

## EDITORIAL

# Solidarity and COVID-19: An Introduction

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## 1. Good and bad governance in a pandemic

Since the beginning of the global COVID-19 pandemic in early 2020, ethicists and legal philosophers have grappled with societal, political and medical issues raised by the new predicament. One of the first to do so was the Italian philosopher Giorgio Agamben.<sup>1</sup> His public interventions in this domain have been controversial, but his Foucauldian alertness to the significance of the contemporary moment<sup>2</sup> could not have come as a surprise to anyone familiar with his work. Already in 2015, five years before the start of the pandemic, Agamben addressed the connection between epidemics, health and sovereignty in the context of Thomas Hobbes' *Leviathan*. Discussing the presence of two plague doctors on the famous frontispiece of *Leviathan*, Agamben remarks:

‘Like the mass of plague victims, the unrepresentable multitude can be represented only through the guards who monitor its obedience and the doctors who treat it. It dwells in the city, but only as the object of the duties and concerns of those who exercise the sovereignty.’<sup>3</sup>

Agamben's worry that the continuing presence of the virus will legitimize a permanent state of exception in which the lives of citizens are subjected to unmediated power in the form of biopolitics, is well-known.<sup>4</sup> Somewhat lesser known, however, is Agamben's awareness of the fact that the connection between sovereignty, health and epidemics is at least as old as social contract theory itself.<sup>5</sup> We agree with Agamben that it is important to reflect on the fact that Hobbes developed his theory of sovereignty in a context not only of civil war, but also of epidemics. In this latter context, the maxim *salus populi suprema lex esto* – borrowed by Hobbes from

1 See Lukas van den Berge, 'Biopolitics and the Coronavirus. Foucault, Agamben, Žižek', *Netherlands Journal of Legal Philosophy* 49 (2020): 3-6.

2 See Jürgen Habermas, 'Taking Aim at the Heart of the Present: On Foucault's Lecture of Kant's "What Is Enlightenment"', in *Critique and Power. Recasting the Foucault/Habermas Debate*, ed. Michael Kelly (Cambridge MA/London: The MIT Press, 1995), 149-154.

3 Giorgio Agamben, *Stasis. Civil War as a Political Paradigm* (Stanford: Stanford University Press, 2015), 48.

4 See, e.g., Nicolas Truong, 'Giorgio Agamben: "L'épidémie montre clairement que l'état d'exception est devenu la condition normale"', *Le Monde*, 25 March, 2020.

5 Agamben (*Stasis*, at 47-48) mentions the interesting study by Francesca Falk, *Eine gestische Geschichte der Grenze* (München: Wilhelm Fink Verlag, 2011), referring particularly to a chapter called 'Schnabelmasken: Sanität, Souveränität, Selektion' (63-90).

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Cicero – appears to acquire a concrete meaning which it otherwise would have lacked.<sup>6</sup>

When Hobbes wrote *Leviathan* in the midst of the seventeenth century, the plague was endemic in London, with the biggest outbreak – in which the city lost 15% of its population – occurring in 1665-1666, less than fifteen years after *Leviathan* was first published (in 1651). Interestingly, another iconic moment in the history of political and legal thought can also be connected to the plague. ‘The Allegory of Good and Bad Government’, a fresco series which can still be admired in the Palazzo Pubblico in Siena, was painted in 1338-1339 by the Sienese artist Ambrogio Lorenzetti. Only a decade later, in 1348, Lorenzetti would become one of the early European victims of what was later known as the Black Death, the catastrophic outbreak of the plague between 1347 and 1352, during which between 45% and 60% of the population in Europe died.<sup>7</sup>

In a blog post that appeared in the summer of 2020, the American philosopher Zev Trachtenberg has tried to make sense of the looming presence of the plague just ‘outside’ the borders of the Sienese fresco series. How should these be understood in the specific context of an approaching pandemic?<sup>8</sup> Trachtenberg points to the fact that Lorenzetti’s ‘Allegory of Good Government’, in which the good city is pictured, has no outside: ‘[E]verything that matters to the story it tells is visible; there is little sense that what is beyond the frame is relevant.’ Somehow, the good city appears to be built on the easy assumption of ‘minimally habitable environmental conditions’. However, this way of understanding ‘good government’ may be ‘dangerously hubristic’, as it ‘encourages a deluded expectation of invulnerability’. According to Trachtenberg, ‘we should expect unforeseen natural hazards, e.g. unexpected disease vectors, as surely as the return of the repressed’.<sup>9</sup>

Trachtenberg does not deny that Lorenzetti was deeply aware of the vulnerability of the city state’s public institutions. However, the frescos are preoccupied with internal threats: the ‘Allegory of Bad Government’ depicts a model of government which, being morally bankrupt, propagates division, greed and war, and brings the city state on the brink of disaster. In the context of the pandemic, highlighting this internal threat to governance is still useful, as Trachtenberg also points out. Morally sound political and social institutions will be much better equipped to respond to the situation as soon as disaster strikes.<sup>10</sup>

6 Agamben, *Stasis*, 48.

7 On Ambrogio Lorenzetti in general and his fresco series on good and bad government in particular, see, e.g., Patrick Boucheron, *The Power of Images* (Cambridge: Polity Press, 2018), with further references.

8 Zev Trachtenberg, ‘Our Pandemic and Siena’s Plague: Looking Outside Lorenzetti’s Fresco’, 29 July 2020, available at <https://inhabitingtheanthropocene.com/> (last accessed: November 2021).

9 Trachtenberg, ‘Our Pandemic and Siena’s Plague’.

10 Trachtenberg, ‘Our Pandemic and Siena’s Plague’: ‘The basic idea is simply that the moral character that is the core of the republic’s “inside” is expressed in political and social structures which enable better or worse responses to external dangers, anthropogenic or natural.’

In sum, both the *Leviathan's* frontispiece and the 'Allegory of Good and Bad Government' can be connected to the threat of a pandemic, but neither of them is capable of visualizing it directly. On the frontispiece the sick and other inhabitants of the city are notoriously absent. Their existence can only be derived indirectly, from the presence of the city buildings and a few soldiers and doctors who can hardly be distinguished on the city grounds. Also in the 'Allegory of Good and Bad Government', a reference to external threats is absent. The 'diseases' which are depicted in the 'Allegory of Bad Government' are self-inflicted and internal: they all have a strictly moral, not a biological, character.

Perhaps depictions of sound government – in which the sovereign body is represented as a unified and well-functioning whole – are necessarily oblivious to external threats, such as the possibility of a devastating pandemic. The old idea of *mens sana in corpore sano* ('a healthy mind in a healthy body') might help us understand the 'hubris' of an idealized public body. The image's deliberate forgetfulness of possible disease and death makes the 'body politic' look even more powerful, untouchable and trustworthy.

However, when the pandemic strikes, this appearance of invulnerability can no longer be sustained. The pandemic not only hits the population at large, but also destabilizes one of the basic assumptions on which the political, legal and medical institutions are built. If the citizens can no longer rely on 'minimally habitable environmental conditions', the structures of their institutions themselves are put on the line. The ensuing crisis, its depth and length, the range of options which present themselves to 'control' the virus, all have an impact on the conditions of their living together, and will potentially disrupt its coherence.

How can governing in response to a global pandemic affect the living together of people and peoples in national and international communities? What does good – or bad – government within political, legal and medical institutions look like in such a predicament? This broad question is taken up in this special issue in no less than thirteen contributions, with a specific focus on the concept of solidarity, a moral-legal-political notion which is often invoked in situations in which the bonds within a community are put under serious pressure.

## 2. The concept of solidarity

Although the meaning of solidarity as a concept is multifaceted and not clearly defined, the origin of the term in Roman law is not in doubt. Solidarity as a legal notion can be traced back to the Roman law of obligations. By the phrase *in solidum teneri* ('to be held liable for the whole'), the Roman jurists referred to a form of liability in which several debtors are each liable for the full amount or the full performance since the underlying obligation was considered to be *indivisible*.<sup>11</sup> Only after

11 Julius Christiaan van Oven, *Leerboek van Romeinsch privaatrecht* (Leiden: Brill, 1945): 402-403; Reinhard Zimmermann, *The Law of Obligations. Roman Foundation of the Civilian Tradition* (Oxford: Oxford University Press, 1996), 53, n. 136.

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the French Revolution did solidarity become a much broader political-legal concept, often understood as a moral and sometimes legal responsibility of individual citizens for the whole of the community.<sup>12</sup> Presently, the concept in this latter, broader meaning figures in numerous constitutions and treaties, such as Article 2 of the Treaty on European Union, one of the two main treaties on which the EU is based.<sup>13</sup>

In his early work *The Division of Labor in Society*, the sociologist Emile Durkheim famously distinguished between two forms of solidarity: ‘mechanical solidarity’ based on what individual members of a community have in common, and ‘organic solidarity’, flowing from their mutual differences. Mechanical solidarity refers to the bonds between members of a relatively close community of like-minded people, sharing a system of strongly held moral convictions and beliefs: criminal law and punishment are connected to mechanical solidarity, as ‘criminal’ is what offends this ‘common consciousness’ and ‘punishment’ conveys the public shock in the form of a repression.<sup>14</sup> Organic solidarity, by contrast, is based on the complementarity of people who are fulfilling specialized tasks and functions in a highly complex and industrialized society. The bonds of ‘organic solidarity’ therefore do not spring from similarities, but from the fact that the division of labour makes the individual aware of both its dependency on *and* its specific contribution to the lives of others and the life of the community, understood as an harmonious ‘whole’; legal sanctions within this domain of social and economic exchanges have a non-punitive, ‘restitutory’ character and are aimed at ‘restoration of the *status quo ante*’.<sup>15</sup>

While describing this latter type of solidarity, Durkheim uses the metaphor of the community as a living organism to underline the symbiotic nature of this special bond between the individual and the larger whole:

“This solidarity resembles that observed in the higher animals. In fact, each organ has its own special characteristics and autonomy, yet the greater the unity of the organism, the more marked the individualisation of the parts. Using this analogy, we propose to call “organic” the solidarity that is due to the division of labour.”<sup>16</sup>

12 See Hauke Brunkhorst, *Solidarity. From Civic Friendship to a Global Community* (Cambridge MA/London: The MIT Press, 2005).

13 See Andreas Grimmel, ‘Solidarity in the European Union: Fundamental Value or “Empty Signifier”’, in *Solidarity in the European Union. A Fundamental Value in Crisis*, ed. Andreas Grimmel and Susanne Giang (Cham: Springer, 2017): 161-175; Vestert Borger, *The Transformation of the Euro: Law, Contract, Solidarity* (PhD diss., Leiden University, 2018): 23-48.

14 Émile Durkheim, *The Division of Labor in Society* (New York: The Free Press, 1997), 40; 61.

15 Durkheim, *The Division of Labor in Society*, 68. Recently, Lisa Herzog has argued that Durkheim’s organic solidarity also comprises a notion of equality of opportunity, as people should be able to ‘spontaneously’ choose their professions, thus connecting commutative with distributive justice. See Lisa Herzog, ‘Durkheim on Social Justice: The Argument from “Organic Solidarity”’, *American Political Science Review* 112 (2018): 112-124.

16 Durkheim, *The Division of Labor in Society*, 85.

According to Durkheim, morality ‘consists in being solidary with a group and varying with this solidarity’. Being solidary is understood as a ‘very strong feeling of the state of dependence in which [the individual] finds himself’,<sup>17</sup> whereas solidarity, as ‘the integrating element in a whole’, deprives the individual of ‘some of his freedom of movement’.<sup>18</sup> Durkheim’s organic solidarity, therefore, thrives in a highly diverse environment with lots of room for individualization, self-realization and specialization, but this does not imply unlimited individual freedom. On the contrary, the sentiment of ‘being a part of the whole, the organ of an organism’, may not only inspire ‘daily sacrifices’, but occasionally also ‘acts of utter renunciation and unbounded abnegation’.<sup>19</sup>

Durkheim denies that a complex, industrial society in which organic solidarity predominates would have a weaker moral basis than the more homogeneous and ‘primitive’ society in which mechanical solidarity, based on a common system of beliefs, is central.<sup>20</sup>

‘Why should more dignity attach to being complete and mediocre than in leading a more specialised kind of life, but one more intense, particularly if we can recapture in this way what we have lost, through our association with others who possess what we lack and who make us complete beings?’<sup>21</sup>

Durkheim’s understanding that human beings can only become ‘complete’ in their relations and associations with others appears to resonate with the African philosophical concept of Ubuntu, in which ‘a person is a person because of or by or through other people’, an affinity that we cannot explore further here.<sup>22</sup> Nevertheless, writing in the late nineteenth century, Durkheim also admits that this ‘new’ morality as the main source of coherence in ‘our present-day societies’ is ‘[...] still not developed to the extent which from now onwards is necessary for them.’<sup>23</sup>

There is a lot in Durkheim’s concept of organic solidarity that makes it interesting at this moment in time. First of all, his understanding of solidarity as, primarily, a moral notion – and not, as in Roman law, a legal obligation – driving people’s inner motivations and feelings to act in a certain way, captures the fact that solidarity is often ‘called upon’ or ‘appealed to’. Acts of personal sacrifice, of renunciation on behalf of the whole community, are exemplary expressions of solidarity *because* of their voluntary nature. This also means that it is problematic to legally enforce solidarity – e.g. by implementing a system of compulsory vaccination – without

17 Durkheim, *The Division of Labor in Society*, 173.

18 Durkheim, *The Division of Labor in Society*, 331.

19 Durkheim, *The Division of Labor in Society*, 173.

20 Durkheim’s assumption that mechanical solidarity is the dominant form within so-called ‘primitive’ societies is clearly wrong, see Lewis Coser, ‘Introduction’, in Durkheim, *The Division of Labor in Society*, xxiv.

21 Durkheim, *The Division of Labor in Society*, 334.

22 See, e.g., Edwin Etieyibo, ‘Ubuntu, Cosmopolitanism, and Distribution of Natural Resources’, *Philosophical Papers* 46 (2017): 139-162, at 142.

23 Durkheim, *The Division of Labor in Society*, 174. Our emphasis.

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connecting to a 'solid' moral basis within the actual, living communities of people(s) who together make up the republic. In that light, Hobbes' frontispiece image of Leviathan as an idealized, artificial body politic, somehow hovering *above* the republic while obfuscating the real lives, minds and bodies of its concrete inhabitants, seems patently insufficient.<sup>24</sup>

Second, Durkheim's concept of organic solidarity, explained by the popular nineteenth century metaphor of human society as a living organism, appears to be particularly fitting in a context of a virus which operates as a global threat to humankind as a biological species. In the globalized economy of the 21st century, the scope of organic solidarity, grounded in the division of labour, clearly transcends national and regional boundaries and cannot be understood otherwise than as global. Moreover, confronting humans primarily as biological agents, the current pandemic befits an era which climate scientists have recently begun to understand as the Anthropocene, a geological epoch in which humanity as a biological species has become 'a force of nature in the geological sense', whose numbers and technologies 'have an impact on the planet itself'<sup>25</sup> – implying that, from now onwards, humans no longer have the luxury to deny their state of dependency towards the biosphere which surrounds them or to ignore their bonds of solidarity *vis-à-vis* the well-being of non-human forms of life and other elements of nature on this planet.<sup>26</sup>

If addressing the crisis caused by the pandemic in an adequate way would call for a global – or even ecological – version of Durkheim's organic solidarity, we can only conclude, with Durkheim, that, unfortunately, the ties of solidarity that we would currently need *between* the countries and peoples which together make up humanity as a biological species are 'still not developed to the extent which from now onwards is necessary for them'.<sup>27</sup> The contributions to the present special issue in a way reflect this predicament, since only a minority of them address the theme of solidarity and COVID-19 from this encompassing, global perspective – whereas its urgency can be illustrated by the persistent, extremely unequal distribution of vaccines along the global North-South divide.<sup>28</sup> Nevertheless, we believe that this special issue will contribute to a better, critical and nuanced understanding of the role

24 If Hobbes' *Leviathan* has in fact 'two bodies', the artificial 'Body Politic' and the community of mortals inhabiting the republic, he appears to be ensnared in the same complexities as the medieval jurists who preceded him. See Ernst Kantorowicz, *The King's Two Bodies. A Study in Medieval Political Theology* (Princeton: Princeton University Press, 1981): 437: 'The jurists themselves, who had done so much to build up the myths of fictitious and immortal personalities, rationalized the weakness of their creatures, and while elaborating their surgical distinctions between the immortal Dignity and its mortal incumbent and talking about two different bodies, they had to admit that their personified immortal Dignity was unable to act, to work, to will or to decide without the debility of mortal men who bore the Dignity and yet would return to dust.' Our emphasis.

25 Dipesh Chakrabarty, *The Crises of Civilization. Exploring Global and Planetary Histories* (Oxford: Oxford University Press, 2018): 172-173.

26 For a similar argument, see the contribution of Luigi Corrias in this volume.

27 Durkheim, *The Division of Labor in Society*, 174.

28 In August 2021, UN Secretary General António Guterres called COVID-19 vaccine equality the 'most pressing issue of our times'. See <https://news.un.org/en/story/2021/08/1097202> (last accessed: November 2021).

of law and solidarity beyond the boundaries of the nation state in these years of the global pandemic.

### 3. The contributions

The thirteen contributions which make up this special issue are divided over five interrelated subthemes. In this last section we will briefly introduce these subthemes and the related contributions, in the order of their appearance in this volume.

#### *a. Solidarity and community*

The first four contributions interrogate the tensions within the community, caught between, on the one hand, the challenges of the pandemic, and, on the other hand, the enforcement of protective legal measures taken to keep the outbreak of the virus under control. In ‘Solidarity and COVID-19’, *Marli Huijer* describes a paradox in how governments are using solidarity as a rhetorical means to combat the pandemic. Building on the work of Michel Foucault, Huijer shows that governments often invoke solidarity in order to legitimize drastic disciplinary measures such as social distancing and lockdowns. Medically effective, these measures also reinforce widespread social isolation and therefore risk destroying the communal ties which, being the main source of solidarity, are so strongly needed to keep the basic commitments of individuals towards the community alive. Restoring these vital ties may be complicated because the exceptional measures risk prolongating themselves indefinitely or even turning into a permanent regime.

In his essay ‘Solidarity and Community’, *Luigi Corrias* explores two different conceptions of solidarity in the time of pandemic. Taking as his point of departure the relation of the individual to the local community, Corrias distinguishes between a conception of solidarity that is ‘necessarily’ connected to a group that shares a ‘historically contingent final vocabulary’ – as suggested by Richard Rorty – and another conception, ‘solidarity of the shaken’, which has been proposed by Jan Patočka. Whereas Rorty’s conception appears to suffer from certain inconsistencies, Patočka’s ‘solidarity of the shaken’, being based on ‘the human capacity to build a community, even under difficult circumstances’, may offer a more promising and imaginative way to grasp the potentialities of solidarity during the pandemic.

In ‘Sick and Blamed’, a Chilean case study into the dubious functioning of criminal law enforcement during the pandemic, *Rocío Lorca* relies on Durkheim’s notion of ‘mechanical solidarity’. According to Durkheim, criminal justice strengthens and affirms solidarity within the community by responding to an offense against the ‘common consciousness’ in a passionate way, expressing public outrage. In the Chilean case, however, punishment was meted out to a group of people who were unable to comply with the restrictive measures, because they were living in a deplorable state of rampant inequality which had been exacerbated under the pandemic. Therefore, a strict policy of law enforcement against these ‘offenders’ was

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meant to strengthen the community's solidarity under the pandemic, but in practice clearly undermined it.

The danger of not being receptive to the precarious situation of the other, is also the central theme in 'Welcoming the other in a pandemic society', by *Thomas de Jong* and *Carina van de Wetering*. The arrival of the pandemic has disrupted our relations with people and things, which means that people need to find new ways to connect to each other and to their material worlds. Reflecting on this situation, De Jong and Van de Wetering signal the instrumental way in which solidarity is used by politicians, government officials and scientists, as a means to 'sell' general policies that are ever more beneficial and efficient – a totalizing tendency in which 'the other' is reduced to an object of calculation. With reference to the work of Emmanuel Levinas and Jacques Derrida, they stress the need not to lose sight of the incalculable 'otherness' of the other, and for an openness towards the other as a necessary counterweight to the calculative reasoning which dominates in political discourse.

#### *b. Solidarity and freedom*

How should solidarity during the pandemic be understood in relation to people who are reluctant to conform to the rules and guidelines, and are invoking the protection of their individual freedoms? In his article 'Living with others in pandemics', *Konstantinos Papageorgiou* argues that within a liberal democracy, the state cannot bear the sole responsibility for fighting the virus. Given the threat the virus poses to the conditions of our living together as free and equal citizens, the state's obligation to ensure public health care for all citizens must necessarily be complemented by the responsibility of each one of its inhabitants *vis-à-vis* the well-being of others. Consequently, people who refuse to comply with reasonable policies in order to combat the virus, such as vaccination, could, by democratic means, legitimately be legally compelled to do so. Individual freedoms within a democracy are not absolute or free of charge: they do not come without responsibilities and duties towards others, the state, and, ultimately, humanity as a whole.

In 'Suffering from vulnerability', *Benno Zabel* approaches the clash between solidarity and freedom during the pandemic from a different angle. Zabel sketches a development in which the legal order of liberal societies not only protects the negative freedom of the individual citizens, but – increasingly – also behaves as a care-taker of the 'fears and insecurities' which accompany this freedom. During the COVID-19-crisis, care as a function of law has taken the upper hand, leading to measures aimed at promoting general well-being and security, at the cost of being at times repressive, authoritarian and excluding. Enough reason to rethink the connection between vulnerability, freedom and law: Zabel proposes an inclusive conception of law, in which the vulnerability and freedom of legal subjects are acknowledged, but the authoritarian tendencies of a 'caring' legal order are counterbalanced by an emancipatory agenda. According to Zabel, a reevaluation of maturity, trust and solidarity at the community level will create room for equal participation in society and the legal order.



In their article ‘Solidarity, religious freedom and COVID-19’, *Miriam Gur-Arye* and *Sharon Shakargy* discuss the clash between solidarity and religious freedom in an Israeli case study: the refusal of the ultra-Orthodox sects in Israel to comply with some COVID-19 regulations, such as those restricting mass prayer in synagogues or studying Torah in the yeshivas. The authors identify two explanations for this refusal, one based on religious beliefs and another on the socio-political wish to keep the ultra-Orthodox community separate from society and public life. Should this refusal to obey the rules be honoured as a legitimate ‘cultural defence’? Gur-Arye and Shakargy argue that it should not, pointing to the main aim of the COVID-19 restrictions, which is to reduce the spread of the virus: the special duty to protect the lives and health of others temporarily overrides the deep wish to continue the religious practices.

### c. *Solidarity and crisis*

The COVID-19-pandemic has caused a global health crisis, a wave of exceptional laws and other measures, and, in some cases and situations, states of emergency in countries, cities and hospitals. What does solidarity mean in a crisis or a state of exception? Probably the most notorious ethical dilemma in this regard is the problem of triage at intensive care units, arising when hospitals are confronted with an unprecedented influx of patients, a situation known as ‘code black’. *Tobias Arnoldussen* addresses this issue in his Dutch case study ‘Dividing the beds’. However, his main focus is not the ethical dilemma itself – the puzzle involving utilitarian and deontological solutions – but the question ‘Who is leading the discussion?’: the government, lawmakers, society or certain organizations? In his reconstruction of the public debate around ‘code black’ in the Netherlands, Arnoldussen shows how the medical expert organizations gradually took control over the discourse, a position which was in certain respects beneficial for them. Embracing Ulrich Beck’s conception of cosmopolitan solidarity within a risk society, Arnoldussen is critical of this development: it transforms ‘code black’ from an ethical dilemma – which ideally should be a shared responsibility of everyone – into a management problem that supposedly concerns no one other than the expert managers who are now to make the decisions.

In ‘What solidarity?’ *Candida Leone* uses Durkheim’s distinction between mechanical and organic solidarity in her analysis of three examples of how Dutch contract law responded to the economic fallout of the COVID-19-crisis. Briefly analyzing the application of the legal provision of unforeseen circumstances with regard to commercial lease contracts, the offering of consumer vouchers in cases where the service provided by the contract could not be delivered, and, lastly, a case of salary cuts as a condition for the reception of state aid, Leone concludes that the solidarity involved cannot always be fully equated with Durkheim’s organic solidarity. Elements of mechanical solidarity appear to play an additional role as well, implying that both forms of solidarity remain relevant for the analysis of private law within modern legal systems.

*Amalia Amaya Navarro*, in ‘The exceptionality of solidarity’, starts with a question: Why is it that we are so much readier to help each other in times of crisis than in

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normalcy? This is a tricky question because, in her analysis, most reasons we have to be solidary in a time of crisis also appear to apply in normal times. This leads to the central question: What would be needed for solidarity – understood as being close to ‘fraternity’, based on the acknowledgment of a common humanity – to last beyond a time of crisis? Answering this, Amaya Navarro discusses different factors to be taken into account. First of all, solidarity needs to be ‘solidified’ in formal, legal, structures, both within the state, and at the supranational and global level. Another important factor mentioned is that solidarity cannot, without contradiction, be pursued in an exclusionary way, but should always be realized in ways that promote, rather than erode, larger solidarities.

#### *d. Solidarity and populism*

How does the pandemic affect our reasonableness, and our willingness to act on a sense of justice, which are core conditions of democratic decision-making within a pluriform liberal society? Departing from John Rawls’ theory of political liberalism, *Matt Matravers* shows in ‘Justice and coercion in the pandemic’ that the pandemic has exacerbated several existing problems within liberal democracies, such as structural inequalities in income, wealth and opportunities, and unreasonable forms of populism and conspiracy theories. As a result, basic assumptions which in Rawls’ theory are more or less taken for granted are currently being tested. One of the questions raised by Matravers is whether those who refuse to be vaccinated are unreasonable, and what that means for how they ought to be treated. Since the group of the unvaccinated is diverse, there is no simple answer to these questions. In addition, the problem of the coercion of the unreasonable raises the fundamental question of how to demarcate the limits of the reasonable in a liberal democracy.

*Massimo La Torre*, in his essay ‘Populism, the kingdom of shadows, and the challenge to liberal democracy’ delves further into the phenomenon of populism, which appears to thrive in the years of the pandemic. Defining populism as ‘a distinct ideal-type of approach to power, which can be defined by specific descriptive properties’, La Torre points out how social distancing, lockdowns and the prohibition on touching each other, have provided the ideal conditions for a mediated universe, in which a dangerous alternative to liberal democracy can flourish. Using Guy Debord’s *La société du spectacle* as his main point of reference, La Torre describes how in this digital world of ‘screens’, icons, and images, truth and political argument are no longer sought, but replaced by a visual experience, a show, ruled by a phantom leader.

#### *e. Global Solidarity*

In the last contribution to this special issue, ‘Global solidarity and collective intelligence in times of pandemics’, *José Luis Martí* paints a bleak picture of the global struggle against the virus. While the COVID-19 pandemic can be described as a twofold global threat – which means that it is both a common problem for the entire world and that its solution can only come from a coordinated global response – the efforts to organize political solidarity on an institutional global level to combat the virus have all failed. This does not mean, however, that institution-

alized global solidarity is an impossibility. What is first needed are thicker and more empowered institutions. In the second place, more democratic forms of global decision-making are needed to keep these institutions accountable and legitimate. In order to realize democratic ways of decision-making at a global level, emergent digital technologies, such as data analytics and artificial intelligence, can be used.

These thirteen papers strikingly illustrate some of the challenges that the pandemic poses to political and legal theorists – and some of the ways in which responses to those challenges can illuminate and advance our understanding of the fundamental political ideal of solidarity.