

The Pandemic as Political Trial

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The COVID-19 pandemic is an unprecedented global health, social, and economic crisis. Historical comparisons are few, particularly in recent decades. This tragedy constitutes nothing less than a trial for all humanity, but a trial of a unique sort. The two meanings of the French word “*épreuve*” captures the dual significance of what we now confront: *épreuve* in the sense of an ordeal, an immense and painful undertaking, but also a test, an evaluation, or a judgment. The pandemic, in other words, is now testing the capacity of our political and economic systems to cope with a global problem situated at the level of our individual interdependence, which is to say at the very foundation of our social life. Like a dystopia made real, what we are now living through provides us with a glimpse of what soon awaits humanity if global economic and political structures are unable to radically and rapidly transform in order to confront the climate change crisis.

A Statist Response to a Global Crisis?

First observation: around the world, we are all willing to rely on the sovereign power of the national state to respond to this global epidemic, in two more or less complimentary ways: on the one hand, we count on the state to enact authoritarian measures to limit personal contact, largely by establishing “states of emergency” (whether officially declared or not) as in Italy, Spain, France, and elsewhere. On the other hand, we expect the state to protect citizens from the foreign “importation” of the virus. Social discipline and national protectionism are thus the two primary weapons deployed in our fight against the pandemic. We see here the two faces of state sovereignty: internal domination and external independence.

Second observation: we equally depend on the state to help businesses of all sizes endure this trial by providing them with the financial assistance and guaranteed loans they require in order to avoid bankruptcy and retain as much of their workforce as possible. The state no longer has any qualms about spending without limits in order to save the economy (“whatever it takes!”), while just weeks ago the state opposed any request to increase hospital staff, hospital beds, or emergency services, out of its obsessive concern for budgetary constraint and limiting the public debt. The state has since rediscovered the virtues of interventionism, at least when it comes to funding private enterprise and shoring up the financial system.¹

This abrupt turnabout - which we should not confuse with the end of neoliberalism - poses a crucial question: is recourse to the prerogatives of state sovereignty, both internally and externally, an effective response to a pandemic that affects our most basic bonds of social solidarity?

What we have witnessed so far is cause for alarm. The institutional xenophobia of the state form is becoming especially manifest just as we are gaining increasing awareness of the lethal danger the virus poses for all humanity. The European states responded to the initial spread of the coronavirus in a totally uncoordinated fashion. Very quickly, most European states - Central Europe in particular - locked themselves behind the administrative walls of their national territory in order to protect their population from the “foreign virus,” and the first countries in Europe to

¹ One of the most ambitious stimulus plans to date has been implemented by Germany. Their plan constitutes an abrupt break with the ordoliberal dogmas that have been the norm since the beginning of the Federal Republic of Germany.

cloister themselves in were also the most xenophobic. Viktor Orbán set the wheels in motion: “we are waging a war on two fronts. One front is migration and the other is the coronavirus. There is a logical connection between the two, as both are spread through movement.”² The tone was thus set throughout Europe and the rest of the world: every state must look after their own – to the delight of the extreme right in Europe and elsewhere. And nothing has been more abject than the lack of solidarity with the most affected countries. Italy’s abandonment by France and Germany – who pushed selfishness to new heights by refusing to send Italy medical equipment and protective masks – sounded the death knell for a Europe built on a foundation of generalized competition between states.

Statist Sovereignty and Strategic Choices

On March 11th, the Director General of the World Health Organization, Tedros Adhanom Ghebreyesus, not only declared that we are dealing with a pandemic, but he also expressed his deep concern at the speed with which the virus was spreading and the “alarming levels of inaction” amongst states. How do we account for this inaction? The most convincing analysis has been provided by pandemic expert Suerie Moon, the Co-Director of the Global Health Centre at the Graduate Institute of International and Development Studies in Geneva:

The crisis we are going through shows the persistence of the principle of state sovereignty in world affairs ... But this is nothing surprising. International cooperation has always been fragile, but it has been even more so in the past five years or so with the election of political leaders, notably in the United States and the United Kingdom, who aspire to withdraw from globalization ... Without the comprehensive perspective that the WHO provides, we run the risk of disaster ... It thus admonishes political and health leaders around the world that the global approach to the pandemic and solidarity are essential elements that encourage citizens to act responsibly.³

² See Markus Salzmann, “Hungarian Government Uses Coronavirus Epidemic to Promote Racism.” *World Socialist Website*, March 19, 2020: <https://www.wsws.org/en/articles/2020/03/19/hung-m19.html>.

³ Interview with Suerie Moon, “Avec le coronavirus, les Etats-Unis courent au désastre.” *Le Temps*, March 12, 2020: <https://www.letemps.ch/monde/suerie-moon-coronavirus-etatsunis-courent-desastre>.

As apt as Moon's remarks are, she omits the fact that the WHO has been financially weakened for the past several decades, and is now largely dependent on private donors (80% of its funding comes from private businesses or foundations). But despite its weakened condition, the WHO could have still provided an initial framework for global cooperation in the fight against the pandemic, not only because of the reliable information it had gathered since the beginning of January, but also because its recommendations for radical and early control of the epidemic were ultimately correct. According to the Director-General of the WHO, the choice to abandon systematic testing and contact tracing, which were effective in Korea and Taiwan, was a major mistake that contributed to the spread of the virus in virtually every country.

The ultimate cause of this alarming delay were strategic choices. Italy was quickly forced to adopt a strategy of absolute confinement in order to halt the epidemic, as China had previously done. Other countries waited far too long to react, largely on the basis of the fatalist and crypto-Darwinian strategy of "herd immunity." Boris Johnson's United Kingdom was entirely passive in its initial approach, and other countries equivocated and delayed their restrictive measures, such as France and Germany, not to mention the United States. By adopting a strategy of "mitigation," or epidemic delay by "flattening the curve," these countries have *de facto* renounced any serious attempt to keep the virus under control from the start through the use of systematic screening and general confinement of the population, as was done in Wuhan and Hubei province. According to the forecasts of the German and French governments, the strategy of collective immunity necessitates 50%-80% contamination across the entire population. This amounts to accepting the deaths of hundreds of thousands - even millions - of people who are supposedly the "most fragile." All the while, the WHO's recommendations were very clear: states must not abandon systematic screening and contact tracing of anyone who tests positive for the virus.

"Libertarian Paternalism" in Epidemic Times

Why have states placed so little confidence in the WHO, and why have they not accorded the WHO a central role in coordinating the global response to the pandemic? In China, the epidemic effectively paralyzed the country both politically and economically. Freezing economic production and trade has never been practiced on such a scale, and the outcome has been a very serious economic and financial crisis in China. Germany, France, and the United States most of all, thus largely hesitated in order to keep their economies running as long as possible – or, more precisely, to balance off economic and public health imperatives based on how the situation unfolds from “day to day,” rather than heeding the more dire, long-term forecasts. It was the catastrophic projections contained in the Imperial College London report, which predicted any further hesitation would lead to the deaths of millions, that rocked governments between March 12th and 15th and compelled them to finally adopt a strategy of general confinement; but it was already much too late.⁴

What has since become abundantly apparent is the destructive influence of behavioral economics and the so-called “nudge theory” of political decision-making.⁵ We now know that the “nudge unit” (or the “Behavioural Insights Team”) that advises the British Government successfully convinced the state of their theory that individuals who are too quickly constrained by severe measures will tire and relax their discipline when the epidemic reaches its peak, which is precisely when discipline is needed most. Since 2010, Richard Thaler’s economic theory – which he outlines in the book *Nudge* (2009) – is widely thought to be the best means for producing “efficient state governance.”⁶ This approach tells us to encourage people, without coercing them, to make the best decisions through the use of “nudges”: by using gentle, indirect, comfortable, and optional influences upon individuals who are still ultimately free to make their own choices. The application of this “libertarian paternalism” in the fight against the epidemic has been two-fold: (a) the rejection of any coercive measures to regulate individual behavior and (b) a preference for “barrier gestures”: keep your distance, wash your hands, cough into your elbow, self-isolate if you

⁴ Neil Ferguson’s team modelled the spread of the virus and showed that “doing nothing” would lead to the deaths of 510,000 and 2.2 million people in the UK and the US respectively: <https://www.imperial.ac.uk/news/196234/covid-19-imperial-researchers-model-likely-impact/>.

⁵ To “nudge” is to use incentives or stimuli that steers individual behavior without recourse to coercion or restraint.

⁶ Richard Thaler and Cass Sunstein, *Nudge: Improving Decisions about Health, Wealth, and Happiness* (New Haven: Yale University Press, 2008). Also see Tony Yates, “Why is government relying on nudge theory to fight coronavirus?” *The Guardian*, March 13th, 2020: <https://www.theguardian.com/commentisfree/2020/mar/13/why-is-the-government-relying-on-nudge-theory-to-tackle-coronavirus>.

have a fever, and all for your own benefit. This wager to rely on soft, voluntary measures was risky: there is no scientific or empirical evidence demonstrating the effectiveness of this approach in the context of an epidemic. And it is now all too clear that this approach entirely failed. It's also worth recalling that French officials adopted this very same approach until March 14th. Macron initially refused to adopt strict containment measures because, as he stated on March 6th, "restrictive measures are not sustainable over time." As he exited the theatre he had attended that very same day with his wife, he declared "Life goes on. There is no reason, save for vulnerable populations, to change our social behaviors." Lurking beneath these words, which seem utterly irresponsible today, one cannot help but detect a tactic in which this libertarian paternalism allowed governments to defer the draconian measures they knew would necessarily disrupt their economies.

State Sovereignty or Public Services?

Nonetheless, the eventual failure of libertarian paternalism to contain the virus compelled the political authorities to radically change course. In France, our first glimpse of this shift was Macron's Presidential Speech on March 12th, in which he appealed to national unity, to our sacred union, and to the French people's "strength of character." Macron's next speech on March 16th was even more explicit in its martial posture and rhetoric: it's time for general mobilization, for "patriotic self-restraint," because "we are now at war." The figure of the sovereign state now manifests itself in its most extreme but also its most classic form: that of the sword that strikes the enemy, "who is there, invisible, elusive, and advancing."

But there was an even more surprising twist in the President's March 12th Address: Emmanuel Macron was suddenly and almost miraculously transformed into a staunch defender of the welfare state, and of public health. He even affirmed the impossibility of reducing everything to the logic of the market! Many commentators and politicians, several of whom are on the left, eagerly welcomed Macron's recognition of the irreplaceable importance of our public services. Yet what we witnessed here was really little more than a delayed response to Macron's public confrontation with a doctor during his visit to the Pitié Salpêtrière Hospital on February 27th. The doctor, a professor of neurology, insisted Macron provide the public hospitals with an "investment

shock” (*choc d’attractivité*), and Macron assented to the doctor’s demands, at least in principle. It was of course immediately recognized that Macron’s subsequent pronouncements were completely hollow, and they in no way called into the question the neoliberal policies his government has methodically pursued for years.⁷ Nonetheless, during the same press conference, Macron declared that “delegating our food, our protection, or our ability to take care for our living environment to others is madness. We must take back control.” This invocation of state sovereignty has been welcomed by many, especially the neo-fascists of the *Rassemblement National* (the National Rally). The defense of public services would thus seem perfectly aligned with the prerogatives of the sovereign state: removing healthcare from the logic of the market is an act of sovereignty that is now in the process of reversing the many concessions France granted to the European Union in the past. But is it so obvious that the notion of the public service is in fact aligned with the concept of state sovereignty? Does the former depend on the latter? Is the public service indissolubly linked to state sovereignty? This question deserves particularly careful consideration because it is one of the central arguments deployed by the proponents of state sovereignty.

Let’s begin by examining the very nature of state sovereignty. Etymologically, sovereignty means “superiority” (from the Latin *superamus*), but superiority in regard to what? In brief, it is superiority in regard to any laws or obligations that threaten to limit the power of the state, both in its relation to other states and in relation to its own citizens. The sovereign state places itself above any commitments or obligations, which it is then free to constrict or revoke as it pleases. But as a public figure, the state can only act through its representatives, who are all supposed to embody the continuity of the state over and above the daily exercise of their specific governmental functions. The superiority of the state therefore effectively means the superiority of its representatives over the laws or obligations that impinge upon them. This is the notion of superiority that is elevated to the rank of principle by all sovereigntists. But however unpleasant it may sound, this principle applies regardless of the political orientation of its leaders: what is essential is merely that one act as a representative of the state, regardless of one’s particular beliefs about state sovereignty. All the concessions that were successively granted to the EU by the representatives of the French state

⁷ See Ellen Salvi, “Emmanuel Macron annonce une "rupture" en trompe-l’œil.” *Mediapart*, March 13th, 2020: <https://www.mediapart.fr/journal/france/130320/emmanuel-macron-annonce-une-rupture-en-trompe-l-oeil>.

were acts of sovereignty – for the very construction of the EU, from the beginning, was based on the implementation of the principle of state sovereignty. Similarly, the fact that the French state, like so many other European states, has consistently evaded its international obligations regarding the defense of human rights is also part of the logic of sovereignty: the Declaration on Human Rights Defenders (1998) obliges signatory states to create a safe and healthy environment for human rights defenders. However, the laws and practices of signatory states, and in particular French laws and practices regarding the border it shares with Italy, violates its international obligations. The very same can of course be said with respect to climate change obligations, which states happily ignore based on their particular interests at any given time. And in matters of internal public law, state sovereignty reigns supreme there as well. To stick to the case of France, the rights of Amerindians in Guyana are routinely denied in the name of the principle of the “One and Indivisible Republic” – an expression that, once again, references the sacrosanct principle of state sovereignty. Ultimately, expressions such as these are little more than alibis that allow state representatives to exempt themselves from any obligation that might legitimate citizen control over the state.

It is important to keep this last point in mind, for it is crucial in terms of understanding the public character of the so-called “public” service. The precise meaning of the word “public” demands our full attention here, because it is too rarely recognized that the concept of “public” is absolutely irreducible to the “state.” The term “*publicum*” designates not merely the state administration, but the entire community as constituted by all citizens: public services are not state services, in the sense that the state can dispense these services as it pleases, nor are they merely an extension of the state: they are public in the sense that they exist “in the service of the public.” It is in this sense that they constitute a *positive obligation* of the state toward its citizens. Public services, in other words, are owed by the state (and its governors) to the governed. They are nothing like a favor that the state generously extends toward the governed, despite the negative connotations years of liberal polemics have imposed upon the phrase “the welfare state.” Léon Duguit, one of the most important theorists of the public service, made this fundamental point at the beginning of the twentieth century: it is the primacy of the duties of those in power in relation to the governed that forms the basis of what we call the “public service.” For Duguit, public services are not a manifestation of state power, but a limitation of governmental power. The public service is a

mechanism by which the governors become the servants of the governed.⁸ These obligations, which are imposed on those who govern as well as the agents of government, form the basis of what Duguit calls “public responsibility.” This is why the public service is a principle of *social solidarity*, one which is imposed on all, and not a principle of sovereignty, inasmuch as the latter is incompatible with the very idea of public responsibility.

This conception of the public service has largely been suppressed by the fiction of state sovereignty. But the public service nonetheless continues to make itself felt by virtue of the strong connection citizens feel toward what they still consider to be a fundamental *right*. For the citizen’s right to public services is the strict corollary of the duty or obligation of state representatives to provide public services. This is why the citizens of various European countries affected by the current crisis have demonstrated, in diverse ways, their attachment to public services in their daily fight against the coronavirus: for instance, the citizens of numerous Spanish cities have applauded their healthcare workers from their balconies, regardless of their political attitude toward the centralized unitary state. Two relations must therefore be carefully separated here: the citizenry’s attachment to the public service, and healthcare in particular, in no way suggests adherence to public authority or public power in its various forms, but rather suggests an attachment to services whose essential function is to meet the public’s need. Far from disclosing an underlying identification with the nation, this attachment gestures toward a sense of a universal that crosses borders, and accordingly renders us sensitive to the trials our “pandemic co-citizens” are enduring, whether they are Italian, Spanish, or live beyond European borders.

The Urgency of the Global Commons

We are extremely skeptical of Macron’s promise to be the first leader to question “our developmental model” after the crisis is over, and there are plenty of reasons to think that the drastic economic measures currently in place will eventually share the same fate as those enacted during the 2008 economic crisis: we will likely see a concerted effort to “return to normal” – i.e.,

⁸ Léon Duguit, *Souveraineté et liberté, Leçons faites de l’Université de Columbia (New-York) en 1920-1921* (Paris: Felix Alcan, 1922), 164.

return to our otherwise uninterrupted destruction of the planet amidst increasingly conditions of social inequality. And we fear the enormous stimulus packages designed to “save the economy” will once again be borne on the backs of the lowest-paid workers and taxpayers. There is, however, one major change underway that will be more difficult to reverse. State sovereignty – along with its security reflex and xenophobic tropism – has demonstrated its bankruptcy. Far from containing global capital, state sovereignty manages capital flows by exacerbating global competition. Two conclusions are fast dawning on millions of people. First, the importance of public services as common institutions capable of facilitating *vital human solidarity*. And secondly, the most urgent political task now confronting humanity is the necessity of instituting the *global commons*. Because the major risks to humanity are now resolutely global in character, mutual aid and solidarity must also be global, politics must be coordinated, infrastructure and knowledge must be shared, and cooperation must become the absolute rule. Health, climate, economics, education, and culture can no longer be considered private or state property: they all must be conceptualized as global commons, and they must be politically instituted as such. One thing above all is now certain: salvation will not come from above. Only insurrections, uprisings, and transnational coalitions of citizens can impose the common on states and on capital.

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French version on Mediapart : L'épreuve politique de la pandémie, <https://blogs.mediapart.fr/les-invites-de-mediapart/blog/190320/l-epreuve-politique-de-la-pandemie>