



Global Covid-19 Policy Response Between Law and Political Economy

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It is probable that in the time to come, historians and commentators will consider the Covid-19 pandemic as one of the defining moments—if not *the* defining moment—of the twenty-first century. Its exceptional importance comes both from the tragic human cost and economic damage that it entailed; as well as from the policy responses that governments around the world mounted to overcome the challenge. States of exception led to the establishment of new types of rules and orders that will affect the lives of generations to come. In that sense, the pandemic is a deeply political event. It is also an event that behind an apparent commonality hides significant diversity. At the onset, societies around the world

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were following different albeit interrelated governance models. As the pandemic spread, their institutional environments were affected by significantly different policy choices. As the dangers began to diminish—or the presence of the ever changing virus became the “new normal”—these choices were incorporated into the pre-existing institutional reality in different ways.

This collection of essays is an attempt to account for that diversity to assess the significance that the event of the pandemic might have for societies around the world in the future. In that regard, this book is one among many contributions that have appeared in the recent period. What makes it specific is its synthetic law-and-political-economy approach. Our project started in March 2020, when we gathered a group of friends and colleagues to think about how the legal foundations of policy making will affect and be affected by the specific political economy conditions across different jurisdictions. That conversation led to the creation of a set of questionnaires (we provide here in the Appendix) that addressed the topics we thought were particularly relevant in this regard: (1) state of exception (2) surveillance and compliance (3) legal-financial architecture (4) financial relief for labor (5) financial relief for business and (6) alternative policy proposals made by social movements, activist groups, and civil society. Over one hundred scholars from forty jurisdictions used the framework provided by the questionnaire to evidence the pandemic policy efforts focusing on the interplay between the legal form and that of political-economic conditions existing on the ground during the first 100 days. Their rich and illuminative contributions were published online at <http://globalresponsescovid19.com>. Once the reports were published, we asked our collaborators to consider: how the law-and-political-economy trajectories across these different policy domains interacted with each other; how the emergency rules invoked were used to surveil and enforce the ongoing limitation of rights and imposition of obligations, while providing economic relief across sectors and social classes; to what extent was this process participatory and solidarity-based, or had it faced resistance, and in what ways had different power formations interacted in the process; and finally, what were the outcomes of this process—in particular in reproducing and exasperating existing inequality and distribution of privileges. The fifteen chapters before you are the outcome of that effort. The rest of this introduction will provide a brief survey of existing comparative literature on the pandemic response policy discussing the

specificity of this contribution in that context and a short summary of the chapters.

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Since 2020, the outbreak of the COVID-19 pandemic and the reactions of governments around the world has become a pervasive topic of research. The policy responses to the pandemic crisis have been as diverse as the areas impacted. This diversity is well represented in literature. Among the studies conducted over the past two years, many approached specific areas of inquiry from a global perspective while others offered an overall analysis focusing on a single jurisdiction or region.

Some of the studies are based on empirical databases. These studies mainly, although not exclusively, focus on economic aspects of the pandemic response policy. This is the case of the Oxford COVID-19 Government Response Tracker which continuously updated information on policy measures adopted starting from 1 January 2020 in more than 180 countries related to closure and containment, health and economic policy (Hale et al., 2020). In the Oxford study, policy responses are recorded on ordinal or continuous scales based on 19 policy areas; and its aim is to allow researchers and policymakers to empirically explore the effects of policy responses on the spread of COVID-19 cases and deaths, as well as on economic and social welfare. This dataset has also been used by other scholars complementary to other studies and datasets. This is the case of Kubinec et al. who by combining the Oxford dataset with the CoronaNet COVID-19 Government Response Event Dataset, using a Bayesian time-varying measurement model, presented six new indices that measure the intensity of government responses to COVID-19 within distinct policy domains: social distancing, schools, businesses, health monitoring, health resources and mask wearing from 1 January 2020 to 14 January 2021, for over 180 countries (Kubinec et al., 2021). Another analysis of the economic responses to the COVID-19 pandemic has been published by Elgin et al. who conducted a comprehensive review of different economic policy measures adopted by 166 countries as a response to the COVID-19 pandemic and created a large database including fiscal, monetary, and exchange rate-related measures (Elgin et al., 2020). At the same time, other publications have surveyed the developing and rapidly growing literature on the economic consequences of COVID-19 and the governmental responses, aiming at synthesizing

their insights and focusing on aspects related to labor, health, gender, discrimination, and the environment (Brodeur et al., 2021). Another empirically based study, published by Petherick et al. (2021) focuses on the so-called “pandemic fatigue” and examines whether there was a gradual reduction in adherence to protective behaviors against COVID-19 from March through December 2020, as hypothesized based on the fatigue expectations. Similarly to the Oxford database, the geographical scope of this study is quite broad.

A significant number of contributions address the policy process in terms of conditions that affect it and the outcomes it produces. Policy responses to the COVID-19 pandemic have also been analyzed through the lenses of recommendations from standard welfare economics looking at the reasons behind their adoption (Boettke and Powell, 2021). Similarly, the reasons behind the adoption of policies have been the focus of public health researchers (Greer et al., 2020). While the drivers to the adoption of such policies are also present in all the chapters of this book, this is just one of the important components of the content of the book. Another set of studies has looked at specific consequences deriving from governmental responses to the COVID-19 crisis. For instance, one study has investigated the relationship between various economic policy responses to the COVID-19 pandemic (liquidity support, prudential policies, borrower support, asset purchase, and policy rate decisions) and the growth of nonperforming loans (NPLs) in 2020 across 47 economies (Gholipour and Arjomandi, 2021). Other studies have looked at the role played by Central Banks (Mosser, 2020) in relation to their independence (Elgin et al., 2021), or at the measures to restrict exports of medical products adopted by some governments such as China, the European Union and the United States (Hoekman et al., 2020); and non-pharmaceutical interventions (Bo et al., 2020). Moreover, beyond the economic aspects, other studies have addressed surveillance issues arising from measures adopted during the COVID-19 pandemic crisis (Greitens, 2020; Newell, 2021). Analysis of selected topics of interest have also been conducted by authors who have assessed the economic and health costs of COVID-19 and policy responses to COVID-19, looking both at developed and developing countries (Kaplan et al., 2021).

Finally, in terms of geographical representation of research concerning policy responses to the COVID-19 crisis, some authors have focused their analysis on single jurisdictions. This is, for instance, the case of an article analyzing the implications of the COVID-19 economic crisis

for macroeconomic policy, and the roles of the State and the Fed and monetary policy in the US economy, in light of the 2008 Financial Crisis (Vernengo and Nabar-Bhaduri, 2020). Attention has also been given to developing countries from a macro-economic policy perspective (Loayza and Pennings, 2020). Furthermore, an edited book titled “COVID-19 in Developing Economies” has also been published in 2020 (Djankov and Panizza, 2020).

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This collection contributes to the existing literature by focusing on the relationship within the set of significant domains of policy response.

A broad law and political economy approach pursued by authors in this volume relates and yet diverges from the existing literature as it combines descriptive statistics with legal analysis across different legal domains and different types of qualitative analysis. In addition it is specific as it considers pandemic-related policy interventions within the existing institutional and policy context, both in developed and developing economies.

The premise of this collection of essays is that prior to the pandemic the mainstream trajectory in policy was defined by either a jurisdiction specific neoliberal trajectory or in some instances a more “statist” approach. When the pandemic occurred states were at varying levels of ill-preparedness to cope with a health crisis of this magnitude and within a specific set of power relations. Consequently, the exceptionality of the pandemic tipped the existing balance in a specific direction. For the purpose of this introduction we can distinguish three themes that run across the different contributions: the deepening of existing inequalities, general economic downturn, and political tensions. It should be noted that all of the contributions display all three of these themes in varying degrees but each contribution emphasizes a specific theme more than the others.

The first theme that was evident from the contributions was that the pandemic deepened existing inequalities, especially in countries that had already been struggling (in varying degrees) with reducing the socio-economic disparities within their societies. The chapters that exemplify this theme most prominently are South Africa and Kenya.

The contribution from South Africa, co-authored by Zita Hansangule, Khensani Hlongwane, Christina R. Mosalagae, Kelello Nkadimeng, and Sankari Reddy, discusses the impact of COVID-19 on existing inequalities

in the South African context. In the chapter, inequality is contextualized firstly as a product of South Africa's history, the effect of three centuries of colonialism followed by over four decades of Apartheid (1948–1994) which was a system of legislated segregation, that privileged certain racial groups over others; and secondly as a result of the adoption of neoliberal policies in the fledgling years of the new constitutional democracy from 1994. Moreover, prior to the pandemic, in addition to displaying high levels of inequality based on the Gini coefficient, South Africa was facing high levels of unemployment, stagnant growth, and political tension. Although the South African government was commendably quick to respond to the crisis, the economic and educational losses during the pandemic, as well as a stretched government budget, have only served to entrench socio-economic inequality deeper into South African society, which needs to be urgently addressed for the future.

Similarly, the Kenyan contribution, co-authored by Muriuki Muriungi and Naomi Ngina, assesses Kenya's COVID-19 policy responses with a view to exploring the inequality dimensions of these responses. The chapter finds that the majority of COVID-19 responses exacerbated inequalities, owing to the fact that policymakers overlooked the potential socio-economic impact of the said responses. The chapter further argues that the policy responses, taken together, have partially challenged the dominant neoliberal framework, at least in so far that they involved the state taking a more proactive role. The chapter then advocates for mainstreaming these responses beyond the post-COVID era.

It should be noted that the chapters from the United States, United Kingdom, and Germany also touch on the issue of inequality, with reference to a general increase of inequality in the United States; socio-economic inequalities in the United Kingdom; and the lack of equal burden sharing as a result of the pandemic in the German instance. Notwithstanding, the United Kingdom and Germany displayed the second theme more prominently, while the United States reflected the third theme more prominently.

The second theme, that is perhaps the most pervasive, is the notable concerns regarding an economic downturn experienced by countries across the jurisdictions. More notably, the countries that raise important issues regarding the future of economic policy in a post-pandemic era are the United Kingdom, Hungary, Germany, Namibia, and Zimbabwe.

The contribution from the United Kingdom, authored by Arletta Gorecka, discusses the implication of the COVID-19 pandemic on the

United Kingdom and its economy. The COVID-19 pandemic occurred when the United Kingdom was in the wake of Brexit. This chapter notes the divergence of the pandemic policy from the previous neoliberal approach; and considers pandemic policy in respect of surveillance, data, and marketization. Moreover, this chapter notes areas of concern in respect of economic growth, health, and education. It concludes by summarizing different aspects in the gradual policy shift from neoliberal consideration into more socially oriented policy considerations.

In contrast, the chapter from Hungary, co-authored by *Ádám Kerényi* and *Weichen Wang*, argues that economically due to the relatively low level of GDP loss during the pandemic, there was little incentive for the Hungarian government to spend heavily in non-health sectors to save the economy. Nonetheless, the Hungarian context is important to pay attention to in respect of its geo-political position and economic policy decisions post-pandemic.

The contribution from Germany, co-authored by *Michael Müller* and *Annalisa Tassi* in collaboration with *Niklas Döbbling* and *Friederike Hildebrandt*, illustrates the tension between the need for swift response and the pressure on public finances. This chapter also illustrated that the economic burden of the pandemic was not equally shared. Therefore, this chapter proposes the development of a new sustainable framework for intervention and burden sharing in a post-pandemic era.

In the same vein, the chapter from Namibia authored by *Christopher Shafuda Pomwene* predicts that the road to economic recovery will be long and bumpy in light of the ad-hoc policy measures adopted during the pandemic. This chapter argues that the consequences of the extensive use of these unprecedented measures on the economy were not favorable. Furthermore, the emergence of the COVID-19 pandemic threatened the already trailing government efforts to end poverty, inequality, and unemployment.

The contribution from Zimbabwe, authored by *Zvikomborero Chadambuka*, highlights the impact of pandemic policy on countries with a large informal economy. The implementation of economic restructuring programs promoted by multilateral development agencies during the 1990s created a large informal economy in Zimbabwe. Moreover, the policy measures taken to combat the pandemic had negative effects on businesses, employees, and those working in the informal economy. This chapter focuses on the reality of those in the informal economy and the promulgation of pandemic policy which tended to exclude

the informal sector. The COVID-19 policy response also reinforced a growing tendency to allocate resources to politically linked actors through the political system. Therefore, the chapter concludes that pandemic policy largely served to reinforce a politically corrupt variant of neoliberalism while exacerbating the marginalization of the informal sector in Zimbabwe.

Existing at the intersection between two themes in respect of emphasis on the economic downturn and political tensions, the contributions from Italy, India, Nigeria, and the United States share a common thread. The contribution on Italy co-authored by Federica Cristani and Elisa Gibellino provides deeper insight into the experience of the first country in Europe which suffered from the outbreak of the Covid-19 pandemic. This chapter places a special focus on the new concerns regarding surveillance and the right to privacy that the emergency measures created. Moreover, the COVID-19 pandemic had a grave impact on the national economy. Consequently, the second part of the paper is devoted to the analysis of the pre-COVID-19 economic situation and the comparison with the rising protectionism that has characterized the relevant economic measures since the outbreak of the pandemic. Through issues regarding the legality or legitimacy of the implementation of the state of emergency and concerns regarding the invasion of privacy this chapter shows the new image of Italy, a state facing economic pressure and constitutional legitimacy in a post-pandemic era.

The India chapter, co-authored by Apilang Apum, Binit Agrawal, Madhu Sivaraman, and Aneesha Chitgupi, displays similar intersections between an economic downturn and political inaction. This chapter argues that the economic downturn before the pandemic became worse after the pandemic because of slow political action. Moreover, this chapter noted a rise in the encroachment by the central government on the state governments.

Similarly, the chapter on Nigeria, co-authored by Osatohanmwon (Osato) Anastasia Eruaga, Abigail Osiki, and Itoro Ubi-Abai, argues that political stability and socioeconomic development were exacerbated during the pandemic. This chapter also noted that although the government introduced more welfarist policies during the pandemic these policies and strategies failed due to corruption and weak institutions.

The United States chapter co-authored by Aleksandar Stojanović, Lauren Sweger-Hollingsworth, and Dashiell Anderson, shows how the

US policy response resulted in an increase in inequality; and a reinforcement of economic and extra-economic power division. This chapter argues that economic policy was the main US policy tool used by the federal government to tackle the pandemic and it was used in a manner reflective of existing power structures which prioritizes big business and the stock market. Major contradictions plagued the balance of power and representation from democratically elected individuals. Declarations of emergencies within individual States granted excesses of power to governors and the emergency circumstances allowed experts great decision-making powers. State governments partnered with the private sector for surveillance and control measures, often with the State outsourcing the enforcement of these measures to the private sector. The pandemic allowed for an unprecedented rise in the surveillance of private citizens by State, local governments, and employers. Some of these measures continue to persist. This chapter concludes that economic policy was used in a manner reflective of existing power structures, as the existing dominance of the private sector resulted in policy measures that assisted the private sector and the owners of capital before workers, and furthered the power structure already in place.

The third prominent theme that has been identified is the unique challenge to democracy that the pandemic presented. A number of countries saw a steep rise in political power grabbing and usurpation of the democratic process and the weaknesses in their institutional design to both implement pandemic policy and protect the political order.

In the Chile chapter, co-authored by Javiera Rojas, Luis Cortés, José Ledesma, and Javiera Toro, the Covid-19 health crisis occurred while Chile was in the thick of an economic, political, and social crisis that resulted in the 2019 October Revolt mass mobilizations. Sebastian Piñera's administration was under heavy criticism because of his violent response to the mobilizations. However, despite a constituent plebiscite which was agreed upon between the government and opposition parties as a solution for the crisis, the sanitary emergency allowed Piñera's administration to strengthen the character of his own policies. Although the government implemented an economic agenda that subsidized small and medium capitals with funds from the unemployment insurance to avoid mass layoffs, while also injecting liquidity in to companies and giving out focalized relief funds to vulnerable families, the restrictions were used more to control the civil unrest that started in October 2019 and was still active throughout the population. Strict lockdowns were enforced but the

measures did not significantly reduce mobility, as the relief packages were limited and most of the population could not work from home.

The Philippines chapter, co-authored by Vincent Jerald Ramos, Fatemeh Halabisaz, Leonides Frago Jr., and Ryan Martinez, illustrates the militarized lockdowns imposed by the Philippines government at the onset of the pandemic as a containment and control measure. More specifically, it analyzes how these lockdowns were shaped by both weak state capacity and an incumbent regime with authoritarian tendencies. This chapter proposes, that moving forward, a pandemic recovery strategy needs to incorporate policies and investments that strengthen state capacity and institutionalize crisis response mechanisms—these would ensure that the Philippines becomes more resilient in the post-pandemic era and beyond.

The chapter on Brazil, co-authored by Tiago Couto Porto, Alexandre San Martim Portes, Mariella Pittari, and João Victor R. Longi, focuses on the impact of the pandemic policy on political, economic, and health issues. This chapter contrasts the response of President Bolsonaro and democratic institutions such as the Supreme Court. By outlining the main policies implemented to tackle the pandemic in Brazil, this chapter explains how the country arrived at the current scenario of “stagflation” with an unprecedented level of unemployment; the resurgence of extreme poverty; instability of the democratic institutions; and accumulation of the number of lives lost to the disease. The chapter concludes that there is no evidence that the current government is using the COVID-19 crisis as a window of opportunity to overcome structural challenges, such as: strengthening democratic institutions; improving the health system (including the health industrial complex); increasing welfare protection coverage; and searching for inclusive and sustainable growth.

The China chapter, co-authored by Aleksandar Stojanović, Wanshu Cong, An Zhai, Libo Yao, Simeng He, Dongcheng Guo, Xinyi Xu, and Junyue Huang, identifies several significant aspects of the ongoing policy transformation in China. In this instance, the process of combating the pandemic allowed for policy justification through a specific type of “state of war” narrative instead of referring to legal rules, especially when those rules were unclear. It has also led to a shift in the utilization of surveillance practices from a national, hierarchical, and visible level to a social, fluid, and less visible level. Unlike in the developed economies in the West, the least significant change has been observed in the domain of economic

policy. Instead of a less discriminate liquidity supply approach taken in the West, China's policy makers opted for a set of highly targeted fiscal, monetary, and procurement measures in order to ensure the stability of the financial markets; relieve pressures on the real economy; and secure employment. The measures were rolled out over a very short period of time but they were not as large as in the case of the EU or the United States, and they were retracted significantly faster.

The aim of this project is to account for the first 100 days of pandemic policy across different jurisdictions. Consequently, the essays, to a large extent, are arranged chronologically based on the date that a state of emergency was declared or when the first pandemic policy was issued on that continent. This also shows how the pandemic or fear of the pandemic spread continentally and then to different parts of the world. Beginning with the chapter on China as the first country to record the virus and implement measures, this is in effect ground zero of the pandemic, which is worth observing. The collection ends with the chapter from the United States to juxtapose the position between the two polarizing geopolitical powers of the pandemic period.

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