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# Rethinking Minimum Guarantees after the Pandemic: The Invisible Violence of Neoliberal Rationality

Ozan Kamiloğlu, Lecturer, School of Law and Human Rights Centre [DOI: 10.5526/xgeg-xs42\_004]

## Abstract

This essay suggests that the pandemic brings unprecedented economic and social challenges while simultaneously opening the door for the renegotiation of minimum guarantees that human rights discourses conceptualise. The particular conditions of the pandemic have the potential to crystallise slow and structured forms of violence, and widen our imagination of the possibilities for human rights discourses. This is especially the case because neoliberal rationality doesn't have the hegemony over social movements and human rights imagination, as it may have done in the 90s.

## I. Introduction

During the pandemic, states have effectively closed their borders and declared various kinds of emergency measures and derogations from treaties. They have put in place lockdowns and other exceptional measures impacting upon the rights to life, liberty and security, health, education, food, shelter and work as well as freedoms of movement and association. The world is experiencing one of the harshest economic crises to date, leading to spikes in unemployment rates and global poverty. Simultaneously, the pandemic has signalled a time of “returning to the state” with emergency powers given to governments. In many countries, governments have responded with power which human rights frameworks have been incapable of tempering. In the UK, the Coronavirus Act 2020 in addition to changes to the Public Health (Control of Disease) Act 1984, has introduced provisions which will have a severe impact on vulnerable individuals.<sup>1</sup>

What is striking is how utilitarianism and the technocracy of experts seem to have become the dominant policy making principle, which inevitably brings disproportionate consequences for those who are already vulnerable, including people with mental health challenges, women in gendered spaces, as well as poor and racially marginalised communities. Utilitarianism for the “common good” against individual rights, invites “herd management.” This kind of management might be necessary in some emergency situations, however, in such a complex global crisis of unknown duration, it is difficult to stop the momentum it creates, which reverberates far beyond the immediate challenges brought on by the pandemic. This pushes us away from simple crisis management, towards a situation in which we are being forced to negotiate new norms in the new normal of an emergency state together with what Andrew Ross calls ‘planetary management’.<sup>2</sup> Consequently, for human rights practitioners and activists there is an ongoing reconsideration and negotiation on “minimum guarantees” of social and individual protection and arguments over proportionality.

This paper aims to return to debates over what is not visible to the “minimum guarantees” of liberal human rights discourses while focusing on historical construction of the terms

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<sup>1</sup> Alex Ruck Keene, ‘Capacity in the Time of Coronavirus’, (2020) 70 *International Journal of Law and Psychiatry*.

<sup>2</sup> Andrew Ross, *Strange Weather: Culture, Science and Technology in the Age of Limits* (New York: Verso, 1991), 207–212.

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parallel to that of neoliberalism. I will argue that, the current crisis makes what used to be invisible, visible, and allows us to reconsider historical negotiation over what minimum guarantees human rights can provide. This debate has been traditionally between economic and social rights on one side and political rights on the other, however there are also other forms of violence and violations at play, that used to be invisible and which are now apparent. The historical debate over austerity and the global administration of debt is where my focus lies, in order to make the claim for the need for a wider debate about the purpose of human rights.

## II. The Minimal Utopia of Human Rights

In order to develop a discourse that can claim to be globally valid and legally instrumental, agreeing on a certain set of minimal rights has always been necessary. On its way to becoming a part of the dominant language of global governance, actors keep negotiating over the limits of that minimum content and measure of rights. Samuel Moyn argues that, when it comes to social and economic rights, human rights oscillate between an understanding of rights that offer minimum guarantees for formal equality and substantive equality aiming at social welfare. Similarly, Goldman demonstrates that the 1970s marks the basic (human) needs approach with an egalitarian concept of economic, social and cultural rights, and during these years human rights 'lent themselves as a comprehensive framework for contesting austerity in the name of redistributive equality.'<sup>3</sup> In the following decade, the 1980s, after the debt crisis in the Global South, austerity measures demanded structural adjustments from states by the International Monetary Fund, and rarely have been contested with rights discourses. Towards the end of the 1990s, the 'IFIs [International Finance Institutions] avoided the issue of human rights, but reacted by adding "social" components to austerity that aligned with their focus on efficiency and growth and further entrenched sufficiency.'<sup>4</sup> Finally following the crisis of 2008, some progress has been made in regards to mitigating the effects of austerity with human rights standards.

These oscillations regarding the relationship between social and economic rights and the minimum standards of human rights discourses, brings us back to much wider political questions. As Wendy Brown referring to human rights, reminds us, 'all such projects are situated in political, historical, social, and economic contexts with which they dynamically engage.'<sup>5</sup> The genealogy of human rights discourses discloses this situatedness of minimal rights, which has, depending on the wider context, validity and leverage over financial institutions. Nonetheless, this is not only a question of "what kind of rights" but also how do we quantify and monitor the violations and suffering caused by state actions. Methodologically, human rights measurement requires some kind of quantification, and during these debates economic and social rights are considered indeterminate.<sup>6</sup> Moreover, other forms of violence are entirely invisible to current methods applied by states and human rights organisations. Thus, the genealogy of what are the minimum guarantees the

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<sup>3</sup> Matthias Goldmann, 'Contesting Austerity: Genealogies of Human Rights Discourse', (2020) Max Planck Institute for Comparative Public Law and International Law Research Paper Series No. 2020-09.

<sup>4</sup> Ibid.

<sup>5</sup> Wendy Brown, 'The Most We Can Hope For...': Human Rights and the Politics of Fatalism', *Wronging Rights?* (Routledge 2012), 452.

<sup>6</sup> Rosga and Satterthwaite highlight that 'ESC [economic, social and cultural] rights have been perceived to be more indeterminate than civil and political rights.' See, AnnJanette Rosga and Margaret L. Satterthwaite, 'The Trust in Indicators: Measuring Human Rights', (2009) 27 Berkeley J Int'l Law 253.

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human rights paradigm can offer at a particular conjunction is also that of, whose voice is heard, whose death is “grievable” or who is visible from the point of view of “planetary management”. A telling example is John Rawls’ liberal concept of human rights that he defines as ‘a special class of urgent rights’ while trying to theorise the limits of liberal pluralism, however there is no explanation as to why freedom from torture is a part of the minimum standards of liberal societies, but in contrast, a minimum basic income is not.<sup>7</sup> Talal Asad, highlights that ‘financial pressures can have effects that are more far-reaching than many military adventures’ which are rarely on the radar of human rights organisations, and usually not the subject of obligations set out in any international treaty.<sup>8</sup>

If there is one lesson to be taken from the state response to the pandemic, it is how it exposes a system of structural violence over citizens, emphasising the structural hierarchies of race, class and gender in both spatial and temporal registers. Simultaneously, the pandemic also exposes the limits of human rights discourses that were developed predominantly to tackle immediate and personal forms of violence, while historically not able or less able to articulate on or respond to other forms of violence such as “slow violence”. Rob Nixon, referring particularly to environmental crisis, defines “slow violence” as ‘a violence that occurs gradually and out of sight, a violence of delayed destruction that is dispersed across time and space, an attritional violence that is typically not viewed as violence at all.’ It is different from violence ‘as an event or action that is immediate in time, explosive and spectacular in space, and as erupting into instant sensational visibility’, but instead ‘incremental and accretive, its calamitous repercussions playing out across a range of temporal scales.’<sup>9</sup> It is not spectacular, often invisible, ‘not just attritional but also exponential, operating as a major threat multiplier’. Violence that is invisible to language of “victory and defeat” and “victims and saviours” and degrades the lives of those who have no voice, the dispossessed classes and races, while unfolding over years.

As the pandemic continues it loses its event value, and simultaneously, how to organise daily life and economy during the pandemic becomes the territory of struggle. This exposes how structural violence couples with slow violence such as prisons with insufficient health and architectural capacities; refugees who are trapped at the external borders of the EU, subjected to deliberately insufficient public health conditions; the urban poor living in insufficient and crowded dwellings that costs them their health and even their lives; the workers of the gig economy and other precarious work contracts who cannot refuse to work even if they fall within the identified risk groups; women facing different forms of domestic violence systemically over years; air pollution that deteriorates human life gradually, and so on. The minimum guarantees offered by the current human rights framework are able to respond some of these challenges, however when coupled with and viewed from the intersecting lenses of class, race and gender, some of these forms of violence are perhaps, maybe for the first time, strikingly visible.

My claim is that the “ethicisation” of the violence during the 1980s and 90s shaped and severely limited the forms of violence that human rights instruments are able to address under neoliberal governmentality, and consequently, which forms of violence are out of

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<sup>7</sup> John Rawls, *The Law of Peoples: with "The Idea of Public Reason Revisited"* (Harvard University Press 2001).

<sup>8</sup> Talal Asad, 'What do Human Rights Do? An Anthropological Enquiry' (2000) 4 *Theory & Event*. See also, Jessica Whyte, 'Human rights and the Collateral Damage of Neoliberalism' (2017) 20 *Theory & Event* 137.

<sup>9</sup> Rob Nixon, *Slow Violence and the Environmentalism of the Poor* (Harvard University Press 2011).

reach. The Covid-19 crisis demonstrates the limits and potential of rights discourses to protect vulnerable people when the underlying structures of violence behind the neoliberal governmentality are exposed so clearly. I will briefly set out a short history of neoliberal governance and austerity programmes, to be able to make the argument that during the pandemic era, human rights movements and their scope are extremely important.

### III. Human Rights and the Empire

The transformations in the structures of capitalist accumulation that began in the 1970s after the infamous “Washington Consensus” had different names. Fredrick Jameson calls it “multinational capitalism”, whereas others termed it “late capitalism”, and in the contemporary literature it is described as neoliberalism.<sup>10</sup> One of the most well-developed theses in critical human rights studies is to show how current human rights discourses not only lack the tools to resist capitalism and its various permutations but instead, manage to contribute and reinforce capitalism.<sup>11</sup> Most of such accounts focus on how human rights serves to “civilise” the projects of Western states in order to permit them to pursue their economic interests and global domination. Many claim that human rights discourses are instruments of Western capitalism to justify its structures of exploitation and intervention.<sup>12</sup> Mutua, for example, describes human rights as ‘the moral guardians of global capitalism’ which is indebted to certain forms of market democracy.<sup>13</sup> Others, like Samuel Moyn, suggest that human rights and neoliberalism have shared a ‘kindred trajectory’ and reject the claim that human rights have played a causal role in ‘abetting the free market victory of the neoliberal age.’ In Moyn’s view, human rights are actually a ‘powerless companion’ that has proved inadequate to the task of ‘civilising’ neoliberalism; they are ‘an empty vessel’.<sup>14</sup> The link between the economic model being followed and the discourse of human rights is ‘chronological simultaneity, negative conditions, and vague descriptive affinity.’<sup>15</sup> A third line of thought finds a gradual “marketisation” in the human rights field that appropriates methods and structures of the market in classical liberalism and neoliberalism. Thus, the logic of the market changes the human rights discourses accordingly and the way human rights activism is being developed. According to Baxi, this is the conversion of the human rights movements into human rights ‘markets’ and according to Joseph Slaughter, ‘human rights of individuals arguably are, in their essence and effects

<sup>10</sup> For a detailed discussion see, Immanuel Maurice Wallerstein, *World-systems Analysis: An Introduction* (Duke University Press 2004).

<sup>11</sup> For some of these critical works, see, Pheng Cheah, *Inhuman Conditions: On Cosmopolitanism and Human Rights* (Harvard University Press 2006); Costas Douzinas, *Human Rights and Empire: The Political Philosophy of Cosmopolitanism*; Upendra Baxi, *Human rights in a Posthuman World: Critical Essays* (Oxford University Press 2009); Mark Goodale, *Human Rights at the Crossroads* (Oxford University Press 2012); Jose-Manuel Barreto, *Human Rights from a Third World Perspective: Critique, History and International Law* (Cambridge Scholars Publishing 2013); Makau Mutua, *Human rights: A Political and Cultural Critique* (University of Pennsylvania Press 2008).

<sup>12</sup> See, Martti Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument* (Cambridge University Press 2006); Emilie M. Hafner-Burton and Kiyoteru Tsutsui, 'Human Rights in a Globalizing World: The Paradox of Empty Promises' (2005) 110 *American Journal of Sociology* 1373; Zachary Manfredi, 'Recent Histories and Uncertain Futures: Contemporary Critiques of International Human Rights and Humanitarianism' (2013) 22 *Qui Parle: Critical Humanities and Social Sciences* 3.

<sup>13</sup> For a detailed account of these critical approaches see: Ben Golder, 'Beyond redemption? Problematising the Critique of Human Rights in Contemporary International Legal Thought' (2014) 2 *London Review of International Law* 77.

<sup>14</sup> Samuel Moyn, 'A Powerless Companion: Human Rights in the Age of Neoliberalism' (2014) 77 *Law & Contemp Probs* 147; Samuel Moyn, *The Last Utopia: Human Rights in History* (Belknap 2010), 51.

<sup>15</sup> Samuel Moyn, 'A Powerless Companion: Human Rights in the Age of Neoliberalism', (2015) 77 *Law and Contemporary Problems* 147-169.

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(for better and worse), neoliberalized human rights.<sup>16</sup> Similarly, for Orford, human rights law replicates the World Trade Organization and its process of dispute resolution, through which collective rights and interests are being subordinated to the logic of the market, which itself structures the 'responsible subject of capitalist economics.'<sup>17</sup>

At this point it is important to turn back to some old questions. In Ben Golder's words, perhaps the correct question to ask is '[w]hy is it that the supposed openness of human rights discourse [...] can so comfortably subsist with a very predictable and quite rigid outcome: the prioritised protection of a familiar set of rights functional to the operation of market exchange?'<sup>18</sup> As I have tried to show, the 'familiar set of rights' reflects wider transformations of the society and at the end of the day the market and human rights discourses operate together, and the conditions and structure of this 'work together' reflects wider transformations of the society. What these minimum rights, their scope, definition and measurement, reveal is the politics of rights struggles. Consequently, the relationship between human rights discourses and neoliberal rationality can only be conceptualised by looking at particular periods of history in a wider picture of events, with methods that go beyond any causal relationship.

To define what neoliberalism is, I follow Wendy Brown, who talks about a 'neoliberal reason' that is 'ubiquitous today in statecraft and the workplace, in jurisprudence, education, culture, and a vast range of quotidian activity is converting the distinctly political character, meaning, and operation of democracy's constituent elements into economic ones.'<sup>19</sup> This follows arguments of an early neoliberal and law professor, Franz Böhm, who stresses that '[w]e wish to bring scientific reasoning, as displayed in jurisprudence and political economy, into effect for the purpose of constructing and reorganizing the economic system.'<sup>20</sup> I will later claim that from the period starting with the crises of 2008, the pandemic marks the collapse of various tenets of neoliberal reasoning, and opens space for progress in the protection of economic and social rights and also other less visible forms of perpetual violence. Here I will briefly address the period during which economic and social rights struggles have lost ground following the 70s. This will allow me to further expound on the disappearance of various form of protections from the purview of human rights discourses, and the potential for their re-emergence.

#### IV. Human Rights at the End of the Bipolar World

The second half of 1989 represented an earthquake or shattering for world politics. The Cold War represented a constitutive divide of the world between two forms of governmentality. The discourse in the USA during the Cold War focused on imagining the Soviets as an aggressive, expansionist enemy. With Reagan and the neoliberalisation of the economy following the 'crisis of capital accumulation' during the 1970s, the belief that

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<sup>16</sup> Joseph Slaughter, 'Hijacking Human Rights: Neoliberalism, the New Historiography, and the End of the Third World' (2018) 40 *Human Rights Quarterly* 735.

<sup>17</sup> Anne Orford, *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law* (Cambridge University Press 2003) 210.

<sup>18</sup> Ben Golder, 'Beyond Redemption? Problematising the Critique of Human Rights in Contemporary International Legal Thought' (2014) 2 *London Review of International Law* 77.

<sup>19</sup> Wendy Brown, *Undoing the Demos: Neoliberalism's Stealth Revolution*, (MIT Press 2015) 17.

<sup>20</sup> Franz Böhm, Walter Eucken and Hans Grossmann-Doerth, *The Ordo Manifesto of 1936, Germany's Social Market Economy: Origins and Evolution* (Springer 1989).

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marketisation and democracy are ‘one and the same’ become dominant.<sup>21</sup> Following the fall of the Soviet Union, the USA military complex had to quickly rearrange its enemies, and construct new national threats and evils to protect its society from. Meanwhile, the dogmas of neo-liberal economy and marketisation became further entrenched. While neoliberal rationality was taking over, the discourse of American governance turned to the protection of humanity as a whole against the evil that is this time unexpected, catastrophic and shocking.<sup>22</sup> This change from the ideological warfare of the bipolar world to the monopolar construction of the bio-political – and later surveillance regime,<sup>23</sup> had the effect of instrumentalising the discourse of human rights for the purposes of humanitarian intervention.<sup>24</sup> Here again, human rights instruments have been prodded to develop around a language and practice of the war against evil, with its ever innocent victims, unforgivable perpetrators, and bystanders.<sup>25</sup>

The years during which the utopias of the 60s and 70s are lost and human rights struggles takes a particular ethical form, are also the years when economic and social rights struggles lost most of their ground. Following bold claims for a New International Economic Order during the 70s, the year 1985 marks the start of the large debt programmes of the IMF and the adoption of the Baker Plan ‘the creed that debtor states should outgrow their debt crises in a grit-your-teeth-and-get-to-it mode.’<sup>26</sup> Following Wendy Brown, “neoliberal rationality” corresponds to the entanglement of loss of the political into a particular ethics with the global administration of economy.

Chantal Mouffe once observed that:

What we are witnessing with the current infatuation with humanitarian crusades and ethically correct good causes is the triumph of a sort of moralizing liberalism’ and this is because ethics and morality are ‘filling the void left by the collapse of any project of real political transformation.’<sup>27</sup>

Likewise Judith Butler refers to a return to ethics during the 1990s and worries that this return ‘constituted an escape from politics’, and ‘it has meant a certain heightening of moralism.’<sup>28</sup> Alain Badiou, describes this turn as an ‘ethical ideology’, the endemic tendency of the Western world to conceive humanity as powerless and in need of protection from evil.<sup>29</sup> In Jacques Rancière’s words, it is judgment that is humbled by the law, and it is law that leaves no place for any alternative consideration of justice.

The “us against them” rhetoric inherited from the Cold War era, posits a homogenised community that needs to be protected, along with an incontestable meaning of justice in the post-Soviet era.<sup>30</sup> Consequently, there needs to be evils, to “fight against”, and each

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<sup>21</sup> Andre Gunder Frank. ‘No End to History! History to No End?’; ‘No End to History! History to No End?’ (1990) *Social Justice* 17, no. 4 (42) 7.

<sup>22</sup> Naomi Klein, *The Shock Doctrine* (London: Penguin, 2008).

<sup>23</sup> Michael Hardt and Antonio Negri, *Empire* (Harvard University Press 2000).

<sup>24</sup> Nico Krisch, ‘Legality, Morality and the Dilemma of Humanitarian Interventions After Kosovo’, (2002) 13(1) *European Journal of International Law* 323–35.

<sup>25</sup> Rober Meister, *After Evil: A Politics of Human Rights* (Columbia University Press 2010).

<sup>26</sup> Matthias Goldmann, ‘Contesting Austerity: Genealogies Of Human Rights Discourse’, (2020) Max Planck Institute for Comparative Public Law and International Law Research Paper Series No. 2020-09.

<sup>27</sup> Chantal Mouffe, *“Which Ethics for Democracy?”*, *The Turn to Ethics* (Routledge 2013) 85.

<sup>28</sup> Judith Butler, ‘Ethical Ambivalence’, in Marjorie Garber, Beatrice Hanssen, and Rebecca L Walkovitz (eds), *The Turn to Ethics* (Routledge 2001) 15-28.

<sup>29</sup> Alain Badiou, *Ethics: An Essay on the Understanding of Evil* (Verso 2002) 13.

<sup>30</sup> Jacques Rancière, ‘The Ethical Turn of Aesthetics and Politics’ (2006) 7 *Critical Horizons* 1.

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fight becomes a means to advance and reproduce the neoliberal agenda in different ways and in different forms. This includes, privatisation of public resources and public health and reductions in social protections, deregulation of finance and “flexibilisation” of labour, in addition to the expansion of the neoliberal model to previously uncharted territories from Eastern Europe to the Amazon. Neoliberal governmentality produces subjectivities in complex ways that include “ethicisation” of interventions, wars, extraction and accumulation. In the notorious words of Margaret Thatcher to defend neoliberal economic policies, ‘There is no alternative’<sup>31</sup> when the threat is constructed as targeting the society as a whole, and policies as inevitable utilitarian answers to that evil.

Those years presents us with probably the most stark example of how neoliberal rationality and its technocratic solutionism was uncontested by human rights discourses. Following the financial crisis of 2008 and following the cruel effects of austerity programmes, neoliberal rationality is not unchallenged anymore and together with social movements also human rights movements are energised. Nevertheless, international financial institutions presents us with another story, as has been seen with the grave human suffering caused by austerity measures put in place by the troika and IMF in Greece.<sup>32</sup> The IMF and its adjustment programmes are still indifferent to the suffering they impose, and human rights instruments have not been successful in their challenges. The IMF’s own report on Greece concluded that ‘the burden of adjustment was not shared evenly across society.’<sup>33</sup> In the case of *Koufaki and Adedy v. Greece*, the European Court of Human Rights left a very large margin of appreciation to the government regarding austerity induced wage cuts, although it was not the government but external actors imposing the austerity.

## V. Conclusions

During the first months of the pandemic, borders and states regained their hegemony over the imagination of societies that look for protection, as something all of a sudden remembered or imagined from the past. Again ironically, the neoliberal state didn’t hesitate to nationalise key industries, and redistribute the wealth in different ways such as through furlough schemes to save the economy. Nevertheless, the millions of new unemployed throughout the world are on the way to reaching record highs. Ruling elites don’t seem to be able to produce consent to lead the vulnerable to their deaths to save the economy, although not without trying. The negotiation to find the highest degree of ‘affordable harm’ continues as the burden of the crisis falls on the care workers and various other working classes and minorities. The imagination of the neoliberal state seems to be limited with finding ways to turn back to the pre-pandemic market economy, while society at large is faced with both the unequal consequences of the current capitalist arrangement and the need for a change in what has been presented for a long time as the only way, primacy of economy over the social.

Recently announced, the Pandemic Emergency Purchase Programme (PEPP) of the European Central Bank (ECB), seems to be aimed at a similar problem of who will take on

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<sup>31</sup> Speech at Conservative Women's Conference, 21 May 1980.

<sup>32</sup> Margot E. Salomon, ‘Of Austerity, Human Rights and International Institutions’, (2015) *European Law Journal*, 21: 521-545.

<sup>33</sup> *Greece: Ex Post Evaluation of Exceptional Access under the 2010 Stand-By Arrangement*, IMF Country Report No. 13/156, May 2013, para 47.

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the burden of the crisis at the European level.<sup>34</sup> Exceptionally, PEPP allows for the purchase of Member States' debts without any limit (the usual 33% limit does not apply). This means that soon countries in the North of Europe, particularly Germany, will be sending funds to the South through debt purchases. PEPP aims to protect the European Monetary Union that is under stress from the crisis. It seems that a European level redistribution and homogenisation of the economy can only result with the implementation of fiscal union.

This is not a Chinese or European pandemic however, but a global one, and it is not only Southern Europe but the Global South that lacks instruments to buffer the effects of the crisis and also lacks policy autonomy. Thus, the crisis demands the redistribution of wealth globally. The Organisation for Economic Co-operation and Development (OECD) Secretary-General Angel Gurría recommended a 'global effort akin to the last century's Marshall Plan and New Deal – combined' aimed at those who were already in physical, economic and social precarity.<sup>35</sup> However, as it is even in doubt whether the public and institutions of Northern Europe will be convinced to share the burden of the crisis with Southern European countries, how can we expect a redistribution plan to support developing countries and the Global South, in general? A recent decision of the German Constitutional Court upheld complaints against the Public Sector Purchase Programme (PSPP), and found the European Central Bank programme ultra vires.<sup>36</sup> Consequently, decision puts PEPP at risk.<sup>37</sup> It is not difficult to foresee, during the global economic crisis a new wave of IMF programmes will hit the Global South, to "save their economies". However, the ethical turn or loss of the political of the 80s and 90s isn't the valid currency of exchange anymore. Austerity regimes imposed by neoliberal states and international financial institutions but without its depoliticising discourses, allows human rights discourses to renegotiate the minimum guarantees with the hegemonic powers. In addition to the crisis in public health, the World Trade Organization<sup>38</sup> reports that developing countries face distinct and unprecedented challenges and the International Labour Organization,<sup>39</sup> anticipates devastating job contraction following the pandemic. This will inevitably lead to social movements of various sorts, unbound by an ethical construction of neoliberalism. This unprecedented crisis will therefore bring onto the table both economic and social rights and also other previously invisible forms of violence. We must seize the opportunities that this confluence of factors presents.

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<sup>34</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32020D0440&from=EN>

<sup>35</sup> <https://www.oecd.org/newsroom/oecd-secretary-general-coronavirus-war-demands-joint-action.htm>

<sup>36</sup> See, paper by Tom Flynn in this publication.

<sup>37</sup> Theodore Konstadinides, 'The German Constitutional Court's decision on PSPP: Between Mental Gymnastics and Common Sense', UK Const L Blog, 14 May 2020, <https://ukconstitutionallaw.org/>.

<sup>38</sup> WTO, 'Trade set to plunge as COVID-19 pandemic upends global economy', 8 April 2020, [https://www.wto.org/english/news\\_e/pres20\\_e/pr855\\_e.htm](https://www.wto.org/english/news_e/pres20_e/pr855_e.htm).

<sup>39</sup> ILO, 'ILO Monitor: COVID-19 and the World of Work', 2nd ed., 7 April 2020.