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Conditionality, Debt and Collective Labour Freedoms

VINCENZO PIETROGIOVANNI



Mpoki Mwakagali's Monograph

- A PhD thesis is great because of great language, research questions & methodology, sources, design & structure, content, critical skills
- A book is great also because it contributes to the debate with a beneficial knowledge
- Reading Mpoki's book makes one questioning the definition of some fundamental concepts that scholars use commonly, above all labour rights, international law, social justice

International Financial Institutions

“The operation was successful but the patient died”

2 questions:

1. Who is the patient?
2. What is the cure?

These are legal questions only to some extent, they are rather political questions

International Financial Institutions

1. Who is the patient?

In the European crisis, the illness lied in many cases in the financial sector

In some other countries, the illness lied in the former/current colonial policies

2. What is the cure?

In many cases (the dramatic ones?): Neoliberalism

Neoliberalism

The Chicago Boys before Thatcher



Friedrich Hayek: there is no such thing as society, just individuals
Labour Law puts this idea in crisis, above all Collective Labour
Law

Two Suggestions

Along with the International Law and Human Rights Law
probably the MoUs can be questioned
under a Constitutional perspective
(where it is the case)

Together with Sen's capability (or instead of)
an ecological approach to IFIs is urgent

My Two Points

1. Conditionality and Debt

Morality play in the EMU

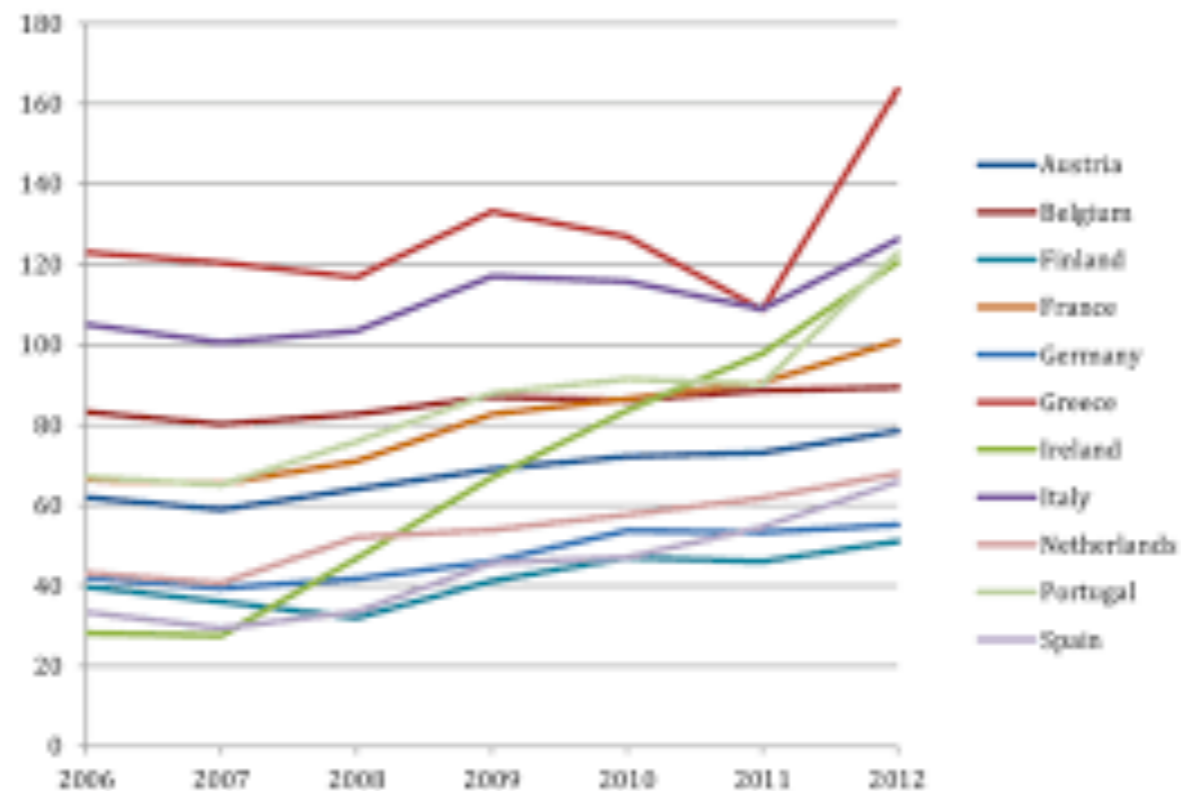
>>>>> PIGS

>>>>> Financially Complying Northern Europe vs
Untrustworthy and Rule-breaking Southern Europe

Debt as synonym of Guilt

My Two Points

Public debt in percentage of Gross Domestic Product (GDP) -
Largest national economies in the Euro-zone, 2006-2012



Source: Patrizio Pace, *Morality play or sustainability issue? An analysis of European conditionality on Italian and Spanish reforms*, 2015

My Two Points

2. Collective Labour Freedoms

Collective Labour Freedoms

Collective Labour Freedoms as a problem of methodology

- The distinction between civil/political rights and social/economic rights is fictitious
- The conflict between economic freedoms vs social rights is incorrect
 - *Laval doctrine* from CJEU incorporated also into scholarship

Materialist & Historical approach:

- Social Constitutionalism: labour is not object but subject of regulations (social law as the law of the social parties)
- Employers as well as trade unions are actors of the labour markets, they regulate it (through the common rule) but they do NOT deny it
 - *collective autonomy*
- Both pursue interests that are conflicting but of the same nature – social-economic interests (*hendiadys*)

Collective Labour Freedoms

Collective Labour Freedoms as Economic Freedoms

- Loi Chapelier of 1791, Article 7: ‘any person is free to conduct such business or to exercise such profession, art, or trade as suits him’ - the freedom of work or as an extension of the right to property
- The CLFs as ‘*social freedom*’ as theorised by Axel Honnet – moreover, Karl Polany: true criticism of market society is not that it relies on economy – in a sense, any society must be based on it – but that its economy is based on the individual interest
- Alain Supiot: ‘*les syndicats ne sont rien d’autre que l’exercice d’une liberté dans un cadre dicté par des faits ‘économiques objectifs’*’ consequently, the separation (and the consequent balancing) of social rights and economic freedoms ‘*est purement idéologique*’
- As for the EU: *social market economy* (Art. 3.3 TEU)

Collective Labour Freedoms

- Collective Labour Freedoms as Economic Freedoms
- But ultimately they are also political freedoms towards Industrial Citizenship / Economic Democracy – who produces needs also to be part of their fate in the productive system by co-deciding on what, when, how and why to produce a good or a service (especially in light of the technological and environmental concerns)
- Connections between economic democracy and democracy as such
- Imposing undemocratic (micro)economics is against human political rights



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