

# A Contractual Justification for Strong Measures against COVID-19



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## Abstract

Many countries have taken extensive measures to slow COVID-19's progress and attempt to avert a sanitary collapse. Although the necessity of saving lives seems evident to many of us, these measures will nevertheless have dire economic effects and impose major costs on much of the population. A solid public justification is essential, for which a social contract perspective is useful. I argue that it helps us understand why such measures not only do justice to the claims of those who are likely to become severely ill, but also those of many others, and that no less is at stake than the foundational bonds of our communities.

In the last months, many countries have taken extensive lockdown measures against COVID-19's horrific progress. These measures, such as closing nonessential stores, bars, restaurants, sports and cultural facilities, as well as limiting travel and canceling events, aim to slow down the spread of the virus by temporarily suspending the activities that facilitate its transmission. Although the necessity of saving lives seems evident to many of us, these measures nevertheless entail dire economic effects. For some people, this will mean losing their income, savings, and/or current housing. Many will also have to give up projects dear to them. In view of their distress, as well as the ongoing political debates regarding the proportionality and duration of the lockdown measures, a solid public justification for the lockdown is essential. To this end, a social contract approach is useful.

The social contract approach seeks to articulate relationships among citizens by reflecting upon political communities and institutions as if they had arisen from a contract between all their members.<sup>1</sup> Although such a contract may

1. See, for example, Jean Hampton, "Contract and Consent," in *A Companion to Contemporary Political Philosophy*, ed. Robert E. Goodin and Philip Pettit (Cambridge, MA: Blackwell, 1993), 379-93; Celeste Friend, "Social Contract Theory," in *Internet Encyclopaedia of Philosophy*, 2004, accessed 24 April 2020, <https://www.iep.utm.edu/soc-cont/#H4>. The social contract approach is largely inherited from early modern political thinkers such as Hobbes, Pufendorf, Locke and Rousseau; see Deborah Baumgold, *Contract Theory in Historical Context: Essays on Grotius, Hobbes, and Locke* (Leiden: Brill, 2010).

be imagined to take different forms, the main idea is that citizens agree to establish a state in charge of making and enforcing laws for the sake of all citizens' safety and stability. Citizens would have both moral and instrumental reasons to abide by this agreement, as laws and authorities would significantly improve everyone's condition (at least compared to anarchy).

According to such a contract, each of us is bound to do our share for the community by obeying the law. In exchange, we benefit from the public goods provided by the state, which are dependent upon citizens' compliance with the state's commands. Often, this arrangement implies solidarity with the needs of the most vulnerable (for instance, those with limited physical or financial resources), which usually takes the form of a redistribution of resources among the community's members. This is not only required for the sake of the community but also—perhaps for its more skeptical members—is a prudential rule because each of us is likely to be in such a position of vulnerability eventually, for one reason or another. Importantly, the social contract approach is not about a systematic calculation of what each person actually gives and takes but about a general principle that should provide an orientation across various circumstances.

In times such as the COVID-19 crisis, such solidarity requires sacrifices, like the ones mentioned above, to avoid the unnecessary suffering and deaths of the persons most at risk. However, the contractual approach also helps

us understand why such measures not only do justice to the claims of those who are likely to become severely ill but also those of many others. Hospital staff and their loved ones face heavy exposure to the virus and must make immense efforts to cope. They deserve to work in better conditions than the chaos of overloaded facilities in which they must choose which lives to save and struggle with equipment and medication shortages.<sup>2</sup> The same holds for those who work at high exposure to maintain the country's fundamental infrastructure and supplies, such as supermarket staff.

We must also remember that the virus will not stop the usual diseases and accidents. Saturated hospitals have proven unable to care for their patients as they would have in normal times, which affects many more people than those sick with the virus. Let us also consider all those who will lose someone dear to them without being able to accompany them and say goodbye, possibly knowing that this person could have been saved if not for the want of resources available in normal times.

These claims comprise some of the immediate arguments in favor of significant protective measures. If these do not suffice, a more general contractual justification lies in our deeper motivation to accept the restraints and efforts imposed by life within a political community. If we choose a societal model that copes with hard blows such as pandemics by quickly abandoning those affected, playing along becomes less attractive. Why work, pay taxes, obey rules not always favorable to one's own interests, and engage politically or socially if we know that we or our loved ones will be abandoned as soon as it is expensive to provide care when it is needed? Alternatively, what happens if we realize that we are no longer worth protecting once the peak of our economic contribution lies behind us? It seems, then, that no less is at stake than the foundational bonds of our communities.

None of this is intended to minimize the losses incurred by those most heavily affected by the

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2. See Julian Savulescu and Dominic Wilkinson, "Who Gets the Ventilator In the Coronavirus Pandemic? These Are the Ethical Approaches to Allocating Medical Care," *ABC News*, 17 March 2020, accessed 23 April 2020, <https://www.abc.net.au/news/2020-03-18/ethics-of-medical-care-ventilator-in-the-coronavirus-pandemic/12063536>.

lockdown. On the contrary, the social contract approach only makes plain that genuine support is due to those for whom solidarity comes at a high price, including from those citizens relatively unimpacted by the virus and the measures deployed to harness it. Again, not only is this necessary for the flourishing of the community in which those citizens have acquired such a safe position, but it must also be kept in mind—again for the more skeptical—that they could well have been affected under slightly different circumstances.

Neither are these thoughts meant to embellish the situation as it was before COVID-19, as if to suggest that all of our interactions were fair before the outbreak of the pandemic. The social contract approach aims to formulate an ideal to strive for and a standpoint from which to assess our societies, not to depict their realities. It is not difficult to think of people who benefit far less from the organization of their communities than others do or who seem forgotten in any such contract. The current crisis itself brings out neglected needs, especially those related to health and precarity, as well as questionable inequalities of work and education conditions.<sup>3</sup> Let us at least take COVID-19 as a wakeup call in this respect.

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3. See, for example, Gottfried Schweiger, "Recognition in Times of COVID-19," *Justice Everywhere*, 26 March 2020, accessed 23 April 2020, <http://justice-everywhere.org/general/recognition-in-times-of-covid-19/>; Agomoni Ganguli Mitra, "Social Justice Should Be Key to Pandemic Planning and Response," *Centre for Biomedicine, Self and Society*, 4 March 2020, accessed 23 April 2020, <https://www.ed.ac.uk/usher/biomedicine-self-society/centre-news/social-justice-should-be-key-to-pandemic-planning>; Michael J. Sandel, "Are We All in This Together?" *The New York Times*, 13 April 2020, accessed 23 April 2020, <https://www.nytimes.com/2020/04/13/opinion/sunday/covid-workers-health-care-fairness.html>.

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A Public Holistic Response

Janet Jones



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In order to curb the spread of the novel coronavirus, we are being told to stay home and keep our distance. By physically distancing ourselves, the evidence shows, we stand to save thousands of lives, mitigate the impact on overwhelmed health care facilities, and prevent the evolution of a pandemic that threatens our way of living. But, as Laetitia Ramelet points out, the physical distances mandated between us can be quite costly and, for that reason, for some of us, the potential to save lives isn't enough to outweigh those costs.

Perhaps picking up on the self-centered nature of these sorts of complaints, Ramelet argues that we need a contractual justification for some of the stronger coronavirus lockdowns and measures. One of the benefits of a contractual approach is that it helps break down costs and benefits at the individual level, so if individuals are concerned about themselves, then this is the right way to go. Indeed, I think Ramelet is on to something; a me-vs.-them attitude helps to account for some of the protests that have taken place and continue to take place in the United States and Canada.

What surprised me, however, is that Ramelet invokes the concept of solidarity to make the argument. In Ramelet's own words, a contractual approach to the pandemic measures implies "solidarity with the needs of the most vulnerable," and that "such solidarity requires sacrifices." So, it seems as though Ramelet wants to say that the strong measures justified by a contractual approach can foster solidarity and it is that solidarity which actually facilitates compliance with the strong coronavirus-related measures. Yet, if that's true, then does that mean that solidarity can be borne of compliance and obedience?

If we think of relations of solidarity in identity politics, it is fairly evident that the solidarity there arises from common interests or goals and compassion for the other, not out of a contractual duty or obligation. The upshot is that, when solidarity is prioritized, there is no need to enforce compliance; self-regulation works well because everyone has a stake in what goes on. So, if Ramelet is right that some kind of justification is needed for all the coronavirus-related measures, then what is it about the coronavirus that affects our relationships with others? Why is it so hard for some of us to see that "We're all in this together"? What can the coronavirus teach us about solidarity?

## Contributor Information

**Janet Jones** is a PhD student in Applied Philosophy at the University of Waterloo (in Waterloo, Canada). Her research interests include bioethics (especially in connection to drug addiction and harm reduction), feminist epistemology, and relational ethics. She has been featured on [ImpactEthics.ca](https://www.impactethics.ca) and [Rejoinder](https://www.rejoinder.ca).