

Understanding Agents as Administrations of Justice in the Everyday: Improving Governance Strategies in a COVID-regulated World

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Many people claim that the world will never be the same again due to COVID-19. For some, this is cause for concern but for others, it is a serendipitous disruption to everyday life that presents opportunities for much needed social and societal transformation. Governance has been identified as one of the most vital sites for change as crisis response aiming to mitigate and prevent the effects of the pandemic exposed and exacerbated existing structural, economic, and social inequalities.¹ Consequently, the pandemic provoked calls for fundamental changes to make governance systems more efficient, equitable, inclusive, participatory, transparent, and representative of all people. But as I argue here, to improve governance in these ways, it is important to move past solely transforming the behaviours of traditional

governance entities such as national and state governments and security agencies, intelligence agencies, corporations, regional and international organizations, religious and cultural institutions, and civil society. It is also important to understand the influence of the masses on governance trends, which the pandemic showed us explicitly in relation to the rule-making-and-enforcing component in social order.

More concretely, the pandemic revealed how agents (i.e., individuals) can and often do make independent assessments about the rightness and wrongness of actions, they can prioritize their own criteria in making such decisions, and they can pool their resources to promote and impose consequent determinations on other people. In other words, and as I explain in my analysis, COVID-19 showed us that human beings do indeed function as “administrations of justice” or institutionalized justice systems. This can be a seemingly radical conception of “administering justice” to some people, particularly, those in specific academic disciplines and sectors dedicated to operationalizing justice systems such as the courts of law. In part, this is because governance across many contexts is associated with institutionalized actors and processes not independent agents as such. However, if the masses seek to eradicate the injustices illuminated by the recent pandemic, then I argue it is crucial to facilitate a paradigm shift in

1 “5 Things COVID-19 Has Taught Us about Inequality,” World Economic Forum, accessed June 26, 2021, <https://www.weforum.org/agenda/2020/08/5-things-covid-19-has-taught-us-about-inequality/>; Frances Z. Brown Carothers Saskia Brechenmacher, Thomas and Frances Z. Brown Carothers Saskia Brechenmacher, Thomas, “How Will the Coronavirus Reshape Democracy and Governance Globally?” Carnegie Endowment for International Peace, accessed June 26, 2021, <https://carnegieendowment.org/2020/04/06/how-will-coronavirus-reshape-democracy-and-governance-globally-pub-81470>; Zia Qureshi, “Tackling the Inequality Pandemic: Is There a Cure?,” *Brookings* (blog), November 17, 2020, <https://www.brookings.edu/research/tackling-the-inequality-pandemic-is-there-a-cure/>.

governance strategies that specifically places agents at the centre of analysis and debate as administrations of justice. This shift confronts a reality about the masses, namely, their independent and cumulative power to determine whether the rule-making-and-enforcing component of governance is successful.

Drawing from examples in Canada, Uganda, the United States, and the United Kingdom,² I start my discussion by defining what I mean by an “administration of justice” and show how agents can function as such using examples from the recent pandemic and beyond. My analysis is structured in accordance with three fundamental features found across diverse justice systems: (1) they generate a set of criteria to determine just and unjust action and just response(s) to injustice, (2) they prioritize their own criteria as the appropriate framework to make such determinations, and (3) they often use their resources to enforce said criteria.

UNDERSTANDING INDIVIDUAL AGENTS AS ADMINISTRATIONS OF JUSTICE

It is common to immediately think of legal systems based on English common law when coming across the phrase “administration of justice” but the discussion here requires that we broaden the scope to also include myriad customary justice systems of Indigenous Peoples that continue to thrive or are being revived today. Accordingly, I broaden the definition of an “administration of justice” here to mean the rules and procedures that govern a set of agents and/or institutions as they work to address a clearly or loosely defined set of actions avowed as acceptable (i.e., just) and unacceptable (i.e., unjust) by said justice system.³ It is in understanding how diverse administrations of justice generally operate that one can see how individual human beings can also be thought of as such, particularly in relation to the three features that most administrations of justice share.

The first feature is generating a set of rules that guide determinations about what are just and unjust actions. In moral terms, this means justice systems function to discourage and eradicate behaviour deemed “wrong” and promote a certain set of behaviours as “right” or “good” in society. We typically see in justice systems a written or orally communicated set of unjust actions (e.g., criminal codes) and just actions (e.g., marriage formalities) for which

2 Though this argument could be relevant across diverse empirical contexts, I limit its applicability to contexts that I have lived and worked in including Canada, Uganda, the United States, and the United Kingdom.

3 Tomas Aquino Guimaraes, Adalmir Oliveira Gomes, and Edson Ronaldo Guarido Filho, “Administration of Justice: An Emerging Research Field,” *RAUSP Management Journal* 53, no. 3 (January 1, 2018): 476-82, https://doi.org/10.1108/RAUSP-04-2018-010_476-478.

the system will hold individuals and/or groups accountable. In situations that include actions that are unaccounted for in their respective frameworks, decision-makers in justice systems (e.g., judges, juries, clan heads, chiefs, matriarchs, kings, etc.) often use moral beliefs, spiritual beliefs, cultural mores and/or historic decision-making in similar situations to determine whether a new set of actions are acceptable. Admittedly, politics and profit making can play a huge role in many justice processes, but this discussion is beyond the scope of the analysis here.

Some illustrative examples of agents applying their own criteria of just action can be seen in public reactions to state-led crisis response strategies. For example, in anticipation of a COVID-19 vaccine rolling out, inhabitants⁴ across contexts started debating which populations should be prioritized using diverse criteria. Some argue in favour of prioritizing elders that live on their own⁵ as others focus on elders living in long-term care facilities where more human beings interact.⁶ Still others that are more skeptical of the vaccine altogether as it is indeed still in the experimental stages, do not like using elders as so-called “guinea pigs”, particularly seniors from BIPOC communities.⁷ Yet, some elders volunteered to go first to test the effects of the vaccine before giving it to younger generations as they “have nothing to lose and everything to gain.”⁸ In essence, we see diverse commentators considering age, general health, contributions to society, social norms, and other factors as the most appropriate criteria to make these kinds of decisions. Disagreement between commentators about the appropriate criteria shows that individual human beings can and often do use diverse factors of their choosing to determine the rightness or wrongness of a particular act. Agents in the masses also make these determinations in everyday life such as blatantly and proudly jaywalking

4 I use the term “inhabitants” in place of “citizens” throughout this essay to account for the range of statuses agents can assume in a particular society including refugees, stateless persons, migrants, tourists, expats, international students, etc.

5 “Seniors Living Independently Feel ‘Forgotten’ as Others Prioritized for COVID-19 Vaccines,” *Global News*, accessed June 6, 2021, <https://globalnews.ca/news/7588950/coronavirus-vaccine-seniors-timeline-schedule-priority-groups/>.

6 John Paul Tasker · CBC News · “Seniors, Long-Term Care Workers Should Be First in Line for COVID-19 Vaccine, Committee Says | CBC News,” *CBC*, December 4, 2020, <https://www.cbc.ca/news/politics/seniors-long-term-care-workers-first-in-line-1.5828720>.

7 Jan Hoffman and Chang W. Lee, “I Won’t Be Used as a Guinea Pig for White People,” *The New York Times*, October 7, 2020, sec. Health, <https://www.nytimes.com/2020/10/07/health/coronavirus-vaccine-trials-african-americans.html>.

8 “Opinion | The Best Early Vaccine Candidates Are the Elderly,” *Washington Post*, accessed June 6, 2021, https://www.washingtonpost.com/opinions/letters-to-the-editor/the-best-early-vaccine-candidates-are-the-elderly/2020/11/01/86c33620-19fe-11eb-8bda-814ca56e138b_story.html.

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in New York City where the act is still outlawed but under review.⁹ Another everyday example is high numbers of people using marijuana before it was decriminalized and legalized in various states and provinces across North America.¹⁰ As well, many cannabis consumers continue to buy their supply from the black market even after marijuana was legalized and made available in authorized stores.¹¹ Through their discussions and/or actions, agents

their living arrangements are unavoidably communal.¹³ We can see similar trends in everyday life as many also challenge institutionalized justice systems responses to what is deemed unjust such as issuing the death penalty to someone who has committed murder. In some states across the United States and in Uganda, the death penalty is still an option.¹⁴ Yet, there are inhabitants that problematize the hypocrisy in a justice system committing the same act

These agents are using their resources... to enforce their own criteria of determining just and unjust action.

communicate their own criteria of judging just and unjust actions in the everyday quite regularly but the pandemic helped to spotlight this capacity.

The second feature of justice systems also exhibited by agents is prioritizing their own methods of making determinations about what is just and unjust and acting accordingly. In the context of COVID-19, we see this manifest in discussions about whether the public should listen to the protocols and policies that governance bodies supply to the public. For example, some commentators in Uganda problematized state and civil society led calls for social distancing, deeming these policies unjust and reserved for the economically privileged as many people rely on daily cash transactions to meet basic needs¹² or

of murder that the justice system itself deems unjust.¹⁵ Another example in all four cases is non-adherence to laws and policies meant to eradicate racial discrimination, particularly in the public realm.¹⁶ As the pandemic illuminated in various ways, marginalized racial and ethnic communities continue to experience discrimination in all

distancing-is-a-privilege-few-can-afford.

13 Sally Hayden in Namuwongo and Kampala, "Coronavirus: Social Distancing a Distant Dream in Africa's Slums," *The Irish Times*, accessed June 6, 2021, <https://www.irishtimes.com/news/world/africa/coronavirus-social-distancing-a-distant-dream-in-africa-slums-1.4210862>.

14 Nicole Daniels, "Should the Death Penalty Be Abolished?," *The New York Times*, January 20, 2021, sec. The Learning Network, <https://www.nytimes.com/2021/01/20/learning/should-the-death-penalty-be-abolished.html>; "Uganda Abolishes Mandatory Death Penalty," *The East African*, accessed June 6, 2021, <https://www.theeastafrican.co.ke/tea/news/east-africa/uganda-abolishes-mandatory-death-penalty-1425450>.

15 International Federation of Human Rights, "Uganda: Challenging the Death Penalty," International Fact-Finding Mission (International Federation for Human Rights, October 2005); "Uganda Abolishes Mandatory Death Penalty."

16 Colin Munro, "Race Laws and Policy in the United Kingdom," in *Challenging Racism in Britain and Germany*, ed. Zig Layton-Henry and Czarina Wilpert, Migration, Minorities and Citizenship (London: Palgrave Macmillan UK, 2003), 167-88, https://doi.org/10.1057/9780230506206_10; "Constitution of the Republic of Uganda 1995, as Amended to 2017," accessed July 10, 2021, <https://constitutions.unwomen.org/en/countries/africa/uganda>; "Civil Rights Act of 1991 (Original Text) | U.S. Equal Employment Opportunity Commission," accessed July 10, 2021, <https://www.eeoc.gov/civil-rights-act-1991-original-text>; Canadian Heritage, "Guide to the Canadian Charter of Rights and Freedoms," October 23, 2017, <https://www.canada.ca/en/canadian-heritage/services/how-rights-protected/guide-canadian-charter-rights-freedoms.html>.

9 "Constantinides to Introduce Bill to Decriminalize Jaywalking in NYC," LIC Post, September 15, 2020, <https://licpost.com/constantinides-to-introduce-bill-to-decriminalize-jaywalking-in-nyc>; Clayton Guse, "Queens Councilman's Bill Would Decriminalize Jaywalking in NYC," *nydailynews.com*, accessed June 6, 2021, <https://www.nydailynews.com/new-york/ny-jaywalking-councilman-costas-constantinides-bill-streets-20200915-vjsyd3vc7fhynk6skmwyz66cwy-story.html>.

10 "The Illegalization of Marijuana: A Brief History | Origins: Current Events in Historical Perspective," accessed June 6, 2021, <https://origins.osu.edu/article/illegalization-marijuana-brief-history/page/0/1>.

11 "Canada Thought It Could Bankrupt Drug Dealers by Legalising Cannabis. It Hasn't Worked," October 25, 2019, <https://www.abc.net.au/news/2019-10-26/canada-legalised-marijuana-why-are-people-buying-from-criminals/1162770>.

12 "I Must Work to Eat," Human Rights Watch, May 26, 2021, <https://www.hrw.org/report/2021/05/26/i-must-work-eat/covid-19-poverty-and-child-labor-ghana-nepal-and-uganda>; Karsten Noko, "In Africa, Social Distancing Is a Privilege Few Can Afford," accessed June 6, 2021, <https://www.aljazeera.com/opinions/2020/3/22/in-africa-social>

four countries.¹⁷ This is in part because many people do not adhere to relevant laws in their interactions with “others”. Admittedly, many people are just unaware of their biases and problematic assumptions about other groups, which can contribute to reinforcing internalized, interpersonal, and systemic racism.¹⁸ But some agents refuse to accept that racism exists or that it is bad or unjust. They instead prioritize their own worldview, experiences, moral codes, cultural values, and myriad other factors over those of an institutionalized justice system.

The last feature agents share with administrations of justice is their willingness and capacity to use their resources (e.g., social and economic capital) to impose their own ideas about just and unjust action on other people and entities. In the context of COVID-19 response, many agents across contexts used diverse tactics to get other people to wear masks and socially distance in lieu of governance bodies enforcing these restrictions.¹⁹ We also witnessed skeptics

17 Samantha Loppie, Charlotte Reading, and Sarah de Leeuw, “Indigenous Experiences with Racism and Its Impact,” *Social Determinations of Health* (National Collaboration Centre for Indigenous Health, 2020–2014), <https://www.nccih.ca/docs/determinants/FS-Racism2-Racism-Impacts-EN.pdf>; “The Pervasive Reality of Anti-Black Racism in Canada,” *Canada - EN*, December 11, 2020, <https://www.bcg.com/en-ca/publications/2020/reality-of-anti-black-racism-in-canada>; “Resources to Understand America’s Long History of Injustice and Inequality,” *Washington Post*, accessed July 11, 2021, <https://www.washingtonpost.com/nation/2020/06/08/understanding-racism-inequality-america/>; Rashawn Ray, “Is the United States a Racist Country?,” *Brookings* (blog), May 4, 2021, <https://www.brookings.edu/blog/how-we-rise/2021/05/04/is-the-united-states-a-racist-country/>; Anthony Heath and Lindsay Richards, “How Racist Is Britain Today? What the Evidence Tells Us,” *The Conversation*, accessed July 11, 2021, <http://theconversation.com/how-racist-is-britain-today-what-the-evidence-tells-us-141657>; “OHCHR | United Kingdom: UN Experts Condemn ‘Reprehensible’ Racism Report,” accessed July 11, 2021, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27005&LangID=E>; “The Divisive Nature of Ethnicity in Ugandan Politics, Before and After Independence,” accessed July 6, 2019, <https://www.e-ir.info/2012/05/25/the-divisive-nature-of-ethnicity-in-ugandan-politics-before-and-after-independence/>; Refugee Law Project, “Compendium of Conflict in Uganda,” 2014, http://refugeelawproject.org/files/others/Compendium_of_Conflicts_final.pdf.

18 For thicker descriptions of these diverse forms of racism please see, Paradies, Yin, Ricci Harris, Ian Anderson, [2008] “The Impact of Racism on Indigenous Health in Australia and Aotearoa: Towards a Research Agenda,” *Cooperative Research Center for Aboriginal Health*. Available at: <https://www.lowitja.org.au/content/Document/Lowitja-Publishing/Racism-Report.pdf>.

19 “What Should I Do When I See Someone Ignoring Social-Distancing despite COVID-19?” *thestar.com*, April 5, 2020, <https://www.thestar.com/news/canada/2020/04/05/what-should-i-do-when-i-see-someone-ignoring-social-distancing-despite-covid-19.html>; Diana Spechler Updated June 13, 2020, and 5:00 a.m. Share on Facebook Share on Twitter View Comments 28, “Social Distancing Calls for New Methods of Consent - The Boston Globe,” *BostonGlobe.com*, accessed July 10, 2021, <https://www.bostonglobe.com/2020/06/13/opinion/bodily-consent->

calling out those that do adhere to state-issued protocols and policies, calling them “sheep”²⁰ or generally encouraging critical thinking and critical analysis of governance during the pandemic.²¹ Others that reject COVID-19 as a real local and global threat have gone as far as disallowing patrons wearing facemasks from entering their privately owned business establishments.²² These agents are using their resources, be it their words or their respective power over privately owned spaces, to enforce their own criteria of determining just and unjust action. But we have seen agents tap into their individual and coordinated power for centuries, particularly when it comes to determining a just social order and realizing fundamental human rights. In Uganda, likeminded agents in the masses mobilized to decolonize their country from oppressive British rule. In the United Kingdom, university faculty, students, and staff mobilized to “decolonize” their institutions to combat epistemic violence. In America, mass mobilization of agents produced several civil rights movements and more recently, Black Lives Matter. In Canada, women’s suffrage and Indigenous and human rights movements require(d) coordinating like minded agents in the masses to change the criteria of just and unjust action according to the state.

All the examples included in the discussion here reinforce that individual human beings can and often do function as administrations of justice in the everyday, which can have a significant impact on whether we experience our respective notions of governance. Thus, it is useful for us to understand popular criteria used by agents in the masses to determine which actions are just and unjust be it customary or codified laws from institutionalized justice systems, religion, culture, trauma, or other factors. This can help the masses, activists, and governance entities more effectively determine the types of social and societal change required to establish

age-covid-19/.

20 Jordan Kanygin, “You Are a Sheep’: Video Shows Anti-Masker Mocking Calgary Fabricland Staff, Customers,” *Calgary*, September 15, 2020, <https://calgary.ctvnews.ca/you-are-a-sheep-video-shows-anti-masker-mocking-calgary-fabricland-staff-customers-1.5106572>.

21 Jillian Kestler-D’Amours · *The Canadian Press* · “COVID-19 Conspiracy Theories Creating a ‘public Health Crisis’ in Canada, Experts Say | CBC News,” *CBC*, August 3, 2020, <https://www.cbc.ca/news/politics/covid-19-conspiracy-theories-1.5672766>; Alex, er Smith Alex, and er Smith is a senior reporter for NBC News Digital based in London, “Conspiracies Thrive in U.K. as Doctors Struggle with Covid Variant,” *NBC News*, accessed July 10, 2021, <https://www.nbcnews.com/news/world/covid-misinformation-takes-its-toll-british-doctors-teachers-n1254568>.

22 “Owner Who Refused Mask Policy Says His Gaithersburg Restaurant Will Close Indefinitely,” *DCist* (blog), accessed June 6, 2021, <https://dcist.com/story/20/07/10/owner-who-refused-mask-policy-says-his-gaithersburg-restaurant-will-close-indefinitely/>; “Sorry, No Mask Allowed’: Some Businesses Pledge to Keep out Customers Who Cover Their Faces,” *Washington Post*, accessed June 6, 2021, <https://www.washingtonpost.com/nation/2020/05/28/masks-not-allowed-coronavirus/>.

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better governance systems free from the various injustices spotlighted by the COVID-19 pandemic and beyond.

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