

EWEB WAS WORKING AT CRICKET WHEN HER SON WAS born. But the steep pay cut and the lack of paid maternity leave was tough on her family. “It was definitely a very, very stressful time for me and my husband,” she said. They decided to move to Iowa to be close to family when her son was 2 months old.

Webb had her second child about a month and a half ago. While she again developed hyperemesis gravidarum, her experience with her employer was very different. She was working for a small pharmacy part-time as a technician. “They were so, so understanding,” she said. They worked with her to provide what she needed to stay on the job. “I wouldn’t even have to ask for a chair. They would have one sitting there waiting for me. The experience [was] night and day from what I went through at AT&T.” When she needed to be absent to take care of her health, “they were more than understanding,” she said. There were times when she went to work but, because her coworkers could see how poorly she felt, they told her to go home.

Webb is still recovering from what she went through at AT&T. She had come up with a life plan there: career advancement at a company where she loved working. All of that came crashing down when she got pregnant. She’s trying to figure out what she wants to do with the rest of her life; while she enjoys her job at the pharmacy, she said it isn’t fulfilling enough to stay there long-term. “You almost feel disappointed in yourself,” she said. “It makes you feel like a failure because you have to start over, and you have to try to plan for the rest of your life the best that you can.”
“Everyone wants to be a social leader,” León told us at the community center in April. “They have lots of privileges.” When we suggested that the constant threats and killings didn’t seem like privileges, he was silent. But he acknowledged that the government is mainly absent from the region and that the army has been tasked with something different from its original mission to guard the national territory against foreign enemies.

“The police,” he said, “should be doing the job of keeping the guerrillas at bay.” According to one soldier, the government orders the army to go into certain places and then turns a blind eye, telling the soldiers to “solve the problem, we don’t care how.” Normally, in a country used to the army acting with impunity, Torres would have been just another statistic, another falso positivo.

Instead, something unusual happened. Villegas turned up at a visit to the area by members of the Colombian Senate. For 10 minutes, he took the microphone and apologized. Yes, it was members of his battalion who killed Torres. Yes, they would be punished. Turning to Torres’s friends and family, Villegas asked for forgiveness.

It was an extraordinary performance, one that he perhaps had to give, since he was being called up by the JEP for an extrajudicial crime from years ago and was under oath to tell the truth and not engage in any more crimes. Nevertheless, Villegas drew the anger of Uribe and a high-ranking military commander who reportedly told him “to retire and join the guerrillas…so that the army may have the honor of hunting you down and taking you out.”

June brought more surprises.

In the middle of the month, the leaders of the ARN traveled to Caño Indio to officially inform the ex-combatants that they would be moving at the end of August. Jimmy and Karina and the 80 others listened. Then they spoke.

“Most of us have yuca patches,” Karina told the ARN. “Plantain trees, cattle. It may not be a lot, but it means a lot to us, and it’s everything we have. We didn’t come here expecting to leave in a couple of years to try our luck somewhere else. We came here to stay and invested in the land. Finally, we have roofs over our heads, and I don’t think the government is going to build houses for us again.”

She spoke about the promises they made to help the community. “We have built a relationship with this community,” Karina said. “We trust each other, watch each other’s backs.” Because of the ex-FARC, she continued, the government promised to bring in electricity. The army built roads that benefit the entire community. “If we leave Caño Indio, the government will turn away its gaze and forget about these people.”

And lo, the ARN agreed to give the residents of Caño Indio an extension until August 2020 to purchase the land.

Will they raise the funds in time? León reported that Howard Buffett, a son of financier Warren Buffett, has donated to similar extension until August 2020 to purchase the land.

Before we left, we asked Karina why she didn’t write a memoir of her two decades in Catatumbo with the FARC. “I want to,” she said, “but I’m waiting for a happy ending.”
The story of Reconstruction, more than any other topic in American history, is often tied to the myths and whims of the era in which it is written. Most historians and public commentators agree on what Reconstruction was: an attempt, after the Civil War, to rebuild American democracy so that it guaranteed civil, political, and economic rights to almost 4 million formerly enslaved people. But there is often disagreement about how much it achieved, what slowed its progress, and why it came to an end before its project was fully realized.

For the Republicans in office after the Civil War, there were really two Reconstructions. The first, the Reconstruction of Andrew Johnson, was designed to be conciliatory toward much of the rebellious South and had little intention of upsetting the status quo beyond a grudging acceptance of the end of slavery. The other Reconstruction, led by Radical Republicans like Thaddeus Stevens, attempted to change the very terms of American democracy by extending the franchise and civil rights to African American men. It also aspired to something more—land reform, economic democracy, and the remaking of the American polity around the principles of racial equality and inclusion. The 14th and 15th Amendments to the Constitution guaranteed citizenship to all those “born or naturalized in the United States” and ensured that the right to vote would not be limited because of skin color. The second Reconstruction found its expression in the nation’s original civil rights.
rights legislation. The Civil Rights Act of 1866 was the first in American history to ensure equal protection under the law. It was followed by the Civil Rights Act of 1875—the last gasp, in many respects, for the black political power and Radical Republican spirit that fueled many of the advances of Reconstruction.

From 1865 to 1877, both Reconstructions took place in an American South convulsed by almost constant violence. African Americans were massacred in cities as large as Memphis and in towns as small as Colfax, Louisiana, and Hamburg, South Carolina. The era was marked by a near-revolution and a counterrevolution, the latter succeeding in 1877, when the narrow victory of the Republican presidential candidate, Rutherford B. Hayes, was followed by the withdrawal of the few remaining federal soldiers in the South in order to persuade Congress to back Hayes’s presidency. Although Reconstruction had been largely rolled back across much of the South before 1877, the withdrawal of federal troops is recognized as the end of the period.

The battle over whose Reconstruction would be remembered, however, persisted into the 20th century. During the Gilded Age and the Progressive era, as the democratic advances of the Civil War and Reconstruction were reversed by the Democratic and Republican parties and the Supreme Court, a new narrative of Reconstruction began to take hold: that of a white South broken by the Civil War, then taken advantage of by Northern carpetbaggers, Southern scalawags (white Republican Southerners), and recently freed African Americans who had gone from being enslaved to holding power over their former masters. This new narrative was more than an oversimplification; it was mostly downright wrong, a willful misrepresentation of the past by white Southerners and Northerners interested in telling a story that justified the rise of the Jim Crow system. But this view of Reconstruction stuck, and a whole body of historiography arose from it that prevailed for the first decades of the 20th century. It became known as the Dunning school, named after the prominent Columbia University historian William Dunning. Many of his popularizers, including Claude Bowers (author of The Tragic Era) and E. Merton Coulter (author of The South During Reconstruction), went even further in their efforts to paint Reconstruction as an era of corruption and mismanagement—one that called into question the ability of African Americans to govern.

W.E.B. Du Bois and other black historians provided dissents to this dubious narrative even as the accounts were being drafted. As early as 1909, when Du Bois gave a paper on Reconstruction to the American Historical Association, it was clear that African American scholars would have to lead the way in countering the prevailing narrative of Reconstruction as an era of black misrule across the South. While his 1935 Black Reconstruction in America became the seminal revisionist history of the period, Du Bois was not alone in this counterattack against a racist historiography. Reconstruction-era politician turned historian John Roy Lynch wrote The Facts of Reconstruction in 1913, just as the Dunning school’s influence on popular culture was reaching its peak. Anna Julia Cooper, in her 1892 A Voice From the South, described Reconstruction as a “period of white sullenness and desertion of duty.”

However, the majority of the historical profession ignored these demands for a new historiography until the 1960s, when the ascendent civil rights movement and a group of radical and liberal scholars began to chip away at a narrative shamefully long accepted by professional historians. Some of this was the result of their returning to Du Bois’s Black Reconstruction and acknowledging the need for a more accurate narrative about the era. But many other historians felt it was incumbent upon them to rethink Reconstruction in light of the civil rights movement, recognizing it as a period of biracial democracy in which black Americans took their destinies into their own hands and demonstrated their ability to help remake the country.

Historians like Kenneth Stampp argued in the 1960s that it was time for a narrative that avoided the racist exaggerations of the Dunning school and offered a more empirical exhumation of the nation’s past. African American historians like Le rone Bennett Jr. went further, asserting that Reconstruction provided Americans with a “usable history” that could better help everyone—black and white alike—understand the political tumult and possibilities of the 1960s. Bennett argued in the pages of Ebony magazine in November 1965 that there were two Reconstructions: a “white reconstruction from 1865 to 1866” and a more radical and emancipatory “black reconstruction from 1867 to 1877.” The revisionary work of the 1960s and 70s culminated in Eric Foner’s 1988 classic Reconstruction: America’s Unfinished Revolution, 1863–1877, a book that continues to set the standard against which any history of Reconstruction is judged and that, in its 690 pages, helped unearth the period’s forgotten attempts to radically alter the nation for the better. For Foner, Reconstruction centered on the struggle over African American rights—and whether the nation would live up to the lofty ideals at the heart of pro-Union rhetoric after the Emancipation Proclamation became a ralying cry in 1863.

A ttempting to bring this more radical and egalitarian history of Reconstruction to the general public and incorporating the last 30 years of work following up on Foner’s monumental book, Henry Louis Gates has produced a new PBS miniseries, Reconstruction: America After the Civil War, and a companion book, Stony the Road, that aim to provide a fresh perspective for a mostly lay audience. Both seek to consolidate this revisionary narrative of Reconstruction, but they also carry it beyond 1865 to 1877. For Gates, Reconstruction was not just those years immediately after the Civil War. Instead, it encompassed a political era that began with the war itself, which opened the door to questions about race, citizenship, and democracy that were previously unfathomable, and then persisted as a moral, social, and political dilemma throughout the civil rights movement.

Gates adds a second argument to this historiography. He posits that Reconstruction was about not just the rise and fall of black political power in the South—although that is still a key element of any history of the era. He argues that it also concerned African American equality in the spheres of civil society, culture, and economics and that black Reconstruction continued in these areas well into the 1920s, even as the Southern revanchists attempted to impose a new white racial order.

Lengthening the Reconstruction era, Gates insists, allows Americans to think more deeply about how the African American experience fits into the longer arc of progress and retreat that has shaped the history of American democracy. His story of the rise of the “New Negro” is a case in point. Traditionally situated around 1920, this idea—of African Americans dedicated
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to restoring the lost dignity and rights of the Reconstruction era—is traced in *Stony the Road* back to the mid-1890s, when the first generation of African Americans born emancipated began to question their second-class citizenship. For Gates, this is an important reconsideration of the African American past. “The concept of the New Negro was employed by children of Reconstruction in the grip of Redemption,” he writes, but it has deeper roots and a longer history. The same is true, he continues, for all struggles for freedom in this country, in particular by black Americans but not by them alone. The history of American democracy has been one of constant push and pull, with rare moments of revolutionary triumph for the oppressed—surrounded and threatened with destruction by long periods of reaction.

One of the strengths of *Stony the Road* is the ample room it gives to showing the racist imagery prevalent in popular magazines, political cartoons, and other cultural products of the era. With so much already written about Reconstruction’s achievements, this may be the book’s most important contribution: drawing links between the political and intellectual racism of the 19th and the 20th centuries and their racist popular culture, and then showing how black Americans struggled against them. For Gates, as well as for many other scholars of Reconstruction, the realms of politics and culture are inextricably linked. One cannot make a study of political power and inequality without looking at the ways they are manifested in everyday life.

Moreover, the racist and anti-racist images of American culture can help us better understand modern politics. One powerful example is found in the section titled “Chains of Being: The Black Body and the White Mind,” in which the reader is confronted not only with drawings and paintings that show “impartial” depictions—in the minds of many 19th and 20th century scientists and intellectuals—of the differences between the races but also with flyers and pamphlets created by white supremacists that reproduced these images well into the 1990s.

By showcasing the long history of anti-black imagery in American society, *Stony the Road* makes clear that the racist depictions of African Americans dating back to the Civil War and Reconstruction continue to cast a long and frightening shadow on contemporary life. To state the obvious, racism did not vanish during these years of emancipation and political possibility, and for that very reason, Gates writes, it is important for progressives to always be on their guard: The struggle for freedom requires challenging those forms of racism that do not have direct links with politics but still inform the larger culture, a point that he discusses further in *Stony the Road’s* third chapter, “Framing Blackness.” Given the modern debates about Confederate statues and cultural representation, it is useful to recall how figures like Frederick Douglass stressed the importance of a positive portrayal of African Americans in popular culture—especially in photographs. (He was one of the most photographed Americans of the 19th century.) Images matter—a point that many of his heirs in the civil rights movement recognized.

Gates’s examination of the Harlem Renaissance bears out this point. Arguing that it was a “counterrevolution” against America’s cultural racism, he nonetheless notes that with the rise of the New Negro, black Americans at once staked out a new path for themselves and unfortunately embraced “some of the stereotypes about the Old Negro”—especially that formerly enslaved people could not take care of themselves and therefore that a New Negro needed to emerge.

By tracking the sometimes overlooked cultural battles among African Americans after Reconstruction, *Stony the Road* is also a story about how they fought against an internalized oppression even as they struggled to change a rampantly antiblack society. Efforts to promote the beauty and diversity of African American culture—in Du Bois’s “Exhibit of American Negroes” at the 1900 Paris Exposition, for instance—were paired with efforts to fight for the restoration of the civil and political rights lost during Reconstruction. Yet black Americans were also faced with an overwhelming powerful cultural apparatus that was difficult to escape. For every Paris Exposition, there were blockbuster films like *Birth of a Nation* and a plethora of other movies, books, and cartoons that portrayed African Americans using nothing more than backward racist tropes.

In both the miniseries and the book, Gates comments on how the Charleston, South Carolina, church shooting in June 2015 informed his work on Reconstruction and the racist backlash. The history he was working on was far from over, even for someone as young as Dylann Roof, the terrorist who gunned down black worshippers at the Emanuel AME Church and who carried with him images that celebrated the Confederate States of America and the white supremacist regime of Rhodesia. The racism of the Reconstruction era and later, Gates writes, has “long become part of our country’s cultural DNA and, it seems, imprinted on [Roof’s] own.” Even as new laws were passed to abolish older racist ones, the cultural forms of racism survived, leading to new acts of political violence and new expressions of racial supremacy.

For this reason, the context of *Stony the Road* matters—not just given the current moment of revanchist white supremacy on the rise across the Western world but also in Gates’s battle for the mind of America. His career as a public intellectual has long been centered as much on the cultural expressions of racism as on the political and economic ones. It began in the 1990s, when a whole generation of liberals claimed that the work of racial equality had largely been achieved. In “The New Intellectuals,” the cover story for the March 1995 issue of *The Atlantic*, Robert S. Boynton held up Gates along with others—notably Cornel West and Patricia J. Williams—as part of a vanguard of thinkers who insisted that racism in American society was still prevalent and that the country needed to make real the goals of the various civil rights movements of the 1950s and ’60s. Like the post-Reconstruction era, the ’90s were a period of “scientific” racism and interpretations of crime as a racial, not socioeconomic, phenomenon, which were used to justify the political and civil inequalities that steadily crept back into American society after the advances of the 1960s.

*Stony the Road*—the title of which comes from “Lift Every Voice and Sing,” often called the black national anthem—gives us a powerful narrative of just how fragile the triumphs of American history truly are. The emphasis today on Reconstruction as an era of African American political and social power, snuffed out by white supremacy across America, is important not just because historians have treated it as such for decades now. It is also because many African Americans see their nation as one that has betrayed, over and over again, its greatest promises—to them as well as to the very idea of American democracy. Through the book and its companion miniseries, Gates calls on us to be ever vigilant in “our own struggles against the abhorrent face of anti black racism and white supremacy today.”
Richard Holbrooke was an almost-great. He desperately wanted to be great, and his life, at any rate, was never boring. Born during World War II to German Jewish refugees who raised him as a humanistic Quaker in Scarsdale, New York, he lived a life that spanned the rise and arguable fall of US global hegemony, the five or so decades that George Packer, in his new biography of Holbrooke, Our Man, calls “the American Century.”

As Packer shows, Holbrooke willed himself into a symbol for that era’s values: an arrogant, brilliant, mesmerizing, self-promoting, aggressively persuasive white male liberal convinced that his boundless energy and idealism could be applied to any problem. He’s a lot of fun to read about and occasionally even lived up to his hype. But Holbrooke’s life—and Packer’s telling of it—also offers a set of lessons about the limits of American liberalism at home and abroad, in the past and in the present.

Holbrooke’s career centered on three major wars—in Vietnam, Bosnia, and Afghanistan—the complexities of which Packer explains lucidly and with a keen sense of each country’s history. During John F. Kennedy’s presidency, Holbrooke was a young Foreign Service officer responsible for the distribution of bulgur in South Vietnam’s so-called strategic hamlets—an experience that gave him an early sense of the futility of America’s efforts in Indo-China. Three decades later, as Bill Clinton’s special envoy to Bosnia, Holbrooke came closest to achieving his potential, twisting the arms of the belligerents on all sides and brokering a painful peace at the conference he organized on an air base in Dayton, Ohio. And as Barack Obama’s
special representative for Afghanistan and Pakistan, Holbrooke pushed himself to the limits of his health trying to replicate his Balkan success, though he never fully earned the trust of Obama or Afghan President Hamid Karzai or achieved a meaningful and lasting resolution to the conflict.

In 2010, during this last mission, Holbrooke died after his aorta tore during a meeting with his main patron, Hillary Clinton. Fittingly, his final moments before being rushed to the hospital took place in the office of the secretary of state, a position he’d coveted without success throughout his professional life. Even though many of Holbrooke’s high-profile mourners had come to despise him at various points in his career, his memorial was treated almost like a state funeral in Washington.

In between these geopolitical watersheds, Holbrooke raked in millions of dollars on Wall Street, wrecked multiple marriages (including two of his), made many powerful friends and enemies from Manhattan to Georgetown, and assiduously cultivated his own legend. As Packer documents, the thread linking Holbrooke’s sordid personal life with his sporadically impressive public career was a desire for credibility at any cost—with sexual partners, foreign leaders, and blue-blooded elites.

Much like the country he represented abroad, Holbrooke was always pushing and Cajoling, sometimes achieving great things and almost always going too far. In this way, he embodied many of the contradictions of mid-20th-century liberalism. He enthusiastically supported the civil rights movement—stationed in South Vietnam during the Freedom Rider era, Holbrooke encouraged his brother to risk arrest for the cause—but he retained the patronizing attitudes of white liberals, eventually managing to piss off the nation’s first black president in a job interview, with the comment “You know, you don’t have to be African American to cry.” Like many in his generation, he responded to JFK’s call to service while emulating his tawdry affairs and his unshakable faith in the myth of American beneficence.

An internationalist and peacemaker, Holbrooke was nonetheless willing to support the use of military force in the pursuit of American domination. A devoted civil servant, he often allowed raw ambition and the irresistible pull of celebrity and social climbing to outpace his commitment to the public interest. And while some of his flaws were uniquely his, many others were representative of a liberal generation that came of age in the 1960s, lost its idealism in the 1970s and ’80s, and still controls most of the country’s institutions.

Our Man
Richard Holbrooke and the End of the American Century
By George Packer
Knopf. 608 pp. $30

Born almost 20 years after Holbrooke, Packer has a few things in common with his subject, so it makes sense that he would take up a study of Holbrooke’s life. Packer’s youthful service in the Peace Corps is consistent with Holbrooke’s JFK-era idealistic internationalism, and Packer clearly feels a kinship with Holbrooke as a writer; the latter’s sharply observed journal entries take up entire chapters of Our Man. And like Holbrooke, Packer has supported a number of US military interventions, including the 2003 invasion of Iraq, a decision he says he now regrets. A longtime staff writer at The New Yorker and more recently The Atlantic and the author of books like Blood of the Liberals and The Unwinding, Packer is very much a creature of the Acela corridor, someone perfectly at home in the same elite New York and Washington circles that Holbrooke traveled in.

Packer’s writing style in Our Man channels the spirit of his subject’s high-society banter. He addresses his readers in the manner of a brilliant—albeit long-winded—dinner-party conversationalist, weaving in context and anecdote and gossipy digressions that make us feel we’re being given a privileged, intimate view of the American elite. (The opening line is “Holbrooke? Yes, I knew him.”)

It’s certainly possible to enjoy the book as a guilty pleasure, but Packer has something more surprising in store.

The early reviews broadly agree that Our Man is a great-man narrative eulogizing a supposed liberal golden age. In The New Republic, Thomas Meaney called it “a valuable artifact from the period when militant liberal internationalism became too weary to bother with reasons, and instead took comfort in the gut of a famous man.” But the book is as much a cautionary tale about a familiar, seductive, and dangerous personality type and about the liberal idealism that Holbrooke avowed and the cynical careerism he practiced. Our Man is ambivalent about its subject at best and often outright damning.

Meaney is correct when he points out that Packer has a tortured relationship with the left, having vocally abandoned the socialism of his youth in favor of Clintonian Third Way politics in the 1990s. And he is also right that Packer can’t bring himself to engage in the more rigorous critiques of capitalism and American empire that would require him to rethink many of his own treasured liberal verities. But far from a hagiography, Packer offers here a startlingly intimate work that captures many of Holbrooke’s public and personal foibles. Readers will learn about his absentee parenting in the 1970s and his son’s drug problem. They will learn about the time Holbrooke elbowed a pair of elderly Holocaust survivors out of an American delegation to Auschwitz to make room for himself; about the financial improprieties of his side gig as a social prop on Wall Street providing access to foreign clients; about the time he cuckolded his best friend and rival, fellow career diplomat Anthony Lake, the Salieri to his Mozart; and about how, in his Bosnia memoir To End a War, he stole valor from Foreign Service officers killed in a road accident. (Packer devotes an entire chapter to examining this.)

Packer’s Holbrooke is an almost comical Shakespearean figure, totally lacking in self-awareness, constantly in motion, alienating people as often as he charms them, and always sticking his lunchmates with the tab. Bill and Hillary Clinton loved him, and Obama hated him, and anyone with a basic knowledge of their respective personalities will understand why.

This intimacy, in all its unflattering detail, was made possible by Packer’s access not only to scores of VIPs who knew Holbrooke (Hillary Clinton, David Petraeus, and Samantha Power, to name just a few) but also to a trove of papers and audio recordings made available to him by Holbrooke’s formidable widow, the Hungarian American writer Kati Marton. She, one surmises, wanted to enshrine her husband’s legacy and trusted Packer, who had written a sympathetic New Yorker profile of him, to do exactly that. To Packer’s credit, he has
done nothing of the sort and instead has written a bruising critique of Holbrooke and the values and cohort he represents.

I nsofar as he wants Holbrooke to function as a symbol for the values of Cold War and post–Cold War liberalism, Packer makes clear that he believes many of those values should now be questioned. Vietnam, in his telling, was doomed from the start, however idealistic the best and the brightest might have been. (Holbrooke was a friend of and an enthusiastic source for David Halberstam, as he was for countless reporters over many decades.) Although Holbrooke saw the disaster developing in Indochina surprisingly early, he didn’t allow it to shake his lifelong faith in America’s good intentions or to dissuade him from seeing US military force as a tool for diplomacy.

The United States’ involvement in Afghanistan also comes in for scrutiny; after all, we’re still there, with no end in sight, after almost 18 years of aimless warfare. And although Packer admires Holbrooke’s relentless and personally fatal efforts to end the war a decade ago, he nonetheless voices skepticism that those efforts ever could have succeeded. “The best ideas are useless without the ability to bring them into the world,” he writes. “And perhaps by the time Holbrooke got there Afghanistan had already become one of those terrible things that have to be done but can’t be done”—a line that captures the exact tension between what Packer understands and what he still refuses to accept about the nature of US military hegemony.

For the Dayton Accords, Holbrooke’s crowning achievement, Packer doesn’t let his subject off the hook, either. The price for peace in Bosnia was rewarding the Serbs with territory they had just ethnically cleansed of Muslims, and after a quarter century of cold peace and corruption, the accords look as if they could fall apart any day now. Diplomacy, even at its most successful, may bring about the absence of war but can never guarantee justice.

Packer is also unsparing about the way Holbrooke’s ambition often took precedence over his idealism. He suggests that Holbrooke supported the Iraq War and advised then-Senator John Kerry to do likewise so they would look tough, in the hopes that Kerry would then win the presidency and appoint him to run the State Department. “If that was Holbrooke’s main reason for supporting the war, it might have been better to be stupidly, disastrously wrong in a sincerely held belief like some of us,” Packer writes.

Even though Packer can be withering about Holbrooke’s raw ambition and self-absorption, at times he seems to want to have it both ways. He knows that many presuppositions of the Holbrooke era are hard to defend in 2019 and even concedes the reasons. Yet, at the same time, he badly wants to defend them and can’t help but indulge in a little nostalgia. “It wasn’t a golden age, there was plenty of folly and wrong, but I already miss it,” he confesses in his prologue. The reason for this nostalgia is clear, even if he began writing the book before November 2016. For Packer, Holbrooke is the antithesis of Donald Trump and the politics he helped unleash. A liberal internationalist, a man of culture and education, a champion of refugees and the oppressed, a believer in tolerance and diversity, and an enemy of the kind of genocidal populists who arose in Yugoslavia in the 1980s and increasingly dominate politics throughout the world today, Holbrooke represents for Packer a more cosmopolitan and pluralist era.

What Packer never quite acknowledges, however, is that while Holbrooke may have spoken like a liberal idealist, he had more than a few Trumpian qualities of his own—the obnoxious salesmanship, the narcissism, the constant affairs, the flamboyant spending, the transparent need for validation, the use of public office for private gain. Holbrooke wasn’t just a prodigious womanizer; on one occasion he kissed a junior colleague while they were working at his home. (“He claimed her,” Packer puts it, “in the way of an entitled great man.”) And while Holbrooke died before he might have been held to account for his behavior, Packer has no such excuse for merely mentioning it in passing.

It’s true that Trump has never embraced a liberal politics, but it would let the liberal elites of Holbrooke’s era off the hook to treat him as somehow entirely separate from their public actions and private choices. Their failures, in many respects, helped pave the way for his disastrous presidency. They also helped birth disasters—the Iraq War and the 2008 financial crisis, to name the most obvious examples—on a scale that Trump has yet to match. Sometimes Packer acknowledges this, noting that Holbrooke’s blinkered worldview was representative of “a whole class of people in Washington and New York [who] sent other people’s children to fight in Afghanistan and Iraq while they found ways to get rich.” But often he limits his criticisms to Holbrooke alone. At its best, Our Man affirms that Holbrooke’s flaws were emblematic of more systemic problems; at its worst, it obscures this very point.

Y our ability to appreciate Our Man may hinge on how interesting you find liberal elites. I don’t mean you have to find them sympathetic; you just have to believe their stories are worth dwelling on, and Packer’s book is rife with gossip. One jaw-dropping anecdote concerns how in 1958 the Georgetown neighbors of JFK’s mistress tried to blackmail the future president for a Modigliani painting after bugging her apartment and recording one of their trysts. But read carefully, Our Man offers us something else as well: It gives us a better understanding of what happened to a generation of liberals who helped create the country we now live in.

On the eve of joining the Obama administration for what would be his final mission, Holbrooke was, according to Packer, “making two to three million a year from banking, boards, and speeches, but he had heavy personal expenses,” and he and Marton “owned nine pieces of property, mortgaged to seven and a half million dollars, and they leased a private plane.” The 2008 financial crash forced them to sell two of those properties, but it’s not clear that the experience impressed upon Holbrooke any self-awareness about how he and his generational cohort had abused the public trust to enrich themselves, even as they mostly colored within the lines of the law.

Packer relates the story of Angelo Mozilo, then the CEO at Countrywide Financial, who gave Holbrooke sweetheart loans and underwrote the expenses of many other VIPs. “No one gave it a thought until, a decade later, Countrywide collapsed in the subprime mortgage scandal, and Mozilo became a notorious face of the financial crisis, and his VIP program did its part in making Americans deeply cynical about elites in New York and Washington—even, it wouldn’t be stretching things to say, helping pave the way in the next decade for the election of a president who promised to blow
HARDENED BY WAR

The contradictions of Oliver Wendell Holmes Jr.

by BRENDA WINEAPPLE

ounded three times during the Civil War—once when a bullet passed right through his neck—Oliver Wendell Holmes Jr. lived long enough to chat with Franklin Roosevelt just days after his inauguration. Henry and William James were close friends (Holmes was a pallbearer at the latter’s funeral); so too was Louis Brandeis. Alger Hiss served as one of Holmes’s many young law clerks. In 1902, Theodore Roosevelt appointed Holmes to the Supreme Court, where he served for three decades, after having sat on Massachusetts’s highest court for 20 years. A prolific correspondent, he wrote thousands of letters and, as a judge, nearly 2,000 opinions and dissents, many of which remain famous.

Youngstown, Ohio, to the housing-market collapse in Florida to the explosive growth of lobbying on Washington’s K Street—that led so many Americans to feel left behind and culminated in Trump’s presidency. Along the way, Packer includes a series of vignettes about well-known figures, from Newt Gingrich to Oprah Winfrey, whose stories, he implies, each in its own way, speak to the prevailing culture of self-centeredness and naked ambition among a ruling class that had abandoned the bulk of working America.

Our Man, in a sense, is a book-length version of one of these vignettes. It’s a study of how the intertwined selfishness and idealism of a liberal generation that came of age during the 1960s and ’70s led to America’s present crisis. Holbrooke, after all, was never everyone’s man. He was part of a specific cohort, and that “we” implied in the title—the circle of liberal elites that Packer himself belongs to—still has a lot to answer for.

Brenda Wineapple is the author, most recently, of The Impeachers: The Trial of Andrew Johnson and the Dream of a Just Nation.
Oliver Wendell Holmes
A Life in War, Law, and Ideas
By Stephen Budiansky
W.W. Norton. 592 pp. $29.95

zine, The Atlantic Monthly, and contributed to it a series of witty articles, “The Autocrat of the Breakfast Table,” which he later collected into several popular books. Yet for all his sparkle and talent, there was something invincibly parochial about him: He once described Boston as the hub of the universe and insisted that “we never had a Bohemia in Boston, and never wanted it.”

Over six feet tall and far worldlier than his diminutive father, Holmes regarded him as something of a dilettante; and when Holmes père tramped to the battlefield at Antietam to look for his wounded son and then wrote about the excursion for The Atlantic Monthly, Holmes fils felt disgusted and exploited. The gulf that opened up between the two was not just a family quarrel. It marked a larger rift between the generations: the older one optimistic, pumped up on moral certitudes and absolutist thinking, the younger one war-scared, embittered, and often cynical. “The generation that carried on the war has been set apart by its experience,” Holmes stated in a Memorial Day speech in 1884.

His relationship with his mother, Amelia Jackson Holmes, the daughter of a justice on the Massachusetts Supreme Judicial Court, must have been equally complicated. He claimed to have inherited her melancholy and skepticism, a connection Budiansky doesn’t explore, though he does mention Holmes’s remark that, once in his youth, he went on a bender: “My father never let me have more than one drink. ‘My mother, being a much wiser woman, never said a word. That hurt me much more.’

Still, Holmes enjoyed a childhood and adolescence of antebellum privilege, including idyllic summers at the family’s 280-acre country estate in western Massachusetts, which he fondly recalled 60 years later, noting that “among the foundations of my soul are granite rocks and barberry bushes.” At Harvard, he joined such exclusive social clubs as the Porcellian and yet found a way to maintain a flinty independence of thought largely inspired by Ralph Waldo Emerson. (“The only firebrand of my youth that burns to me as brightly as ever is Emerson,” Holmes remarked near the end of his life.)

But then came the war. “Life is a struggle,” Budiansky summarizes Holmes’s viewpoint after the war, “and it is the struggle that gives it meaning.” Serving for two years in the 20th Massachusetts Volunteer Infan-

Born in 1841 to a family of Boston “Brahmins” (Oliver Wendell Holmes Sr. evidently coined that turn of phrase), the younger Holmes was raised in comfort and wealth. His father was a distinguished physician, teacher, and scientific writer who had published pioneering essays on everything from puerperal fever to photography and, at age 21, had composed the beloved poem “Old Ironsides.” Dr. Holmes had also proposed the name for a new maga-

That Holmes’s wartime experiences later led him to dismiss the high-minded, unrealistic idealism that he associated with antebellum romanticism and to distrust, as Budiansky writes, “zealotry and causes of all kinds” has become a leitmotif in Holmes scholarship. He was also affected by the insights of the mathematician Chauncey Wright, one of the few intellectual influences Holmes acknowledged. Wright had shown him that “I must not say necessary about the universe, that we don’t know whether anything is necessary or not.” For Holmes, what was necessary was work, technical expertise, professionalism, and the law. “If we would be worthy of the past,” he advised the listeners of his Memorial Day speech, “we must find new fields for action or thought, and make for ourselves new careers.”

Increasingly convinced “that law as well as any other series of facts in this world may be approached in the interests of science and may be studied, yes and practiced, with the preservation of one’s ideals,” Holmes passed the bar in 1867 and was soon commissioned to revise the standard reference work Commentaries on American Law, the American version of William Blackstone’s Commentaries on the Laws of England. The result was Holmes’s magnum opus, The Common Law, which he published in 1881, just before he turned 40 (a self-imposed deadline).

Injecting science into the law and elegance into his prose, Holmes wrote that the law “is forever adopting new principles from life at one end, and it always retains old ones from history at the other.” It is not “a brooding omnipresence in the sky” but rather something that keeps pace with the “felt necessities of the time, the prevalent moral and political theories, intuitions of public policy, avowed or unconscious, even the prejudices which judges share with their fellow-men.”
The law, in Holmes's view, is a balancing act: It evolves and adapts and at the same time always endeavors to get things right.

By the time of The Common Law’s publication, Holmes had been married for nearly 10 years to Fanny Dixwell, a childhood friend. Often described as reclusive, she nonetheless managed the couple’s social life in Washington with a keen and sometimes caustic intelligence. Holmes relished attention and certainly got plenty of it from his many female friends, but there is no evidence that these amounted to anything more than flirtations. Fanny was not, it seems, long-suffering—just wisely tolerant of her often insensitive husband.

In 1882, Holmes left private practice to take a post at Harvard Law as the Weld Professor of Jurisprudence. But he abruptly resigned in a matter of months when offered a seat on the Massachusetts Supreme Judicial Court, where he presided over trials that exposed him to an increasing number of economic and labor conflicts. In the 1896 case Vegelahn v. Guntner, for instance, the owner of a furniture factory, Frederick Vegelahn, had fired George Guntner, the leader of the upholstery workers striking for higher wages. The workers picketed Vegelahn’s factory, and Holmes refused to halt the peaceful protest. When Vegelahn appealed, the full court reversed his decision.

Even though the court overruled Holmes, his long dissent, according to Budiansky, represents the intellectual basis of his thought about the role of law in society. “I think that the judges themselves have failed adequately to recognize their duty of weighing considerations of social advantage,” Holmes argued in a lecture the following year. “The duty is inevitable, and the result of the often proclaimed judicial aversion to deal with such considerations is simply to leave the very ground and foundation of judgments inarticulate, and often unconscious.” Or as Budiansky observes, “Avoiding the policy questions did not make judges impartial: it only disguised their prejudices.”

As previous biographers have noted, Holmes became an idol of progressives after he joined the Supreme Court. He firmly opposed using the 14th Amendment to protect, as one justice put it, “the most sacred rights of property.” Likewise, he opposed the court’s decisions to strike down state laws that mandated a minimum wage or the maximum length of a workday.

One such case was Lochner v. New York (1905). The state legislature had passed a law to regulate sanitation and the length of the workday in commercial bakeries, which were often in the basements of tenements. Joseph Lochner, a bakery owner who had been fined for keeping his workers beyond the 10-hour-per-day limit, appealed the ruling, and the Supreme Court overturned the state law, claiming that it interfered with the right to make a contract and thus endangered laissez-faire. Holmes dissented from the majority opinion, arguing that “a constitution is not intended to embody a particular economic theory, whether of paternalism and the organic relation of the citizen to the State or of laisser-faire. It is made for people of fundamentally differing views.”

Progressives like Felix Frankfurter and Harold Laski applauded Holmes’s eloquent dissent in Lochner v. New York, but they were disappointed by his decision in Patterson v. Colorado (1907). When the court upheld the fine levied against a Denver newspaper for criticizing a decision by a lower court, Holmes noted that the Bill of Rights didn’t apply to the states. In his view, the government could constitutionally limit free speech if it was deemed “contrary to the public welfare.” He reaffirmed this view a decade later in Debs v. United States (1919), in which he voted to uphold the conviction of Eugene Debs for speaking out against World War I, and in Schenck v. United States (also in 1919), Holmes sustained the conviction of socialists who had distributed leaflets protesting the wartime draft, because wartime implied that a “clear and present danger” existed, which they had ignored.

The progressives’ idol had feet of clay after all.

After Harvard faculty and alumni attempted to have Frankfurter and Laski fired for their political opinions and because they were Jews, Holmes revisited his position on free speech. In the landmark case Abrams v. United States (1919), which involved five anti-war radicals who had been sentenced to 20 years in prison for violating the Espionage Act, Holmes dissented. Refining his arguments about a “clear and present danger,” he wrote that the defendants’ speech had not put the war effort at risk. And even if it had, he declared himself in favor of a “free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market…. That,” he added, “is the theory of our Constitution. It is an experiment, as all life is an experiment.”

Holmes’s judicial record was complicated and not always consistent. He joined the minority opposing the court’s decision in the trust-busting Northern Securities case, infuriating Theodore Roosevelt, but endorsed his imperialism when Holmes upheld the government’s position in the so-called Insular Cases, ruling that the people of annexed territories like Puerto Rico, Guam, and the Philippines did not have the rights of full US citizens. In a set of cases dealing with segregation in the South, he reaffirmed the “separate but equal” clause of Plessy v. Ferguson, which enshrined Jim Crow discrimination and helped gut the 14th Amendment of its equal-rights guarantee. Yet as a US Supreme Court justice, he argued in Moore v. Dempsey (1923) that the due-process rights of 12 black men had been violated when they were convicted of murdering a white man in Phillips
County, Arkansas, after a mob opened fire on a meeting of black tenant farmers at a local church. (The trials of the 12 men each lasted less than an hour, with the juries returning verdicts in less than 10 minutes.) Holmes explained in the majority opinion, “No jurymen could have voted for an acquittal and continued to live in Phillips County and if any prisoner by any chance had been acquitted by a jury he could not have escaped the mob,” thus rendering the state trials a sham.

Then, of course, there was the notorious Buck v. Bell decision (1927), in which Holmes supported the sterilization of Carrie Buck, an 18-year-old believed to be incapable of taking care of herself or her 7-month-old daughter, who seemed, according to a social worker’s testimony, “not quite normal.” “We have seen more than once that the public welfare may call upon the best citizens for their lives,” he wrote, doubtless alluding to the war in which his friends had died. “It would be strange if it could not call upon those who already sap the strength of the State for these lesser sacrifices.” He concluded his opinion with a chilling sentence: “Three generations of imbeciles are enough.”

To Holmes, the involuntary sterilization of those unable to care for themselves was a small price to pay for the larger defense of society. And his decision, while it does not make for particularly pleasant reading, does shed some light on the man. He was a seeker who strove to make the law just—or as just as possible in a fallible world populated by fallible people. He saw America as an unfinished experiment to which he was committed, and he viewed himself a pragmatist, and not in today’s sense of someone who wants to duck ideological fights or labels but rather as someone who endeavored to read the law realistically and with honesty and caution. Touched by fire, as he claimed he and his generation had been, Holmes had been hardened in the crucible of a civil war. Never claiming perfection for himself or others or for society, he too erred and allowed himself to be too subject to the felt necessities of the era. But he did what he could and sought at least to administer firm principle flexibly, and we would do well to remember him.
ACROSS

1 Nobel-winning author is yellowish, and sadly blue on the inside (4, 6)
6 50 percent failure dogs onboard computer (4)
10 Comparatively hollow pot, lacking top layer (7)
11 Jeered at relative captivated by Cruz (7)
12 Sailboat contains piece of veal and beef (6)
13 Magician imprisoned person (someone in a box) (8)
14 Expression of admiration from one renting a cooler? (3, 6)
16 Catch the Spanish roll (5)
18 Boring drone chasing start of Yule sound (2-3)
20 Brewed Coffee (hit sitcom for NBC) (3, 6)
22 Crackpot chases title, accepting love for money (8)
24 Boxer conceals hesitation in front of Penn’s latest graduates (6)
26 Most shadowy Virginia visitor (7)
27 Passage is restricted in bar (7)

DOWN

1 Look who’s here: Clement (he used to dwell up around a mountaintop) (5, 2, 3, 5)
2 Sports official saw components bearing north, and coming later than at least a dozen (9)
3 Bread supplied by revolutionary vigor? Just the reverse! (7)
4 Temptation to break rule (4)
5 Look elsewhere to get couture so refined (9)
7 Following a loud unfinished word (5)
8 Terrible liar gets engrossed in tennis star’s account of the government’s daily doings (7, 8)
9 Joke and poke in Indian region (6)
15 Bird covers defensive outpost by a principle of retaliation (3, 3, 3)
17 Endlessly smooth-spoken in French, Mrs. Garnet shone (9)
19 Tool used in retro hotel lamp (6)
21 A woman’s cryptic life with spies (7)
23 Desires increase, top to bottom (5)
25 Get ready to return for criminal (4)

SOLUTION TO PUZZLE NO. 3505

ACROSS 12 defs. 4 T + RAN + SLATE
10 anag. 11 SUN + DER 12 SLUDS
11 PROVE + N-[ic/C]+AL 14 anag.
17 SON + G 19 “soul” 21 [ic/N]-EELESS
23 CR[OWNS][EST] [anag. 25 SIGH][i]
28 anag. 29 IN + ROA[D]
30 PA + STERN + AK 31 anag.

DOWN 2 hidden 3 “Moe is wee” spoonerism 4 S + UMP 5 pun 6 STU[[i]/[i][i][i][i][i][i]]
7 AUDIA + CJO + US EARF + LUGS
9 FRAT 15 anag. 16 hidden 18 pun
20 ESSEN + CE 22 LATER + AL[I]
24 SIC + K 26 initial letters 27 2 defs.

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