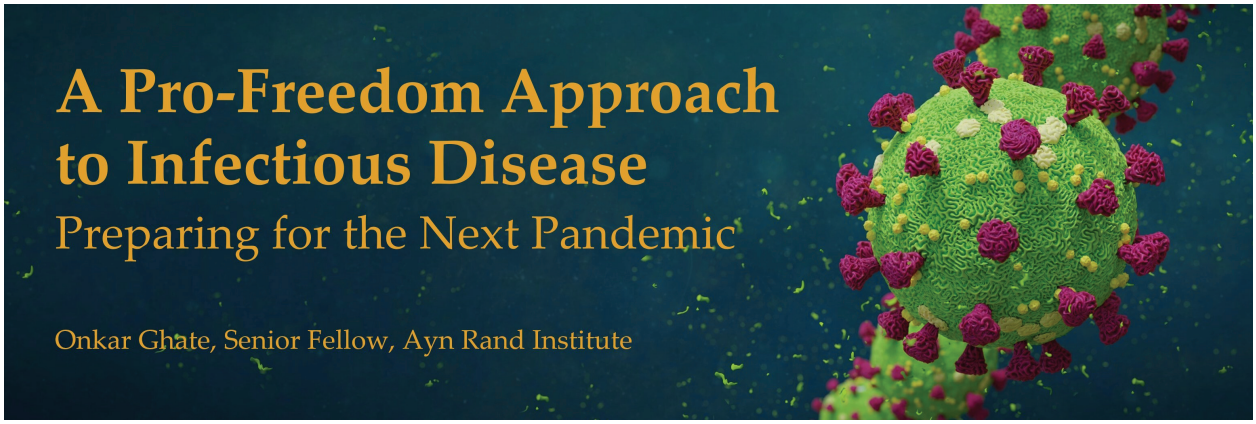

A Pro-Freedom Approach to Infectious Disease

Preparing for the Next Pandemic

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Executive Summary

Our nation's ongoing response to the SARS-CoV-2 pandemic is not worthy of the leader of the free world. It is not an American response. We can do better in the future by changing our laws to assign government its only proper role in fighting the danger posed by infectious disease.

We need laws that focus government with laser-like precision on its proper goal: to remove the active threat posed by carriers of severe infectious diseases.

Government's public health goal in the face of a novel respiratory virus like SARS-CoV-2 is to remove the threat posed by carriers of the virus—primarily by testing, isolating and tracking those carriers. Trying to save every life from a novel virus whatever the cost, or to balance some people's lives against other people's livelihoods, is not a valid public health goal. Apart from testing, isolating and tracking, government should issue only voluntary guidelines and then leave us each free to take the countermeasures we individually think necessary in the face of the new reality.

To accomplish its proper public health goal, the government must catalog the severity of various infectious diseases and then, for severe infectious diseases, it must have the ability to test, isolate and track contagious individuals. *All of this can and needs to be carefully codified into law*.

Here are at least some of the (interrelated) factors that are relevant to defining whether an infectious disease warrants legal intervention.

- *How contagious is the disease?*
- *By what means is the disease transmitted?*
- *What kind of damage can it do when a person contracts it?*
- *How much immunity exists in the population?*
- *What preventive countermeasures are known and easy to implement?*

The basic issue is to define when coercive action against the carrier of an infectious disease is warranted because the threat he poses to others is significant enough. To focus our federal and state governments on the task of isolating carriers of dangerous infectious diseases, the first step to codify into law, therefore, is government's responsibility to use objective legal criteria to determine which existing and new infectious diseases warrant coercive legal intervention.

And then governments must execute these laws. In the presence of a potential outbreak of a sufficiently severe infectious disease, governments must purchase or build the capabilities that enable effective testing, isolating and tracking. But this emphatically does not mean that they control testing across the country, or prohibit private labs from deploying their own tests, or decide who can and cannot purchase tests, and the law must make this clear.

We need laws that strip federal and state governments of the power to lock down entire states or even just cities in the name of public health.

Because our existing laws do not prohibit coercive statewide lockdowns, they were too easy a "solution" for our governments to adopt during the SARS-CoV-2 pandemic. If we really believe, as many state governors seemed to believe during this pandemic, that government's lawful goal is to minimize at all cost the number of deaths from a new infectious disease, or to somehow "balance" the destruction the infectious disease may cause to people's lives and livelihoods, then government *needs* the coercive power to close everything and quarantine everyone. It needs near *absolute* power. But this goal is illegitimate.

The government's proper public health goal is, fundamentally, no different from its goal in any other area: to protect *the right of each of us to the pursuit of health, as an aspect of our right to the pursuit of happiness.*

There is no such thing as "our" *collective* health or "our" *collective* wealth. There is only the specific health and wealth—the specific lives and livelihoods—of separate individuals. To ask government to "balance" these two is a euphemism for asking it to decide who will be sacrificed to whom, whose livelihood it decides takes precedence over whose life, and whose life it decides takes precedence over whose livelihood. *These are not government's decisions to make.*

If our governments know that they do not possess the power of coercive lockdowns, they will be even more focused on their proper role: to effectively test, isolate and track carriers.

The law should also suspend the controls on healthcare that most cripple doctors, hospitals, laboratories and pharmaceutical companies during a pandemic. Remove, for example, the barriers to deploying private tests and the permissions required that prevent hospitals from quickly increasing their capacity.

However, because our governments control so much of the nation's healthcare, they must be transparent and honest about what they are and are not able to manage.

An infectious disease pandemic should rapidly change governments' priorities. Just as during a pandemic they must quickly reprioritize budgets to spend more on testing, isolating and tracking, so they must quickly reprioritize budgets to spend more on hospital capacity. Redirect the wealth we have already surrendered in taxes to now fight the pandemic. Draw on government stockpiles and make use of the medical resources of the military. That this only started to happen late into this pandemic contributed to the atmosphere of panic.

More importantly, our governments must acknowledge that government-controlled healthcare means *rationed* healthcare. When production, prices and profits are not the principles directing people's actions, something else must be. That something else is the decisions made by government bureaucrats. Our governments must discard the fantasy that government-controlled healthcare is free—that, somehow, healthcare doesn't have to be produced by anyone. It is our governments' responsibility to explain clearly how healthcare will be rationed in a pandemic. Doing this will allow us as individuals to make better-informed, rational decisions.

If elderly individuals and their loved ones knew, for instance, that they would go to the back of the line for a ventilator or an ICU bed, they would have more reason to socially distance and to

isolate at home. Or if young people knew they would be the lowest priority for being admitted to the ICU, more young people would consider the need to socially distance.

The more we as individuals understand that government healthcare is rationed healthcare, the more reason we have to voluntarily take countermeasures like social distancing. By contrast, the more we are taught that healthcare is free and ours by right—that, magically, there will always be a nurse and an ICU bed when we get Covid-19—the less seriously we will take the need for voluntary countermeasures—and the more it will seem that the coercive hammer of government is necessary.

In sum, what we need and what is realistically achievable is an approach to infectious disease that codifies into law the best aspects of what Taiwan, South Korea and Sweden have implemented in this pandemic. Taiwan and South Korea have learned from their past failures; we can learn from our present failure.