Beyond Here Lies Somethin'

Juristocratic Reckonings in Two Narratives of Legalities

LYNETTE J. CHUA

In this chapter I present two narratives of legalities: how the state deploys law and how people interact with and experience law. The volume editors' treatment of juristocratic reckoning, especially the language of first and second phases, suggests a linear worldview in which legalities and law travel and develop linearly along with human societies, moving from one phase of reckoning to the next, perhaps eventually into utopia or dystopia. The two narratives in this chapter illustrate a different worldview, one in which human societies, law, legalities, and thus juristocratic reckonings develop cyclically as well as chronologically.

The two narratives are based on my research projects, one recently completed and the other still ongoing. The first narrative concerns a "human rights practice as a way of life," a legality flowing with connotative power (Goodale 2007). Instead of relying on the direct, instrumental power of human rights, a group of Burmese activists draws upon the capacity of rights to change the way they feel about themselves and generate the momentum to inspire, encourage, and rally others to take up collective political action. Although their country has once more descended into widespread insurrections, some of these activists still carry hope for human rights as they fight back and flee into exile again. The second narrative is about "governing through contagion," a legality afflicting state centralization over strategies of control of infectious

diseases, and processes of normalization-moralization and inter/dysconnectedness. The Singaporean state's strategies to regulate contagion grew out of earlier epidemics and global circulations of capital, violence, and ideas and mutated according to the entanglements of relationships among humans, animals, microorganisms, and technologies. As humans comply with, resist, or otherwise interact with strategies of control, these relationships produce dysconnectedness that exposes, perhaps exacerbates, existing injustices.

Although the two narratives depict divergent contexts, they capture distinctive profiles of juristocratic reckoning. In the narrative about human rights practice as a way of life, I identify three coexisting perspectives that transcend the volume editors' suggestions of different phases of juristocratic reckoning; in the story about governing through contagion, I show that a more expansive chronology and cast of actors can shape the way we understand moments of law as juristocratic reckoning. What we make of a moment of law depends on where we look for legalities, where we situate them, and how we appreciate their highs and lows.[1]

2.1   Narrative One: Human Rights Practice as a Way of Life

> Our people know human rights from their suffering. The human rights concept comes from their lives. It comes from their real life, real suffering.
>
> (Chua 2019: 68)[2]

From 2012 to 2019 I conducted ethnography on a self-described LGBT (lesbian, gay, bisexual, and transgender) rights movement that emerged in Myanmar in the 2000s and flourished in the 2010s, during the relatively more liberal period of ostensibly semicivilian rule. I was drawn to this movement because I was curious about how a group of people gained access to human rights despite being additionally marginalized due to their sexuality/gender within a general population already oppressed under military rule. I wanted to understand how they found the means and courage to organize collectively and how they reinterpreted the international discourse of human rights in light of their religious beliefs and local understandings of sexual and gender roles.

---

[1] My treatment of the relationship between law and temporalities draws upon an earlier essay, "Interregna: Time, Law, and Resistance" (Chua 2021).

[2] Unless otherwise indicated, the contents of Narrative One are based on *The Politics of Love in Myanmar* (Chua 2019).

The quote above came from the movement founder whom I called Tun Tun, when I asked how he would answer skeptics who thought human rights were alien to him and his compatriots. His answer fundamentally shaped my thinking about the movement's human rights practice, that is, how they interpreted, adapted, and used human rights. To Tun Tun and his fellow activists, to know human rights is to feel them. Tun Tun and fellow activists appreciated human rights by feeling what it is like to live in their absence – to feel the pangs of suffering – and what living in their presence augurs– to experience feelings the opposite of anguish, fear, and shame.

When living in exile in Thailand in the early 2000s, Tun Tun and other dissidents from earlier uprisings against the military, such as the 1988 protests, were drawn together by their disaffection for the military regime. Pioneers of the LGBT rights movement like Tun Tun additionally shared the pain of being discriminated as sexual and gender minorities, even within the dissident and exile community, a feeling that resonated with newcomers whom they invited to join the nascent movement. As this small group learned about human rights from one another, they drew from this deep well of personal emotions to help them merge the international discourse of human rights with the norms, beliefs, and understandings of power and hierarchy in their society. Through practicing human rights they changed their feelings about themselves, their approach to relationships with family, friends, and strangers and thus their relationally constituted selfhood. They also altered their perceptions of their own suffering – not as the consequences of bad karma or moral demerits due to transgressions in past lives but as human rights violations for whom somebody or something, such as the police or unjust laws, should be blamed. Also, by practicing human rights together as part of the movement, these activists built a community united by their emotional fealty toward human rights and their affection for one another as friends and confidantes.

Hence, in this first narrative, people enact legality through an emotional practice that animates human rights, giving them meaning and consequence. In this legality, emotions do not merely serve instrumental purposes for human rights activists to deploy as conduits or strategies. Emotions embody *all* aspects of practicing human rights, including the meaning making, circulation, implementation, and production of their outcomes. In *The Politics of Love in Myanmar* (Chua 2019), I named this legality, "human rights practice as a way of life."

2.1.1 A Legality of Connotative Power

Despite two decades of practicing human rights the Burmese LGBT rights movement did not succeed in reforming state law; for example, removing the penal provision that criminalizes same-sex relations or amending the provisions on police powers misused by officers to extort and threaten transgender women. Although lawyers allied with the movement have defended queer Burmese prosecuted in court under the above-mentioned provisions, movement activists had little expectation that they could change the law through the judiciary, known for its ineptitude, corruption, and abuse of power.[3] They placed slightly more hope in the legislature, having met on multiple occasions with National League for Democracy (NLD) parliamentarians and NLD leader Aung San Suu Kyi. However, movement leaders are realistic that sexual and gender minorities sit among a long list of other social groups also in need of legal redress, such as political dissidents, women, children, and ethnic and religious minorities.

Yet remarkably, human rights practice as a way of life is capable of achieving social change and empowerment. It is a legality brimming with connotative power (Goodale 2007) – as opposed to its more direct, instrumental capacity – to transform the ways people perceive and respond to their problems. Contrary to advocacy via formal legal channels, such as lobbying the legislature and litigating in the courts, the capacity of this legality to achieve social change starts with the self.

"I want after their training, they can come up with their idea . . . and what they want to do in the future for their community, for their society" (Chua 2019: 73). Shared feelings of pain, fear, and despair drew old and new activists together, but suffering in and of itself was insufficient to motivate them to understand and mobilize human rights collectively. Movement leaders took newcomers through a social process of grievance transformation to elicit, remake, and produce emotions that made sense of human rights for them. The process started with changing one's

---

[3] Only in one instance did a group of activist lawyers file a constitutional challenge questioning the trial court's findings of fact and accusing the police of unduly pressuring a transwoman in their custody to plead guilty by withholding access to antiretroviral medication meant for suppressing the progression of the HIV virus. They appealed the case to the Supreme Court but were unsuccessful. After the final court decision, when I asked movement leaders for the Supreme Court judgment, they could not remember where they had stored the document physically or electronically and showed little interest in it.

feelings about oneself – from negative feelings such as self-hatred, shame, and fear to positive feelings of confidence, optimism, and belief that they did not deserve to be mistreated because of their sexuality or gender. Then, as indicated by the quote above, movement leaders built on these positive feelings among newcomers to encourage them to join their movement and take up its collective practice of human rights.

The self-transformation occurred as LGBT rights activists imbued human rights with familiar cultural schemas and resources, such as their common experiences of suffering, Buddhist karmic beliefs, and social norms that regulate behavior, roles, and obligations to produce three core meanings of human rights: *dignity, social belonging, and responsibility* (of the rights bearer). Even though they drew the concept of dignity from international human rights discourse, they infused it with local notions that stress the importance of social belonging. To be accepted, to feel that one belongs in one's family or larger community, is to have dignity. In addition, they associated dignity with LGBT identities, which are usually linked to human rights discourse. They interpreted LGBT identities to signal respect for their selfhood, compared to their experiences of being insulted with derogatory words in the local language.[4] The term LGBT also signalled belonging to a new community of LGBT rights activists bound by their particular practice of human rights. Although "LGBT" does not encompass all local sexual and gender subjectivities, movement leaders intended the terminology to be a "necessary fiction" (Weeks 1995) to coalesce a force of political opposition. To unleash this force to achieve their dignity and social belonging, they further believed that the rights-bearer bore the responsibility to act by participating in collective action. Taken together, the three meanings of human rights indexed a social and collective self, rather than an individuated, autonomous person, and rendered human rights a collective good that ought to be collectively achieved.

Thus, the legality of human rights practice as a way of life sets off the momentum for social change from within the self. Following personal transformation, LGBT rights activists resisted the precarity of their lives and created a community united by their emotional fealty to human rights and affective ties to one another. As a collective, they mounted political action to challenge social norms and state laws.

---

[4] Of course, not everyone in the movement considered the use of local terms to be derogatory. In addition, outside the movement, activists did use these words among themselves and among other friends as terms of endearment.

That human rights could be made meaningful in village corners, shophouses, and dingy hotel rooms, far away from the great halls of the United Nations and the state capital, shows us their malleability to be changed and to change. This malleability threads the self, the group, and the social and state together. By tracing this legality, paying close attention to emotions, I analyzed and detailed how personal, grassroots and formal institutional dimensions of change are interrelated.

2.1.2 Multiple Temporalities, Multiple Reckonings

Human rights practice as a way of life, the legality continuously enacted by a group of Burmese activists, does not completely exemplify the volume editors' notion of juristocratic reckoning of the "first phase." According to the editors, the *loci classicus* of the first phase is the South African case examined in Chapter 1, where activists or state actors amplify law as a mechanism to address injustices. However, in the case of the Burmese LGBT movement, human rights did not become juridified in the sense of being formalized by the state institutions of Myanmar.

Instead, I suggest three alternative perspectives to understand the practice of human rights as a way of life. One is to treat the practice as a pre-first phase, taking place *prior to* the first stage of juristocratic reckoning described by the editors. Arguably, law was never juridified in Myanmar, much less human rights. Some Myanmar scholars argue that law, more than anything else, is a violent weapon of the state, a tool to crush dissent and make people bend to a political and social order desired by those in control (Cheesman 2015). Therefore, the activists in my narrative are attempting to mobilize human rights collectively to reach the first phase where the state would formalize human rights in legal instruments and through other official actions, and these laws and legal procedures would become the privileged mechanism for the state, activists, and other parties to address injustices.

Another perspective is to regard human rights practice as a way of life as *post*-second phase. According to the editors, the second phase of juristocratic reckoning involves coming to terms with the ineffectiveness of juristocracy. Confronted with a long list of criticisms I do not need to reiterate here, human rights are arguably undergoing the second phase. Nonetheless, the Burmese LGBT movement's practice is not merely a response to the failure of human rights around the world. In the midst of human rights failures and atrocities by Myanmar's state actors, these

activists imbue the discourse with hope as they mobilize it *beyond* the boundaries of law (or formal law, at the very least).

The "pre-first" and "post-second" perspectives on human rights practice as a way of life can coexist. The first perspective is situated in the temporality of Myanmar, whereas the second sits within the global temporality of international human rights. The temporality of Myanmar overlaps with those of other societies, all of which are embedded within the global temporality of the second perspective. Since February 2021, these observations are even more poignant and bring to light a third perspective on juristocratic reckoning by the Burmese LGBT movement's human rights practice.

2.1.3   Aftermath

On February 1, 2021 Myanmar's military, the *Tatmadaw,* blocked roads in the capital city, Nay Pyi Taw, and the largest city, Yangon. The *Tatmadaw* detained Aung San Suu Kyi and other leaders of NLD, which won a landslide victory in the November 2020 elections. They proclaimed a year-long state of emergency and transferred government power to the military commander-in-chief. Burmese citizens have since staged protests and civil disobedience campaigns, and the *Tatmadaw* has retaliated with intensifying violence.[5] At the time of writing, the post-coup military junta is estimated to have killed about 1,900 people.[6] Shortly after the coup, ousted parliamentarians set up a government in exile, the National Unity Government.[7]

"I have a commitment. I believe in human rights. I will never give up. I believe in doing the right thing, and the right thing will win" (Chua 2019: 143). Tun Tun, who uttered these words, and his fellow activists were filled with hope and dreams only a few years ago. The 2021 coup and its aftermath seem to have smashed them into smithereens.

Perhaps we feel as though human rights have failed. Again. The legality of human rights practice as a way of life has turned into yet another story consigned to the human rights library of failures. We might say, the malleability of human rights, their connotative capacity to enable and encourage Tun Tun and his compatriots to envision a more egalitarian, more loving society, led adherents down a dead-end street. Ardent

---

[5] www.bbc.com/news/world-asia-55902070 (last visited on May 23, 2022).
[6] https://aappb.org/?p=21537 (last visited on May 23, 2022).
[7] www.nugmyanmar.org/en/ (last visited on May 23, 2022).

belief in human rights might have made things worse. Burmese who insisted on their basic rights to elect their leader and then called upon the results to be honored might have precipitated their own deaths, when state operatives put them down with bullets, batons, and worse. We might say, human rights themselves are over, their intimations trampled upon by soldiers and crushed by tanks.

Or have they? Since the coup, it has been difficult to stay in touch with activists in Myanmar, partly due to technological challenges and partly out of concern for surveillance. Any online conversations have been brief and mundane: "How are you?"; "I'm okay"; and deliberately so. But movement leaders have not stayed quiet.

In the early days of the coup, I occasionally caught glimpses on social media of some activists in my study. One night, they were banging pots and pans in protest. On another day, in broad daylight, they were marching on the streets with banners identifying themselves as "LGBT" who rebuff the military's latest deposition of Aung San Suu Kyi. From timid youths, the younger activists in my study have transformed into leaders and, in the wake of the 2021 coup, participants of civil disobedience and organizers of demonstrations against the resurgence of dictatorship. By early 2022, some LGBT rights activists had fled to Thailand and returned to their old bases, where the movement started in the 2000s among exiles of earlier military regimes. They did not turn away from human rights. They are intent on continuing their human rights practice, by reestablishing their presence in exile and providing support to those who stayed behind in their homeland. Participating in the legality of human rights as a way of life connected LGBT rights activists to larger resistance against the coup and to the government in exile. It enabled some of them to escape the immediate trauma and terror of the current regime, find reprieve, and try to restore their hopes. As a human rights organization in exile, they continue to obtain international funding to sustain their operations and live without the fear of imminent mortal danger. Maybe one day they could also stop jumping up, startled every time they hear a sudden loud noise outside the window.

After the 2021 coup, everybody in Myanmar was exposed to the military dictatorship's brute force. However, state violence had always existed, even in the relatively freer days of the 2010s. Maybe it was more compartmentalized, exerted more explicitly against and felt more acutely among minorities, women, the poor, and others in lower stations of Burmese social hierarchy. Before the coup, the LGBT rights movement's human rights practice contained faults and fault lines that reflected such

inequalities and injustice. Bamar Buddhists dominated the leadership, and the movement privileged the majority ethnic and religious group over minorities in their outreach; transgender women and gay men – who enjoy male privilege, despite their sexuality or gender, on the basis of their assigned sex at birth – occupied the leadership ranks to the detriment of transgender men and lesbians; urban movement leaders with better formal education and English language ability controlled the purse strings and, consequently, tried to influence the agenda of grassroots organizers; and, for the price of gaining social belonging, movement leaders promoted homonormativity, by disciplining the behavior of their constituents to make them more palatable to mainstream society and drawing distinctions between "good"' and "bad" queers (Moran 2004). In the attempt to rise from the ashes in exile, to be reborn at their place of birth, where and how will old faults and fault lines reemerge?

> "Do you feel that you have just gone full circle, back to what it used to be, working in exile?"

> "No. The situation has changed. We accomplished a lot in ten years (the length of time that the movement was based inside Myanmar)."

Speaking almost twenty months after the coup, this activist felt that he and his compatriots had raised greater awareness about LGBT rights and that sexual and gender minorities had gained greater acceptance in Myanmar. During the anti-military protests, he did not believe that LGBT rights activists experienced discrimination from fellow protestors. In fact, he added, the then NLD-led government was going to repeal within five years the penal provision that criminalizes same-sex sexual relations.[8]

In the aftermath of the 2021 coup, human rights practice as a way of life is presenting one more type of juristocratic reckoning. If we situate it within the temporality of Myanmar, it is a reckoning of the previous pre-first phase, that is, the failed attempts at juridifying human rights in their country and therefore not reaching the first phase. This reckoning is not the same as the second phase, when already institutionalized laws and rights fail to live up to the goals and aspirations of social justice – because this Burmese legality had never undergone the first phase of formal juridification. If we situate the aftermath within the global

---

[8] In the interest of their safety, I withhold certain details about these activists and their activities following the 2021 coup.

temporality of human rights, then it is a continuation of the "post-second phase," a persistent mobilization beyond (formal) law. From either perspective, the legality of human rights practice as a way of life moves cyclically, but it does not trace the same circular patterns nor return to exactly the same spot, as it simultaneously traverses linearity and changes with chronological time, from the pre-2010 era of military reign through the relatively freer days of the 2010s to the current period following the 2021 coup.

2.2   Narrative Two: Governing through Contagion

> #iGotMyShot. With vaccination, you are protecting yourself and your loved ones. Let's continue to be socially responsible and mask up. Thank you for doing your part! – VACCiNATION SG.[9]

Since April 2020, a colleague and I have been conducting ethnography on strategies of control against contagious diseases in Singapore.[10] At the beginning of our research, Singapore – where I live and work – had just entered a two-month "circuit breaker," a term the government used in place of "lockdown." The government prohibited gatherings: it closed schools, recreational facilities, businesses and most workplaces; mandated physical distancing; and permitted only "essential" activities such as outdoor exercise, urgent medical visits, and the purchase and delivery of food and household necessities. We were inspired by the imposition of COVID-19 restrictions, their rapidly shifting nature in response to the evolution of the virus as well as the variations of such restrictions around the world. However, we were not merely interested in COVID-19. We wanted to analyze the interactions of state institutions, ordinary citizens, and contagious diseases across time and space and understand how strategies of control – variously aimed at prevention, containment, enforcement, and education – grew out of earlier episodes of contagion and were disseminated through capitalism, colonialism, and international bodies like the World Health Organization.

---

[9] Packaging of reusable mask distributed at a vaccination center inSingapore, May 11, 2021.

[10] Narrative Two is based on an ongoing project and the writings that my colleague and I have produced from the project so far (Chua & Lee 2021; Lee & Chua 2023; Chua & Lee 2024).
    We collect and analyze colonial and media archives, contemporary print media, internet and publicly accessible social media materials, observational data, and interviews with public health personnel, social workers, and ordinary residents.

Using Singapore as our case study, we argue that as governments and their populations engage with strategies of control in response to contagious diseases, they recursively produce "governing through contagion." The controls prescribe behavior, discipline subject morality, and ultimately strive to ensure that a population avoids incurring medical costs and stays productive so as to achieve the economic aims of the political order and secure its legitimacy. Governing through contagion may coexist with, enhance, or undermine other forms of governance and regimes of control unrelated to the primary aim of managing infectious diseases.

To formulate the theoretical framework of governing through contagion, we draw from postmodernist theories on security but intersect them with the interdisciplinary field of science and technology studies (STS) to foreground nonhuman agency alongside that of humans. The nonhuman includes creatures such as mammals and microorganisms, and the nonliving such as technologies of law and medicine. The contents of strategies of control, including its modes of power, depend on the relationships among humans, other living beings, and the nonliving. Therefore, the influence of governing through contagion expands and diminishes as strategies of controls produce, emerge from, and shift to a web of human/nonhuman/nonliving relationships.

Hence, in this second narrative, humans enact legality alongside their co-species, all with the capacity to transform their interrelated fates. The state usually possesses great but not total control. Strategies of control imposed by the state are susceptible to the failings and inconsistencies of human actors and the machinations of government, the activities of nonhuman species, and the quirks and shortcomings of nonliving things. They are also momentarily pregnable by human resistance.

2.2.1 Legalities of Centralization, Normalization, and Inter/Dysconnectedness

Governing through contagion contains three features: centralization and technology of law; normalization and technologies of moralization; and inter/dysconnectedness and the rearticulation of difference. The three features morph with strategies of control, and the phenomenon of human resistance threads through all three. I illustrate these features with my collaborative study on Singapore and draw examples from three temporal contexts – the colonial era of 1868–1915, the 2003 Severe Acute Respiratory Syndrome (SARS) outbreak, and the COVID-19 pandemic.

Centralization and technology of law: The more centralized state infrastructures are, the more quickly the state can deploy and probably the more efficiently it can implement strategies of control. In Singapore, where the legislature and executive are functionally fused, the government is able to roll out strategies of control quickly. After the legislature enacts primary legislation, the executive expeditiously issues orders and directives and nimbly mobilizes personnel for enforcement.

The colonial years of 1868–1915 laid the foundation for fast, coordinated responses to contagious diseases. The British designated Singapore as a trading post in 1819 and as part of the Straits Settlements Crown Colony in 1867. The governor of the Straits Settlements effectively controlled the Legislative Council (LegCo) and dominated law-making. The Quarantine Ordinance, passed in 1868, was the first to empower the governor to regulate outbreaks on land and incoming vessels carrying diseased persons or animals. In 1886, LegCo replaced the 1868 ordinance with the Quarantine and Prevention of Disease Ordinance (QPDO), which increased executive powers to isolate and remove infected humans, such as Chinese immigrants bearing the bubonic plague, and creatures such as dogs with rabies arriving on European ships. Developed in response to the recursive relationships among humans, critters, and germs, by 1915 the QPDO would become the infrastructural scaffolding for a centralized approach to contagious threats.

After decolonization, Singapore's postcolonial government used the Westminster parliamentary infrastructure to retain and embolden the colonial scaffolding. The QPDO, renamed the Quarantine and Prevention of Disease Act (QPDA), served as the legislative basis for postcolonial Singapore's governance of contagion until 1976. To better address the conditions of international trade and travel connected to the spread of malaria and typhoid, the government replaced the QPDA with the 1976 Infectious Diseases Act (IDA). The IDA reinforced the colonial strategies of control and stayed essentially unchanged for twenty-seven years.

The 2003 SARS outbreak marked the next formative phase of governing through contagion, when Singapore reported 238 probable cases and 33 deaths. The deadliness of the virus triggered two rounds of legislative amendments that enhanced state infrastructures. The amendments concentrated medical-related functions of investigation, prevention, and containment of outbreaks (previously shared with environmental agencies) to the Ministry of Health (MOH); expanded the definition of "health officers" to enable the deployment of more enforcement personnel; widened the scope of quarantine from hospitals and

other "suitable" locations to "home quarantine"; allowed MOH to restrict the entry of persons and goods into public or private premises; and penalized anyone who knew or suspected they were suffering from an infectious disease for being out in public and exposing others (save for going to medical treatment).

The SARS amendments set the stage for another critical phase of governing through contagion in Singapore: COVID-19. In the two months leading up to the circuit breaker in April 2020, MOH issued regulations under the IDA to prescribe physical distancing requirements, crowd sizes, and telecommuting. Ninety-six hours after the prime minister announced the circuit breaker, parliament passed the COVID-19 (Temporary Measures) Act (CTMA), and the government issued the first of many CMTA regulations the same evening. The CMTA increased executive powers already found in the IDA and extended them to economic activities: for example, protecting businesses and individuals from the inability to perform contractual obligations, or to pay damages, rent, or loans as a result of pandemic-related difficulties.

It may seem as though governing through contagion expanded progressively from the colonial period to COVID-19. However, highly centralized infrastructures merely supply the legal technology. Whether governing through contagion will expand chronologically depends on the relationships among humans, contagion, and the state. In addition, different strategies of control toward the same contagion may entangle dissimilar relationships. For example, the colonial government was more hesitant about implementing vaccination laws compared to laws on quarantine and movement restrictions. Although it was already concerned about the spread of smallpox in the 1850s, especially among children, it waited until 1868 to pass laws requiring vaccination for children and until 1915 for adults. A key reason for this hesitancy was technological deficiency. The colonial government did not know how to procure sufficient vaccine matter, which was originally humanized lymph, or how to transport it across long distances. It was only in the 1890s that the government managed to increase the vaccination rate faster, when it learned to switch to, and obtain, calf lymph.

But my collaborator and I also surmise that the government implemented smallpox vaccination measures more cautiously because it involved boundary-crossing from the nonhuman (the vaccine matter) to the human. Colonial elites made rhetorical noise about consent, and officials constantly discussed the religious objections of "natives." Although consent was probably nominal, these issues suggest that the

government was somehow uncomfortable about imposing vaccination on the colonized. By comparison, it gave little to no consideration to their wishes when implementing control measures such as those on quarantine and protective gear.

Like smallpox vaccination, COVID-19 vaccination involves crossing the boundary from nonhuman into human by introducing into the human body biological matter taken from the COVID-19 virus (in different forms depending on the type of vaccine). The Singaporean government did not make COVID-19 vaccination compulsory. Instead, it encouraged vaccination through legal technologies already in place to implement other strategies of controls, to the point that choosing not to vaccinate became highly inconvenient and troublesome. For instance, it revised containment regulations to require "vaccination differentiation," such that unvaccinated persons were banned from dining out at restaurants and cafes or entering shopping malls. When it launched child vaccination, children whose parents did not agree to vaccination were allowed to attend class but barred from after-school activities. The government also stopped covering the COVID-19 medical expenses of people who chose not to vaccinate.

Normalization and technologies of moralization: Governing through contagion in its most powerful form can achieve normalization, a deep form of dominance that shapes the discourse and norms lying behind conduct regulated by strategies of control to the point of moralization. In the most "normalized" state, the government would not need to explicitly enforce the law to compel behavior. People would obey the strategies of control without question and perhaps with full acceptance and participation in its enforcement, such as surveilling, reporting on, and demanding other subjects to comply.

Governing through contagion achieves normalization-moralization by employing law and other technological means such as vaccines, thermometers, test kits, contact-tracing apps, and quarantine facilities. The opening lines taken from the packaging of a reusable mask, which I received as I entered the thirty-minute observation area after getting my first Pfizer shot, epitomizes the combination of law and other technologies to achieve normalization-moralization. The message portrayed mask-wearing not as a legal requirement (except under limited circumstances)[11] but as a moral act – something that a responsible person would

---

[11] At the time of my vaccination, it was compulsory to wear masks at all times in public spaces unless engaging in strenuous exercises. At the time of writing, the government had removed the requirement except for visiting medical facilities.

do. Moreover, by signing off as "VACCiNATION SG," a play on the word, "vaccination," the government campaign depicted getting vaccinated as doing one's part for the nation.

The degree and contents of normalization-moralization vary across contagious episodes and sociolegal contexts, corresponding to the contagion's nature, human perceptions of the contagion, and their experiences with state logics of security and technologies. In the Straits Settlements, governing through contagion sought to safeguard the colony's public health to ensure the British Empire's economic and political hierarchy. The normalization-moralization contents of governing through contagion aimed to "civilize" "native" subjects, whom colonial officers were afraid would induce contagious spread with their culturally inferior habits. For instance, sanitary officials used chemicals to disinfect "native" dwellings and replaced "Asian" sewage disposals with Westernized sanitation systems; inspectors patrolled neighbourhoods to monitor habits such as hand washing and spitting; and officials characterized vaccination as an act of beneficence aimed at overcoming "native" prejudice.

In the postcolonial era, governing through contagion's normalization-moralization contents focused on constructing resilient, productive subjects who are united under a "Singaporean" identity and contribute to the nation's prosperity. SARS and COVID-19, respectively, established and reaffirmed the "socially responsible" subject. When the legislature passed the IDA amendments in response to the SARS outbreak, parliamentarians emphasized the critical role of law in enforcing socially responsible conduct. Politicians publicly shamed the "socially irresponsible," such as an infected family who roamed around town against doctor's orders. State-controlled media constantly reminded the population to wash their hands with soap and monitor their temperature, and ordinary citizens joined in, writing letters to newspapers to berate fellow subjects to be responsible and practice "good" hygiene. By the time of COVID-19, the "socially responsible" subject had been arguably formed. Children, parents, and teachers had cultivated the habit of temperature-taking, a requirement for students since the SARS days. Landlords put up flyers reminding people to sanitize their hands, wear masks, and maintain physical distances. Retailers and restaurants required customers to scan a QR code with their smart phones or government-issued tokens for contact-tracing purposes. Enforcement personnel dubbed "safe-distancing ambassadors" roved about shopping malls, markets, and parks, officers surveilled the quarantined by their smart phones, and zealous Singaporeans exposed lawbreakers by tracking social media postings and

filming illicit actions. Government vaccination campaigns drummed the beat of "social responsibility," as we saw with the package wrapping, and the experience of getting vaccinated became part of everyday conversation.

Of the three periods, COVID-19's reach of normalization-moralization is probably the most extensive. However, similar to centralization, normalization-moralization does not necessarily progress chronologically. It fluctuates according to human relationships with technologies and contagions of the day. In colonial Singapore, Chinese coolies associated early facilities of quarantine with poor treatment and death and refused to cooperate. During the SARS and COVID-19 era, there were people – for comfort or whatever reason – who refused to comply with quarantine orders or wear masks.

Resistance toward vaccination especially complicates the course of normalization-moralization. During the COVID-19 pandemic, people who refused vaccination cited their own moral or religious reasons, concerns with their bodily reactions, or doubts about the vaccine technology. In the colonial period, the resistance against smallpox vaccination among one segment of Malay Muslims was also on religious grounds, alternative moral beliefs that vaccination went against providence. However, some Malay Muslims also resisted vaccination because of technological inadequacies. About 30 percent of child smallpox vaccinations in the earlier period failed to produce the required bodily response, partly due to the incompetence of government-appointed vaccinators' and partly due to the poor quality of lymphs. Consequently, angry parents refused to subject their children to "revaccination." This act of resistance had broad implications, because the supply of smallpox vaccines relied on extracting lymph from the vesicles of recently, successfully vaccinated persons for use in vaccinations on other people (Lee & Chua 2023).

Inter/dysconnectedness and rearticulation of difference: The third theme of governing through contagion flows from the first two. Interconnectedness refers to the physical, spiritual, and economic linkages via technology among humans and between humans and contagion. Dysconnectedness refers to inequitable divisions among humans which are the result of technology and often exacerbations of existing differences.

To begin, contagion relies on interconnectedness with and among people by way of technologies such as food and land exploitation, transportation, and dense urban architectures. Meanwhile, strategies of control deploy technology to separate contagion from humans and the (possibly) infected humans from the uninfected, such as by quarantine,

masks, and vaccines. These interconnections and (attempts at) discon-
nections lead to dysconnectedness. For example, the ability or willingness
to establish disconnections from fellow humans and nonhumans to curb
the spread of contagion varies across individuals due to race, class, legal
status, or other attributes associated with social stratification. Such dys-
connectedness highlights and at times worsens existing differences.
In colonial Singapore, epidemics disproportionately affected Chinese
coolies and brothel workers and were aggravated by the government's
differentiated enforcement and quarantine facilities, which separated
Europeans from "natives," and upper-class Asians from Chinese coolies.
During the SARS period, "unskilled" foreign laborers were forced into
quarantine upon entry, but "professional" foreigners could self-
quarantine. During the COVID-19 pandemic, the government also
applied border controls differently between Singaporeans and foreigners
and between "professional" foreigners and "migrant" workers. Moreover,
migrant workers could not adopt distancing measures to protect them-
selves in crammed living quarters rented by their employers.

Furthermore, the theme of inter/dysconnectedness brings out the
equivocal effects of resistance. Although resistance can disrupt governing
through contagion, it can also produce more dysconnectedness.
In colonial Singapore, when Chinese coolies ran away from squalid
quarantine facilities, they were prosecuted and punished.
By comparison, when Chetties – a South Asian mercantile community –
complained about their smallpox quarantine conditions, the colonial
government responded by constructing differently classed wards for
Europeans and Asian elites. In addition, as mentioned above, when
Malay Muslim parents refused "revaccination" for their children, colonial
officials conveniently attributed their resistance to "native" prejudices
and brushed aside their concerns about the deficiencies of vaccine tech-
nology that had caused the unsuccessful, initial attempts. During the
COVID-19 pandemic, some Singaporeans cast people who resisted
mask-wearing or physical distancing measures as "socially irresponsible."
If the offenders were not Singaporean, especially if they were migrant
workers, the ostracization often contained underlying tones of classism,
racism, or xenophobia already present in society.

2.2.2   Multiple Agents, Multiple Reckonings

Because of the COVID-19 pandemic a greater number of scholars started
to pay attention to public health laws regulating human conduct and

movement. During the pandemic, public health laws also seemed to have exceeded the public health mission by having to carry the additional weight of politics: In some societies COVID-19 regulations were swiftly politicized by rivalling factions to serve their positions and advantages. As a result the politicized regulations, their implementations, and the resistance against them produced inter/dysconnectedness. If we concentrate on COVID-19, we might surmise that COVID-19 was an iconic moment of indexing for juristocratic reckoning and ask which phase the interactions with COVID-19 regulations represented.

However, our analysis of governing through contagion shows that public health laws develop in a recursive, gradual manner in relation to nonhuman beings and the nonliving. Governing through contagion retreated when no imminently deadly contagion lurked, whereas law did not necessarily prevail in times of heightened danger. Governing through contagion sometimes failed to expand when it was tempered by resistance of the human variety or uncontrollable or unpredictable behaviors of contagions and technologies.

Even if we accept COVID-19 as a moment of reckoning for public health laws, the legality of governing through contagion nevertheless offers another perspective on juristocratic reckoning by casting attention on a longer span of chronological time and a broader range of actors. In the narrative about the legality of governing through contagion in the Straits Settlements and Singapore, while significant and extraordinary, COVID-19 is not the only moment of juristocratic reckoning nor the genesis for harnessing legal power to subdue contagious diseases. Rather, COVID-19 is merely one of many moments in the relationship among humans, the nonliving, and the nonhuman. Like human rights practice as a way of life in my first narrative, governing through contagion is a legality that simultaneously moves chronologically and cyclically, informed by but learning from and evolving from the past.

2.2.3 After Contagion?

Many contagious diseases are now distant memories. Some of them, like smallpox, are no more than a checkbox on a child's vaccination record in Singapore and other societies. As the COVID-19 virus mutated, becoming more contagious but less lethal, people's perceptions of danger dropped. My students half-joked about catching the virus to "get it over with." At the time of writing this essay, governments around the world have drastically eased or removed COVID-19 restrictions.

What should we make of the lessons from governing through contagion thus far, including COVID-19 and especially the strategies of control that rely on legal power? Perhaps we cannot draw a single conclusion. After all, governing through contagion depends on the ever-changing configuration of human and nonhuman connections. We do not know which new contagions lie await and which may return. However, I speculate that governments and human actors will most probably call upon law, in collaboration with other technologies, to fight the next contagion. Whether or not future phases of governing through contagion will display juristocratic reckonings worthy of iconic indexicality – as the volume editors have in mind in Chapter 1 – will depend on human–nonhuman interactions. The legality of governing through contagion will probably endure, lying endemic, and like contagion will break out with the next shift in this complex set of relationships. And so we shall participate in governing through contagion, willingly or reluctantly, our fates conjoined.

2.3 Beyond Reckoning Lies Reckoning

The two narratives offering different profiles of juristocratic reckonings tender an ambivalent answer about the limits of law. In the first story, human rights practice appears to have failed after almost two decades, confronted with a recalcitrant regime that deploys law to abuse and terrorize. In the second narrative law is preoccupied with economic security and embattled with disease, perhaps inadvertently worsening injustices. Moreover, legal mobilization and resistance could be held back by law's connections to other normative orders, nonhuman beings, and things.

Nonetheless, the two stories do offer hope. In the aftermath of the 2021 coup, Burmese LGBT activists are reviving their human rights practice. Their leaders are back in exile in a neighboring country, once again informed by their recent struggles and fuelled by more memories of rage and suffering. Maybe their practice will still embody old faults and fault lines of ethnicity, religion, and gender, but maybe not in the same variation. Maybe they will learn from the past and do better this time. Around the world, the scale of COVID-19-related tragedies and strategies of controls drew our attention to wrongful treatments of marginalized human populations, as well as those of humankind's co-species and of the environment. After this bout of contagion, burdened with tragic remembrances and informed by new possibilities of technology, maybe

we can hope that humans and their governments will be more willing and able to address injustices that were exposed during the pandemic and find creative ways for law and other technologies to aid them.

Legalities move to and through chronological time, but they may not develop linearly. Legalities may carry forward old habits and problems, but they can also turn well-worn formulas into new permutations, changing them bit by bit. Because law connects to people, state and social institutions, creatures, and objects, legalities may assume multidimensional shapes traversing in plural directions and trajectories. Along these journeys in times of juristocratic reckoning, whatever the phase or name we give them, law may embody the potential to wreck harm, stay indifferent to suffering, or propel the currents of social justice.

References

Cheesman, Nick. 2015. *Opposing the Rule of Law: How Myanmar's Courts Make Law and Order*. New York: Cambridge University Press.

Chua, Lynette J. 2019. *The Politics of Love in Myanmar: LGBT Mobilization and Human Rights as a Way of Life*. Stanford: Stanford University Press.

2021. Interregna: Time, Law, and Resistance. *Law & Social Inquiry* 46 (1): 268–291.

Chua, Lynette J. and Lee, Jack Jin Gary. 2021. Governing through Contagion. In Victor V. Ramraj, ed., *Covid-19 in Asia: Law and Policy Contexts*. Oxford: Oxford University Press, 116–132.

Chua, Lynette J. and Jack Jin Gary Lee, eds. 2024. *Contagion, Technology, and Law at the Limits*. Hart.

Goodale, Mark. 2007. The Power of Right(s): Tracking Empires of Law and New Modes of Social Resistance in Bolivia (and Elsewhere). In M. Goodale and S. E. Merry, eds., *The Practice of Human Rights: Tracking Law Between the Global and the Local*. Cambridge: Cambridge University Press, 130–162.

Lee, Jack Jin Gary and Chua, Lynette J. 2023. Smallpox Vaccination and the Limits of Governing through Contagion in the Straits Settlements, 1868–1926. *Law & Policy* 45 (3): 331–352.

Moran, Leslie J. 2004. Sexuality in Law and Society Scholarship. In Austin Sarat, ed., *The Blackwell Companion to Law and Society*. Oxford: Blackwell, 487–505.

Weeks, Jeffrey. 1995. Necessary Fictions: Sexual Identities and the Politics of Diversity. In Jeffrey Weeks, ed., *Invented Moralities: Sexual Values in an Age of Uncertainty*. New York: Columbia University Press, 82–101.