COVID-19, global public health justice, and the culture of organized irresponsibility

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Abstract

This article deploys the language of risk to offer a sociological perspective on the discourse of responsibility in the context of the governance and mishandling of the COVID-19 pandemic. While current debates about global public health justice often tend to overemphasize the role of legal action as a key measure in today’s global public health justice initiatives, the article argues that lack of adequate legal mechanisms – such as a global statute on public health crimes – constitutes only one barrier to the attainment of global public health justice. By and large, the failed administration of public health during global pandemics will not induce criminal prosecution on a worldwide scale and this is not because of lack of adequate legal channels but mostly because of the way in which world risk society reshapes the meaning of responsibility. The article argues that the COVID-19 pandemic is a manufactured risk that is being dealt with within a culture of organized irresponsibility that obfuscates accountability and liability for risk-creation and risk-management and transforms culpability for such risk-creation and risk-management into acquittal. Effective approaches to global public health justice, then, cannot be limited to the introduction of international legal safeguards but need to include a project for the social redistribution of bads and reallocation of global responsibility for risk-creation and risk-management.

Keywords: COVID-19, global public health justice, organized irresponsibility, pandemic preparedness, public health crises, world risk society

Introduction

What does public health justice look like in a globalized society that has been let down by public officials and government leaders worldwide during the COVID-19 pandemic? Some would argue that its shape will depend on the global community’s capacity to successfully institute an international statute on public health crimes to prosecute wrongdoings relating to the administration of public health and to prevent future mishandlings of global public health crises. In this view, the robustness of global public health justice in the foreseeable

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The future will mostly depend on the ability to take judicial action and make it a crime to mishandle public health responses. As Scheffer (2020) argued, the COVID-19 pandemic will likely spark a global wave of legislative action to hold various government officials accountable for their blunders. In this article, however, it is argued that we should refrain from putting all our hopes for global public health justice in the hands of legislators. This is because the world risk society (Beck, 1999) we currently live in will make culpability for public health malpractice an extremely unlikely outcome. The main purpose of this article is to provide an explanation for why this is the case.

The article offers a sociological perspective on global public health justice and its challenges. Through an engagement with the sociology of risk, it problematizes the meaning of responsibility in the context of the global governance of the pandemic. Starting with a reflection on pandemic preparedness in the UK, the article shows that even countries with the resources necessary to adapt to a world at risk are vulnerable to the dynamics of risk-creation inherent in a globalized society and, thus, to mishandle risk-management operations such as the ones pertaining to pandemic preparedness. The article then goes on to construct a conceptual triangulation between pandemic preparedness, risk, and responsibility to introduce Ulrich Beck’s concept of organized irresponsibility – arguably the most important term that can be borrowed from the vocabulary of risk to make sense of the failures of global public health justice in the context of the COVID-19 pandemic. As argued in this article, the culture of organized irresponsibility that sustains world risk society is the greatest impediment to global public health justice today. The final section of the article addresses this point and argues that though the COVID-19 pandemic has led to calls for prosecution of various world leaders, the real challenge consists in mobilizing an international political movement calling for a social redistribution of bads and for a global reallocation of responsibilities for risk-creation and risk-management.

Though the article focuses mostly on the UK, the challenges posed by 21st-century risk society are global in nature and must, therefore, be approached from a global point of view, i.e., from the point of view of world risk society. The governance of the pandemic in the UK is here utilized as an analytic device to test the extent to which the sociology of risk can enrich theoretical attempts designed to explain the mishandling of global pandemics and to illuminate the link between local forms of governance and global responsibilities. As shown in this article, such an analytic exercise can help produce policy ideas that can inform the making of worldwide strategies addressing shortcomings in current regimes of global health security and global public health justice.

Pandemic preparedness: the UK example

On the 3 March 2020, only a few months into the COVID-19 pandemic, the UK Department of Health and Social Care (DHSC) (2020a) published its coronavirus action plan. The document revolves around one key concept: preparedness. The action plan repeatedly states that the UK government “is prepared” to deal with coronavirus outbreaks. Having already dealt with numerous outbreaks of major respiratory viruses – from the Spanish Flu of 1918–1919 to the severe influenza seasonal flu epidemic of the late 1980s and early 1990s – and having done influenza pandemic preparedness work, the UK is “equipped to deliver a coordinated multi-agency response to minimize wider societal impact that could arise from a significant outbreak” (DHSC, 2020a: 9). The coronavirus action plan’s confident outline of the UK’s level of pandemic preparedness echoes the findings reported in October 2019 by the Nuclear Threat Initiative (NTI) in its Global Health Security Index; the UK was ranked the second most prepared country in the world in terms of its health security and related capabilities, surpassed only by the United States (NTI, 2019). By the time the DHSC’s action plan was written, the UK government had already announced that it would provide £20 million in funding to the
Coalition for Epidemic Preparedness Innovations (CEPI) (Rogers, 2020). By the end of March, the government had pledged a total of £250 million to the CEPI – more than any other country had pledged at the time (UK Government, 2020).

The DHSC’s action plan is unequivocal about the UK government’s level of pandemic preparedness:

1.1 The current novel coronavirus (COVID-19) outbreak, which began in December 2019, presents a significant challenge for the entire world. The UK Government and the Devolved Administrations, including the health and social care systems, have planned extensively over the years for an event like this, and the UK is therefore well prepared to respond in a way that offers substantial protection to the public (DHSC, 2020a: 1).

3.2 The UK is well prepared for disease outbreaks, having responded to a wide range of infectious disease outbreaks in the recent past, and having undertaken significant preparedness work for an influenza pandemic for well over one decade (e.g., our existing plan “flu plans”). Our plans have been regularly tested and updated locally and nationally to ensure they are fit for purpose. This experience provides the basis for an effective response to COVID-19 (DHSC, 2020a: 8).

The DHSC’s action plan is one of many official sources released by the UK government over the past decade (see, for instance, Department of Health, 2011; Cabinet Office, 2013; Public Health England, 2017) that shows that the government has been doing adequate preparation for potential pandemic outbreaks – at least on paper. Some degree of legislative action has also been taken as part of the UK Government’s preparation for and response to health emergencies. The DHSC and the Civil Contingencies Secretariat (CCS), for instance, developed a draft Pandemic Influenza Bill following the 2016 Exercise Cygnus – a cross-government exercise meant to test the UK’s responsiveness to a serious influenza pandemic. Then, in late February 2020, the government planned emergency pandemic legislation – the Pandemic Influenza (Emergency) Bill – while also reassuring the public that “the UK is a world leader in preparing for and managing disease outbreaks” (McBride, 2020). About a month later, the Coronavirus Act 2020 received royal assent. Though the Global Health Security Index has proved not to be predictive of coronavirus pandemic preparedness (see Abbey et al., 2020), with the UK and the United States leading the Index by “score” only, and not actually by “response” (NTI, 2020; York, 2020), few imagined that the UK would have delivered such disappointing results when it comes to handling the COVID-19 pandemic.

That said, some hints were already being given by doctors on the ground in the first months of 2020, as the story that emerges from their assessments of the UK’s capacity to deal with health emergencies diverges sharply from the one told in official government documents and statements. Already at the beginning of March, UK doctors were saying that the country was ill-prepared for a coronavirus pandemic (Mueller, 2020). Shortages of ventilators and beds for critically ill patients, overflowed intensive care units and wintertime wards, and health workers forced to buy their own face masks, were only some of the early warning signs that a coronavirus outbreak in the UK was almost inevitably going to lead to an enormous amount of suffering and death. With the second-lowest number of hospital beds per capita in Europe and a public health service that has been severely damaged for decades by austerity-driven measures and neoliberal policies (Majeed, Rawaf, & De Maeseneer, 2012; Lafond, et al., 2014; Exworthy, Mannion, & Powell, 2016; Stoye, 2018; Gray, 2019; Goodwin, 2020; Leys, 2020), the UK could not have possibly been as prepared as the government hoped it would be when the first coronavirus fatality in the country was reported on Thursday the 5 March. The neoliberal logics that underpinned the Coalition Government’s plans to restructure the National Health Service (NHS) – which revolved mostly around reducing the role of the state in the provision of health care services and fragmenting such services through privatization – resulted in patently detrimental effects on the working life of the majority of NHS staff (Pownall, 2013). Despite the rhetoric of heroism that has been used by
politicians and government officials since the start of the pandemic to praise healthcare workers, recent data published by London Economics (2021) show that NHS staff have suffered real-terms pay cuts as high as 32% in the past ten years.

This is just one indicator of how the neoliberal politics of austerity had already left the NHS extremely fragile before the onset of the pandemic, ripping resilience out of the healthcare system (Institute for Public Policy Research, 2020; Thomas, 2020). As the British Medical Association (BMA) (2020) put it, austerity has been COVID’s little helper, and the same claim can be taken to apply to neoliberalism more broadly. As of March 2020, the UK was shielding its economy from coronavirus, but not its people (Landler, Castle, & Mueller, 2020). This was a quintessentially neoliberal policy choice that led to disastrous consequences and which has, at the same time, exposed the plague of neoliberalism and its neglect of public health while also revealing the need for a new vocabulary to make sense of the current crisis (Giroux, 2020). Such an emerging vocabulary, as I show elsewhere (Catello, 2022), can fruitfully borrow many of its key terms from the literature on state crime. Here, however, I am interested in testing the applicability of a different sort of language to the study of global pandemics and global public health justice – the language of risk. In particular, I hope to show that the sociology of risk can help us see why we need to bring about changes to the current procedures for the allocation of responsibility for risk-creation and risk-management on a global scale.

Admittedly, preparedness is an ambiguous notion; no amount of government foresight of future public health threats could have ever offered safe refuge from one of the most destructive global public health crises in recent history. That said, the disastrous impact of the COVID-19 pandemic could have certainly been ameliorated through transnational cooperation, long-term planning, and strategic funding for outbreaks and epidemics at a global scale. In January 2019, the World Economic Forum (WEF) (2019) published a White Paper on outbreak readiness and the protection of life and livelihood across the global economy to warn that most countries around the globe were not prepared for large-scale disease outbreaks. The White Paper explicitly states that infectious disease outbreaks have become a global threat, that their frequency and diversity are expected to grow, and that “the world remains ill-prepared to detect and respond to outbreaks and is not prepared to respond to a significant pandemic threat” (WEF, 2019: 6). The WEF went on to say that though all World Health Organization (WHO) Member States and a total of 196 countries have reached a legally binding agreement on the prevention of and responsiveness to global public health risks – the International Health Regulations, or IHR – most countries have not yet met the IHR’s minimum core capacity requirements. One of the key evaluative tools of the IHR – the Joint External Evaluation (JEE) – is designed to measure a country’s capacity for epidemic preparedness. Using the JEE, it was estimated – prior to the COVID-19 global outbreak – that, worldwide, the vast majority of countries (80%) are not prepared for infectious disease outbreaks. Though the COVID-19 pandemic has raised questions about the value and utility of both the IHR and the JEE (see Stowell & Garfield, 2021), it must be pointed out that the UK has not committed to a JEE. That means that the UK has not allowed external and transparent evaluations of its pandemic preparedness and outbreak readiness to be conducted (Prevent Epidemics, 2021).

This is particularly troubling if one considers that, in September 2019, the WHO Global Preparedness Monitoring Board (GPMB) (2019) published its annual report on global preparedness for health emergencies – titled A World at Risk – to raise awareness about the possibility of infectious disease outbreaks on a global scale. As the GPMB (2019: 15) put it, “the world is not prepared for a fast-moving, virulent respiratory pathogen pandemic”. Should a contagion similar to the one triggered by the 1918 global influenza pandemic occur in modern-day globalized society, the GPMB observed, that between 50 and 80 million people could lose their lives. With 1,483 epidemic events tracked globally by the WHO between
2011 and 2018, the GPMB painted a picture of a world that is in ever-greater danger of facing infectious disease outbreaks and a world at risk of succumbing to cycles of inaction, panic, and neglect when it comes to health threats and pandemics. A world at risk of recurrent, lethal infectious disease outbreaks is, according to the GPMB, a world that should value preparedness as a *global public good*. As defined by the WHO and the United Nations, preparedness refers to:

> The ability (knowledge, capacities, and organizational systems) of governments, professional response organizations, communities and individuals to anticipate, detect and respond effectively to, and recover from, the impact of likely, imminent or current health emergencies, hazards, events or conditions. (GPMB, 2019: 16)

As this definition makes clear, preparedness means being in a state of readiness that can facilitate adequate levels of responsiveness when it comes to the handling of pandemics and health crises and emergencies. The WHO (2020) advised in its 23 January 2020 statement on the first meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (2019-nCoV) that all countries had a duty to prepare for possible outbreaks. As it soon became evident, some countries did not take this advice seriously enough. Yet, as shown in the pages that follow, issues of responsibility in the context of failed public health responses to infectious disease outbreaks in a globalized world cannot easily be resolved by blaming individual countries’ political decision-making.

### Preparing for global pandemics: risk and responsibility

In the context of a world risk society that is increasingly susceptible to infectious disease outbreaks, the term “preparedness” arguably carries a significance that goes beyond the WHO definition outlined above. In the first place, preparedness means *being ready for the future*, or acting preventively and preemptively, doing work in advance, being proactive, taking precautionary measures, predicting, forecasting, and so on. In short, it means *having a measure of control over the future* (see Giddens, 1999: 3), or trying to the best of our abilities to come to know what it is that we do not yet know and to “anticipate what cannot be anticipated” (Beck, 2006: 329). Such a meaning of preparedness coincides with the WHO’s definition. The more concerned we become with the wellbeing and safety of individuals and global society, the more preoccupied with the future and with our ability to control it we become. As a consequence, a perceived need for “preparation” and risk-management grows and becomes natural over time, until it is eventually normalized at a policy level. But risk, understood as “a way of governing in terms of aggregated futures” (O’Malley, 2004: 13), is inherently ambivalent and no amount of futurism can fully protect us from the perils and uncertainties of the present. This is why the ability to control the future – that is, to be prepared for it – is inextricably bound to the capacity to be *responsible* in the present. Preparedness, that is, means at one and the same time forestalling risks and *taking responsibility* – or at least this is what insights from the sociology of risk and risk-taking seem to imply. To be prepared for a pandemic outbreak, then, is not simply a matter of having a degree of control over it. Pandemic preparedness refers both to the ability to prevent and handle future pandemics and to an aptitude to recognize what responsibility looks like in a global society that is ever more prone to global public health risks and crises.

In the first place, this means that greater emphasis should be placed on the reality that healthcare preparedness is a *national security priority* (Toner, 2017). Healthcare preparedness should aim to reduce i) the risks posed by public health threats like infectious disease outbreaks, ii) the public’s vulnerability to health threats, and iii) the long-term consequences of public health crises and emergencies. It should ultimately be guided by the principle that *preparedness saves lives* and – equally important – that there are consequences for failing to prepare; as Benjamin Franklin once put it, *by failing to prepare you
are preparing to fail. By highlighting the link between healthcare, pandemic preparedness, and national security, it becomes evident that public officials and government authorities should be answerable to the public, communities, and individuals in the event of failed public health responses and pandemic preparedness failures. Some prominent government officials, such as Dominic Cummings in the UK, made this abundantly clear – whether willingly or unwillingly – through public testimonies. In his interviews with the Health and Social Care Committee and with the Science and Technology Committee in late May 2021, Cummings lucidly established a link between governmental responsibility, national security, lack of pandemic preparedness, and the mishandling of public health responses. Cummings spoke openly about the need to make “a central person responsible for the pandemic response” and to “radically change the whole wiring of how the Cabinet Office does national security issues”. He explicitly admitted his own faults and exposed those of the government more broadly, saying that because of COVID-19 mistakes “tens of thousands of people died, who didn’t need to die”, adding “I failed, and I apologize for that”, and:

The truth is that senior ministers, senior officials and senior advisers like me fell disastrously short of the standards that the public has a right to expect of its government in a crisis like this. When the public needed us most, the government failed. I would like to say to all the families of those who died unnecessarily how sorry I am for the mistakes that were made, and for my own mistakes at that. (House of Commons, 2021)

Does such a statement amount to a claim of responsibility? It plainly sounds like an admission of guilt but, as some commentators have pointed out (see, for instance, Reicher, Drury, & Haslam, 2021), statements of this kind mostly pertain to political theater and probably will not lead to the prosecution of UK government officials.

This has a lot to do with the fact that the natural origin of viral infections tends to undermine the possibility that any one person, organization, or state might be “responsible” for infectious disease outbreaks and their handling. How can pandemic preparedness be about responsibility? No one in particular is “responsible” for the COVID-19 pandemic appears to have been the slogan of the day throughout the global pandemic. The mantra weaponized by state authorities has mostly been that we all share responsibility, that we all ought to do our part, as individuals, in order to ensure our collective safety and wellbeing – by promoting and participating in certain sanitary practices, for instance, or following social distancing rules and limiting contact with vulnerable groups of people. We should have all prepared for this. This, however, is a misguided way of thinking about responsibility, as it conflates “ethical conduct” and “liability”. The same misguided logic has led many to believe that “responsibility” for limiting global warming lies with all of us and with no one in particular when, as a matter of fact, both global warming and the COVID-19 pandemic have an origin and a cause. Whether such origins and causes are “natural” or “man-made” is not the right question to ask. In risk societies, the conventional distinction between nature and society collapses. As Chernilo (2021: 14) puts it, in our present stage of societal and technological development, it makes little sense “to talk about events that take place in nature as fully distinct from processes that belong in the realm of society”. Beck himself was unambiguous about this. The risk society designates a social formation where a clear distinction between nature and culture is lost: “Today, if we talk about nature we talk about culture and if we talk about culture we talk about nature” (1998: 10–11). The reason it is difficult to determine culpability for global warming or for the mishandling of global public health crises has little to do with the natural origins of climate change or coronaviruses. Whether the COVID-19 outbreak originated in a wet market or in a laboratory does not change the fact that the pandemic owes its destructive form and potential to the features of modern life and its complexities.
As the DHSC stated in a policy paper on UK pandemic preparedness, though pandemics are a natural phenomenon, their risk profile varies depending on patterns of human activity:

The acceleration of global mobility (for example, due to conflict or instability), population growth, urbanisation and poor sanitation, the ecological implications of climate change, and changes in food and agricultural systems (including intensification, biodiversity loss, trade in wildlife and livestock) all contribute to the risk of emergence of infectious diseases, and of antimicrobial resistance. (DHSC, 2020b)

The closing of the gap between nature and society that characterizes risk societies is arguably one of the most problematic aspects of modernization and a troubling feature of the scientific-technical societies that resulted from it. This is because a collapse of the traditional distinction between the realm of the natural and the realm of the man-made generates a tendency in the world risk society to produce manufactured risks and uncertainties – that is, humanly created risks and uncertainties – for which nobody seems to be directly responsible. In other words, a society that produces manufactured risks also tends to produce crises of responsibility, or to generate a general lack of consensus about the establishment of rules for the allocation of responsibilities – of causality and blame (Beck, 2009: 91).

In the literature on risk, this phenomenon is generally referred to as organized irresponsibility (see Beck, 1992, 1995, 2009). Organized irresponsibility refers to the overall absence of guilt, liability, and answerability for risk-creation and risk-management typical of risk societies. As a semantic tool in the vocabulary of risk, organized responsibility serves the primary purpose of exposing a fundamental contradiction that is found at work in risk societies; such societies generate risks and hazards from within, yet make such risks and hazards unattributable to them – they externalize responsibility for them. As Beck (1995: 64) put it, risk societies are "neither responsible for [the creation and management of risks] nor capable of dealing with them". As he bluntly stated, "risks are nobody's responsibility" (1998: 15).

Beck claimed that the absence of responsibility for risk-creation and risk-management that defines risk societies derives from the political culture of anonymity that typically surrounds modern bureaucracies both nationally and internationally, and that its raison d'être is a propensity to systematically transform culpability into acquittal (Beck, 2009: 92). In fact, Beck (1998: 15) went as far as characterizing modern bureaucracies themselves as forms of organized irresponsibility. More importantly, Beck maintained that organized irresponsibility is a function of the social distribution of risks and bads that ordinarily take place in risk societies. As we have learned from past nuclear accidents, recurrent environmental disasters caused by the fossil fuel industry, the financial crisis of 2008, and now the COVID-19 pandemic, potentially hazardous situations that arise in the process of modernization expose individuals to the possibility of suffering from damages for which they are not at all responsible – and often in ways that not only fail to produce culpability for risk-creation and risk-management but also reproduce inequalities and uneven power relations (Curran, 2013). At a national level, organized irresponsibility is often indistinguishable from "the unimputability of precarious decisions" made by local leaders and state authorities, whereas at an international level it is synonymous with a fragmented international legal system that, instead of attempting to hold international actors accountable for wrongdoings, obscures and evades global risks (Beck, 2009: 131).

Though Beck originally used the concept to critique judicial failures in the regulation of industrial pollution, a number of sociologists have made clear that different versions of organized irresponsibility are found at play in a range of risk-management domains, from the world of finance to prevention campaigns for child sexual exploitation and radicalization (Curran, 2015; Mythen, 2021). Arguably, then, the concept of organized irresponsibility can play an elucidatory role when it comes to explaining the failures to deliver global public health justice and to establishing culpability for mishandling public health responses to the COVID-19 pandemic as well.
One of the central challenges that the international community faces in attempting to impose responsibility for the COVID-19 pandemic and its mishandling in various countries is that of overcoming organized irresponsibility and successfully seeking accountability for risk-creation and risk-management at a global scale. Unless the culture of organized irresponsibility that sustains risk societies is addressed, attempts to legislate an international criminal code to deal with the sort of public health performance failures that have characterized the UK government’s response to the pandemic will probably be futile. While the drafting of an international criminal code on public health crimes is a much-needed endeavor (see Scheffer, 2020), such an endeavor will not necessarily be successful unless effective mechanisms for the social redistribution of risks and bads generated by the world risk society are institutionalized and integrated into the current regulatory regimes of global health security. Intuitively, the safest way of dealing with risks is to avoid them altogether, or at least to prevent their development at an early stage, and to be prepared for them. Yet, total risk-prevention in today’s world risk society is arguably a utopia. The planet is saturated with potentially catastrophic systems – from volatile financial markets to nuclear power plants and virologic threats – and people’s lives are pervaded by unpredictable risks. We have no choice but to govern risk (O’Malley, 2004) and to work toward “a systematic way of dealing with hazards and insecurities induced and introduced by modernization itself” (Beck, 1992: 21).

Beyond organized irresponsibility

Because of its responsibility for CO₂ and greenhouse gas emissions and global warming more broadly, the fossil fuel industry has been sitting at the top of the chain of risk-creation for the past decades; the risks that the industry creates and the harms it causes are man-made and manufactured – they are anthropocentric – yet a culture of organized irresponsibility has shielded those responsible for not limiting and safely managing such risks and harms from prosecution and accusations of culpability. Similarly, the COVID-19 pandemic can be regarded as a manufactured risk; it is not simply a natural catastrophe but a civilizational kind of disaster occasioned by modernization, globalization and human development (Pietrocola, et al., 2020). Though it might be more correct to classify the COVID-19 pandemic as a hybrid threat rather than a manufactured risk, that is, as a natural, pre-modern threat whose danger does not originate but is instead amplified by the features of the Anthropocene (Arias-Maldonado, 2020), the distinction between these rival conceptualizations becomes less and less relevant once it is acknowledged that the distance between nature and society dissolves and dissipates in modern risk societies. Campaigns to hold accountable those responsible for global warming such as the one led by the Union of Concerned Scientists (https://www.ucsusa.org/) have been largely ineffective. This is partly because of difficulties relating to historical accountabilities for CO₂ emissions and to the distribution of current impacts on human health (see Smith et al., 2013) and partly because a lack of correspondence between allocation of emissions and allocation of responsibilities makes it hard to determine who exactly is to blame (Timperley, 2020).

With regards to the allocation of responsibility in the context of the pandemic, however, there are signs to suggest that COVID-19 has had some degree of success when it comes to upending the relationship of the global community to the culture of organized irresponsibility that is at the heart of world risk society. Various countries have called for national inquiries into their governments’ mishandling of the pandemic, criminal complaints have been filed with the International Criminal Court (ICC), calls for the prosecution of national leaders have been made, and governments are facing accusations of crimes against humanity and even genocide. China has been the first country to be targeted by lawsuits and threats of legal action for violating the IHR, failing to control food markets,
severely damaging the world economy, and more broadly for being responsible for COVID-19 damages (Fidler, 2020; Kraska, 2020; Sengupta, 2020; Videler, 2021). In Brazil, President Jair Bolsonaro was fined for failing to adhere to health safety standards at a public event in Maranhao and investigated by the Brazilian Senate for mishandling the COVID-19 pandemic (Cowie, 2021). Bolsonaro’s failed response to the pandemic turned Brazil into a global epicenter of the COVID-19 outbreak and prompted a group of Brazilian unions and social organizations to file a criminal complaint with the ICC alleging that Bolsonaro’s mishandling – or even non-handling – of the pandemic constitutes a crime against humanity (Ackermann, 2020; Andreoni, 2021). As Ortega and Orsini (2020) argued, Brazil’s failed response to the pandemic amounts to a form of non-governance, or a form of governance without government that, when it comes to the disproportionate impact of the pandemic on Indigenous ethnic groups, has been regarded by some legal experts as attempted genocide by non-action (Mendes, 2020).

Similarly, Donald Trump’s handling of the pandemic in the US and its disproportionate impact on Native Americans led some scholars and commentators to speak of COVID-19 genocide and state crime by slow violence (Finchelstein & Stanley, 2021; Finley, 2021). More generally, assessments of the US government’s response to the COVID-19 pandemic have highlighted numerous shortfalls in both pandemic preparedness and pandemic response, with an emphasis on failures of policy and leadership as well as failure of healthcare (Altman, 2020; Carter & May, 2020; Gerstein, 2020; Mirvis, 2020). As Gellert (2021) made clear, however, it is not easy to establish what constitutes public health malfeasance by national leaders and public officials and to determine at what point malfeasance can become a high crime, misdemeanor, or violation of public trust warranting criminal prosecution. At the same time, this is the right time to pose questions about national and global public health justice, including questions about what counts as a public health crime and what should happen to those responsible for it. For what concerns Trump’s COVID-19 response, some have argued that it was in violation of international human rights law and that it should be considered a crime against humanity (Pierson, 2020; Berlatsky, 2021). Moreover, Trump’s mishandling of the crisis has given rise to calls for civil action, monetary compensation, and criminal prosecution for manslaughter and criminal negligence, with some commentators suggesting that Trump – as well as some of his associates – could face prosecution once left the White House (Hasan, 2020; Opal, 2020; Spocchia, 2020).

When it comes to the UK, calls have been made for independent public inquiries into the government’s pandemic response, and Ex-prosecutor Nazir Afzal has gone as far as saying that there could be enough evidence to prosecute Prime Minister Boris Johnson for misconduct in public office. But if Beck (1998: 9) was right in asserting that “society has become a laboratory where there is absolutely nobody in charge”, then trying to individually prosecute world leaders like Bolsonaro, Trump, and Johnson for the failed governance of COVID-19 is probably a lost cause. This does not mean that the possibility of achieving either national or global public health justice should be abandoned. Rather, efforts ought to be redirected and reoriented toward different targets, both analytically and politically. If society in the age of risk becomes “a laboratory with nobody responsible for the outcomes of the experiments” (Beck, 1998: 10), then the task at hand is precisely that of calling such a societal system into question, to expose the fact that contemporary risk politics tends to condone risk-creation and to exculpate those who fail to manage and mitigate risks. Crucially, this task demands that we keep an eye on structures and processes rather than agents and actors, that we keep in mind the bigger picture instead of obsessing about single events and individual deeds, that we focus not on politicians but on politics, not on public officials but political practices, not on national leaders but nation states, not on scientific advisors and their advice but on science itself.
What emerged from Cummings’s testimony to the joint parliamentary committee, for instance, is that the UK’s pandemic preparedness failure and mishandling of the various COVID-19 outbreaks cannot satisfactorily be exclusively attributed to lack of political leadership and should instead be regarded – in the former Chief Adviser to the Prime Minister’s own words – as a system failure. Such a claim should be handled with extreme caution, as it represents a lucid instantiation of the sorts of neutralization techniques and obfuscation practices that engender organized irresponsibility; if it is the system that failed, no particular government official is directly responsible for mishandling the COVID-19 pandemic. The bureaucracy is at it again, acting as a cradle for organized irresponsibility and shielding the powerful from blame. As Reicher, Drury, and Haslam (2021) recently pointed out, Cummings relied on similar rhetorical techniques and practices when, in the very same interviews, repeatedly blamed “groupthink” for all that went wrong with the UK Government’s response to the pandemic. As they note:

The irony of Cummings’s invocation of “groupthink” is that it actually serves to exonerate those he aims to accuse. In suggesting that the many failures of the covid response derived from something inherent in the psychology of cohesive groups, the members of the group cannot be held accountable for their decisions. (Reicher, Drury, & Haslam, 2021)

Reicher, Drury, and Haslam go on to suggest that invocations of groupthink serve to detract from an actual explanation of the organizational failures of the government’s pandemic response. Ultimately, however, Cummings’s comments about system failures point to a deeper truth. The real problem – indeed a problem that predates COVID-19 – is that adequate tools to deal with organizational deviance and governmental crime, to confront institutional and organizational failures and the missteps of those in positions of power, leadership and authority, are virtually non-existent. The extent to which pandemic preparedness has been a major problem in various countries’ pandemic responses should not be downplayed. That said, it should be recognized that, even before the pandemic, most countries were not prepared to hold either state officials and public leaders or organizations and state agencies accountable for their individual decisions or collective activities. We were not prepared to confront the culture of organized irresponsibility that continues to permeate the current political and socio-legal climate of globalized society. Such a culture remains an insurmountable barrier to the attainment of global public health justice in the present. Some of the steps that can be taken to counter the current culture of organized irresponsibility are implicitly indicated by Beck in his critique of organized irresponsibility. To begin with, the political culture of anonymity that often characterizes modern bureaucracies ought to be replaced by a culture of total transparency and clear hierarchies of responsibility for pandemic preparedness, the management of public health emergencies, the delivery of various forms of support services during public health crises, and so on. Moreover, the externalization of responsibility – from governments to civil society – must be reversed once and for all; since world risk society inevitably exposes global publics to risks for which they are in no way responsible, it is both immoral and politically genocidal to make public health an individual responsibility.

In other words, it must be made abundantly clear that a social distribution of bads that exploits a rhetoric of personalization (Cardona, 2021) and an individualistic logic of healthcare risk-management that says my health, my responsibility (Broom et al., 2014) is inherently unjust. World risk society does not distribute risks in equitable and egalitarian ways based on a group’s or a society’s capacity to manage risks, which is why the most vulnerable and disadvantaged communities across the globe have tended to suffer the most since the start of the pandemic (see, for instance, Caul, 2020; Mills et al., 2020). Beck’s observation that “risks are nobody’s responsibility” must be turned on its head; public health risks are always somebody’s responsibility and clear channels for the allocation of blame and
responsibility for the creation and management of health risks need to be incorporated into the bureaucratic structures of governmental and public health agencies. This is a goal that must be pursued both on a local and on a global scale. At a national level, what Beck calls the “the unimputability of precarious decisions” has to be upended by introducing supervisory mechanisms and public oversight and monitoring systems that can deter local leaders and state authorities from exposing the public to unnecessary health risks. At a transnational level, the current fragmentation in the international legal system can at least be partially addressed through the drafting of an international criminal code on public health crimes and related initiatives that will make it harder for international actors to evade accountability for wrongdoing and risk-mismanagement. Relatedly, current regulatory regimes of global health security must be recalibrated in a way that elevates healthcare preparedness as a global public good and a transnational security priority.

An additional set of proposals that is worth looking into and that can be fruitfully imported into discussions about the failed governance of global pandemics and global public health justice is found in the academic literature on state crime and transitional justice. The notion of civic liability or civic responsibility, for instance, is used by state crime scholars like Balint (2008, 2014) to conceive of non-individual (i.e., institutional) accountability within contexts of societal redress to mass harm following state crimes and mass atrocities: Civic liability derives from the fundamental responsibility owed by the state and non-state institutions to the society in which they are located. Civil society depends for its well-being upon a framework of strong institutions. The abrogation of the responsibility of such institutions to the wider civil society through their participation in the perpetration of gross violations of human rights means that they fail in their duty of care and assume civic liability. (Balint, 2008: 324–325)

Civic liability is a framework for organizational responsibility connected to institutional transformation and broader societal restructuring geared toward the future prevention of harm. According to Balint, such a framework could help bring institutions within the purview of conventional justice processes. Put differently, civic liability can facilitate the elaboration of an integrated formula of responsibility and accountability comprising both “criminal” liability for individuals and “civic” liability for institutions (Balint, 2014: 159). Though Balint’s main focus is on international and transitional justice rather than global public health justice, it could be argued that the creation of international frameworks for organizational responsibility is essential to the pursuit of global public health justice and to the fight against organized irresponsibility in the context of the failed governance of COVID-19. The same could be said about truth and reconciliation commissions and the institutionalization of other means of truth-telling that can help establish a historical memory of the harms suffered by communities worldwide following their exposure to health risks during global public health crises. Various calls for a “COVID-19 truth and reconciliation commission” in Italy, the US, Latin America, and elsewhere clearly attest to this (see, for instance, Lantos, 2021; Mazzucato, 2022; Reveggino & Becerra-Bolaños, 2022). These, then, are some of the possible avenues that could be usefully explored when rethinking and reimagining the allocation of responsibility for risk-management and risk-creation in the context of the failed governance of global pandemics.

Conclusion

The COVID-19 pandemic has acted as a catalyst to a partial transition from a globalized culture of organized irresponsibility to a transnational discourse on global public health risks, organizational deviance and state criminality, crimes against humanity, and responsibility for failed public health responses during global crises and emergencies. The pandemic has reminded the entire world of the need to be prepared for the complexities of modern
globalized society and of the importance of robust legal and civil mechanisms for the protection of life that can operate on a transnational scale. It has opened our eyes to the reality that effective pandemic preparedness is not the only preventive mechanism that is needed to tackle future infectious disease outbreaks and that it is equally important to confront the culture of organized irresponsibility that too often facilitates and obfuscates failed crisis-management. In the last analysis, the mass harm and destruction caused by the COVID-19 pandemic have reinvigorated a desire for justice in general and for national and global public health justice in particular. In the wake of the mass harm precipitated by the failed COVID-19 responses in various countries, we should – to borrow from Balint (2012: 102) – both look backward and look forward. We ought to focus on the harm itself, its victims, its perpetrators, and seek justice by using the existing capacities of law to shape a collective memory of past COVID-19 injustices. But we also need to imagine a post-pandemic order where the irresponsibles are unable to organize and continue to cause harm and expose global publics to unnecessary risks.

Taken on their own, individualized juridical avenues of prosecution will not bring down an entire global culture of organized unimputability; they might lead to a few isolated cases of justice being done but removing a few bad apples from a rotten apple tree does not make the tree any less rotten. The problem is at the roots. The rotten apples must be removed, but this is only half the job. We must embark on a worldwide project for the social redistribution of bads that reallocates responsibility for risk-creation and risk-management, both nationally and globally, not to individuals but to agencies, organizations, states, social structures, and political systems. The danger that lies ahead is clear; someone will develop a theory of accidents in complex systems that will, either purposefully or inadvertently, exonerate world leaders and public officials who bear responsibility for exacerbating the COVID-19 crisis – or the crises that will follow. Just like the 2008 financial crisis, most efforts will be devoted to doing damage control rather than instigating a meaningful transformation of justice processes. To paraphrase Beck (1998: 18), the catastrophic reality of the failed governance of COVID-19 will be acknowledged, yet its existence will be simultaneously denied.

Post scriptum (December 2023)

This article was written in the first half of 2022. The UK government has since launched its COVID-19 Inquiry (28 June 2022) and the article could not have possibly taken into account the developments that followed it (https://covid19.public-inquiry.uk/). It is important to note, however, that the Inquiry uses the language of “risk”, “pandemic preparedness”, and other terms that are central to the account developed above. Despite its relative obsolescence, then, the article may still provide a lens useful for analyzing the structure of the Inquiry and its possible outcomes. For instance, the Inquiry is framed as an explicitly “inquisitorial” process – as opposed to an “adversarial” one – established to examine the facts, find out “exactly what happened”, and “learn lessons for the future”. The Inquiry involves a “listening exercise” called Every Story Matters which invites every single person in the UK to share their experiences of the pandemic and has, therefore, the potential to expose the culture of organized irresponsibility critiqued in this article by way of nationwide truth-telling and truth-seeking practices. The Inquiry has also further exposed the fact that the failed governance of the pandemic in the UK was not caused by “a few bad apples” but by “a rotten system” (Kettle, 2023). This should invite even more concerted sociological efforts to theorize system failures and juridical attempts to conceptualize and institutionalize frameworks of civic liability and civic responsibility in the context of public health justice. On the other hand, the fact that the Inquiry openly avoids the language of “responsibility”, “culpability”, and “accountability” indicates that the whole exercise may turn out to be a politically savvy way to regain political legitimacy and restore public trust in the government without initiating any meaningful
project for the reallocation of political responsibility for risk-creation and risk-management. Only time will tell whether the Inquiry is a genuine development in the fight against the culture of organized irresponsibility or just another one of its tools.

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