

# Some Conceptual Framings

## Some Conceptual Framings: A Discussion

Eliana Cusato, Koldo Casla, Andrew Fagan Emily Jones and Ozan Kamiloğlu, University of Essex School of Law and Human Rights Centre [DOI: 10.5526/xgeg-xs42\_001]

Several colleagues came together to discuss some of the themes arising in the papers for this section of the publication.

A first theme that colleagues explored is whether existing theories of human rights are sufficient to explain and provide a basis for the response to Covid-19, or, whether the theoretical tools that we tend to resort to, need to be re-conceptualised or considered afresh. There is a temptation to seek to re-conceptualise the existing normative resources we have at our disposal, or even to go further by looking for new approaches, and sometimes this will be vital, even essential. However, there was debate about whether the act of re-conceptualising is actually required, or whether it would simply serve as a distraction from the “real” problems. Also, if it is required, what would or could a re-conceptualisation look like?

Some expressed caution about the risks of re-conceptualising, indeed whether by doing so, one might fall victim to the trap of conceiving of the pandemic as an “unprecedented” event somehow requiring or justifying a complete break with the values and approaches we adopt for the “normal”. This “common enemy of humanity” approach, which privileges the need to defend the world from extraordinary shocks, is something we have often seen before, and does not work for all persons within societies. It is also somewhat patronising and ironic; while on the one hand we are progressively losing our societal bonds, on the other hand our leaders are claiming that the approaches they are taking which are responsible for these ruptures are in the name of defending humanity. For example, the feminist critiques of the use of the peace and security language and architecture to respond to Covid-19 underscores why securitisation and militarisation of health and welfare issues end up protecting the economic and neo-liberal status quo.

Instead, perhaps what is required is a “re-balancing”, as well as a greater focus on positive obligations; seeking out a new equilibrium for how rights can be understood and implemented. The critique of mainstream human rights discourse is vital to this task, including its failure to engage effectively with the social ills caused by austerity. One can see very clearly during this pandemic the inadequacy of the liberal tradition of negative liberty – “so long as each person can be left alone, that is good enough.” Indeed, more

Instead of securitised or militarised logic, there is a need to place greater attention on the “violence of the everyday”, and to understand how Covid-19 and many states’ neo-liberal responses to it feed into this violence, perpetually. The pandemic is an important wake-up call by bringing to the fore an array of pre-existing challenges that remain unaddressed. It puts into stark focus the intersectional ways in which different groups are being disproportionately affected, not only by the pandemic but by the unequal societies in which they live. Our political and economic systems have contributed significantly to these societal failings.

---

Another important theme is the relationship between different theories or conceptions of rights – those which privilege the individual and others which adopt more communitarian or collective perspectives. Both Casla and Kamiloglu, in their papers, for instance call for a much greater attention to be placed on collective rights, and indeed, both share a more communitarian or communal vision of how rights ought to be articulated and respected. Indeed, Casla’s focus on individuals’ civic responsibilities – what defines an individual’s relationship with others and the wider community -, highlights the sense that all individuals are members of a political community. He sees the need to place greater emphasis on the needs of the community, and particularly, those most vulnerable within it. This was seen as particularly important, given the unequal and intersecting impacts of the virus. However, the notion of “vulnerability” is not neutral. There is also a tendency to see vulnerability as a common denominator of resistance; and using it in this way requires us to think about resistance to those in power. In contrast, notions of “care” are slightly different as they can be indifferent to power.