The Covid-19 pandemic has disrupted our lives on a scale rivaled by few other crises in American history. It has left no person and no aspect of society untouched, spreading death, despair, and disorder in its wake.

As we continue to struggle through this pandemic and all its horrors, we should recognize that such disasters can have a silver lining: They create opportunities for reform. Precisely because they are so disruptive, they have the power to force governments to abandon old routines, entertain new ideas, and embrace watershed departures from the past.

Much the same can happen when shocking events electrify the nation and propel social change. Last summer’s killing of George Floyd by Minneapolis police, documented in agonizing detail by graphic videos, falls into that category. It ignited protests, raised the public’s consciousness about racism, and generated pressures for police reform.

There may well be upsides, then, to the turbulence of our times. This is what Rahm Emanuel suggested when he quipped, at the height of the Great Recession, that you “never want a serious crisis to go to waste.”

We are wise to recognize as much. But while the silver lining is real, it puts a gloss on something fundamental about our government that is quite perverse. The reason disasters and social upheavals provide rare opportunities for reform is that in their absence—and thus, during the ordinary times that almost always prevail—major reforms are typically beyond reach. This is true even when our institutions are failing. To

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say we need a disaster or social upheaval in order to fix poorly performing institutions is to say something pathetic, and ultimately dangerous, about American democracy.

So what is our problem? A comprehensive answer would be complicated, but an important part of it is both simple and universal.

The truth is that all government institutions across all areas of public policy inevitably generate vested interests. This happens because they supply certain people and groups with highly valued benefits, including the public services these institutions provide but also the government jobs they fund, the contracts they enter into, and more. The beneficiaries then have incentives to try to organize and invest in political power to protect their benefits and the institutions providing them. Mass constituencies—the vested interests that are the usual recipients of public services—face daunting collective-action problems and often can’t become organized and powerful. But concentrated interests with large material stakes typically can. And they do.

The power of vested interests is legendary. Not surprisingly, they typically oppose efforts at major reform because they see them as threatening to their benefits. They do that, moreover, even if the institutions are performing poorly and desperately need to be reformed for the good of society. This willingness to defend failing institutions applies with special force when vested interests arise from jobs or profits—interests represented by unions and businesses, respectively—because such groups can continue to hold onto their jobs and profits as long as the institutions, however abysmal their performance, simply survive and continue to obtain funding.

The ability of vested interests to stifle reform is fortified by our political system, which is a labyrinth of checks and balances. Any reform effort must overcome a minefield of veto points, while the vested interests need only succeed at one veto point in order to block it. The deck is stacked in their favor—and thus in favor of the status quo, however disappointing it might be. This is what normal looks like. And this is why reformers wait for abnormal events to give them a fighting chance for real change.

All sorts of recipients—workers, small-business firms, massive corporations, agribusinesses, and defense contractors—qualify as vested interests. But to illustrate the reform problem more concretely, it is instructive to look at one type of vested interest: public-sector unions.
These vested interests are not only prominent during normal times, they are also central to the two contemporary crises that might open paths to reform: the coronavirus pandemic and the killing of George Floyd.

UNIONS AS VESTED-INTEREST POWERHOUSES

In all of America’s cities, governments have employees who have vested interests in their jobs. That much is inevitable. What was not inevitable was that the masses of these atomized workers would be able to overcome their collective-action problems to form immense, powerful, public-sector unions. But in most places they succeeded—largely because state governments stepped in to help them.

The states did so by adopting labor laws specifically designed to promote the unionization of public workers. Wisconsin became the first state to pass such a law in 1959. Then, from the 1960s through the early 1980s, hundreds of strikes compelled most states outside the South to follow suit. The result was an explosion of unionization among teachers, police officers, firefighters, nurses, sanitation workers, and other public employees, as well as a vast expansion of collective bargaining. When the dust settled, public-sector unions—led by the National Education Association; the American Federation of Teachers; the American Federation of State, County and Municipal Employees; and the Service Employees International Union—had organized millions of public workers (amounting to about 7 million today) and wielded extraordinary power.

They exercised their power by means of collective bargaining, through which they pursued job protections, better wages, health and pension benefits, and favorable work rules. But they had strong incentives not to stop there. Since these union members’ jobs were government jobs, their bosses were elected officials. This meant that by wielding power in elections, the unions could literally elect their own bosses—and ensure, so far as possible, that they would be bargaining with allies. Through elections and lobbying, moreover, they could convince their allies to promote friendly labor, tax, spending, and pension laws over and above what collective bargaining could accomplish alone.

For public-sector unions, then, collective bargaining and politics go together hand in glove. Collective bargaining guarantees that most affected workers will join unions and pay dues, and this foundation provides unions with the money, activists, and organization that fuel
political power. That power, in turn, is used in the electoral and lawmaking arenas to pursue the unions’ job-related policy goals and protect and promote collective bargaining itself.

The result is that, among interest groups of all types — particularly at the local and state levels — public-sector unions stand out as especially potent forces. Unlike other groups, they can pursue their objectives not just through politics, but also through collective bargaining. Their political power base is also a gold mine of resources — including continuous flows of dues money — protected by state laws. These resources have allowed public-sector unions to rank among the nation’s top contributors to political campaigns, to engage in massive independent spending, to unleash armies of activists in support of favored candidates, and to fund impressive lobbying organizations.

From 30,000 feet, what stands out about public-sector unions is their support for Democrats and the progressive causes the party is known for championing — from universal health care to environmentalism to distributive justice — which suggests that they are major forces for social change. There is some truth to this notion. But it is also true that, on the ground, the unions are overwhelmingly focused on the job interests of their members — and they fiercely oppose reforms that threaten those interests. In this fundamental respect, their behavior has nothing to do with partisanship. It has nothing to do with ideology. And it has nothing to do with improving poorly performing institutions. If member jobs are on the line, unions are just fine with inadequate institutions. Their opposition to reform is primal, a simple expression of their vested interests.

POLICE UNIONS AND PROTESTS

So now let’s consider the George Floyd case. Throughout the summer of 2020, thousands of Americans took to city streets to protest the killing of Floyd, an unarmed African American man, by a white police officer. Led by Black Lives Matter, activists demanded an overhaul of local police departments — as well as the rules and laws governing them — in order to hold rogue officers accountable, ensure transparency and oversight, and promote the fair treatment of minority groups by the police.

The problems Black Lives Matter and other groups point to are very real, and they have plagued policing efforts as long as there have been police departments. Offending officers do need to be held accountable,
and rules and laws do need to be changed to bring about an institutional system that is open, just, and fair. What’s more, polls repeatedly show that most Americans agree with these sentiments (although not with more radical calls to defund or roll back police forces). Yet advocates are up against a powerful, well-organized opposition led by the nation’s police unions.

There are no mysteries here. Police unions represent the vested interests of police officers in their jobs, and the proposed reforms are fully intended to render those jobs more constrained, more open to inspection, and less secure. So the unions are opposed to them.

As entrenched players in our largest cities (and many smaller ones), police unions have enormous clout with politicians. In elections, they endorse their friends as champions of public safety and smear their opponents as soft on crime. They make substantial campaign contributions—to mayors and city-council members, district attorneys and state legislators, governors, attorneys general, and members of Congress. They are also well organized for lobbying. And unlike most public-sector unions, they play both sides of the political fence. Republicans tend to be strong supporters of law enforcement, while Democrats are wedded to public-sector unions and collective bargaining more generally, and they desperately need police support if their cities are to run smoothly. So police unions are in the cat-bird seat; officeholders in both parties are motivated to please them.

Fortunately for everyone involved, most of the job-protecting decisions take place in private, with little or no public scrutiny. Through collective bargaining and with politicians’ consent, the unions have won myriad contractual protections that make it very difficult to punish or remove misbehaving officers. Contracts often require that an officer’s disciplinary record be kept secret, that it be erased after a given length of time, that there be a delay before the officer can be questioned about any allegations, that internal investigations of officer misbehavior be limited, that the case be heard by an arbitrator to whom the union consents, and that the officer can pursue multiple appeals. At the state level, police unions have often won additional layers of protection, sometimes in the form of law-enforcement “bills of rights.” The result is a byzantine legal thicket that shields police officers from accountability—and thus unintentionally nurtures a police culture in which misconduct is endemic.
For those seeking reform, real change would require mayors and city councils to insist on altering key provisions of collective-bargaining contracts that police unions cherish. It would require district attorneys to aggressively prosecute misbehaving police officers. And it would require state legislators to make comprehensive overhauls of state labor laws, and for governors to sign on. But why would political actors embrace such reforms?

Under normal conditions, most wouldn’t. Yet these are not normal times for the world of policing. The killing of George Floyd, the massive protests that followed, and the subsequent shift in public opinion have combined to create a crisis for the institution—and a rare opportunity for reform. But will it be realized?

There are no guarantees. In the short term, reformers may find that, at least in some cities and states, they are able to overpower police unions and their allies to win important victories. But over time, the movement’s fervor and public salience will likely recede—in some ways it already has—while police unions will remain just as powerful as ever. Inevitably, the unions will use that power to continue protecting member jobs, and to slowly, silently take action to reverse any losses. And politicians, as always, will respond to power.

Teachers’ Unions and the Pandemic

The Covid-19 pandemic is the nation’s greatest health disaster of the last century, and it has proven enormously disruptive to virtually all aspects of American society. But do its disruptions open the door to major governmental reforms?

If there is one segment of public life (outside of health care) the pandemic has upset most profoundly, it’s the public-school system. As the first cases of Covid-19 breached American shores last spring, schools were forced to either shut down or shift—without preparation, relevant resources, or expertise—to online learning. Everyone’s roles—from those of teachers and principals to those of administrators and other staff—changed rapidly as educators were forced to scramble, innovate, and remake schooling as best they could from a distance. Summer offered a reprieve of sorts, with schools closed for the season. But with experts warning that the pandemic would worsen in the fall, many schools decided not to re-open in person for the new school year, and when the dire forecasts were borne out in spades, the education
system’s heavy but shaky reliance on distance learning became even more widespread.

The most likely reform scenario to arise out of this crisis is for online learning—despite all the current complaining about it—to play a much more central role in American education once the virus is contained. Because of the considerable rethinking, re-invention, and adaptation forced on schools by the pandemic, and because of the familiarity and expertise gained in the process, technology may now be poised to dramatically change the way children learn, teachers teach, and schools are organized.

This is not a far-fetched scenario. Technology can already provide excellent content at low cost to students anywhere, at any time, at any pace, and on any subject. In some form or fashion, it is surely the wave of the future. The vision is not of some dystopian world in which children are condemned to learn at home alone in their bedrooms; almost all can continue to physically attend schools as they traditionally have. But they can also take some portion of their on-campus classes online, yielding a hybrid form of schooling designed to be economical and productive, yet still nurturing and personal.

But is such reform politically possible in a post-pandemic world? In the Floyd case, police-union resistance showed how vested interests operate to protect officer jobs and block sensible reforms, even during a crisis. But police unions are also the black sheep of the labor movement; by defending rogue officers, taking a tough stance on law-and-order issues, and courting Republican support, they are out of sync with the progressive spirit of the public-sector-union movement. That being so, it is all too easy to see them as an outlier, unrepresentative of how other public-sector unions respond to reformists’ efforts to improve our governing institutions.

But that would be a mistake. The politics of education reform illustrates as much. In that realm, job interests are represented by teachers’ unions, which are among the leaders of the Democratic Party’s progressive wing. In this key political respect, teachers’ unions and police unions are as different as night and day. Yet when it comes to representing the vested interests of their members—and opposing reforms that threaten those interests—the two are entirely in sync.

The United States has been trying to reform its education system since the early 1980s. From the very beginning, the teachers’ unions took
the lead in defending the traditional system from major change. As the 1980s gave way to the 1990s, two reform movements—one for school choice and one for school accountability—took center stage, and they have remained there ever since. The unions have used their formidable power to oppose both. And to stifle them.

The point of school choice, particularly for disadvantaged students, is to ensure that families have options, that children aren’t trapped in bad schools, and, with families free to leave, that schools have enhanced incentives to perform. Reformers have pursued various forms of school choice—including vouchers, tax-credit scholarships, and charter schools—and various ways to design and regulate them.

Some approaches to choice work better than others. But the unions aren’t interested in finding successful alternatives to the traditional public-school system. To them, choice itself is threatening. When families are given new options, the public schools lose students and funding, and ultimately some public-school teachers lose their jobs. So the unions simply don’t want families to have alternatives to the schools where their members teach. This is true even if the children are desperately poor and ensnared in chronically underperforming schools—and even if, with proper designs and regulations, choice could improve the American education system as a whole.

The unions’ opposition has been highly effective. Although charter schools have gained a significant foothold in some of our larger cities, the fact is that, after decades of reform efforts, only about 6% of public-school students attend charters nationwide, while about 1% of students attend schools using a voucher or tax-credit scholarship. The real winners here are not the advocates of reform. The real winners are their opponents, led by powerful teachers’ unions.

What about school accountability? From a social standpoint, this line of reform is difficult to argue against. It simply involves setting clear, rigorous standards defining what students need to know, testing how well they are meeting those standards, holding educators accountable by attaching consequences to student outcomes, and moving ineffective teachers out of classrooms. As with school choice, there are different ways to implement these reforms, some much better than others. But again, teachers’ unions aren’t interested in workable solutions. Accountability puts the spotlight on performance. It makes teachers’ jobs more stressful and less secure—and the unions want it defeated.
For some time, they were unable to prevent accountability’s advance—which took the form of No Child Left Behind and Race to the Top—although they succeeded in weakening and sabotaging its implementation in practice. Oddly, however, their prospects brightened when Republicans—who had become more ideologically extreme than in the past—gained control of Congress in 2015, lashed out at federal “overreach,” and joined with the teachers’ unions to enact the Every Student Succeeds Act, which pushed decision-making authority on accountability down to the state and local levels. The teachers’ unions are far more powerful at those levels—and the result is that accountability has been dead ever since. The unions got what they wanted: Jobs are protected, workplace pressures are reduced, and teachers are almost never removed from their jobs simply for being bad at teaching.

So that’s the history. The teachers’ unions have been no different from the police unions in opposing reforms that threaten the job interests of their members. But what about the pandemic? Can its disruption of the education system lead to innovative transformations well beyond what we’re used to?

Probably not. However promising the new technologies of online learning may be when used smartly and selectively, they threaten teacher jobs. Online learning is cost-effective, requiring much less labor per student than traditional ways of teaching and thus fewer jobs. It can also be efficiently delivered, even to students who continue attending traditional schools, by outside providers who specialize in online technology, meaning that public money and jobs will flow to those providers rather than solely to public schools. And these outside entities can be expected to be almost entirely non-union.

For these reasons, teachers’ unions have opposed online education since it first emerged as a serious learning tool more than 10 years ago. And they have used their leverage—over school districts and state legislatures both—to drastically limit its role in public education. Online learning’s potential has barely been tapped, but the unions want to keep it that way, making sure it is used only in very controlled, limited, and inefficient ways that don’t threaten teacher jobs.

The pandemic prompted the unions to push—temporarily—for greater use of online learning out of fear that the usual in-person methods put teachers at risk of infection and death. But once the pandemic recedes and in-person learning is safe again, the unions will see
their mission as one of reconstructing the traditional organization of the school system. Jobs are on the line, and so unions will use their impressive power to oppose any reformist moves toward hybrid schooling that would take productive advantage of the new technology.

**WHAT SILVER LINING?**

Why are the prospects for reform so grim, even in the face of disasters and social shocks that might seem so liberating?

The answer is that, while the coronavirus pandemic and the unrest in the wake of George Floyd’s death have opened up possibilities for reform, the disasters have left a crucial box unchecked: They have failed to undermine the power of the vested interests, leaving them just as dominant as they were before 2020. As a result, police unions will continue to make reforms of police departments exceedingly difficult, and teachers’ unions will continue to stand in the way of education reform.

This doesn’t mean the silver lining can be totally dismissed. Disasters can indeed produce radical reforms. In fact, the most revolutionary education reform of the modern era—the creation of an all-charter public-school system in New Orleans—was made possible by a crisis. The new charter arrangement entirely replaced the pre-existing traditional system that was grossly incompetent and thoroughly corrupt, yet still well protected by vested interests.

How did reformers manage to achieve such dramatic success?

Hurricane Katrina was the catalyst. It wasn’t just that Katrina was a horrific disaster that laid waste to the city and its schools—because once the water receded and the schools were rebuilt, the natural political response would have been to re-install the traditional system of school-board governance. But that isn’t what happened. The reason it didn’t happen is that the Katrina crisis did something else: It destroyed the power of the vested interests—the local teachers’ union and the local school board—that had long protected a broken education system from reform.

Katrina left the school board with few schools to run, few resources to control, and no real capacity for action, rendering it powerless to reconstruct a workable system or even to protect its turf. The union, in turn, was decimated when the absence of children and schools, along with the board’s lack of resources, led to the firing of all the district’s teachers—thus depriving the union of the members and money that
were the basis of its power. With the vested interests marginalized, state and local policymakers were freed up to engage in true innovation, and to pursue whatever systemic reforms seemed to work best. The result—achieved through much hard work and experimentation over several years—was a revolution, and an indication of what policymakers can do when vested interests are no longer powerful enough to block their efforts.

For a nation interested in better, more effective government, the New Orleans experience can’t offer a solution. Hurricanes are hardly the ticket forward. Nor, it turns out, can we depend on the apparent opportunities presented by disasters like the coronavirus pandemic or the George Floyd tragedy, neither of which have swept away the main obstacles to real reform. Even if they had, it is a damning statement about American democracy that we find ourselves relying on rare disruptive events to give us a chance of fixing our broken institutions. Any well-functioning democracy ought to be able to fix them as a matter of course. Our democracy clearly can’t—and that puts us on a dangerous path in which government increasingly fails to serve and satisfy its own citizens, fueling anger and disaffection. And worse.

If there is a way forward as a society, it lies in understanding what we are up against as we pursue more effective government. We are up against vested interests, and we are up against their power. The fact is, we can’t eliminate vested interests; they are inherent in all institutions, everywhere, all the time. That cannot be changed. What can be changed is their political power—through targeted efforts to weaken it, or to bolster the power of reformers, or to whittle away at our system’s too-many veto points. Achieving these aims is easier said than done, because the vested interests will use their power to prevent it from happening. But reformers need to press ahead anyway. That is their challenge.

The problem of better government is a problem of power—and it can’t be solved unless we see it for what it is.