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Exceptional Measures: Greece's COVID-19 Governance and the State of Exception in Liberal Democracy

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ABSTRACT

This thesis critically examines Greece's pandemic governance through Giorgio Agamben's theory of the state of exception, arguing that the COVID-19 crisis accelerated pre-existing tendencies toward executive centralisation, legal formalism and democratic erosion. It analyses emergency measures such as protest bans, movement permits and vaccine mandates, highlighting how these interventions redefined the relationship between law, politics, and life. While Agamben's insights show the biopolitical logic underlying such governance, the thesis also underscores the limitations of his framework, particularly its lack of attention to social differentiation and institutional agency. Drawing on legal analysis and political theory, the study contextualises the Greek response within broader democratic backsliding and offers recommendations for safeguarding constitutional integrity during crises, including enhanced judicial scrutiny, transparent expert oversight and also embedded sunset clauses.

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1. Introduction

This study seeks to explore how Giorgio Agamben's theoretical framework, particularly his concepts of the "state of exception," "bare life," and "homo sacer," can be utilized to analyze the Greek state's response to the Covid-19 pandemic, especially in relation to the suspension of civil liberties and the erosion of democratic norms. The central research question guiding this inquiry is: How can Agamben's theoretical framework help us understand the suspension of civil liberties and the erosion of democratic norms in Greece during the Covid-19 crisis? Agamben thinks that modern states often exploit crises to expand executive power, normalize emergency measures, and create a legal void in which certain populations are excluded from political life[1]. The objective of this research is to investigate how the Greek state, under the guise of public health necessity, may have enacted policies that reflect Agamben's theorized state of exception, where law is suspended in order to preserve state sovereignty. Furthermore, the study will analyze the relationship between crisis-driven governance and biopolitical control as manifested through mechanisms such as movement restrictions, surveillance technologies, and the suppression of dissent. By applying Agamben's ideas to a specific national context, this research aims to provide a critical perspective on how liberal democracies manage public health emergencies and how such responses may recalibrate the relationship between state power and individual rights.

The significance of this research lies in its contribution to interdisciplinary discussions on democracy, emergency governance, and the philosophy of law during crises. While the Covid-19 pandemic prompted a substantial body of literature on epidemiological management, economic recovery, and global health governance, fewer studies have examined the philosophical and political implications of emergency measures through the lens of critical theory. Agamben's controversial interventions during the pandemic sparked renewed interest in his work, especially his critique of how states use public health as a justification for exceptional governance[2]. Recent scholarship has highlighted that Agamben's pandemic writings represent a significant shift in his political philosophy, particularly through the

[1] Giorgio Agamben, *State of Exception* (Kevin Attell tr, University of Chicago Press 2005).
[2] Giorgio Agamben, 'The Invention of an Epidemic' (European Journal of Psychoanalysis, 27 February 2020) https://www.journal-psychoanalysis.eu/articles/the-invention-of-an-epidemic/ accessed 3 July 2025.

introduction of fear as a central analytic theme. Gorby for example, argues that fear, notably the fear of death, becomes a structuring force in Agamben's reworked notions of biopolitics and the state of exception[3]. This addition reframes sovereign power as not merely juridical or bureaucratic, but affective and existential, with significant consequences for understanding public compliance and state legitimacy in times of crisis.

By focusing on Greece, a country with recent experiences of economic collapse, authoritarian nostalgia, and institutional fragility, this study brings a nuanced perspective to the analysis of pandemic governance in the European periphery. Greece provides a particularly illustrative case for examining how democratic backsliding can occur even within the formal structures of constitutionalism and EU oversight. Scholars such as Douzinas and Panagiotopoulos have explored how austerity politics paved the way for new modes of governance based on security, control, and technocratic management[4]. This research extends those discussions into the pandemic era, highlighting how health-related states of emergency may produce long-lasting transformations in democratic norms, civic participation, and political subjectivity.

Greece's initial response to the Covid-19 pandemic was met with widespread praise for its swiftness and effectiveness. In March 2020, the government imposed early lockdown measures, closed borders, and limited public gatherings, despite relatively low infection rates at the time[5]. Citizens were required to send SMS messages to obtain permission for movement, a measure unprecedented in peacetime Europe. While these measures were framed as temporary and necessary for public health, they were accompanied by increased policing, surveillance, and restrictions on protest rights. In 2021, for example, the government issued bans on demonstrations during major political anniversaries such as the Polytechnic Uprising, citing health risks despite declining case numbers[6]. Critics argued that these policies were selectively enforced and disproportionately targeted left-wing activists and students. Moreover, the prolonged suspension of civil liberties raised concerns about democratic accountability and the risk of normalizing authoritarian practices. These developments occurred against a backdrop of

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[3] Peter Gorby, 'The Biopolitics of Fear: Assessing Agamben's Analysis of the COVID-19 Lockdowns' (2023) *Distinktion: Journal of Social Theory* https://doi.org/10.1080/1600910X.2023.2254010.

[4] Costas Douzinas, *Philosophy and Resistance in the Crisis: Greece and the Future of Europe* (Polity Press 2013); Georgios Panagiotopoulos, 'Crisis and Sovereignty in Post-Memorandum Greece' (2021) 22(2) *European Politics and Society* 265.

[5] Petropoulos D and Makris I, 'Swift Action and Public Approval: Greece's First Lockdown Response' (2021) *European Journal of Risk Regulation* 12(3).

[6] Tsatsanis E, Vasilopoulou S and Tsirbas Y, 'Pandemic Politics in Southern Europe: The Cases of Greece, Italy and Spain' (2021) 23(sup1) *European Societies* S267.

political polarization, public distrust in institutions, and a media environment increasingly shaped by state funding and censorship[7]. The pandemic thus acted as a magnifying lens, revealing pre-existing vulnerabilities in the Greek political system while introducing new challenges to democratic governance.

This study is grounded in the theoretical framework developed by Giorgio Agamben, whose work on the state of exception, biopolitics, and sovereignty provides critical tools for analyzing the suspension of legal norms and the transformation of political life during crises. In Homo Sacer, Agamben introduces the figure of the homo sacer, a person who can be killed but not sacrificed, to illustrate how certain lives are rendered politically irrelevant through legal exclusion[8]. This concept is key to understanding how modern states create zones of indistinction between law and politics, legality and illegality. In State of Exception, Agamben extends this analysis to the field of emergency governance, arguing that the proliferation of exceptions reveals a hidden logic within liberal democracies whereby sovereign power asserts itself most fully when it suspends the rule of law[9]. This theoretical lens allows us to examine how the Greek state's pandemic response functioned not merely as a public health intervention but as a biopolitical strategy to manage populations, control space, and silence dissent.

Recent critiques such as Gorby caution against an uncritical adoption of Agamben's later pandemic writings, suggesting they may reflect a problematic form of "state-phobia"—an overgeneralized suspicion of state power that risks collapsing all public health policy into authoritarianism. Gorby also contrasts Agamben's vague proposal for a "politics of openness" with Antonio Negri's more grounded politics of solidarity, rooted in shared suffering and mutual aid. Incorporating these debates allows this study to engage critically with Agamben's framework while exploring complementary or corrective perspectives[10].

Methodologically, this study employs qualitative content analysis of legal decrees, government press releases, parliamentary debates, and media reports from 2020 to 2022. The materials are analyzed through critical discourse analysis, focusing on how narratives of crisis, security, and sacrifice were

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[7] Giorgos Katsambekis and Yannis Stavrakakis, 'Populism and Democracy after the Pandemic: The Cases of Greece and Spain' (2022) 27(1) *South European Society and Politics* 1.
[8] Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Daniel Heller-Roazen tr, Stanford University Press 1998).
[9] Agamben, *State of Exception* (n 1) 2–3.
[10] Gorby (3).

mobilized to justify exceptional measures. The study also engages with secondary literature on biopolitics, neoliberalism and Southern European political transformations[11].

The structure of this thesis is designed to gradually build the argument by moving from theoretical foundations to empirical analysis and critical reflection. Chapter 2 presents a comprehensive literature review, situating Agamben's work within broader debates on sovereignty, biopolitics, and emergency governance. It also explores key critiques of Agamben's theory, particularly from scholars who argue that his framework may be overly abstract or insufficiently attentive to context. Chapter 3 provides an in-depth overview of the Greek political and legal landscape prior to the pandemic, including the effects of the Eurozone crisis, austerity measures, and the securitization of migration. This chapter argues that the Greek state already exhibited tendencies toward exceptional governance, making it particularly susceptible to Agambenian dynamics during the pandemic. Chapter 4 is the empirical core of the thesis, analyzing primary sources to trace how the state of exception was operationalized in pandemic policies. It focuses on specific case studies such as the SMS movement system, protest bans, and the role of police enforcement in public health measures. Chapter 5 offers a critical discussion of the findings through Agamben's theoretical lens, reflecting on the implications for democratic life, civic agency, and the future of crisis governance. Finally, Chapter 6 concludes the study by summarizing key insights, addressing limitations, and suggesting directions for future research on state power, public health, and the politics of emergency.

[11] Michel Foucault, *The Birth of Biopolitics: Lectures at the Collège de France, 1978–1979* (Graham Burchell tr, Palgrave Macmillan 2008); Wendy Brown, *Undoing the Demos: Neoliberalism's Stealth Revolution* (Zone Books 2015); Georgios Karyotis and Roman Gerodimos (eds), *The Politics of Extreme Austerity: Greece Beyond the Crisis* (Palgrave Macmillan 2015).

2. Theoretical Framework

2.1"State of Exception and Bare Life"

In this chapter we will try to explore the theoretical foundations of Agamben's political philosophy, particularly those focusing on the notion of the "state of exception", a key notion in understanding the COVID-19 pandemic and broader public health emergencies. Even though Agamben's ideas are placed within a specific historical context, his relevance is critically reviewed, especially in light of the government responses to the COVID-19 pandemic, during which he publicly expressed his concerns, often sparking controversy among the scholars. In this chapter we will also touch on this controversy by incorporating some critiques of his work, highlighting possible limitations and shortcomings of his theoretical framework when applied to a real-world pandemic scenario. For this task we have incorporated relevant bibliography that will help us navigate through this complex and challenging path.

Understanding Giorgio Agamben's political theory cannot achieved without a brief mention to Foucault's work, whose ideas influenced him to expand or add to his thoughts. Michel Foucault's central concept is "biopolitics", which refers to a state of governance centered on the administration and optimization of life, in other words it's the management of life by political power. This model of governance was a gradual shift from the absolute control the state had over its subjects during the 17th and 18th century. More specifically, during that time, as Foucault describes in History of Sexuality, Volume 1 sovereign power was prominent, and the ruler could decide who would live or die in any moment[12]. This slowly changed stepping into the 19th century and the beginning of modernity, as state power no longer focused on the right to kill by punishing and executing the disobedient subjects. On the contrary, it worked by optimizing life and deciding whose lives are worth or not saving. In this context institutions play an important role in defining normality, shaping bodies by categorization of what is considered healthy, normal or deviant[13]. So, quoting Foucault himself, "the right of sovereignty was the right to take life or let it live. And then this new right established: the right to make live and let it die"[14].

Michel Foucault and Giorgio Agamben actually share a profound engagement with the concept of biopolitics, yet we shall not ignore that their theoretical frameworks diverge in significant ways. More

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[12] Michel Foucault, *The History of Sexuality: Volume 1* (Pantheon 1976).
[13] Michel Foucault, *Discipline and Punish: The Birth of the Prison* (Alan Sheridan tr, Vintage Books 1995).
[14] Foucault (n 12) 241.

specifically, Foucault introduced the notion of biopower to describe the shift in modern governance from sovereign power to a form of power that "fosters life or disallows it to the point of death"[15]. This transition as we already stated marked the emergence of mechanisms that regulate populations through institutions, norms and also disciplines. To put this into deeper perspective, he analysed institutions such as schools, prisons, and hospitals as sites of disciplinary power, through which norms are produced and enforced. In doing so, he highlighted how governance is deeply embedded in the biological and social life of individuals. Biopolitics thus moves beyond traditional state sovereignty to focus on managing populations via statistical knowledge, health measures, and surveillance. Agamben, influenced by Foucault's analysis, extends the concept by arguing that the production of a biopolitical body is the original activity of sovereign power, thereby integrating in his books biopolitics and sovereignty into a single framework. He builds on Foucault's insight but shifts the focus from productive power to its exclusionary logic. For Agamben, modern power is not only concerned with fostering life but also with producing forms of life that are stripped of political significance, what he calls bare life.[16] He claims that the state of exception, where law is suspended, becomes the rule, exposing individuals to the sovereign's power without legal protection.

Agamben's concept of "bare life" (often mentioned as zoē, taken from the greek word for life) which further develops Foucault's ideas, highlightes the exclusionary aspects of biopolitics. Where their thought follows a different path, is while Foucault focused on how power operates through the normalization of life, Agamben emphasizes the sovereign's ability to exclude individuals from the political community, reducing them to mere biological existence without rights[17]. This perspective is evident in Agamben's analysis of the concentration camp as the "nomos of the modern," a space where the state of exception becomes permanent and individuals are stripped of legal status. He considers it the "nomos of the modern" not as an exception to democratic governance but as its hidden foundation. The camp represents the most extreme realization of the state of exception, where individuals are stripped of all legal and political identity[18]. The Guantanamo Bay detention center serves as a contemporary example, where detainees are held indefinitely without trial. Agamben argues that these spaces constitute a new political norm in which the suspension of rights is normalised, not exceptional. Thus, while both theorists explore the intersection of life and power, Foucault's framework centers on the productive

[15] Foucault (n 12) 138.
[16] Giorgio Agamben, *Homo Sacer* (n 8) 6.
[17] Ibid 8.
[18] Ibid 166.

aspects of biopower, whereas Agamben focuses on its capacity for exclusion and the implications of sovereign decisions on human life.

In order to explain this better we have to introduce one of Giorgio Agamben's central notions, which is the concept of the "state of exception", a condition where the rule of law is suspended, and the sovereign exercises power beyond legal constraints. This notion has a tied relationship to another key idea of his: the "bare life", a form of existence stripped of political and legal status. Agamben in an attempt to support his thoughts, traces the origins of the state of exception to Roman law, particularly the institution of iustitium, which allowed for the suspension of legal norms during crises. In his work *State of Exception*, he argues that this exceptional measure once used during the Roman era, has now evolved into a permanent feature of modern governance. He critiques Carl Schmitt's view that the sovereign's ability to decide on the exception is the essence of sovereignty, proposing instead that the exception itself is a mechanism that separates law from its application, creating a zone of indeterminacy where legal norms are suspended yet still claimed to be in force[19].

Erin Kruger highlights exactly Agamben's departure from Schmitt's framework, noting that Agamben sees the state of exception not as a temporary suspension but as a space devoid of law, a rather "threshold of indifference between anomie and law"[20]. This suspension of the legal order allows for actions that lie outside the realm of law, which Agamben terms "inexecutions", acts that neither execute nor transgress the law but exist in a state of exception[21]. Marc Botha further emphasizes the dangers inherent in the normalization of the state of exception, warning that when the exception becomes the rule, the juridico-political system transforms into a "killing machine"[22]. He does that by pointing to contemporary examples, such as the indefinite detention of detainees at Guantanamo Bay, as manifestations of this transformation, where individuals are deprived of legal status and subjected to sovereign power without judicial oversight with serious implications about democracy.

In Agamben mind the state of exception has such a central role in today's world, because it has slowly become the norm in contemporary politics. Indeed, in *Means Without End*, he observes that modern power increasingly legitimizes itself through emergency measures, transforming exceptional

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[19] . Agamben, *State of Exception* (n 1) 12–15.
[20] Erin Kruger, 'Review of *State of Exception* by Giorgio Agamben' (2005) 8(3) *Space and Culture* 338, 339.
[21] Giorgio Agamben, *Homo Sacer* (n 8) 37–38.
[22] Marc Botha, 'Review of *State of Exception* by Giorgio Agamben' (2009) 31(2) *Oxford Literary Review* 255, 257.

conditions into standard governance practices[23]. Kruger concurs, noting that Agamben identifies a "global civil war" where the state of exception is deployed as a dominant paradigm of government, evident in practices such as indefinite detention and the suspension of civil liberties in the name of security[24]. This normalization of the exception blurs the lines between democracy and absolutism, hence creating a political environment where the sovereign's decision-making power is unchecked, and individuals' rights are contingent upon their inclusion in the legal order.

In this environment human life is transformed into "bare life*"* through the figure of "homo sacer", an individual who can be killed without legal consequence because they exist outside the protection of the law. In ancient Roman law according to the philosopher, the homo sacer was a person who could be killed without it counting as murder but at the same time could not be sacrificed in a religious context. In *Homo Sacer*, Agamben explores how modern states produce such paradoxical figures by stripping individuals of their political and legal identities. He argues that the camp, exemplified by Nazi concentration camps and contemporary detention facilities like Guantanamo Bay, serves as the paradigm of this condition, where individuals are reduced to bare life, existing in a state of exception without rights or protections[25]. Botha notes the "uncanny" similarity between the Roman legal concept of *hostis iudicatio,* a citizen radically deprived of all legal status, and the status of detainees at Guantanamo Bay, who are "entirely removed from the law and from judicial oversight" too, highlighting this way the continuity between ancient legal practices and modern forms of sovereign power that produce bare life[26].

In his early writings on the pandemic, Agamben wrote plenty of short articles, criticizing the Italian government's response as an overreach, suggesting that the virus was being used as a pretext to impose a state of exception. One of his articles at the time titled "The Invention of an Epidemic" clearly supports the idea that the COVID-19 epidemic was a made-up pandemic, in the sense that the panic being spread by the media did not correspond to the actual death rates of the virus. In other words, he argued that the measures taken were disproportionate to the actual health threat and that they revealed the state's inclination to prioritize control over genuine public welfare[27]. Agamben further elaborated on society's compliance to these measures, noting the ease with which individuals accepted isolation, such as

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[23] Giorgio Agamben, *Means Without End: Notes on Politics* (Vincenzo Binetti and Cesare Casarino trs, University of Minnesota Press 2000).
[24] Kruger (n 20) 340.
[25] Agamben, *Homo Sacer* (n 8) 174–180.
[26] Botha (n 22) 257.
[27] Agamben, 'The Invention of an Epidemic' (n 2).

lockdowns and social distancing, and the suspension of normal life, indicating a pre-existing condition of societal distress. He argued that the fear of losing one's life became the foundation for accepting tyranny, symbolized by the "monstrous Leviathan with his unsheathed sword"[28]. Using an analogy, he claimed that science has taken the power religion once held and that health is now the new salvation and bare life the new eternal life. Hence, "people no longer believe in anything other than a bare biological existence, which must be saved at any cost"[29].

This perspective is not isolated to Italy of course, as globally, the pandemic has seen the rapid implementation of emergency measures that have restricted civil liberties and have created a democratic deficit. For instance, in various countries, contact tracing apps were introduced, raising concerns about surveillance and data privacy. Such measures, while aimed at controlling the virus's spread, also exemplify the expansion of state power under the guise of public health, aligning with Agamben's warnings about the normalization of the state of exception. Australia's management of the COVID-19 pandemic provides a concrete example of Agamben's theories in action. In Australia's case for instance, the government implemented strict measures, including border closures, mandatory quarantines, and lockdowns, aiming for the elimination of community transmission[30]. Moreover, citizens were more than willing to download an app aimed at tracking the virus spread, without it having undergone sufficient testing and despite its questionable data policies[31]. While one might say that these actions were effective in controlling the virus, we cannot ignore the significant restrictions on individual freedoms and the raising concerns about the normalization of emergency powers.

Critics also pointed out similar instances where measures seemed excessive or lacked transparency, such as, the hard lockdown of public housing towers in Melbourne, which was highly criticized for its severity and the lack of clear communication, raising issues of disproportionate response and potential overreach[32]. Such actions only show in real life Agamben's biggest concern about the

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[28] Giorgio Agamben, 'Reflections on the Plague' (European Journal of Psychoanalysis, 27 March 2020) https://www.journal-psychoanalysis.eu/articles/reflections-on-the-plague/ accessed 3 July 2025.
[29] Ibid 1.
[30] Andrew Stobart and Stephen Duckett, 'Australia's Response to COVID-19' (2022) 17(1) *Health Economics, Policy and Law* 95.
[31] Peter Westoby and Verne Harris, 'Community Development "Yet-to-Come" During and Post the COVID-19 Pandemic' (2020) 55(4) *Community Development Journal* 553.
[32] Stobart and Duckett (n 30).

CODID-19 pandemic: that in the name of public health, states may suspend normal legal processes, reducing this way individuals to mere subjects of control[33].

2.2 Critiques

We can imagine that Giorgio Agamben's critical perspective of the COVID-19 pandemic did not go unnoticed. On the contrary, it sparked controversy in the academic community with many scholars rushing to challenge his arguments. Slavoj Žižek was one of them who critisised Giorgio Agamben's interpretation of the COVID-19 pandemic, particularly his application of Foucauldian biopolitics. Žižek maintained that Agamben's framework can lead to false generalisations, which view all forms of state intervention as authoritarian, thereby neglecting the state's role in safeguarding public health. He argues that such a stance fails to recognize the complexities of governance during a health crisis and the necessity of certain measures to protect vulnerable populations[34]. Tim Christiaens in similar fashion attacked Agamben harshly, labeled him a "coronavirus denialist" whose underestimation of the virus's threat was both dangerous and irresponsible. He also went as far as suggesting that Agamben's objections were the incoherent ramblings of an elderly philosopher disconnected from the empirical realities of the pandemic[35].

Although Žižek acknowledges the importance of scrutinising state power, he emphasises that not all governmental actions during the pandemic are sui generis oppressive. He argued that Agamben misunderstood the nature of the crisis, suggesting that emergency measures can sometimes be necessary to protect vulnerable populations. In his mind, Agamben fails to capture the genuine threats posed by the virus and the need for collective action to mitigate its impact[36] Van den Berge agrees with Žižek that Agamben overlooked the seriousness of the pandemic by linking COVID-19 to the seasonal flu, when data indicated significantly higher mortality rates and overwhelmed healthcare systems, particularly in

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[33] Agamben, 'Reflections on the Plague' (n 28).
[34] Slavoj Žižek, 'Monitor and Punish? Yes, Please!' (The Philosophical Salon, 16 March 2020) https://thephilosophicalsalon.com/monitor-and-punish-yes-please/.
[35] Tim Christiaens, 'Must Society be Defended from Agamben?' (Critical Legal Thinking, 26 March 2020) https://criticallegalthinking.com/2020/03/26/must-society-be-defended-from-agamben/.
[36] Žižek (n 34).

Italy[37] So Žižek chooses a more balanced approach by warning against the uncritical acceptance of emergency measures but at the same time cautioning against dismissing all state interventions as authoritarian, in an attempt to balance public health concerns with civil liberties.

Another pointed critique comes from Benjamin Bratton, who argues that Agamben's reading of the pandemic reflects a deep philosophical irresponsibility and an inability to rethink critical theory in the face of real-world complexity[38]. He contends that Agamben misinterprets the public health response to COVID-19 as pure sovereign overreach, ignoring the actual infrastructural failures and institutional weaknesses that exacerbated the crisis. In *The Revenge of the Real*, Bratton maintains that instead of revealing authoritarianism, the pandemic exposed a deficit of governance, particularly in countries where political decision-making was slow, fragmented, or anti-scientific[39]. Bratton accuses Agamben of collapsing all forms of intervention under the logic of biopolitical control, leading to a kind of critical paralysis that offers no viable alternatives. His critique urges us to distinguish between oppressive surveillance and the legitimate use of scientific and technological coordination to protect collective life, a distinction Agamben fails to make.

Beyond empirical inaccuracies, scholars have also critiqued Agamben's philosophical approach by claiming that his reliance on abstract concepts like "bare life" and the "state of exception" was insufficient for addressing the complexities of the pandemic. Critics argued that Agamben's framework lacked concrete policy alternatives and failed to engage with the socio-economic dimensions of the crisis[40]. Tewari exposed Agamben's shortcoming, claiming that his reliance on metaphysical constructs fails to account for the material realities of the pandemic. Moreover, she maintains that hiss emphasis on the state's expansion of power through emergency measures neglects the lived experiences of marginalized communities disproportionately affected by the crisis, like for example the poor or the elderly[41]. In his critique, Žižek also addresses the broader implications of Agamben's stance, stating that it reflects a broader leftist tendency to interpret crises solely through the lens of power dynamics, thereby neglecting the material realities and human suffering involved[42].

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[37] Laurens van den Berge, 'Biopolitics and the Coronavirus' (2020) 49(1) *Netherlands Journal of Legal Philosophy* 3.
[38] Benjamin H Bratton, *The Revenge of the Real: Politics for a Post-Pandemic World* (Verso 2021) 13–15.
[39] Ibid 21–24.
[40] Ananya Tewari, 'Confronting Agamben on the Pandemic: Biopolitics, Class Struggle and Surveillance Capitalism' (2021) 3(1) *Journal of Critical Global Studies* 45.
[41] Ibid.
[42] Žižek (n 34).

Van den Berge adds to the criticism that the Italian philosopher extended Foucault's concepts beyond their intended scope. More precisely, he believes that while Foucault analyzed the complexities of power structures, acknowledging both their disciplinary aspects and their role in societal organization, Agamben's approach simplifies these dynamics by framing all state interventions as oppressive. In other words, by dismissing the severity of COVID-19 and labeling governmental responses as mere exercises of control, Agamben's interpretation becomes, in van den Berge's view, a misapplication of biopolitical theory[43].

Van den Berge was not the only one who thought Agamben's implementation of Foucault's framework was lacking. Panagiotis Sotiris from his side argues that Agamben fails to account for the caring aspect, so central in Foucault's theory and inherent in public health measures[44]. Due to the exclusive focus on the coercive elements of state power, Agamben overlooks in his opinion how such interventions can be motivated by a responsibility to safeguard public health and support vulnerable populations. So, his omission leads to a limited understanding of biopolitical dynamics in public health crises. On similar grounds, Claire Blencowe critiques Agamben's interpretation for misrepresenting Foucault's position on biopolitics by obscuring its historical specificity and positivity[45]. She emphasizes that Foucault's analysis includes the idea that governance involves a balance between control and care, where institutions implement health policies to protect and improve the lives of citizens.

All in all, it becomes evident that Agamben's approach to the COVID-19 pandemic raised indeed very important questions about state power and civil liberties, making us think what kind of political life we want and from whom. His controversial ideas did in fact receive a lot of backlashes, with the main criticism centering around the fac that his analysis lacked empirical grounding and that he failed to consider the complex socio-political realities of the crisis. We can conclude that his critiques highlight the need for a more nuanced approach that balances theoretical insights with practical considerations and ethical responsibilities. However, despite these critiques we believe that his theoretical framework can offer valuable insights into analyzing the Greek government's response to the COVID-19 crisis. With that being said, before we proceed to conduct the analysis of the Greek case through Agamben's political

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[43] van den Berge (n 37).
[44] Panagiotis Sotiris, 'Thinking Beyond the Lockdown: On the Possibility of a Democratic Biopolitics' (2020) 28(3) *Historical Materialism* 3.

[45] Claire Blencowe, 'Foucault's and Arendt's "Insider View" of Biopolitics: A Critique of Agamben' (2010) 23(5) *History of the Human Sciences* 113.

philosophy, it is crucial to paint the political as well as the legal background in which the governments measures regarding the pandemic took place.

3. Greece's Political Landscape and Pandemic Measures

December 31, 2019, marked the beginning of a new aera in collective memory, as it was the day when Chinese authorities warned the World Health Organization (WHO) of a newly appeared viral pneumonia outbreak in the city of Wuhan. In January, the WHO declared an international state of emergency and on March 11, 2020, it declared a pandemic[46]. The hearing of the news sent shockwaves in the global communities and all governments around the worlds proceeded to take measures in order to safeguard their citizens of its fast spread and infectiousness. Greece did not diverge from the rule and responded to the COVID-19 threat with plenty measures, even before the confirmation of the first incident in the country[47]. Indeed, the Greek government implemented a complex policy to prevent the spread of the COVID-19 virus, primarily through legislative provisions related to compulsory vaccination and other preventative actions which we will analyse[48].

Firstly, we will examine at the general legislative framework for vaccination. More specifically, in February 25, 2020 a Presidential Decree (Π.Ν.Π.) titled "Urgent measures to prevent and limit the spread of coronavirus" (A΄ 42) was issued. It established preventative measures, including vaccination of individuals suspected of spreading the disease[49]. In March of the same year Law 4675/2020 was enacted and in Article 4, Paragraph 3, Case (a), authorized the Minister of Health to impose mandatory vaccination in cases of risk of transmissible disease[50]. Later on, in April 29, 2021 the Fire Department ordered mandatory vaccination for members of the Special Disaster Response Unit (E.M.A.K.), with noncompliance leading to reassignment and three months after Law 4820/2021, Article 206, mandated vaccination for health and eldercare workers in both public and private sectors[51]. In December of 2021 Law 4865/2021, Article 24, introduced mandatory vaccination for citizens over 60, effective from January 16, 2022 and a monthly fine of 100 euros was imposed for non-compliance[52]. Other Measures

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[46] World Health Organization (WHO), 'WHO Timeline - COVID-19' (2020) https://www.who.int/news/item/27-04-2020-who-timeline---covid-19 accessed 3 July 2025.
[47] Dimari G and Papadakis N, 'The Greek State's Legal Response to the Pandemic' (2023) *Administrative Law Review* 8(2).
[48] Lampas M, 'Legislative Approaches to COVID-19 in Greece' (2020) *European Journal of Risk Regulation* 11(3).
[49] Government Gazette A 42/25.02.2020, Presidential Decree 'Urgent measures to prevent and limit the spread of coronavirus'.
[50] Government Gazette A 54/11.03.2020, Law 4675/2020, art 4(3)(a).
[51] Government Gazette, Law 4820/2021, art 206.
[52] Government Gazette, Law 4865/2021, art 24.

in Greece during that time included the introduction of the "Freedom Pass"[53], information campaigns, lockdowns, mask mandates, compulsory testing and disinfection protocols throughout the pandemic[54].

Mandatory vaccination for specific occupational groups was also in the agenda of the Greek government as we can see in Law 4820/2021, Article 206[55]. This law specified groups obligated to be vaccinated against COVID-19 based on their employment and it included:

- All staff[56] (medical, paramedical, nursing, administrative, and support) in private, public, and municipal elderly care units and care units for people with disabilities. This encompasses various types of facilities such as rehabilitation centers, supported living homes, elderly care units, chronic patient care facilities, social welfare centers, hospices, and personnel involved in the "Help at Home" program.
- All staff (medical, paramedical, nursing, administrative, and support) in private, public, and municipal healthcare facilities (diagnostic centers, rehabilitation centers, clinics, hospitals, primary healthcare structures, nursing units, National Emergency Aid Center, and National Public Health Organization).

Exceptions to this obligation were made for those who had recovered from COVID-19 for a period of six months from their illness and those with proven health reasons preventing vaccination. These health reasons, based on a special list from the National Vaccination Committee, had to be approved by three-member committees per health region, composed of National Health System doctors and university doctors. In the case of failure to comply with the mandatory vaccination requirement for public sector employees in these categories resulted in the administrative measure of suspension of duties, during which no salaries were paid, and the time was not counted as actual public service. The suspension was lifted 14 days after the completion of vaccination. Moreover, the Council of State (ΣτE

[53] A prepaid digital card worth 150 euros provided as an incentive for young vaccinated citizens to spend on cultural and recreational activities. The aim of the government was to boost vaccination rates among youth by linking immunisation to tangible economic benefits.
[54] Government Gazette, Law 4727/2020, art 29 (‘Freedom Pass’).
[55] Government Gazette, Law 4820/2021, art 206.
[56] The term "staff" refers to any individual providing services or performing work, paid or voluntarily, with a physical presence within these facilities, as well as individuals providing services within these facilities to legal entities contracted by the facilities.

Ολομ. 1400/2022) ruled that mandatory vaccination for members of the Special Disaster Response Unit (E.M.A.K.) was constitutional[57]. This was based on a Fire Department order from April 29, 2021, which stipulated mandatory vaccination for its staff by June 11, 2021, with refusal leading to transfer to another service within the Fire Department. The argument of health damage due to forced vaccination was rejected, as the measure was deemed to focus on the safety of the employees themselves rather than posing a risk to their health.

Elderly Citizens also fell under the umbrella of mandatory vaccination, as it is stated in Law 4865/2021, Article 24, which mandated vaccination against COVID-19 for all individuals residing in Greece who were born up to December 31, 1961[58]. These individuals were required to receive their first or single dose by January 16, 2022, with the completion of the vaccination cycle to follow according to prescribed procedures and timelines. In fact, a monthly fine of 100 euros was imposed for non-compliance for those over 60 years of age. This fine was considered by some to be disproportionate, potentially allowing those with high incomes to pay and thus get away from the obligation while being punitive for others, potentially affecting their minimum living standard. However, the Plenary Session of the Council of State ruled that the measure of mandatory vaccination for individuals over 60 was a constitutionally acceptable restriction of individual rights, and the monthly fine of 100 euros was a reasonable incentive given the public interest objectives[59].

Other incentives that the government of Kyriakos Mitsotakis took involved a repaid card named the "Freedom Pass", which introduced a prepaid digital card as an incentive for vaccination. While some criticized this as a form of bribery or corruption, linking vaccination to a prepaid card, it was observed that within days of its announcement, participation in the vaccination program more than doubled among young people. This measure was deemed constitutional by some legal scholars as it constituted a positive incentive rather than a restrictive measure[60]. Of course, following the example of most European countries other general measures were taken during the pandemic such as lockdowns, which were sometimes partial, information campaigns about the benefits of vaccination, compulsory self-diagnostic tests, disinfection as well as mask usage.

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[57] Council of State (ΣτΕ Ολομ) 1400/2022.
[58] Government Gazette, Law 4865/2021, art 24.
[59] Council of State (n 58).
[60] Government Gazette, Law 4727/2020, art 29 (‘Freedom Pass’) (n 55).

Another distinctive and controversial element of Greece's pandemic response was the implementation of the mandatory SMS system for all citizens during lockdown periods. Introduced in March 2020, individuals were required to send a text message to a government-designated number (13033) stating their name, home address, and one of six coded reasons for leaving the house, ranging from grocery shopping to medical visits and dog-walking. Upon receiving approval, they could exit their residence for a limited time. This measure was justified by the government as a means to enforce lockdown compliance and track movement without resorting to more invasive surveillance technologies. The Council of State did not issue a ruling against the system's legality, and it remained in effect during various lockdown phases[61].

It is fair to say that the Greek government's measures to prevent the spread of the COVID-19 virus were subject to mixed opinions regarding their alignment with both the Greek Constitution and European Law and they evoked varied responses from the public. The Greek government might had based its preventative measures, including mandatory vaccination, on existing legislative frameworks and constitutional principles, like for example the state's constitutional obligation to protect citizens' health (Article 21, paragraph 3 of the Constitution). The Council of State affirmed this obligation, stating citizens have a right to demand the state fulfill this duty. In this context, the principle of proportionality was a central legal consideration, as measures had to be suitable, necessary, and proportionate, aiming for the least possible restriction while achieving a legitimate public health goal by assessing the safety of the vaccines. Some law experts like Tsiliotis view Greece's response as justified given the severity of the pandemic, especially when we take into consideration that the alternative would be the idea of herd immunity (as attempted in the UK and U.S.), often leading to mass deaths and overwhelmed health systems, and would most certainly violate the state's constitutional duty to protect life and health[62]. The argument seems logical when we put things into perspective, as Greece's health care is significantly weaker than that of other EU countries with "the total numbers of hospital and critical care beds are also below the EU average at 421 per 100,000 population (vs. 504 EU average) and 6 per 100,000 population

[61] Evangelia (Lilian) Tsourdi and Niovi Vavoula, 'Killing me Softly? Scrutinising the Role of Soft Law in Greece's Response to COVID-19' (2021) 12 *European Journal of Risk Regulation* 59.
[62] Evangelos Tsiliotis, 'The Constitutionality of Mandatory Vaccination and the Principle of Proportionality' (2020) *Nomos & Physis* https://www.nomosandphysis.gr accessed 9 July 2025.

(vs. 11.5 EU average), respectively"[63]. Hence, there was a legitimate concern of disruption to the health care system, which would make the handling of the pandemic get out of control[64].

However, not everyone agrees with this opinion, with many scholars arguing that under current Greek law, vaccination cannot be imposed on workers as an obligation, since there is no explicit legal provision mandating it. Karouzos (2021) emphasises that bodily autonomy and the right to self-determination are constitutionally protected, and that any interference with these rights must meet strict requirements of legality, necessity and proportionality as already mentioned. According to his evaluation in regard to labor law principles, an employer cannot unilaterally impose a medical act such as vaccination, nor can they terminate an employee solely for refusing it, as this would likely be deemed an illegal and abusive dismissal. Furthermore, he explores whether a general obligation to vaccinate could be indirectly imposed through public health goals or employer duties to ensure a safe working environment, concluding that while employers are responsible for workplace safety, this responsibility does not override the personal rights of employees in the absence of a clear legal mandate. In other words, they should be given the choice and be forced with economic and psychological threats to get vaccinated. He recognises that moral and social responsibility may encourage vaccination among workers, but it cannot substitute for legal compulsion. More preferably, the government should had focused on advocating for persuasion and information campaigns rather than mandatory measures in the workplace[65].

Consequently, the implementation of vaccine mandates, particularly for healthcare workers, consistently raises complex ethical and legal issues, primarily revolving around the tension between individual autonomy and the collective imperative of public health protection. The fact that healthcare workers generally exhibit a higher acceptance of vaccine mandates for themselves than for the general population, might reflect their perceived moral obligation to prevent patient harm and their crucial societal role during a pandemic, but we should not ignore that a substantial proportion still oppose such measures.[66] Indeed, according to a study applying to Greece's case "77.7% vaccination acceptance rate

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[63] Angelis A, Lange A, Kanavos P, 'Using Health Technology Assessment to Assess the Value of New Medicines: Results of a Systematic Review and Expert Consultation across Eight European Countries' (2020) 10(1) *Health Economics Review* 5.
[64] Tsiliotis (n63).
[65] Karouzos G, 'Η απόλυση ως κύρωση στην άρνηση του εργαζόμενου για εμβολιασμό' (Syntagma Watch, 16 March 2021) https://www.syntagmawatch.gr/trending-issues/h-apolysh-ws-kyrwsi-sthn-arnisi-tou-ergazomenou-gia-emvoliasmo-kata-tou-covid-19/
[66] Maria Politis and others, 'Healthcare Workers' Attitudes towards Mandatory COVID-19 Vaccination: A Systematic Review and Meta-Analysis' (2023) 11(4) *Vaccines* 880.

among HCWs, with physicians showing higher acceptance than nurses and other staff".[67] The opposition of the other 23.3% may stem from mistrust of authorities, concerns about the vaccine's safety and efficacy, particularly with the rapid development and novel mRNA technology of COVID-19 vaccines, and a belief in the sufficiency of natural immunity.[68]

Despite that, Greece serves as a notable case study within this controversial landscape, as it was among the European countries, following Italy and alongside France, to implement compulsory COVID-19 vaccination for healthcare personnel and other studies conducted in the country consistently demonstrated that healthcare workers generally held supportive attitudes towards these mandates. Moreover, Greek research highlighted that acceptance of COVID-19 vaccine mandates was the second highest among eight vaccines, only slightly behind the hepatitis B vaccine, suggesting a relatively strong endorsement despite the novelty of the COVID-19 vaccine. This domestic support in Greece contrasts with the wider international inconsistencies in policy implementation across European countries, which can undermine trust and social cohesion regarding public health initiatives.[69]

Regarding the mandatory vaccination for elderly citizens (Law 4865/2021, Article 24) the Plenary Session of the Council of State upheld the constitutionality of mandatory vaccination for individuals over 60 years of age, deeming it a constitutionally acceptable restriction of individual rights. The monthly fine of 100 euros for non-compliance was also ruled to be a reasonable incentive given the public interest objectives.[70] Despite the ruling, criticisms of the fine's proportionality persisted, with some arguing that the flat 100-euro fine was disproportionate, potentially allowing wealthy individuals to "buy out" of the obligation while being punitive for low-income individuals, affecting their minimum living standard. This horizontal application of the fine, regardless of individual circumstances like, an elderly person in a secluded village on a small pension, was seen as potentially unconstitutional in specific cases.

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[67] Konstantinos Fotiadis and others, 'Factors Associated with Healthcare Workers' Acceptance of COVID-19 Vaccinations: A Cross-Sectional Study in Greece' (2021) 18 *International Journal of Environmental Research and Public Health* 10558.
[68] Politis (n66).
[69] Ibid.
[70] Tsiliotis (n 62).

Similarly, Kouroupis claimed that the mandatory vaccination policy for individuals over 60 in Greece raises substantial concerns regarding its legal scope.[71] This is because while the legal framework permits compulsory vaccination in emergency public health situations, the blanket application of this measure to an entire age group, especially without clear temporal limitations or individualized assessment, exceeds the intended bounds of targeted and temporary public health interventions. The absence of a defined duration and lack of periodic review mechanisms furthermore suggest a deficiency in procedural safeguards, making the measure vulnerable to charges of arbitrariness. In similar fashion, the claim that is hidden behind this measure that the over-60 age group alone is held responsible for the continued spread of the virus, when all age groups contribute to transmission is unjust and a specific age group cannot be targeted selectively. As such, the justification for the measure appears to prioritize hospital capacity relief over epidemiological necessity, calling into question its adherence to the principle of necessity in public health law.[72]

Equally concerning and problematic is the imposition of a uniform administrative fine of €100 per month, which undermines both the principle of proportionality and the social cohesion it purports to protect, according to Kouroupis. Such policies do not take into account individual financial circumstances, potentially penalizing as a result economically vulnerable elderly citizens more harshly than others. It is not a stretch to him to argue that lack of differentiation may constitute a violation of the right to personal autonomy, the equitable treatment of citizens as well as the dignity of the individual. In his eyes by framing compliance in punitive financial terms without offering less coercive alternatives the policy risks appearing more disciplinary than protective and in doing so, it not only challenges constitutional guarantees but also threatens to erode public trust and the legitimacy of state interventions in times of crisis.[73]

If we look it from the perspective of the European Law (Charter of Fundamental Rights of the EU and ECtHR Jurisprudence), the alignment of Greece's COVID-19 measures, mandatory vaccination included, with European Law involved careful consideration of fundamental rights enshrined in the Charter of Fundamental Rights of the European Union (CFREU) and jurisprudence from the European Court of Human Rights (ECtHR). The right to physical and mental integrity, which includes the necessity

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[71] Kouroupis K, 'Υποχρεωτικός εμβολιασμός πολιτών άνω των 60 ετών' (Syntagma Watch, 6 December 2021) https://www.syntagmawatch.gr accessed 9 July 2025.
[72] Ibid.
[73] Ibid.

of free and informed consent for medical interventions, is a core principle under Article 3 of the CFREU. However, this right is not absolute; Article 52, paragraph 1, of the CFREU allows for restrictions if they are provided by law, necessary, proportionate, and respect the essential content of the right, particularly when serving objectives of general interest such as public health. The ECtHR, in cases such as Solomakhin v. Ukraine, has affirmed that involuntary medical treatment interferes with an individual's right to respect for private life, which encompasses bodily integrity. More specifically, the ECtHR's ruling in Vavřička and Others v. the Czech Republic established that mandatory vaccination schemes can pursue the legitimate public health objective of protecting the health and rights of others, provided these measures are lawful and proportionate to the aim.[74] It is important to note that EU member states are only obligated to uphold fundamental rights under the CFREU when acting within the scope of EU law, and the EU itself does not explicitly mandate vaccination across member states. Therefore, for Greek measures to align with these European legal frameworks, they needed to demonstrably serve a legitimate public health objective while adhering strictly to principles of proportionality and necessity, ensuring any interference with individual rights represented the least restrictive means available to achieve the desired public health outcome, an opinion which we had the law experts conflicted about.

We must clarify that the principle of proportionality is a fundamental legal standard in both European Union and human rights law, requiring that any limitation on fundamental rights be legally grounded, pursue a legitimate aim, and meet a structured three-part test: suitability, necessity, and proportionality stricto sensu. Under Article 52(1) of the Charter of Fundamental Rights of the European Union (Charter), restrictions on rights must be "provided for by law," "respect the essence of those rights and freedoms," and "be necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others".[75] Similarly, the European Court of Human Rights (ECtHR) applies proportionality under Article 8 of the European Convention on Human Rights (ECHR), balancing individual rights with public interest.[76] In the context of Greece's response to COVID-19, including vaccine mandates for healthcare workers and fines imposed on citizens over 60 who refused vaccination, proportionality becomes a decisive test. While public health constitutes a legitimate aim, the necessity and least-restrictiveness of such measures are contestable. For instance, indirect incentives like the “Freedom Pass” for vaccinated individuals aged 18–25, granting them prepaid

[74] *Vavřička and Others v the Czech Republic* (2021) nos 47621/13 and others, ECHR 2021.
[75] Charter of Fundamental Rights of the European Union [2012] OJ C326/391, art 52(1).
[76] Council of Europe, *European Convention on Human Rights* (1950) art 8.

cards for travel and leisure, while less coercive than outright mandates, could still raise concerns of undue pressure and unequal treatment.[77]

Additionally, the monthly fine of €100 imposed on unvaccinated elderly persons invites scrutiny under the stricto sensu prong: whether the harm to personal autonomy and dignity was justified by the corresponding gain in public health.[78] In Greece's case, the proportionality of the measures was undermined by the lack of alternative accommodations and the sweeping nature of the sanctions, particularly in vulnerable populations. Hence, although the pandemic justified urgent action, proportionality requires that such interventions be narrowly tailored and evidence-based to ensure compatibility with fundamental rights frameworks.

The Greek citizens viewed the Greek government's COVID-19 preventative measures with similar doubts, eliciting a diverse and often polarized public response, which we can say reveled in a way the underlying tensions between public health imperatives and individual liberties. A perfect example of that skepticism was the "Freedom Pass," a 150-euro prepaid digital card offered to young adults, were critically characterized by some –especially the opposition party- as "bribery" and "corruption" or even "degrading". Nevertheless, this incentive was undeniably effective in boosting vaccination rates, with participation among young people more than doubling within days of its announcement, leading to 18,000 appointments.[79] Conversely, mandatory vaccination policies faced substantial resistance, particularly within the healthcare sector. In light of this, the issue was raised regarding the possible suspension from work of healthcare workers for as long as they remain unvaccinated. On one hand, it could be argued that the smooth operation of hospitals is disrupted by the suspension of healthcare workers and the filling of positions by contract staff. On the other hand, it could be counter-argued that unvaccinated doctors pose a significant risk to public health and therefore cannot effectively fulfill their

[77] Government Gazette, Law 4727/2020, art 29 (‘Freedom Pass’) (n 54).
[78] Government Gazette, Law 4727/2020, art 29 (‘Freedom Pass’) (n 54).

[79] Protothema, ‘Emvoliasmoi: Mesa se liges ores oi neoi ekleisan 18.000 rantevou’ (Protothema, 29 June 2021) *https://www.protothema.gr/greece/article/1138270/emvoliasmoi-mesa-se-liges-ores-oi-neoi-18-25-ekleisan-18000-radevou/*

mission.[80] Similarly, the flat monthly fine of 100 euros imposed on unvaccinated individuals over 60, while deemed a reasonable incentive by the Council of State, was criticized for its horizontal application, argued to be disproportionate and punitive for low-income individuals, effectively allowing wealthier citizens to "buy out" of the obligation and potentially affecting the minimum living standard of others.[81]

But in order to fully appreciate the political and legal response to the pandemic in Greece, one must consider the deeper historical and sociocultural terrain in which it unfolded. To begin with, Greece has developed a profound culture of mistrust towards its government and public institutions, a phenomenon primarily driven by the severe economic crisis it endured between 2002 and 2011 and the perceived inability of its political system to effectively address it. To be more precise, during this decade, the nation experienced a substantial decrease in the level of trust people showed towards both political institutions, such as politicians and the national parliament along with impartial institutions, including the police and the legal system for several interconnected reasons contributing to this pervasive mistrust.[82]

One of them being the ineffective fiscal policies, which eventually led to the country's economic collapse. The crisis stemmed from ineffective fiscal policies in the decade prior to 2008, when the Greek political system was unable to implement measures to reverse negative trends, leading thus to a near-total collapse of the Greek economy. This resulted in skyrocketing public debt and budget deficits, causing Greece to lose trust in the way government handled the situation. In return for financial assistance, Greece was compelled to implement very strict economical consolidation policies and these measures led to a rapid rise in unemployment, wage reductions and increased taxation, cumulatively causing a decline in the purchasing power for the majority of the population. During this time the Greek welfare state, traditionally weak and with low social security benefits, was poorly equipped to handle these increasing demands, leaving the public unprotected to experience repeated disappointment as the politicians attempted to guide the nation out of the crisis. This led to a perception of poor political performance and unresponsiveness of political institutions to citizens' demands. The perceived declining

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[80] Panagopoulou-Koutnatzi F, 'Η κρίση της Επιτροπής Αναστολών του ΣτΕ' (Syntagma Watch, 13 September 2021) https://www.syntagmawatch.gr

[81] Kouroupis (n 71).

[82] Ervasti H, Kouvo A and Venetoklis T, 'Social and Institutional Trust in Times of Crisis: Greece, 2002–2011' (2019) 141 *Social Indicators Research* 120

quality of governance, lack of accountability, political transparency issues, and widespread corruption further fueled this institutional distrust.[83]

As the situation deteriorated visible signs of mistrust and social unrest like violent demonstrations or a tendency to lean on the far-right parties, started showing, behaviors indicative of declining levels of trust of the Greek people. one impressive phenomenon however was that despite the significant decline in institutional trust, interpersonal social trust among individuals surprisingly remained stable or even slightly increased during the crisis. This could suggest that as both political and impartial institutions failed, people appeared to lean on each other for support, probably as a coping strategy. So, when the welfare state and other formal government protections failed, a need for shared experiences of overwhelming adversities potentially increased a sense of togetherness among individuals.[84]

The 2015 Greek bailout referendum only came tarnish the governments image. This reason behind that was that although officially a vote on the terms of a new bailout package proposed by the Troika institutions, it was widely perceived across Europe as a referendum jeopardising Greece's continued membership in the Eurozone, or "Grexit". During the intense campaign week, two dominant narratives emerged, shaping the choices presented to the Greek people. The "No" option, the proponents of which argued that a rejection of the bailout agreement would enhance Greece's bargaining power in negotiations with its creditors, leading to a better outcome with less austerity and more debt forgiveness and the "Yes" option. This side warned that a "no-vote" would invariably lead to "Grexit" and international politicians, including European Commission President Jean-Claude Juncker and German Finance Minister Wolfgang Schäuble, became unusually involved strengthening this fear by threatening that a "no-vote" would result in a loss of euro membership. Despite the stark warnings about potential fallout and the deteriorating economic situation, Greek voters soundly rejected the bailout proposal. The referendum, held on July 5th, ended with a 61-39 landslide victory in favor of the "No" camp, indicating a non-cooperative vote. The surprising thing is what ended up happening afterwords, which was a full cooperation of the government at the time with the EU and acceptance of a series of unsustainable measures, failing even more peoples trust.[85]

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[83] Ibid.
[84] Ibid.
[85] Walter S and others, 'Non-Cooperation by Popular Vote: The 2015 Greek Bailout Referendum' (Paper presented at IPES Annual Meeting, Durham, 11 November 2016)

So with the persisting doubt of the public and untrustworthy image of the state remaining, especially during the first wave of the pandemic, the Greek government made significant strides in restoring the public trust through coherent strategic communication, consistent messaging from a unified front-line leadership (including Prime Minister Mitsotakis, Undersecretary Chardalias, and notably, Professor Sotiris Tsiodras, who quickly became a trustworthy figure for the citizens and public engagement, all of which increased the level of trust by the public.[86] However, the trust built with such an effort during the first wave faced significant erosion during the second wave, revealing the underlying fragility of public confidence when confronted with perceived mismanagement and inconsistent communication.

After that the communication strategy changed, with Professor Tsiodras no longer consistently leading press briefings and other experts taking his role in rotation, which in a way weakened the public's identification with leadership figures. Furthermore, according to Aspiriadis reassuring messages gave citizens the wrong image of the situation during the pre-crisis phase of the second wave, reducing the public's sense of an impending crisis. This perceived failure to effectively manage the pre-crisis phase by delaying necessary measures, ultimately led to a second general lockdown and garnered significant criticism from the greek populations, even causing masks denial movements.[87] In response, Prime Minister Mitsotakis frequently resorted to a self-praise rhetoric in an apologetic tone to "restore the trust in his figure as a leader and crisis management authority," illustrating a renewed effort to counter the re-emerging or intensified public mistrust, but the success of this tactic was debated.[88]

In conclusion, Greece's political and legal response to the COVID-19 pandemic reveals a complex interplay between public health imperatives and democratic accountability. While many of the measures were enacted under the justification of protecting public health, their scope and duration raised valid concerns about transparency. The Greek case exemplifies how emergency governance can both reflect and reinforce pre-existing institutional fragilities, especially in a country still recovering from economic and political crises. Crucially, the state's reliance on executive decrees and coercive enforcement mechanisms not only reshaped the legal landscape but also tested the resilience of civil liberties. As Greece navigated this unprecedented crisis, the legal justification for state measures often

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[86] Nikolaos Aspriadis, 'Communication Strategy and Trust during the COVID-19 Pandemic: The Case of Greece' (2021) *Politics and Governance*.
[87] Ibid.
[88] Ibid.

walked a fine line between protection and overreach, raising critical questions about the limits of democratic governance during public emergencies.

4. Analysis: The State of Exception in the Greek Case

4.1 Suspension of Rights and the Expansion of State Control

This chapter is an attempt to apply Giorgio Agamben's theoretical framework to the Greek government's pandemic policies, critically analysing how the "state of exception" became a functional norm through the suspension of rights and normalization of biopolitical control. As Agamben argues, the sovereign decision to suspend law during a crisis represents not an interruption of legal order but its latent essence, where the juridical void becomes the real foundation of authority. In the case of Greece, we explore how the pandemic triggered a rapid concentration of power in the executive, leading to significant restrictions on movement, protest and most importantly privacy. Through a legal and political lens, this chapter demonstrates how public health concerns served as a framework for exceptional governance, turning Agamben's abstract theorisation into material, state-sanctioned interventions.

Greece's pandemic response, initially celebrated for its effectiveness, quickly evolved into a paradigmatic example of what Giorgio Agamben has theorised as a "state of exception". In this framework, the suspension of legal norms becomes not a temporary measure, but a normalized mode of governance. Agamben argues that under such conditions, the sovereign exerts power by suspending the law, producing a legal void in which individuals are exposed to state control without recourse to legal protections.[89] In the Greek context, this took shape through lockdowns, mandatory vaccinations, fines, restrictions on assembly, and heavy police enforcement. These measures, while justified on public health grounds, reflect the biopolitical control Agamben warns about, where life is reduced to its biological condition, the bare life. As Kaya argues, such normalization of emergency governance reconfigures democratic processes by anchoring them in exceptionalism. The Greek case illustrates how fear and risk become legitimising devices that permit otherwise intolerable interventions in civil liberties.[90] In this way, fear and risk become legitimizing devices that permit otherwise intolerable interventions in civil liberties. Paik & Nam, add a second dimension to it stating that the state of exception is not only juridical

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[89] Agamben, *State of Exception* (n 1).

[90] Kaya Ö, 'The Biopolitics of the COVID-19 Crisis and a New Form of the State of Exception' in T Yigitcanlar (ed), *A New Social Street Economy* (Emerald Publishing 2021)

but also existential, as individuals internalize fear as a justification for submission to sovereign control. Thus, the pandemic created a dual crisis, one of public health and one of political subjectivity.[91]

It has now become evident how the Greek government's emergency response resulted in the suspension of fundamental rights, manifesting in movement restrictions, curfews, assembly bans, and policing tactics that fit Agamben's model of normalized exception. Movement more specifically was regulated through a mandatory SMS system where citizens had to seek state permission for even the most basic activities, such as grocery shopping or walking. Hence, this bureaucratic oversight of individual movement turned everyday life into an object of state management. According to Kaya, this is emblematic of biopolitical governance, where power manifests through the regulation of bodies rather than the administration of laws.[92] Constantly controlling where, how and why a person moves around, marks a state power, which manifests through the regulation of bodies rather than the administration of laws. In his analysis, Kaya points out that people are starting to be viewed and treated more as populations, than baring-rights humans.[93]

But freedom of movement was not the only right that was constrained, as freedom of assembly was curtailed with particular intensity too. Public gatherings, including annual commemorations like the Polytechnic Uprising, were banned, sometimes under dubious public health justifications.[94] We identify this tactic as not merely preventive but political, disproportionately affecting opposition movements and thereby weaponizing health protocols to neutralise dissent. These bans were implemented despite outdoor health protocols being followed by demonstrators, as reported by the Hellenic League for Human Rights.[95] In many cases, gatherings that complied with distancing measures were forcibly dispersed by riot police, with disproportionate force used. Delanty from his point of view claims that such measures risk collapsing the distinction between security and democracy, as law enforcement becomes the main

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[91] Paik J and Nam S, 'State of Exception and Responsibility in the Age of COVID-19: Focusing on Agamben and Arendt' (2022) 44(12) *Culture and Convergence* 1289

[92] Kaya (n 90).
[93] Ibid.

[94] Tsatsanis E, Vasilopoulou S and Tsirbas Y, 'Pandemic Politics in Southern Europe: The Cases of Greece, Italy and Spain' (2021) 23(sup1) *European Societies* S267.

[95] HLHR, 'Statement on the Ban of Public Assemblies' (2020) https://www.hlhr.gr/

conduit of state-citizen interaction.[96] In this context, public health is mobilised as a rationale to reframe the relationship between citizen and state through coercion rather than consensus. So, rather than preserving public safety through deliberative democratic engagement, power operates through containment. Law enforcement, in this scenario, ceases to act as the enforcer of rights and becomes instead the front line of sovereign power, redefining civic participation as a potential threat. As Delanty warns, this erosion of democratic dialogue and pluralism in favor of securitised governance jeopardises the balance between rights and responsibilities, tilting state legitimacy toward authoritarianism under the cover of crisis management.[97] The imposition of mandatory vaccinations for health workers and citizens over the age of 60, under Laws 4820/2021 and 4865/2021, further illustrates the expansive reach of the state into bodily autonomy. These mandates were paired with financial penalties for noncompliance, including a monthly fine of 100 euros for elderly citizens. Kouroupis (2021) criticized the indiscriminate application of this fine as disproportionately punitive toward economically vulnerable populations, raising constitutional concerns under the principle of proportionality.[98] Agamben's concept of "bare life" finds a clear correlate here, where the biological preservation of life is privileged over personal autonomy and legal subjectivity.

These measures were not imposed in a political vacuum. As Cavalcanti et al. illustrate in the Brazilian context and applicable to Greece, pre-existing inequalities and distrust in public institutions exacerbated the perception that the state was using the pandemic to intensify control rather than protect life.[99] More precisely, they argued that the pandemic response reinforced mechanisms of exclusion in favelas and marginalized urban areas, where militarized policing, economic neglect, and lack of health infrastructure had already created a structural state of exception. The authors stressed that COVID-19 measures in these areas did not introduce a new form of governance but rather expanded existing forms of abandonment and control. Applying this insight to the Greek case, one sees how biopolitical interventions during the pandemic deepened social inequalities. The enforcement of lockdowns in economically disadvantaged neighborhoods, the increased surveillance of youth and immigrants, and the

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[96] Delanty G, 'Six Political Philosophies in Search of a Virus: Critical Perspectives on the Coronavirus Pandemic' (2020)

[97] Ibid.

[98] Kouroupis (n 71).

[99] Cavalcanti A and others, 'O Estado de Exceção nas Favelas' (2020) 25 *Revista Direitos e Práxis* 113

marginalisation of dissenting political voices mirror the dynamics Cavalcanti et al. describe.[100] The pandemic thus did not invent new exclusions but intensified those already embedded in the Greek political and socioeconomic landscape. As such, the claim that the state of exception became a tool not only for emergency governance but also for the reassertion of systemic inequality, is not illogical.

Moreover, the state's use of financial tools, such as fines for noncompliance with vaccination mandates, illustrates a shift from democratic persuasion to punitive coercion. Tewari notes that this form of governance blends neoliberal techniques of individual responsibility with authoritarian mechanisms of enforcement. In essence, compliance was not cultivated through shared responsibility but extracted through threat and surveillance. These financial sanctions became instruments of social discipline, disproportionately affecting vulnerable populations who were less able to absorb economic penalties. Rather than fostering public health through solidarity, the measures divided society along lines of class and compliance, reinforcing a regime in which economic capacity determines one's ability to resist state mandates. The social contract thus appeared increasingly one-sided and transformed citizens into passive subjects under a technocratic regime of control.[101]

So, the suspension of civil liberties in the Greek case maps directly onto Agamben's theoretical framework. The sovereign decision to suspend constitutional protections under the guise of emergency does not signify a temporary deviation but rather signals a transformation in the structure of governance itself. In doing so, it redefines the parameters of citizenship from a political to a biological designation and public life is restructured around risk management and containment, where freedom is conditional and power is executed through health discourse. If left unexamined, such emergency governance risks setting precedents that endure beyond the crisis, permanently reshaping the social and legal architecture of democratic life.

4.2 Legal Analysis of Restrictions on Movement, Assembly, and Expression

[100] Ibid.

[101] Tewari A, 'Confronting Agamben on the Pandemic: Biopolitics, Class Struggle and Surveillance Capitalism' (2021) 3(1) Journal of Critical Global Studies

The legal instruments deployed during the pandemic reflect a strategic shift toward executive dominance, exemplified by the frequent use of presidential decrees and joint ministerial decisions to bypass ordinary legislative scrutiny. According to Agamben, the state of exception functions precisely through this blurring of normative and exceptional juridical forms.[102] The SMS permission system, which rapidly became the most popular option for citizens to obtain a permit of movement during Greece's COVID-19 lockdown from March to May 2020, operated under a distinct regulatory approach for its data processing elements. While the broader, generally applicable measures restricting freedom of movement were established through "hard law" instruments, specifically a series of joint ministerial decisions based on "acts of legislative content", the rules governing the processing of personal data collected via the SMS system were issued as "soft law"[103]. The General Secretariat for Civil Protection released a "data protection policy" online "in the form of soft law, without prior scrutiny, consultation or transparency".[104]

This specific method of implementing the data handling for the SMS system suggests that it operated without the direct and meaningful parliamentary debate or formal judicial review typically associated with hard law. The sources highlight that the government "opted for this despite its possible implications for the legality of data processing and the impact on individuals whose information was processed". This "soft law" data protection policy for the SMS permits also attracted criticism for its inaccessible legal language, the absence of any reference to the potential collection of sensitive data (such as visits to a pharmacy or doctor), and confusion regarding whether the submitted information could be transferred to third parties5. Although the Hellenic Data Protection Authority (DPA) later issued general guidelines emphasizing the applicability of GDPR principles, including proportionality, to all COVID-19 related data processing, these were not presented as a specific pre-approval or direct, initial scrutiny of the SMS permit system's soft law data policy. Therefore, concerning its data management framework, the SMS permission system largely functioned outside the traditional mechanisms of parliamentary oversight and specific upfront judicial review.[105]

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[102] Agamben, *State of Exception* (n 1).

[103] By soft law, one describes regulations or guidelines, so-called 'rules of conduct', which produce legal and practical effects without having legally binding force (Oana 2020).

[104] Tsourdi E and Vavoula N, 'Killing Me Softly? Scrutinising the Role of Soft Law in Greece's Response to COVID-19' (2021) 12(1) European Journal of Risk Regulation 59.

[105] Ibid.

More critically, the use of presidential decrees and administrative regulations to enforce public health protocols bypassed mechanisms of accountability and proportionality. As Kruger notes, the state of exception obscures the difference between norm and exception, resulting in legal measures that are procedurally sound but substantively unjust.[106] The Greek legal order retained its formal appearance, but the content of law was hollowed out by the prioritisation of executive necessity. Karavokyris notes that the Greek Council of State adopted a cautious and reserved approach in its oversight, frequently upholding the government's decisions and rarely annulling or suspending them.[107] This judicial posture was shaped by an expansive view of the public health interest, which effectively justified a wide range of limitations on rights. As a result, proportionality was often interpreted leniently, applying only a minimal threshold of necessity, where the extraordinary circumstances of the pandemic were viewed as sufficient grounds to allow significant discretionary power to the state.[108] In other words, it reflected a strategic shift toward executive dominance, exemplified by the frequent use of presidential decrees and joint ministerial decisions to bypass ordinary legislative scrutiny. According to Agamben, the state of exception functions precisely through this blurring of normative and exceptional juridical forms.[109]

Furthermore, during the pandemic in Greece, the measures implemented by the government prompted robust debate about their compatibility with constitutional principles, particularly with regard to proportionality and democratic legitimacy. Karavokyris notes that the Greek Council of State adopted a cautious and reserved approach in its oversight, frequently upholding the government's decisions and rarely annulling or suspending them.[110] This judicial posture was shaped by an expansive view of the public health interest, which effectively justified a wide range of limitations on rights. As a result, proportionality was often interpreted leniently, applying only a minimal threshold of necessity, where the extraordinary circumstances of the pandemic were viewed as sufficient grounds to allow significant discretionary power to the state.[111]

In Agamben's terms, this reveals a deep tension within liberal legal frameworks when confronted with crises: the proportionality principle, intended as a safeguard of rights, becomes a tool of

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[106] Kruger E, 'Review of State of Exception by Giorgio Agamben' (2005) 8(3) Space and Culture 338.
[107] Georgios Karavokyris, 'Constitutionalism and COVID-19 in Greece: The Normality of Emergency' (VerfBlog, 25 February 2021) https://verfassungsblog.de/constitutionalism-and-covid-19-in-greece-the-normality-of-emergency/ accessed [June 3].
[108] Ibid.
[109] Agamben, *State of Exception* (n 1).
[110] Karavokyris (n 107).
[111] Ibid.

normalization, smoothing over the legal void created by sovereign exception.[112] The legal foundation for these actions rested largely on the assumption that they were temporary and extraordinary. A key case concerned the temporary prohibition of public assemblies involving more than four people around the anniversary of the Athens Polytechnic Uprising. In assessing this restriction, the Council of State employed a novel interpretative method, balancing rights in relation to the broader societal context, such as the concurrent closures of businesses and schools, in an attempt to uphold legal consistency. However, critics, including political opposition and constitutional experts, challenged the constitutionality of these sweeping, exception-less bans, arguing they went far beyond the acceptable bounds of proportionality and undermined the core of protected rights. They raised concerns about whether temporary derogations of rights, implemented without explicit justification or nuanced balancing, truly reflected constitutional values.[113]

Kaya elaborates on this biopolitical turn, where dissenting voices are reframed not as democratic expressions but as vectors of epidemiological risk, making them subject to exclusion and control.[114] Karavokyris further observed that the pandemic laid bare the pliability of the proportionality principle, as while it is often celebrated for enabling constitutional resilience in moments of crisis, its malleability can just as easily facilitate overreach and justify encroachments on human rights.[115] This reinforces Agamben's critique that the rule of law becomes vulnerable under states of emergency, not because it is explicitly suspended, but because it is subtly reoriented to serve administrative and security functions rather than justice.[116]

On the issue of democratic legitimacy, Karavokyris acknowledges that although formal democratic processes remained operational, most emergency decrees were later ratified by Parliament, there were critical shortcomings.[117] These shortcomings are evident in the government's use of rapid legislative measures, such as emergency decrees, concentrated power in the executive. Although a powerful governance tool, if overused or under-scrutinised, such mechanisms can weaken the deliberative quality of democracy. From Agamben's perspective, these developments exemplify how

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[112] Agamben, *The State of Exception* (n 1).
[113] Karavokyris (n 107).
[114] Kaya (n 90).
[115] Karavokyris (n 107).
[116] Agamben, *State of Exception* (n 1).
[117] Karavokyris (n 107).

democratic institutions themselves become the vehicles for exceptional rule, as legal formalities persist while substantive accountability erodes.[118]

Importantly, all emergency legislative acts were eventually submitted to Parliament and incorporated into primary law. The Greek Parliament continued to function, conducting virtual sessions and plenary debates.[119] However, concerns were raised about the procedural transparency of new restrictions. Critics pointed to the limited notice before implementation, a lack of explanatory detail or public consultation, and the reliance on advisory committee data that was not always publicly accessible.[120]

The deferential attitude of the judiciary was not merely a matter of strategic restraint but was also rooted in considerations of institutional competence. Courts appeared to acknowledge that managing a complex public health crisis lay primarily within the remit of legislative and administrative authorities. As Karavokyris asserts, this judicial reserve was a recognition of both the urgency of the situation and the technical expertise required to address it. Ultimately, although there were no lasting alterations to the legal framework or judicial institutions, the state's response to the pandemic revealed deeper tensions between emergency governance and public trust in democratic processes.[121] Viewed through Agamben's theoretical lens, the Greek case illustrates how emergency governance does not require a declaration of dictatorship to undermine constitutionalism. Instead, by normalising exceptional legal instruments, limiting political dissent through health-based justifications, and restricting rights in the name of technocratic necessity, democratic societies risk becoming governed not by law, but by the discretionary logic of crisis. The result is a polity where legal norms survive in appearance but are hollowed out in substance.[122]

When it came to the freedom of expression, this right was constrained more subtly. There were no explicit legal curbs on speech, but media pluralism was curtailed through structural pressure. As Delanty notes, large sums were disbursed to state-aligned media for public health campaigns, while

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[118] Agamben, *State of Exception* (n 1).
[119] Fitsilis F and Pliakogianni A, 'The Hellenic Parliament's Response to the COVID-19 Pandemic: A Balancing Act between Necessity and Realism' (2021) 8 IALS Student Law Review 19.

[120] Karavokyris (n 107).
[121] Karavokyris (n 107).
[122] Agamben, *State of Exception* (n 1).

independent outlets and critical commentators received little support.[123] This economic filtering of public discourse is emblematic of Agamben's notion that censorship in the state of exception often functions not through prohibition, but through strategic amplification and omission. Instead of silencing opposition through overt bans, the state achieved discursive dominance by steering public opinion and limiting the visibility of dissenting narratives. Agamben's critique of biopolitical governance is particularly salient here: the exercise of control is not limited to bodily regulation but extends into the shaping of thought and perception. This represents a shift from juridical power to informational sovereignty, where consent is not coerced through violence, but cultivated through asymmetries in communication.

Furthermore, by selectively funding certain media outlets and framing critical voices as "anti-science" or "irresponsible," the state effectively constructed a binary between legitimacy and dissent. Indeed, during the COVID-19 pandemic in Greece, the media predominantly portrayed citizens through a framework of individual responsibility, emphasizing their role as the primary agents in preventing the virus's spread. This narrative propagated by political leaders and health experts, who stressed that controlling the pandemic depended heavily on the actions of individual citizens was present on the media. As a result, the figure of the "responsible citizen" emerged, and one expected to consistently comply to hygiene measures and social distancing protocols. Media coverage consistently framed citizens' behavior as the key determinant in managing the crisis, effectively placing the burden of pandemic control on individuals and deflecting accountability from political leaders.[124]

In contrast, those who did not comply with strict public health measures were often vilified by both media outlets and political officials. Nonconforming individuals were labeled as threats to public welfare, with young people in particular singled out as irresponsible and blamed for the resurgence of COVID-19 cases. Politicians and media figures criticized youth for disregarding official guidelines, especially during the summer of 2020, when government officials attributed rising infections to young partygoers rather than to policy decisions such as reopening the tourism sector.[125] This binary between good and responsible versus irresponsible and disobedient ones, clearly reflects Agamben's "inclusive exclusion," where certain forms of life, here, political expression, are placed outside the realm of protection without being explicitly banned. Thus, the marginalization of alternative perspectives was not

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[123] Delanty (n 96).

[124] Alexopoulou S and Pavli A, 'Responsible Citizens against an Irresponsible State: The Case of Greece amidst the COVID-19 Pandemic' (2021) 2(1) HAPSc Policy Briefs Series 9.

[125] Ibid.

an accident of crisis governance, but a function of how emergency regimes consolidate epistemic authority. The discursive environment became another "camp" in Agamben's terminology, a space where speech is allowed only insofar as it conforms to the sovereign narrative.

According to Kruger, the ambiguity at the heart of the state of exception produces a space where legal acts no longer conform to established juridical principles but are instead directed by the imperatives of governance.[126] Greece's application of emergency measures demonstrates how legality can be maintained in form while subverted in substance. In this context, the emergency decrees were legally valid, but the absence of proportionality assessments or temporal limitations undermined their democratic legitimacy. The judiciary's general reluctance to apply strict scrutiny further institutionalized this legal ambiguity, transforming the law into an instrument of managerial discretion. This transformation illustrates Agamben's insight that the law under a state of exception becomes a mechanism not of justice, but of administration. The sovereign no longer enforces the law as a neutral arbiter but as a regulator of life itself. In Greece's case, the legal framework was stretched to authorize executive dominance while avoiding constitutional rupture. Yet, as Agamben warns, such elasticity signals a deeper structural shift, the emergence of a regime where law no longer protects rights but allocates permissions.

Thus, the legal architecture of Greece's pandemic response embodied the very logic Agamben warns against a state where laws are enforced not through reasoned deliberation but through sovereign fiat, converting legal procedures into tools of management rather than justice. The centralization of media narratives, symbolic exclusions as well as the normalization of executive decrees collectively point to a democratic system functioning in form, but increasingly hollow in substance. The Greek case illustrates in a way how the state of exception, once activated, reconfigures both the law and the public sphere, revealing the fragility of constitutional guarantees in the face of crisis governance.

4.3 Policing, Surveillance, and Enforcement Tactics

The enforcement mechanisms for pandemic-related measures relied heavily on police power and surveillance technologies. Paik & Nam note that the deployment of drones and mobile tracking applications in countries like South Korea and Greece represents an expansion of state surveillance capacities, often without sufficient legal safeguards.[127] In Greece, such measures were rolled out with

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[126] Kruger (n 106).
[127] Paik J and Nam S (n 91).

minimal public debate and oversight, normalizing technologies of control that were once considered exceptional. Public spaces became militarized zones, with riot police patrolling parks, squares, and streets. In some cases, individuals were detained or fined not for violating health protocols, but merely for assembling or speaking out. The police presence in Athens and Thessaloniki reflected a broader shift from public health enforcement to preemptive repression. "In this new context, shaped by neoliberalism, public space has become the laboratory where a new disciplining of young people is being moulded, the pandemic providing an opportunity and mechanism for expediting this process".[128] These heavily policed spaces resemble once again Agamben's "camp", as they become zones where the rule of law is suspended, and citizens exist in a liminal state of managed vulnerability.[129]

Cavalcanti and others draw parallels to similar enforcement tactics used in Brazil's favelas, where the state exercises control through violence and neglect simultaneously. In Greece, too, enforcement disproportionately affected marginalized groups like for exaple the immigrants, the elderly, and the poor, turning biopolitical management into a tool of social sorting. The use of fines further exemplified this dynamic. The monthly 100-euro penalty imposed on unvaccinated elderly citizens served not only as a public health measure but as a coercive economic tool.[130] Kouroupis notes that such measures, especially in a country where many retirees live on modest pensions, raised serious ethical and constitutional questions.[131] From Agamben's perspective, these policies illustrate how the state's intervention into biological life becomes an act of sovereign control over survival itself.

These practices, which were initially introduced under the logic of exceptional necessity, risk becoming embedded in the structure of normal governance. As Tewari argues, the merger of public health and security logics, enforced through technology, surveillance, and administrative fines, represents a dangerous precedent. The normalization of such practices means that future crises, medical or otherwise, may find ready-made frameworks for rapid authoritarian expansion. In the end, what emerged in Greece was not simply a public health response, but a shift in the nature of governance itself. Citizens were no

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[128] Apostolopoulou E and Liodaki D, 'The Right to Public Space during the COVID-19 Pandemic: A Tale of Rising Inequality and Authoritarianism in Athens, Greece' (2021) 25(5–6) City 764, 128.

[129] Agamben, *Homo Sacer* (n 8).

[130] Cavalcanti A and others (n 99).

[131] Kouroupis (n 71).

longer governed through law in the classical sense, but through managerial logic, enforced by police and legitimized by crisis.[132]

All in all, through the lens of Giorgio Agamben, we see that the state of exception is not merely a legal anomaly, it is a mode of governance that redefines the boundaries of life, law, and liberty. Greece's response to COVID-19, characterized by executive decrees, mass surveillance, selective policing, and economic coercion, represents the full spectrum of Agamben's warning. Life was preserved, yes, but often at the cost of its political and ethical meaning. Agamben's concept of "bare life" helps us understand how the citizen, once a rights-bearing subject, was increasingly treated as a biological entity to be managed, disciplined, and monitored. This was not merely the suspension of the law, it was its reconfiguration around a new axis: survival over sovereignty, obedience over participation.

Moreover, the state's reliance on emergency powers, while maintaining the formal structure of legality, demonstrates the transition out of constitutional guarantees. Law was present in form but absent in function. Judicial restraint, political silence and administrative dominance formed a triumvirate of post-democratic governance, strengthening Agamben's argument that modern power no longer needs to destroy the law, it simply renders it irrelevant.

In this light, the Greek case becomes a prism through which to view the broader transformation of democratic governance in the 21st century. The pandemic did not cause this shift but rather it revealed and accelerated it and making the aim of the challenge now not only to recover from the health crisis but to reckon with the political architecture it left behind. To return from the state of exception, we must ask: who decides the exception, and for how long? More urgently, we must ask whether the exception has already become the rule.

These questions are not abstract: they speak directly to the ethical and democratic implications explored in the next chapter. If law and rights can be set aside so easily in the name of safety, what becomes of proportionality, transparency, and the rule of law? Chapter 5 continues this inquiry by examining the ethical stakes and democratic tensions provoked by crisis governance. It turns to issues such as the justification of emergency measures through principles like necessity and temporality, their impact on civil liberties, and how Greece's experience compares with other EU democracies. Ultimately,

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[132] Tewari (101).

we ask: can democratic norms survive the normalization of exception or have they already been irreversibly altered?

5. Ethical and Democratic Implications

The normalisation of exception, as traced in the Greek pandemic response, poses not only legal dilemmas but also urgent ethical and democratic ones. When the suspension of rights becomes routinised in the name of public safety, and emergency governance is framed as a form of care or necessity, the boundaries between protection and control grow increasingly blurred. The previous chapter demonstrated how legal mechanisms during the COVID-19 crisis were rapidly activated and, in some cases, arguably stretched, to accommodate emergency governance. Yet law alone does not exhaust the normative stakes of such transformations, so this chapter builds on that analysis by turning to the ethical frameworks and democratic principles that underlie, justify, or challenge the state's expanded authority in times of crisis.

At the heart of this issue lies a central question: how can a liberal democracy justify exceptional measures without undermining the very values it purports to defend? Answering this requires more than a legal or constitutional analysis; it demands an ethical interrogation of the principles invoked to legitimise crisis governance: particularly proportionality, necessity, and temporality. These principles, often cited as safeguards within liberal democracies, serve as normative thresholds that emergency policies are expected to meet. However, as will be argued, these standards are not always upheld in practice and their rhetorical invocation may obscure rather than clarify the legitimacy of state actions.

The first section of this chapter examines these three ethical criteria in detail, analysing their application in the Greek context and assessing whether they were consistently respected or strategically bypassed. This is followed by a broader investigation into how emergency measures impacted core democratic values: transparency, accountability, and the rule of law. These are not merely procedural concerns; they are constitutive features of democratic legitimacy. The disappearance of such principles, even temporarily, invites reflection on whether states can revert to "normal" democratic functioning or whether emergency politics leaves a more enduring imprint on institutional cultures and public expectations.

A third section addresses the tension between civil liberties and collective safety, a dilemma that has long shaped debates around public health ethics. Drawing on theoretical perspectives and empirical evidence, the chapter considers how freedoms of movement, expression and assembly were reconfigured under pandemic conditions and whether these restrictions reflected a legitimate balancing of rights or a disproportionate expansion of state control. Crucially, this discussion engages with the ethical

implications of coercion, consent, and trust, all of which are central to the relationship between citizens and democratic institutions.

The final sections introduce a comparative perspective, situating Greece's pandemic response within the broader European context. By examining the experiences of other EU democracies, such as Sweden's lenient approach or France's more securitized model, this analysis reveals how different constitutional traditions and political cultures shaped the ethical and democratic contours of emergency governance. These comparisons help identify not only deviations but also possible alternatives to the Greek case, thus enriching the normative evaluation.

Taken together, this chapter argues that the ethical and democratic implications of pandemic governance cannot be treated as secondary to legal or epidemiological concerns. Rather, they are central to understanding how democracies function under pressure and whether they emerge from crisis more authoritarian or perhaps more resilient transformed. The pandemic may have necessitated extraordinary measures, but the manner in which they were implemented and justified reveals deeper tensions about the nature of democratic rule.

In liberal constitutional democracies, emergency measures that violate fundamental rights are not exempt from ethical and legal scrutiny, on the contrary they are evaluated through key principles: proportionality, necessity, and temporality. These principles serve as constraints on state power, ensuring that limitations on rights are justifiable, measured, and time-bound. Yet the COVID-19 pandemic severely tested their resilience, as governments acted swiftly under conditions of uncertainty and urgency, courts were compelled to rethink how these principles should operate in a crisis.

More specifically, the principle of proportionality (entailing tests of suitability, necessity, and proportionality stricto sensu) has become a basic tool of fundamental rights adjudication. In ordinary times, it ensures a rational and evidence-based balancing of public interest and individual rights, but COVID-19 made traditional applications of proportionality profoundly difficult. Vyhnánek et al. describe the pandemic as presenting a "judicial conundrum" for constitutional courts: how to apply proportionality meaningfully when both the factual premises and regulatory responses were highly uncertain and evolving.[133] Suitability and necessity tests, which rely on empirical claims, such as the effectiveness of

[133] Ladislav Vyhnánek and others, 'The Dynamics of Proportionality: Constitutional Courts and the Review of COVID-19 Regulations' (2024) 25 *German Law Journal* 386, 387.

lockdowns, were undermined by a lack of clear evidence and courts were forced to rely on guesses, not the rigorous data usually required for rights-restrictive decisions.[134]

Several contextual factors exacerbated this dilemma like the dynamic nature of the virus and scientific understanding, the lack of expert consensus, the urgency to act, and the polycentric structure of regulatory measures that spanned multiple legal domains.[135] In such conditions, assessing the proportionality stricto sensu of a measure, like for example whether a lockdown's benefits outweighed its rights cost, was almost impossible to determine with confidence.[136] Thus, courts faced a binary choice, which was either to maintain a strict review that could block urgent action, or embrace deference and risk abandoning rights protection. Most opted for the latter. In some jurisdictions, courts granted governments the "widest possible discretion."[137] and substantive review was largely abandoned in favor of procedural checks or vague assessments of necessity.

In Greece, the judiciary similarly leaned toward deference. As Karavokyris argues, Greece's initial pandemic response, which was hailed for its speed, morphed into a "normality of emergency", which in simple words is a prolonged state of executive governance via Acts of Legislative Content, with minimal parliamentary oversight.[138] Indeed, blanket bans on demonstrations, including politically sensitive commemorations, were enacted without detailed reasoning or proportionality assessments and courts reviewed these restrictions using a necessity test that did not interrogate empirical justifications or consider less rights-restrictive alternatives.[139] The judiciary's failure to demand such explanations contributed to the involvement of emergency powers, with little institutional pushback.

This deferential approach may appear logical in a health crisis, but it raises risks. As Vyhnánek et al. warn, unchecked executive discretion can lead to "the erosion of the normative value of judicial review" and a loss of public trust in constitutional courts.[9] Yet a return to full substantive review under crisis conditions may be equally problematic, as courts lacking scientific competence and timely data could issue misguided rulings, potentially exacerbating public health threats.[140]

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[134] Ibid 388–89.
[135] Ibid 389–90.
[136] Ibid.
[137] Ibid 392.
[138] Karavokyris (n 107).
[139] Ibid.
[140] Vyhnánek (n 133).

It is true that traditionally, proportionality analysis has provided the most structured legal instrument for evaluating rights infringements. It asks whether a measure is suitable for achieving a legitimate aim, whether it is necessary in the absence of less restrictive alternatives, and whether the harms it causes are outweighed by its benefits. But we believe that proportionality is not morally neutral, but rather an ethical judgment in disguise, requiring the balancing of incommensurable goods: life versus liberty, health versus democracy, safety versus dignity.

However, proportionality depends on epistemic stability and it presupposes a world where facts are knowable and consequences are calculable. The pandemic fractured this illusion. As Vyhnánek and others have argued, courts were suddenly faced with the question how to conduct meaningful proportionality review in conditions of radical uncertainty, where both the efficacy of emergency measures and their long-term societal harms were speculative.[141] In many jurisdictions, including Greece, the answer was to defer. Faced with the enormity of the crisis, courts largely relinquished their role as ethical gatekeepers, choosing to trust the executive's judgment rather than to interrogate it.

This deference was often framed in procedural terms with courts claiming that they lacked the expertise or democratic legitimacy to question public health decisions made under time pressure. But beneath this procedural modesty lay in our opinion a deeper ethical abdication. By accepting executive necessity at face value and failing to demand in depth justification, courts effectively permitted the state to operate without moral scrutiny. Nowhere was this more apparent than in Greece, where emergency measures were upheld as we saw without meaningful proportionality review. Despite the absence of a formal declaration of emergency under Article 48 of the Constitution, the government exercised sweeping powers through Acts of Legislative Content. The judiciary, instead of interrogating this form of legal improvisation, accepted it as constitutionally unproblematic.

This phenomenon brings in mind what Giorgio Agamben describes as the modern tendency to normalise the exception. The danger, in his view, is not merely the emergency itself, but the juridical apparatus that allows emergency to persist without naming it as such. In the case of Greece, this logic was fully operational: emergency governance functioned legally, efficiently and without constitutional rupture, precisely because the ethical challenge of exceptional power was never squarely confronted and the law absorbed the exception without protest.

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[141] Ibid.

This raises a profound moral question: can the judicial conscience remain intact when law becomes the vehicle for executive dominance cloaked in necessity? Courts are not merely institutional actors, they are moral agents. Their silence, or their unwillingness to question, becomes a form of complicity. In the Greek context, the court's failure to insist on temporality meant that extraordinary power became ambient. This is not simply a constitutional flaw, but an ethical failing, as it betrays the foundational principle that emergency measures, even if justified, must remain temporary and exceptional. Without this, the architecture of rights becomes ornamental, invoked in theory but suspended in practice.

Proposals such as the semiprocedural model of judicial review attempt to restore some ethical content to this dynamic by focusing on the quality of governmental reasoning. More analytically, by asking whether decisions are transparent, evidence-based, and revisable this model offers courts a way to uphold their supervisory function without arrogating to themselves the role of policy-makers. It creates a space for judicial ethics grounded not in substantive outcomes but in procedural integrity. In Austria and Germany, such an approach allowed courts to invalidate measures not because they were ineffective, but because the state failed to justify them adequately.[142] This was a reassertion of the moral dimension of legality: that power, to be legitimate, must speak and be answerable.

More ambitious still is the proposal by Ondřejek and Horák for a precautionary application of proportionality. Their model attempts to preserve the doctrinal coherence of proportionality while adapting its application to conditions of crisis. By adjusting the threshold of each component: so that a measure is suitable unless manifestly unsuitable, necessary unless manifestly unnecessary, and proportionate unless manifestly disproportionate, the framework acknowledges the epistemic burdens of crisis without abandoning ethical oversight. This way, it retains the grammar of rights discourse, refusing to reduce rights to policy interests. It makes visible the moral tension inherent in emergency decision-making rather than concealing it.[143]

Yet even this calibrated approach risks normalising emergency logic if it is not constrained by a rigorous ethic of temporality. The deepest danger, as Agamben warns, is that the exception becomes the norm not by declaration, but by habituation.[144] If courts, legislators, and citizens become accustomed to

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[142] Ibid.
[143] Pavel Ondřejek and Filip Horák, 'Proportionality during Times of Crisis: Precautionary Application of Proportionality Analysis in the Judicial Review of Emergency Measures' (2024) 20 *European Constitutional Law Review* 27, 28–29.
[144] Agamben, *State of Exception* (n1).

governance by urgency, if the legal order adapts too smoothly to conditions of fear, then the ethical foundation of constitutional democracy is quietly eroded. The law begins to function efficiently, but without resistance and most importantly without the moral friction that rights are supposed to generate. In this light, the ethical challenge of judicial review during crises is not simply to balance liberty and necessity. It is to resist the gravitational pull of normalization. Courts must act as sites of memory, reminding the polity that the exception is not the rule, and that rights are not mere technical constraints but moral claims grounded in human dignity. This requires a judiciary that is not only procedurally competent but ethically vigilant, but a judiciary that is willing to say no, or at the very least, to demand answers. The Greek judiciary, during the COVID-19 pandemic, failed to rise to this challenge. By deferring too quickly, reviewing too lightly, and remaining silent too long, it became not the guardian of constitutional morality but its passive observer. In doing so, it confirmed Agamben's fear: that the state of exception is no longer declared—it is administered.

Moreover, the COVID-19 pandemic constituted a profound test for the resilience of democratic values in Greece. In particular, the state's pandemic response challenged the principles of transparency, the rule of law as well as the institutional accountability. Although the Greek government's swift and coordinated measures during the early stages of the pandemic were praised for their effectiveness in curbing the spread of the virus, the legal and institutional framework through which these measures were adopted revealed significant democratic vulnerabilities. What emerged was not simply a temporary suspension of rights, but an informal recalibration of the democratic order under the guise of necessity.

Greece's response to the pandemic was characterised by a marked concentration of decision-making power in the executive branch. In other words, through an extensive use of Joint Ministerial Decisions and decrees issued under emergency health legislation, the government was able to implement sweeping restrictions on freedom of movement, assembly, religious worship and economic activity with limited parliamentary scrutiny.[145] While such powers are legally justifiable under Greece's constitutional and statutory framework during public health emergencies, the practical consequence was the marginalisation of horizontal accountability mechanisms, including the legislature and independent authorities.

[145] Presidential Decree No. 64/2020 and subsequent Joint Ministerial Decisions (e.g., ΥΠΟΙΚ 9864/2020) imposed sweeping lockdown measures with minimal parliamentary involvement.

This institutional centralisation aligns with the concerns expressed in the study by Engler et al., which shows that governments with weaker democratic safeguards prior to the pandemic were more likely to adopt restrictive policies and concentrate power in the executive.[146] In Greece, democratic institutions were already under strain following a decade of economic crisis that left limited space for genuine parliamentary deliberation. So, these pre-existing structural deficits made it easier for the executive to operate without significant pushback, further exacerbating the democratic trade-offs posed by the pandemic.

One of the most problematic aspects of Greece's pandemic response was the opacity surrounding the scientific decision-making process. The national expert committee advising the government on COVID-19, although composed of competent professionals, operated behind closed doors and did not systematically publish minutes or disclose the evidence base for its recommendations.[147] The absence of transparency effectively insulated the government from public or parliamentary challenge, reducing democratic deliberation to the formal endorsement of pre-decided policies. This lack of procedural openness undermined the principle of informed public consent and violated the democratic requirement for accountability through transparency.

Another fundamental democratic value impacted during the pandemic was the rule of law, particularly as it pertains to legal certainty and the proportionality of restrictions. While emergency measures were formally enacted under legal provisions, the rapid and often contradictory nature of successive decrees created confusion regarding the scope and duration of restrictions. Citizens were subject to substantial fines and police enforcement without clear procedural safeguards. Courts were slow to respond, and when they did, they largely deferred to executive discretion.[5] This environment weakened both access to justice and the legal predictability required in a rule-of-law-based democracy. The concern here is not simply that rights were restricted, but that mechanisms for reviewing and contesting those restrictions were deficient. The Council of State, for instance, upheld the legality of pandemic fines and restrictions but did so without robust engagement with proportionality standards or the need for

[146] Sarah Engler et al., 'Democracy in Times of the Pandemic: Explaining the Variation of COVID-19 Policies Across European Democracies' (2021) 44(5–6) *West European Politics* 1077, 1083–1087.
[147] Hellenic League for Human Rights, *Report on Emergency Measures and Human Rights in Greece* (2021), 7–9.

legislative oversight.[148] The resulting precedent risks normalising broad discretionary powers for the executive that can be repurposed in future crises, including ones of a non-health-related nature.

The findings of Karabulut et al. contribute another layer to this discussion. Their research indicates that more democratic states tended to have higher infection rates but lower case fatality rates, suggesting a trade-off between openness and responsiveness.[149] In Greece, however, the relatively low infection and mortality rates during the first wave coincided with strict, top-down governance and a technocratic implementation model. This raises questions about the extent to which effectiveness was achieved at the expense of democratic legitimacy. While public compliance was initially high, sustained acceptance of such measures depends on trust, which in turn requires transparency and participation—both of which were lacking. From Agamben's theoretical standpoint, Greece's pandemic governance exemplifies the creeping normalisation of the "state of exception and the preservation of formal legality masked an underlying shift towards executive discretion as the default mode of governance, thus raising concerns about the durability of democratic norms post-crisis.[150]

But perhaps the most enduring consequence of Greece's pandemic governance lies in the precedents it established for the future exercise of state power. As Engler et al. emphasise, strong democratic institutions create "legacy effects" that constrain executive overreach. In the Greek context, however, the lack of robust pre-existing safeguards means that little institutional memory or procedural infrastructure exists to resist similar encroachments in future emergencies.[151] This absence of structural accountability is particularly troubling given the broader trend of democratic backsliding in parts of Europe, where crisis governance is increasingly used to consolidate executive authority. Furthermore, the public's apparent acquiescence to invasive and prolonged restrictions, without significant demands for transparency or judicial redress, may signal a weakened democratic culture, in which constitutional rights are seen as contingent on executive discretion rather than inalienable protections.

This tension between liberal democracy and public health crises exposes a deeper philosophical problem concerning the ethical structure of liberalism itself: namely, how modern democratic societies conceive of liberty not only as a negative right against state interference but as a constitutive element of

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[148] See decisions such as Symvoulio tis Epikrateias (Council of State) 2387/2021 and 3226/2021.
[149] Gokhan Karabulut, Klaus F Zimmermann, Mehmet Huseyin Bilgin and Asli Cansin Doker, 'Democracy and COVID-19 Outcomes' (2021) 203 *Economics Letters* 109840.
[150] Giorgio Agamben, *State of Exception* (n 1).
[151] Engler et al. (n 146).

civic life that must be interpreted anew in times of collective peril. In Greece, as in many liberal democracies, citizens displayed a striking readiness to accept unprecedented limitations on civil liberties in the name of collective health and safety.[152] At first glance, such compliance might appear to affirm the legitimacy of state action during emergencies, yet, from a philosophical standpoint, it also highlights the insufficiency of liberty as mere non-interference. If liberty is imagined solely as protection from state encroachment, it becomes alarmingly fragile in moments of collective anxiety. Indeed, as Alsan et al. observe in comparative studies, populations under duress tend to privilege security over freedom, suggesting a latent prioritisation of safety that can undermine democratic values when not balanced by a more relational, ethically grounded conception of liberty.[153]

This tension is precisely what Bruce Jennings critiques in his analysis of classical liberal paradigms. He argues that the Millian harm principle and Isaiah Berlin's dualism of negative and positive liberty are inadequate foundations for public health ethics in a context of crisis.[154] These paradigms assume atomistic individuals whose freedoms must be weighed against the common good, a framework that dominated early Greek debates on lockdown enforcement, particularly when citizens protested limitations on religious expression or mobility. However, Jennings introduces a "third freedom," grounded not in isolation but in relational interdependence, civic solidarity and mutual care.[155] This model of freedom is not about setting limits around the individual but about cultivating the conditions in which individuals can flourish through their social embeddedness**,** a vision that resonates deeply with Greek political culture, which historically balances personal agency with notions of communal duty (koinonia).

To operationalise such a philosophical vision, James F. Childress and Ruth Gaare Bernheim propose a normative structure that Greece's pandemic policies at times implicitly put into practice, even if not formally articulated. Their "presumption/rebuttal" framework views liberty as a presumptive good that can be overridden only when a set of rigorous justificatory conditions are met, such as necessity, effectiveness, proportionality, and transparency.[156] This model was partly reflected in the Greek state's

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[152] Marcella Alsan and others, 'Online Appendix: Civil Liberties in Times of Crisis' (2021) https://www.nber.org/materials/civil-liberties-crisis accessed 10 July 2025.
[153] Ibid.
[154] Bruce Jennings, 'Public Health and Liberty: Beyond the Millian Paradigm' (n.d.) *Public Health Ethics* https://academic.oup.com/phe/article-lookup/doi/10.1093/phe/phm001 accessed 10 July 2025.
[155] Ibid.
[156] James F Childress and Ruth Gaare Bernheim, 'Beyond the Liberal and Communitarian Impasse: A Framework and Vision for Public Health' (2003) 55 *Fla L Rev* 1191.

early COVID-19 strategy, which saw a highly publicised, transparent communication effort through daily briefings led by scientists like Sotiris Tsiodras. These briefings not only informed the public but helped build reciprocal trust, a foundational feature of the relational liberty Jennings and Childress envision. Notably, public acceptance of restrictions in the first wave was among the highest in Europe, indicating that measures grounded in civic dialogue rather than pure coercion can foster voluntary compliance and a sense of shared moral purpose.[157]

To sum up, while the pandemic may now appear receding, its imprint on democratic governance, particularly in Greece, has not simply faded with the lifting of restrictions. Instead, COVID-19 governance has left behind what may be termed *residual exceptionalism*: a mode of statecraft wherein the legal, and ethical habits formed under crisis conditions persist in post-crisis normality. This residual mode operates not through formal declarations of emergency, but through the informal institutionalisation of executive prerogative, a feature that were temporarily justified but now risk becoming structurally embedded.

In the Greek case, the long-term effect of this normalisation is twofold. First, at the institutional level, the pandemic has accelerated a shift in the balance of powers between the executive and other branches of government. As previously discussed, the heavy reliance on Joint Ministerial Decisions and the sidelining of Parliament during the pandemic constituted not merely temporary emergency measures, but practices that now shape expectations of how swiftly and unilaterally the executive can act in perceived crises.[158] The lack of strong institutional protest or effective judicial pushback during the pandemic laid the groundwork for future crisis governance, where speed may again be privileged over deliberation and legality.

Second, at the societal level, the pandemic has reshaped civic expectations and political behaviour. As noted earlier, initial compliance with restrictive measures was high, bolstered by trust in scientific authority and effective communication strategies.[159] Yet the durability of this trust remains in question, as public engagement was largely passive and top-down, with little space for contestation or participatory deliberation. In this context, what may appear as civic consensus might in fact reflect resignation, like a democratic demobilisation masked as unity. This poses a long-term challenge: if

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[157] Ibid.
[158] Karavokyris (n 107).
[159] Childress and Bernheim (n 156).

emergency governance teaches citizens to view rights as negotiable and dissent as irresponsible, then the democratic culture itself is at risk.

The transformation of emergency into routine governance also affects how legal norms are interpreted and applied. As discussed in earlier sections, Greek courts adopted a deferential posture throughout the pandemic, favouring procedural minimalism over substantive ethical review. This may now set a jurisprudential precedent that blunts the judiciary's future willingness to scrutinise executive power, particularly under the legitimising discourse of necessity. The dangers, that Agamben warned and the Greek experience confirms, is that the exception no longer needs to be declared to function, it is enacted administratively and silently.[160] When this becomes the dominant form of state response, the constitutional architecture of rights protection is reconfigured in practice, if not in law.

Another key democratic norm affected is the principle of transparency. The crisis management model adopted in Greece, which relied heavily on expert committees whose proceedings were neither public nor reviewable, risks becoming a template for future policy domains beyond public health. This "expertocratic" turn, as critics term it, while perhaps effective in managing specific risks, sidelines democratic deliberation in favour of technocratic legitimacy. Yet when policy is driven by "apolitical" expertise behind closed doors, the conditions for public accountability diminish. Without reform, such as ex post transparency rules or institutionalised parliamentary oversight of expert bodies, the legacy of the pandemic will be a depoliticised policy process where the executive and its appointed advisors make consequential decisions insulated from democratic contestation. [161]

Moreover, the pandemic has impacted the public's normative relationship to rights and liberties. The earlier analysis discussed how proportionality, once a very crucial tool of rights adjudication, was undermined by epistemic uncertainty and judicial passivity. This erosion is not only a legal phenomenon but also a cultural one, because when rights are perceived as flexible instruments to be weighed and waived by public authorities during crises, their normative force weakens. In Greece, the routine framing of rights, particularly freedom of assembly and movement, as obstacles to collective safety contributed to this shift. If this framing persists, it may gradually recast rights from being inalienable protections to contingent policy tools, redefining the moral grammar of constitutional democracy.

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[160] Agamben, *State of Exception* (n 1).
[161] Engler et al. (n 146).

Finally, Greece's pandemic governance highlights a broader European concern: that crisis management can become a vehicle for institutional path dependency. As Engler et al. argue, countries with weaker democratic safeguards pre-pandemic tended to see more enduring shifts in power post-pandemic. In Greece, where the decade-long financial crisis had already tilted governance towards executive dominance, COVID-19 acted less as a rupture and more as an accelerant. In this sense, the pandemic did not so much invent new governance logics as consolidate pre-existing tendencies toward centralisation, informality, and technocratic authority.[162]

The lasting effects on democratic norms in Greece should thus be understood not only in terms of legal precedent or institutional design but also through a broader cultural lens. What the pandemic governance revealed is a diminished sense of political contestability. When extraordinary powers are accepted without robust ethical or legal challenge, when oversight becomes ritualistic and when public debate is replaced with broadcast-style communication, democracy becomes procedural but not participatory. The Greek case thus shows how easily the ethical scaffolding of democratic governance can be weakened not by overt authoritarianism, but by the cumulative habits of emergency. To counteract this drift, democratic institutions in Greece must reclaim their supervisory roles, not only through post-crisis legal reform, but by restoring the civic ethos of democratic vigilance. Courts must reassert their ethical function as guardians of temporality and justification; legislatures must reclaim deliberative space; and citizens must be re-engaged as active participants rather than passive recipients of state protection. Only through such a re-democratisation of governance can the constitutional order recover from the ethical and normative suspensions of the pandemic era.

[162] Karabulut, G., Zimmermann, K. F., Bilgin, M. H., & Doker, A. C. (2021). "Democracy and COVID-19 Outcomes." *Economics Letters*, 203, 109840.

6. Conclusion

All in all, this thesis set out to examine the implications of Greece's pandemic governance through the theoretical lens of Giorgio Agamben, with a focus on the juridical, ethical and also the democratic transformations precipitated by the COVID-19 emergency. The inquiry traced how measures adopted in the name of public health introduced not only temporary limitations on civil liberties, but potentially lasting recalibrations of constitutional governance. This conclusion not only consolidates the key findings but it furthemore reflects critically on the application of Agamben's theory.

With that on mind it is fair to say that Greece's pandemic response was shaped by a confluence of factors: a legacy of authoritarian administration, an already strained democratic culture and an urgent need for effective health governance. As demonstrated in Chapter 4, the government deployed a series of emergency measures, including the SMS-based movement permits, bans on protests, and mandates on vaccination. While many of these were framed as epidemiologically necessary, their practical implementation was marked by opacity and sweeping executive discretion. As we described these measures operated under the cover of legality, but often bypassed robust parliamentary debate and public consultation. Joint Ministerial Decisions were the dominant legislative vehicle, limiting horizontal accountability. Although the Greek Parliament remained nominally functional, the speed and volume of emergency decrees curtailed effective legislative scrutiny. Similarly, judicial oversight remained largely deferential and the Council of State, for instance, upheld restrictions with minimal engagement in substantive proportionality review.

These developments validated the core of Agamben's concern: that emergency governance does not abolish the law but empties it of its protective function, preserving its form while suspending its content. As such, citizens are reconstituted not as political subjects but as biological lives to be managed and regulated, a manifestation of Agamben's "bare life" So, Agamben's theory of the state of exception and bare life provided a powerful heuristic to understand how legal normality collapses into emergency rationality. His work illuminated the tendency of liberal democracies to institutionalise exceptions, gradually transforming emergency measures into everyday government. Greece exemplifies this logic: through continuous reliance on executive discretion, the government enacted a post-legal regime where legality served managerial rather than normative functions.

However, this thesis also acknowledged the limitations of Agamben's framework. First, his conceptual apparatus, while elegantly diagnostic, risks overgeneralisation. By flattening all state action into sovereign domination, Agamben elides important distinctions between legitimate public health interventions and authoritarian overreach. Scholars such as Žižek and Bratton have critiqued Agamben for conflating necessary governance with biopolitical tyranny, thereby failing to account for the complexity of democratic intent, scientific uncertainty, and civic responsibility. Moreover, Agamben's insistence on metaphysical constructs like "bare life" limits the granularity needed to grasp differentiated social impacts. His theory inadequately accounts for how coercive policies affect various socio-economic groups differently. As Tewari points out, Agamben neglects the ways in which vulnerability is stratified, with marginalized groups disproportionately bearing the burden of emergency governance. Also, Agamben offers little guidance on institutional resilience or democratic recovery. His critique is totalising, leaving scant space for political agency or legal reform. By contrast, critics like Bratton and Negri emphasise the possibility of reconstructive politics based on solidarity and mutual aid—an element largely absent in Agamben's thought. Nevertheless, Agamben's core insight, that the state of exception is not the antithesis but the concealed logic of liberal democracies, remains a critical provocation and Greece's experience during COVID-19 affirms the need to interrogate how democracies justify and normalise emergency power.

Furthermore, Greece's pandemic governance raises fundamental questions about the institutional integrity of liberal democracies under conditions of crisis. While emergency powers may be necessary, their unchecked use risks transforming temporary exceptions into routine practice. This thesis identified three major implications, the first of them being is that the institutionalisation of executive discretion disrupts the separation of powers. When crisis management is dominated by the executive, with parliaments relegated to retroactive approval and courts reduced to passive affirmation, the deliberative core of democracy logically weakens. In Greece, the procedural legitimacy of measures masked substantive exclusions from political participation. Secondly, the framing of civil liberties as threats to collective health reframes dissent as pathology rather than politics. Protest bans and surveillance justified in epidemiological terms displace civic dialogue with risk management. The risk, as articulated in the thesis, is not just authoritarianism but the cultural devaluation of rights as contingent and revocable. Thirdly, the ethical structure of liberalism is itself under stress, with the pandemic exposing the limitations of liberty as non-interference. As discussed in Chapter 5, a relational model of freedom grounded in mutual care is necessary to guide democratic ethics in times of crisis. Greece's experience, while fraught, also revealed moments of solidarity and compliance based on trust, not just coercion. In

sum, the Greek case emphasises the need for a new vocabulary of emergency governance—one that transcends the binary of liberty and security and exception ans it invites a rethinking of what democracy requires not just in normal times, but under conditions of acute collective threat.

The study concludes with several recommendations for future research and institutional reform aimed at reinforcing democratic resilience under emergency conditions. Future studies should examine how different constitutional traditions mediated the impact of emergency governance, with comparative analyses identifying best practices for preserving democratic accountability during crises. Countries such as New Zealand, Germany, and South Korea, which managed to balance public health goals with civil liberties in a more transparent manner, could serve as valuable case studies. From a sociological perspective, it is equally important to explore how emergency measures are later memorialised, legislatively revised, or even institutionally entrenched, and to investigate the processes through which these tools either persist or fade, including the pivotal role of civil society mobilisation. In legal terms, the doctrine of proportionality must be re-evaluated to prevent its dilution during emergencies; this entails refining judicial criteria for necessity and subsidiarity, adopting context-sensitive review standards, and enforcing clear thresholds for the restriction of non-derogable rights.

Moreover, expert-led governance should not bypass political accountability; public health committees and scientific advisors must be subject to regular reporting obligations, peer-review processes, and real-time legislative scrutiny to ensure democratic oversight. Emergency preparedness should also incorporate public education initiatives that enhance legal literacy, fostering awareness of constitutional rights and limits to executive power while promoting ethical reflection on collective responsibility. To prevent the normalization of exceptional governance, all extraordinary measures should be bound by institutionalised sunset clauses, with renewals contingent upon rigorous parliamentary debate and impact assessment. As future crises are likely to increase reliance on digital tools, legal safeguards must be enhanced to ensure transparency, data minimisation, and third-party oversight of technologies like movement tracking systems, QR codes, and vaccine passports, with independent data protection authorities granted real-time auditing powers. Finally, equity must become a central concern of emergency law: scholars and policymakers must investigate how coercive measures disproportionately affect marginalized communities and ensure that both legal doctrines and public health strategies include equity assessments to avoid deepening structural injustices or economic precarity.

In conclusion, this thesis contends that democratic resilience lies not in the denial of emergency, but in its legal and political regulation, grounded in constitutional principles and institutional

accountability. Drawing on Giorgio Agamben's framework, the pandemic response in Greece and elsewhere illustrates how the state of exception, once theorised as an extraordinary suspension of law, has increasingly become a normalised technique of governance. Agamben warns that when emergency powers are no longer temporally bounded or legally circumscribed, they risk eroding the distinction between rule and exception, law and force, democracy and authoritarianism. Yet rather than accept this trajectory as inevitable, this thesis argues for a counter-strategy: the juridification and democratization of the exceptional.

As Greece moves from pandemic to post-pandemic governance, the deeper task is not simply to restore pre-crisis routines, but to reconstruct a political order that can uphold liberty precisely when it is most vulnerable. This involves reasserting the normative force of constitutional law even under conditions of crisis, embedding sunset clauses, proportionality review, and parliamentary oversight into emergency regimes, and cultivating a public sphere capable of contesting the depoliticisation of technocratic rule. If, as Agamben argues, the state of exception reveals the threshold at which law confronts its limits, then democratic societies must meet that threshold not with abandonment but with renewed commitment to legal form and political responsibility. In this light, resilience means neither passivity nor blind trust in authority, but an active, vigilant engagement with the question of how democracy governs danger, without becoming its own undoing.

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