



Pandemics and Paradigms of Governance: Futures of the Rule of Law in the 21st Century

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Is the COVID-19 pandemic truly a pivotal moment in contemporary governance? This question has sparked multifaceted responses and spurred diverse debates and perspectives. On one side of the spectrum, there are those who ardently argue that this pandemic represents an exceedingly rare and profoundly impactful historical juncture, specifically within the domain of law and governance. In contrast, a counterpoint in this debate contends that the pandemic, rather than introducing an entirely new era, has primarily functioned as an amplifier and extension of pre-existing governing paradigms. Additionally, there is a notable contention that the pandemic has invigorated and revitalized social movements with a central focus on challenging established state structures.

Throughout history, different pandemics have given rise to distinct public health measures and governmental techniques. For instance, the response to leprosy ushered in techniques of exclusion and segregation, while the Black Death prompted the birth of quarantine and surveillance practices. Cholera outbreaks led to comprehensive sanitation efforts and the recognition that environmental factors could fall under the purview of government responsibility in disease prevention. The contemporary responses to COVID-19 are notably shaped by the unique characteristics of the pandemic and the technological landscape of the twenty-first century. However, the changes initiated by the pandemic response do not only reflect or follow from technical capacities. As in the past, they also manifest shifts in modes of governing the relationship between law and life.

The papers featured in the “Pandemics and Paradigms of Governance” special issue seek to critically explore whether the current responses to COVID-19 are giving rise to entirely new governmental techniques. Within the Canadian context, the pandemic has seemingly given rise to what could be perceived as novel expressions of federalism, as exemplified by provincial border closures. Additionally, the starkly unequal impacts of the pandemic on Indigenous, Black, and racialized communities lay bare deeply entrenched issues stemming from systemic racism and colonialism, including limited healthcare access, substandard housing, and precarious employment. The resilience and resistance demonstrated by these communities during the pandemic has ignited new calls for abolition and

Canadian Journal of Law and Society / Revue Canadienne Droit et Société, 2023,
Volume 38, no. 3, pp. 295–296. doi:10.1017/cls.2023.30

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decolonization, which emerged as central themes in the protests that gained prominence during the early stages of the pandemic. Concurrently, some governments have cited the economic uncertainties arising from the pandemic as justification for expedited resource development initiatives, encroaching further on Indigenous lands. Furthermore, this prolonged state of emergency raises profound questions about how the legal system and the courts respond to these complex realities, and how justice can be advanced while preserving the crucial distinction between rule by law and the rule of law.

The papers included in this special issue have a clear and ambitious aim: to navigate these intricate and pressing questions by scrutinizing the emergence of new legal and political trends. This endeavour unfolds through a rigorous interdisciplinary collaboration, with some contributions centring on the Canadian context while others adopt a more expansive international perspective. It is worth noting that all of these papers trace their origins back to a research workshop funded by the Social Science and Humanities Research Council of Canada, which convened at McGill University in 2022. This workshop served as an intellectual crucible where scholars from diverse disciplines converged to engage in collaborative discussions, cross-pollinating ideas, and integrating feedback from a wide array of perspectives. In this manner, the workshop facilitated a fertile environment for the refinement and enhancement of the contributions that now form this thought-provoking special issue.

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