

From Schmitt to Agamben Exception, Virus, and Normal: A Critical Assessment

Schmittten Agambene İstisna, Virüs ve Normal: Eleştirel Bir Değerlendirme

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Received: 22.11.2023 | Accepted: 24.06.2024

Abstract: The Covid-19 pandemic has created a ‘perfect crisis’ that combined health, ecological and economic crises, resulting in the death of millions of people and the unemployment of others. While states took extraordinary measures to manage the crisis, social scientists tried to make sense of this situation. Early in the pandemic, Italian philosopher Giorgio Agamben controversially claimed that states were instrumentalizing the disease to proclaim, “an authentic state of exception”. This study contributes to the criticisms of Agamben through a critical rereading of German legal theorist, Carl Schmitt. The main argument is that Agamben’s approach to the pandemic is too strongly social constructivist, over-philosophical, over-political and a-historical due to his general philosopho-political project. Agamben’s decisionist and over-political approach is derived from his use of Schmitt’s problematic concept of the “state of exception”. However, Agamben’s use is even more problematic because he uses it to analyze various political developments ahistorically, which obviates the concept’s analytical consistency.

Keywords: Giorgio Agamben, Carl Schmitt, COVID-19 pandemic, political sociology, political movements and history of political thought.

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Introduction

On March 11, 2020, the World Health Organization (WHO) declared the Covid-19 outbreak as a pandemic. (*WHO Director-General's Opening Remarks at the Media Briefing on COVID-19 - 11 March 2020*, 2020). The SARS-Cov-2 virus (severe acute respiratory syndrome–Coronavirus-2) and the resulting COVID-19 disease was first detected in December 2019 in Wuhan, Hubei Province, China, before spreading regionally and then globally. The subsequent chaos created a crisis at a scale and prevalence that has not been seen for generations. At the time of writing this article, more than 6 million people have died due to the COVID-19. However, the pandemic did not arise in a vacuum; rather it was a combination of three organically combined crises (ecological, economic, and medical) in which the medical crisis, which emerged in the context of the current economic and ecological crises, played a catalytic role in connecting all three and causing events to evolve what I call a 'perfect crisis'¹

The 'prolonged' economic crisis of neo-liberalism, which has had great difficulty in recovering from the 2007-2009 global financial crisis (GFC), a deepening ecological crisis accompanied by global warming and the excessive commodification of nature, and the medical crisis that emerged due to the global spread of COVID-19 created an amalgam that articulated in complex ways. Undoubtedly, this 'perfect crisis', in which seemingly natural elements are linked like a chain and play a serious role, is essentially a "man-made disaster" (Braidotti, 2020) shaped by the economic, political, and ideological preferences. In that sense, there is even "no such thing as a truly natural disaster" (Harvey, 2020; Smith, 2006). The medical crisis itself clearly became so severe because it was part of the neo-liberal commodification of health and of nature (Autore & Corizzo, 2020; Wallace, 2020a, 2020b).

While there have been repeated zoonotic epidemics, such as the Spanish Flu (1918), or the recent SARS-CoV-1 (2002-2004), Swine Flu (2009), and Ebola (2013-2016) they did not become pandemics because their scale was partially limited to specific geographical regions. In contrast, WHO

¹ I derive this term from the meteorological concept of a perfect storm, which describes a rare situation in which weather conditions combine to form a huge storm.



classified SARS-CoV-2 as a pandemic rather than an epidemic after its rapid international spread. In other words, although there have been numerous epidemics throughout history, the medical crisis we experienced quickly became a pandemic unlike the previous ones. One of the most significant reasons was that transport and circulation systems were closely integrated as a result of neo-liberal globalization. In the world that has become a “Global Village”, *à la* McLuhan, an unprecedented number of people interacted with others physically and non-physically.

The perfect crisis has also deepened the prolonged crisis of neo-liberalism. The International Monetary Fund (IMF) itself declared that the pandemic produced the biggest recession since the Great Depression of 1930, “far worse than Global Financial Crisis” in 2007/2008 (Gopinath, n.d.). The tourism, travel, hospitality, and entertainment sectors were hardest hit by the pandemic, with tens of thousands of businesses in various sectors closing and millions of people losing their jobs. In manufacturing, the crisis was signaled by supply chain disruptions, and decreased production and profit (Fowler, 2021). For example, lockdowns and labor shortages in Asia due to COVID-19, reduced chip production which led to a crisis in automobile production (MacRae, 2021). However, profits increased in other sectors such as technology, pharmaceuticals and consumer goods (*Power, Profits, and the Pandemic: From Corporate Extraction for the Few to an Economy That Works for All*, 2020, p. 20). Big Tech, or GAFAM (Google, Apple, Facebook and Amazon and Microsoft) including other tech giants such as Netflix and Zoom were the winners as digitalization was accelerated and deepened by the COVID-19 crisis (Wigglesworth, 2020).

The pandemic created global shock waves. Nation-states had to resort to ‘non-pharmaceutical interventions’ (NPI) such as state of exceptions, quarantines, curfews, remote working, and travel restrictions and introduced obligations to wear masks, social distance, isolation, and strict hygiene rules. Universities, schools, libraries, gyms, cafés, restaurants, museums, bars, nightclubs, movie theaters, sports and recreations facilities, and even sanctuaries were closed. By April 2020, nearly half of the world population, 3.9 billion people, was obliged to stay at home (Sandford, 2020). Once vaccines became available, widespread vaccination campaigns were



carried out to increase vaccination rates. These used a wide repertoire of practices, from incentives, suggestions, and encouragement to fines, quarantine, mandatory PCR testing and job dismissals.

The pandemic also clarified an ongoing wave of irrationalization and anti-Enlightenment sentiments (in part fueled by the rise of the new right, post-modernism, and post-structuralism alike) that Nicos Poulantzas (Poulantzas, 1980, pp. 178–179) identified in the early 1980s. In particular, conspiratorial thought was revived in what has been called a “covid-spiracy” (Achterberg, 2021). For example, the pandemic was presented as the result of a virus leaking from laboratories in China or the United States, depending on the parties voicing the claim. Others claimed that the pandemic was the work of evil Big Pharma or Malthusian mad billionaires (notably Bill Gates) trying to reduce the world’s population. Meanwhile, the spread of misinformation, or “Infodemic” (Zarocostas, 2020) including “fake news” gave rise to conspiratorial scenarios about vaccines contained chips to track people or caused infertility to create a demographic apocalypse. In some versions, 5G technology is held responsible for the pandemic (Ahmed et al., 2020).

Another theme was that the pandemic had given nation-states a crucial excuse to reclaim their administrative role. That is, the pandemic gave ‘Leviathan’ state, which had had to withdraw due to neo-liberalism, favorable conditions to realize its totalitarian desires. Hence some argued that governments were using “fear as a weapon” to restrict civil liberties, as part of some totalitarian agenda. These concerns were often expressed in terms of a neo-liberal and libertarian skepticism towards the state. According to this narrative, under the pretext of the pandemic, the establishment had made the technocratic elite important actors again. In particular by exaggerating the seriousness of the disease and using a medicalized-scientificized discourse, the media instilled fear in the masses to paralyze them, resulting in a “dictatorship of fear.”

This familiar theme was echoed not only by libertarian, right-populists or *Querdenker*, (lateral thinker) but also by post-modernist or post-structuralist thinkers. The statements of the famous Italian philosopher Giorgio Agamben on this subject drew great attention. Agamben claimed that the governments had used the COVID-19 pandemic as an “excuse” to



reduce public life to a “naked life”, by restricting freedoms and declaring an “authentic state of exception”. More interestingly, he compared COVID-19 to the flu, and claimed that the media had exaggerated its effects to spread a “medical panic”. Agamben’s analysis of “state of exception”, which is based on his political philosophy developed along the lines of Carl Schmitt (1888-1985) and Michel Foucault (1926-1984) was strongly criticized by, among others, Jean-Luc Nancy and Slavoj Žižek.

I will argue below that Agamben’s account of the state of exception and his general approach to the pandemic suffer from an ‘over-philosophizing’ of a social constructivist, simplistic, and politicist nature that misses the actual social determinations of the perfect crisis. To do this, I will first consider Carl Schmitt and his thoughts on the sovereign and the state of exception as significant inspirations of Agamben’s political philosophy, I will, then, critically assess Agamben’s political philosophy and his interpretation of the pandemic. In doing so, I will add my own socio-political criticism along with Jean-Luc Nancy and Slavoj Žižek’s criticisms.

Carl Schmitt: The Sovereign and the Exceptional

Although he was a member of the Nazi party, and his ideas provided politico-legal legitimacy for Nazi political activism, the German legal and political theorist Carl Schmitt has attracted interest from leftists and post-structuralists. His reformulation of the state of exception (*Ausnahmezustand*), sovereignty, the political, friend-enemy distinction, and political theology, have significantly influence legal-political thought. Despite being a controversial figure, Schmitt is considered a champion of the “political turn” in a conjuncture when real socialism collapsed, and the depoliticizing essence of liberalism was crystallized. Schmitt’s work is celebrated as making genuine contribution to the critique of liberalism, pluralism, and cosmopolitanism.

Schmitt considers sovereignty in terms of the sovereign, suggesting that “[the] Sovereign is he who decides on the exception” (Schmitt, 1985, p. 5). Here, state of exception does not describe a situation that emerges thanks to a decree or a concrete-practical application like martial law. Rather, Schmitt reconstructs the concept of the state of exception as part of his general legal-political theory of the state. By separating norms and decisions, he depicts a state of exception as a decision in pure form. Contrary



to liberal constitutionalism, he argues that since decisions and norms belong to separate realms of existence, and a norm cannot involve an exception, the decision cannot be derived from the norm (Schmitt, 1985, pp. 5–6).

Moreover, discussing the abstract content and referents of sovereignty, in Schmitt's view, is both theoretically and practically meaningless. Instead, one should focus on decisions taken against putative threats to the "state interest" and "public safety". However, the threat itself can only be defined subjectively by specific actors. This process takes place independently of the norms or constitution, which can at most only specify which authority is responsible in such a case. As this is a moment of crisis, it leads the sovereign to come to the fore in deciding whether the threat actually exists and, if so, what to do in response. Since this decision is outside the norm-based legal order, it cannot be objectively formulated and is associated with the survival of the state (Schmitt, 1985, p. 6).

The exception defines the "subject of sovereignty", and the situation cannot be regulated beforehand. Thus, in order to deal with supposed danger, the "jurisdictional competence" should be unrestricted, which is unthinkable for liberal constitutionalism since it limits itself to specifying who should be in charge. If such activity is not counterbalanced by some other mechanism, as is the case in liberal constitutionalism, it is the sovereign that is in charge who decides whether there is an emergency, and if so, what to do. Although the sovereign seems to be outside the legal order, they are part of it because they are entitled to suspend the constitution. It is this latter scenario that concerned legal theoreticians like Hugo Krabbe (1857-1936) and Hans Kelsen (1881-1973). They tended to think sovereignty in relation to the suspension of constitution that they strive to prevent it at any rate. Yet, eliminating the possibility of exception is not a legal but a philosophical or metaphysical matter (Schmitt, 1985, pp. 6–7).

When developing his views on sovereignty and the state of exception, Schmitt heavily draws on Jean Bodin (1530-1596) (1992, p. 1), who defines sovereignty as the "absolute and perpetual power of a commonwealth" and argues that the ruler is bound by their promises to the people due to natural law. Nevertheless, he claims that the prince can act with absolute autonomy in emergencies. Thus, in general, according to Schmitt, Bodin argues



that when defending community interests, sovereigns are bound by law whereas they can free themselves from natural commitments in an emergency (Schmitt, 1985, p. 8).

Additionally, Bodin questions whether the sovereign's commitment to his subjects undermines his sovereignty. On the one hand, if the sovereign in an emergency must seek advice from the senate or the people then he would have to accept that his subjects could eliminate him. On the other hand, since the subjects are also not the "masters" of the law, Schmitt concludes that the sovereign can decide and act as an individual without the senate or the people. Hence, sovereignty turns into a "play between two parties": the subject and the prince. Yet, when it comes to sovereignty, this duality is unacceptable according to Bodin. Consequently, he suggests that the main indicator of sovereignty is the power to decide on the repeal of the current law. For Bodin, all other acts, including "declaring war and making peace, appointing civil servants" etc., originate from this authority of revoking the law (Schmitt, 1985, pp. 8–9).

Schmitt thinks that there is a strong connection between sovereignty, decision, and social order because it is the sovereign power who decides about the nature of "public order" and "security" and whether they face any threats. Therefore, Schmitt places decision at the center of any conception of order. Contrary to liberal institutionalism, which explains the social order by focusing on norms, rules, and processes, Schmitt (Schmitt, 1985, p. 10) claims, "Like every other order, the legal order rests on a decision, and not on a norm." As Schmitt makes clear, the decision is strictly connected to the "subject of sovereignty" which realizes sovereignty only by implementing it in a "concrete situation". Thus, since the sixteenth century, jurists have been preoccupied with the question of who would be in charge in a situation where legal responsibility was not clarified. In other words, who would have "unlimited power" in an emergency? (Schmitt, 1985, pp. 9–10).

Schmitt recognizes that legal science has essentially chosen to disregard the concept of sovereignty because its field of interest mainly consists of the 'normal flow of life', so any exception is annoying because it denotes the interruption of 'normality'. Yet, aberrations do not automatically lead to state of exception for it is about "unlimited authority" and a "total



suspension of the existing order". In such a case, the state, freed from its legal 'chains', fully comes to the fore. However, since a state of exception is not synonymous with "chaos" nor "anarchy", it still has a "legal" character. With the "rising" of the state, the norm remains in its shadow and thus the decision gains an "absolute" existence. The state freezes the legal order on the pretense of protecting its own security. Thus, the norm evaporates in the moment of crisis because, its roots lie in the heart of order in all its normality (Schmitt, 1985, p. 12).

From Schmitt's point of view, while the exception cannot be classified and disobeys the "general codification", it nevertheless preserves a legal aspect by crystalizing "the decision in absolute purity." Application of norms requires a normal framework of life. This suggests there is no norm applicable in "chaos"; because the norm is defined in and for ordinary situations. However, it is the sovereign who decides whether the situation is normal or not. In that sense, "all law is situational law", which means that it is the result of a countless chain of decisions of which the last one belongs to the sovereign. This latter thesis distinguishes Schmitt from Max Weber (Weber, 2004, p. 33) who argued that the state's defining characteristic is the "monopoly of legitimate physical violence" as opposed to Schmitt's view that state sovereignty is defined by its 'monopoly over the last decision'. Similarly, exceptions form the core of the state's authority. At this point, the decision splits from "legal norms". Hence, Schmitt, following Hobbes's motto, of "*auctoritas, non veritas facit legem*" (it is authority, not truth, which makes the law), argues that sovereigns do not have to serve 'truth' in the sense that their decisions are not norm-based. Rather, the decision taken by the sovereign in the state of exception is the law itself (Schmitt, 1985, p. 13).

Schmitt argues that unlike seventeenth-century legal theoreticians of natural law, including Samuel von Pufendorf, who clearly saw the connection between sovereignty and exception, eighteenth-century legal theoreticians, who have lived in a relatively established order, lost it. For philosophers like John Locke and Immanuel Kant, exceptions and emergency laws were unthinkable. Schmitt argues that in the modern theory of the state, the two tendencies confront each other: the rationalist approach completely neglects the emergencies whereas the natural law approach is



interested in it, but for completely different reasons. Schmitt claims that while it is understandable that a neo-Kantian like Kelsen does not attribute meaning to exception, rationalists, should expect that legal system can “suspend itself” by referring either to “a norm, or an order or a point of reference.” Contrary to rationalist, liberal, and neo-Kantian arguments that the norm is essential, Schmitt claims that the state of exception disrupts this seemingly coherent legal scheme. In this sense, Schmitt argues that exceptions must again become an object of research for both legal theory and philosophy. As he puts it, (1985, p. 15) “The exception is more interesting than the rule. The rule proves nothing; the exception proves everything: It confirms not only the rule but also its existence, which derives only from the exception” (Schmitt, 1985, pp. 14–15).

Schmitt’s influential account of sovereignty and exception has echoes both for Nazi thought and today’s world. Schmitt clearly regards law as political, thereby converging Marxism, which associates the law with exploitative relations, rather than liberals claiming that law is inherently neutral and apolitical in itself. In this sense, Schmitt’s critique of liberalism attracts many left-wing theoreticians, radical democrats and post-structuralists alike. The problem here is that Schmitt seems to endorse a self-image of liberalism, that as inherently apolitical. Yet, this claim itself is political since it refers to an operation in which liberal perspectives and values become the norm- or hegemonic-. However, a historical investigation might expose the fact that liberal visions clearly defeat their own opponents to become norm. Thus, it can be said that Schmitt’s characterization of liberalism as peaceful is an exaggeration. It could well be argued that liberalism has been far more political than it seems. For instance, when arguing for freedoms or security, liberalism has always brought about war and pacification. Hence, the idea that liberalism is peaceful in the sense that it is apolitical should be challenged.²

Furthermore, a crisis is indeed interesting but not in the Schmittian sense that the sovereign is crystallized. Rather, it illustrates a conjuncture in which various alternatives emerge due to the relative decline of hegemonic power. Against the economist legacy of the Second International, which endorsed the view that capitalism will inevitably collapse under its

² See for instance (Neocleous, 2000, 2008, 2014).



internal laws (as in the law of the tendency of the rate of profit to fall), Antonio Gramsci (1971) insisted that crises do not mainly occur at the economic level and are dealt with at the political-ideological level. Rather, they are complex, historically specific, and multi-actor processes. In that sense, Gramsci's (1971, p. 276) general definition of crisis seems more explanatory: "The crisis consists precisely in the fact that the old is dying and the new cannot be born; in this interregnum a great variety of morbid symptoms appear." Moreover, he categorized crises into different levels of organic, hegemony, representation, and authority. Hence, one can argue that Gramsci's multi-level conceptualization of crisis is more elaborated and sophisticated than Schmitt's one-dimensional concept of exception.

Moreover, Schmitt tries to convince us that the political consists of the scene even the actor. However, as Marx (1972) demonstrated in *Eighteenth Brumaire*, political includes not only actor and scene, but also the 'backstage' as social base. However, Schmitt's decisionism prevents him from seeing this 'backstage', namely the socio-political and socio-economical context of a personified decision. Schmitt fails to acknowledge that decisions are not merely individual, and taken in a social vacuum; rather, they are rooted in societal frameworks. Yet Schmitt's argument seems to suggest that the moment of decision has an irrational, mystical, even metaphysical aspect totally disconnected from its multiple social contexts. In that sense, the decision becomes reified.

Additionally, the state of exception is not outside the normal because there are trends in the state of exception within the normal itself. There are also normalities in the state of exception. Here, Schmitt's approach is radical only in relation to a liberal framework. However, there are frequent transitions between normal and abnormal, and ordinary and crisis. Rather than a Manichean categorization of normal versus abnormal, or conjuncture versus decision, one should analyze the relationship between the political and societal contexts and decisions and actions.

Giorgio Agamben: The Invention of the Pandemic or the Limits of Social Constructivism, Politicism and Philosophism

Agamben (2020a) views the pandemic from a social constructivist perspective arguing that the Italian government declared an "authentic state of exception" for a supposed epidemic that was actually not so serious. Just



like “the war on terror” discourse, the Italian state, among others, used the pandemic as an “excuse” to extend “extraordinary measures” as much as possible. In other words, for a “flu-like illness” of unknown origin, the government implemented an “immeasurable response” that was disproportionate to the level of risk. Following considerable criticism, Agamben then clarified his earlier remarks.

Drawing on his previous work, Agamben (2020b) reminded us that “bare life” is a life consisting of “survival” in which lives are reduced to a “pure biological state” dominated by fear in the sense that people are separated from each other due to fear of death. In the pandemic, others, even those closest to us, were now seen as potential virus carriers. This entails sacrificing freedom for security. For Agamben, responding to the virus with the terminology, and metaphors of war is an attempt to mobilize society in a civil war against an “invisible enemy”, or even against us.

One of the criticisms of Agamben’s position came from one of his friends, the philosopher Jean-Luc Nancy. In his article, in the Italian Journal *Antinomie*, Nancy (2020) rejects Agamben’s argument that COVID-19 is not so different from normal flu noting that there are vaccines for flu but there was not one for COVID-19. He also remarks that COVID-19 mortality rates are much higher than for common flu and claims that the exception that Agamben mentions has become increasingly normal in a world where all materials are transferred nearly limitlessly worldwide. He also finds Agamben’s criticism of governments unfair because the various regulations they impose actually show their weakness rather than their greed. Hence, Nancy concludes that criticism should be directed at other targets than governments. He also reminds us that he would already be dead if he had not rejected Agamben’s advice 30 years ago to ignore his doctors’ recommendation to undergo a heart transplant (Nancy, 2020).

Another famous critic is Slovenian philosopher Slavoj Žižek who disagrees with the Agamben’s argument that measures taken to fight COVID-19 are nothing but pretexts to increase social control. Žižek asks

³ As can be seen below, Agamben uses the concept of bare life with different meanings. While, in his more philosophical texts, it refers to an intersection between a “pure biological life”, *zoe*, and *bios*, a political life, in this controversial text, it is used as a synonym of *zoe*.



(2020, pp. 74–75) whether the “panic”, created by states has really helped consolidate state power or undermined it. To Žizek, chaos actually shakes the people’s confidence in the state while the last thing that the ruling classes want is for politicians to destabilize the socio-political order. Similarly, why would capitalists want to disrupt the process of capital accumulation? While acknowledging possible abuses of new measures, Žizek also points out (2020, pp. 75–76) new opportunities for “international solidarity” across the globe. People have held state power and politicians responsible for the deaths and economic crisis related to COVID-19. By exposing government incompetence, the pandemic may trigger a radical change of direction in political systems. According to Žizek (2020, p. 76) Europe failed to protect its people from COVID-19 in comparison with China. Žizek (2020, p. 76) claims that since Chinese state interventions were more effective, Europe would need to find better ways dealing with the disease by developing a “more nuanced vocabulary” than “surveillance” or “social control”, which have negative connotations, mostly resulting from Foucault’s work. Žizek additionally (2020, pp. 87–88) argues that contrary to Agamben’s claim, the fear of death can be unifying as well as divisive. That is, avoidance of others does not only stem from a personal fear of death; rather it may also be motivated by a desire to avoid harming the other person. Hence, not shaking hands or self-isolation might represent a form of solidarity.

To these criticisms, I would add my own regarding serious theoretical and practical shortcomings in Agamben’s account of the pandemic and prevention measures. First, he bases his argument on the assumption that epidemic is nothing but a social construction to impose a “state of exception” as a form of government. However, while the media and government presentation of COVID-19 is socially constructed, the virus and the disease itself has an extra-discursive reality. Hence, the ways in which the struggle against the pandemic is organized cannot be reduced to mere social constructions since they are strictly connected to the biological (material and real) features of the virus. In a sense, the seriousness of measures taken depends on the virus’s infectivity, so the discourse of emergency; or exception is strictly related to the virus’s material qualities. This is not to say however, that states did not abuse this by seizing the opportunity to extend their power into previously untouched areas. However, the crucial



point is that the will to power does not negate the reality of the virus. Both can be real simultaneously. Thus, rather than a strongly social constructive approach to pandemic, one should accept both, the reality of the virus and its discursive, socially constructed character. In a sense, a weak form of social constructivism would be more useful than a strong one, which completely denies the seriousness of the situation on the grounds of the representation of the disease.

My second criticism concerns the discourse of normality and exception used by both Schmitt and Agamben, which seems unsatisfactory to the extent that they stay within the boundaries of a liberal conception of law. The liberal-positivist-normative conception of law presents itself as neutral, apolitical, and self-referential thereby separating itself from social complexity. In contrast, other approaches, for instance Marxism in this case, consider law as deeply socio-political and deny an ontological distinction between the law and politics and other social moments of life. In this sense, Schmitt's claim that exception is a *grenzekonzept* (border concept) between law and politics, is not significant because Marxism *ab initio* rejects such claims of a border between them claiming instead that each is mutually permeable. Hence, there is a *continuum* rather than a *discontinuum*. Marxism even argues that tendencies of exception and normality exist side by side within the socio-political order.⁴ This is particularly explicit when Marxism proposes the concept of crisis instead of exception (Boukalas, 2014, p. 121). Gramsci (1971), for example, distinguished between many types of crises including, economic, politic, hegemonic, representational, and authoritative, each one of which occurs in a diverse socio-political matrix. This suggests, in any given social order, there are both crisis promoting and anti-crisis tendencies that can lead to either a full-grown crisis or

⁴ There are many examples of this coexistence of normal and exceptional. Zafer Üskül, (2016, p. 76), for example, estimates that from October 29, 1923 until the July 19, 1987, when the latest period of martial law ended in Turkey, the country had experienced 25 years, 9 months and 18 days under the martial law in various regions. One can add numerous states of emergencies, military coups and other interventions. The example of Turkey, and many other countries, shows that the picture is much more complex and nuanced than a simple distinction between normal and exceptional. For other examples, see (Neocleous, 2006).



relative hegemonic stability. Moreover, there is no switch between normal and exceptional. One can identify exceptions in normality and normalities in exception. Thus, one should focus on the multi-contextual, multi-agential, and multi-faceted societal relations leading to crisis (or exception) rather than the subject or the moment of exception.

Third, Agamben tries to understand the pandemic through the liberal ‘pseudo’ dichotomy between freedom and security. Contrary to popular belief, there is no zero-sum relation between freedom and security. Rather, freedom is always security, while security is always freedom for some segments of society. Furthermore, security itself always includes a positive constructive process in that it is not just the preservation of the existing order but always raises the constitutive dynamics of a potential order (Neocleous, 2008; Neocleous & Rigakos, 2011). Accordingly, measures taken to combat COVID-19 do not target all the society. Instead, they clearly show the state’s class priorities. In the specific historical-social context of the pandemic, contrary to Agamben, confinement means freedom rather than a prohibition or oppression. Despite all the lockdowns, many working-class individuals and immigrants had to leave home to work, whereas many white-collar professionals gained the privilege of working remotely from home.

Fourth, echoing Foucault, Agamben seems to argue that all health measures directly result from a bio-politics that target the whole population. Foucault, (2003, p. 240) claimed that the “classical theory of sovereignty” was based on the sovereign’s right to kill or let live, but mainly to kill. According to Foucault, a new tendency emerged in the in-19th century, that took life, or “man-as-species”, as its object. In contrast to previous disciplinary techniques based on the “anatomo-politics” of the individual bodies, this new technology of power takes population as its target, based on the “biopolitics of the human race”, and statistics of “birth, death, production, illness” (2003, pp. 242–243). Although these concepts definitely have some analytical merits, it would be wrong to accept the Foucauldian conception of population as an undivided, undifferentiated whole. This is precisely what state officials claimed that they were treating the entire population equally and inclusively regarding governance of the pandemic. While state officials’ presented their figures within a discourse



framework that equalized statistics. A closer look reveals that the practices required to manage the pandemic affected different segments of the population in different ways and to different degrees. There were different procedures and regulations regarding the bourgeoisie, white-collar professionals, the working classes, immigrants, elderly people, youths, or homeless people. However, an understanding of the biopolitics-population dichotomy cannot capture these class and other social differentiations. Thus, a Foucauldian approach will be much more analytical and explanatory if it reconceptualizes biopolitics and population as sensitive to these social differentiations and shows that bio-power operates in different ways in different social strata.

Fifth, this approach also considers political power, in this case the state, a monolithic entity like population without any fragmentation or differentiation. Agamben's terminology seems to absorb the state into the concept of sovereign as a *sui generis* political subject positioned asymmetrically in relation to the population as political object. The sovereign also presents an illusionary unified image. Such an approach is unsatisfactory to the extent that it overlooks the fact that state is not an individual subject, but "rather a relationship of forces, or more precisely the material condensation of such a relationship among classes and class fractions." (Poulantzas, 2000, p. 128). Poulantzas' relational approach to the state is more promising since it considers social classes and class relations as the core of the state. This suggests shifting focus from the state to socio-political actors, and their interests, visions, desires, and struggles.

The sixth problematic concept in Agamben's argument is the bare life, *nuda vita* which describes a border space between *zoe* and *bios*, meaning, respectively, a biological life of all living beings and a particular communal life of human individuals or groups. Referring to Foucault's concept of biopolitics, Agamben (1998, p. 4) argues that "the entry of *zoe* into the sphere of the *polis*-the politicization of bare life as such-constitutes the decisive event of modernity." This inclusion of bare life into the political sphere creates the core of sovereign power and the fabrication of the "political body" is the "original activity of the sovereign power" (Agamben, 1998, p. 6). Bare life is the life of "*homo sacer* (sacred man), who may be killed and yet not sacrificed" and whose legal status is the paradigmatic example of a



specific relation of inclusion-exclusion. This means that *homo sacer* both exists and is absent within the sphere of law. Just as the state of exception is simultaneously both within and outside the legal order, *homo sacer* is also only included in the legal realm by exclusion. Thus, Agamben claims that bare life as a threshold phenomenon has been increasingly incorporated into the political sphere, leading to the intertwining of “exclusion and inclusion, outside and inside, bios and zoe, right and fact.” (Agamben, 1998, p. 9).

However, this concept, *homo sacer*, reappropriated from Roman law to describe a threshold socio-legal space between *zoe* and *bios*, exception and normal, pre-political and political, is less promising than it looks. This is because by coupling it with bare life, Agamben offers an a-social and a-historical archetypal model of the socio-legal space as one of the key conditions of Western politics. These concepts seem to refer to categories, or textual frameworks, rather than concrete socio-historical realities. This is, at best, a crude over-simplification of socio-historical and political developments and lacking a historically specific perspective. In Agamben’s scheme, the whole narrative is based on the conceptual trilogy of bare life, *homo sacer* and the sovereign which, from a socio-historical perspective, is a theoretical impoverishment because “In Agamben, there simply is no social.” (Boukalas, 2014, p. 117). There are borders, thresholds, margins and those who live between them, and all of which is defined by the sovereign. The relationship between them is top-down, one-dimensional, and one-directional: from the sovereign to the bare life and *homo sacer*. Meanwhile, there are no social, society, social actors, or social antagonisms that can affect the sovereign, or the state. As such, the link between conceptual trilogy has an overly politicized character that absorbs the social resulting in a conceptualization of sovereign power that recognizes no societal limits.

My final criticism concerns the distinction between the normal and the state of exception, which seems to lose its analytical value because Agamben interprets nearly all state interventions as a state of exception. Walter Benjamin’s (2006, p. 392) famous thesis that the state of emergency is not the exception, but the rule has lost its historical specification and almost become an empty signifier. It is used to explain the Roman



Republic, the Nazi period, the post 9/11 war on terror, COVID-19 related measures, and many other developments to the degree that everything is now understood as a state of exception (Boukalas, 2014, p. 120). Therefore, it is not surprising that Agamben also compares COVID-19 measures to the war on terror discourse resulting in an oversimplified and distorted analysis that lacks a rigorous socio-political and economic context. It is the outcome of Agamben's overly philosophized approach to socio-political matters, which is detached from its social context and assumes that events occur in an endless loop, which makes it easy to make overgeneralizations. Thus, one can argue that Agamben's conceptualizations are far from capturing actual societal complexities (for a similar critique of Agamben see Boukalas, 2014). For instance, even though 9/11 supposedly led to "a permanent state of exception", COVID-19 brought about yet another state of exception. Hence, without a proper theory of state and society, Agamben's account falls short of explaining how complex interactions occur between the political, economic, social, cultural, and ideological. Thus, he applies the "state of exception" concept to many crises, showing that his approach lacks the necessary analytical tools to deal with complex, differentiated socio-political matters.

Conclusion

The COVID-19 pandemic shook the world. Nearly seven million people died, many more lost their jobs, while those who could continue to work faced major difficulties due to the economic crises triggered by the pandemic and inequalities deepened in all social areas. Given the scale, urgency and deadliness of the crisis, states took radical measures, including lockdowns, curfews and mandatory vaccination which were not always welcomed by all. Many critics, whether from the right or left accused states of exploiting the situation to empower state actors and bureaucratic oligarchs which could signify a further turn towards authoritarianism.

One of these critics was the famous post-modern, leftist Italian philosopher Giorgio Agamben. Following Schmitt, Agamben contended that measures taken by the political authorities led to an "authentic state of exception" meaning that states abused the crises to expand their sphere of influence within civil society by exaggerating the seriousness of COVID-19. That is, they invented the pandemic as a political tool to govern the



masses more easily and effectively. However, Agamben's account of the pandemic has been widely criticized by various thinkers, including philosophers like Nancy and Žižek. They particularly rejected Agamben's claim that the political authorities invented the pandemic to increase their influence over civil society. Critics like Nancy and Žižek underlined that the virus's threat was not exaggerated, and that the crisis did not simply favor the political authorities since it undermined their credibility by revealing their lack of organizational capacities.

Agamben's approach to the pandemic suffers from certain serious drawbacks originating from his general philosophical project. His conceptualization of exception is based on Schmitt who linked sovereignty, exception, and decision, and in contrast to norm-based liberal politico-legal theory, put them at the center of the politico-legal order. Schmitt argued that sovereign decides the exception subjectively which implies that it is the moment of decision rather than the norms and regulations that characterizes the social order. In this sense, Schmitt, in contrast to liberals, presented law as inherently political rather than neutral or impartial. This aligns his position with Marxism, which recognizes the political character of law. Yet, the problem with the Schmitt's argument is that he seems to accept the liberal claim of the law's neutrality. Moreover, Schmitt's approach to the political is inherently decisionist in that he is concerned with the act of decision rather than, the actor who takes it or the crisis in which it is taken. Thus, his approach says nothing about the societal dynamics, characteristics, or actors of the crisis. Finally, Schmitt presents a binary distinction between exception and normal whereas the reality is more complex. Hence, one should speak of co-existing tendencies of normality and countertendencies of exception.

Agamben follows Schmitt in his analysis of the COVID-19 pandemic as an excuse of exception. First, Agamben sees the pandemic as an invention that ignored the virus's real and biological traits. Second, Agamben, again following Schmitt, suggests a *discontinuum* between law and politics, and norm and exception. Yet, in any socio-political order, tendencies of normalities and exceptions exist together to form a *continuum*, hence Gramsci's conceptualization of crises tendencies. Third, Agamben analyzes the pandemic within a false dichotomy between freedom and security



to conclude that the alleged threat of the pandemic deprived us of freedom of movement. Yet, in contrast to liberal claims, there is no zero-sum relationship between security and liberty because they target different social segments. Therefore, one should always ask whose security or liberty is at stake. Fourth, Agamben, following Foucault suggests a framework of analysis that emphasizes the dichotomy of bio-power-population. However, such an account fails to grasp the fact that population is differentiated into various class and social strata. Hence, the pandemic has affected different social groups in different ways. Fifth, having no coherent state theory, Agamben considers the sovereign as a political subject, which leads him to mistakenly consider it as a united actor. However, the concept of the sovereign cannot replace the state because the latter is far more abstract. Furthermore, such an approach is unsatisfactory to the extent that it reduces the multi-dimensional, multi-process, and multi-actor characteristics of the state to one individual, undivided sovereign. Instead, the state (or sovereign in Agamben's terms) should be considered as a relationship *à la* Poulantzas rather than an individual political subject. Sixth, Agamben claims that he can explain the dynamics of political process by focusing on various concepts at the center of Western political history, such as *bios*, *zoe*, bare life and *homo sacer*. Yet, a closer look reveals that they are no more than a-historical and philosophical over-generalizations staying merely on the textual level. Moreover, his concepts are mostly philosophical and deprived of societal content. In Agamben's scheme, there is no social, society, or social actors that impact each other or the sovereign. Finally, Agamben's crucial concept of the state of exception lacks analytical rigor and explanatory capacity because it is used to analyze different historically specific crises. In short, Agamben's philosopho-political framework is insufficient for analyzing specific crises.

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Öz: KOVİD-19 Pandemisi, sağlık, ekolojik ve ekonomik krizlerin bir kombinasyonu olan, milyonlarca insanın ölümü ve diğerlerinin işsiz kalmasıyla sonuçlanan ‘mükemmel bir kriz’ yarattı. Devletler krizi yönetmek için olağanüstü önlemler alırken, sosyal bilimciler bu durumu anlamlandırmaya çalıştı. Salgının başlarında, İtalyan filozof Giorgio Agamben, tartışmalı bir şekilde, devletlerin hastalığı “otantik bir istisna hali” ilan etmek için araçsallaştırdığını iddia etti. Bu çalışma, Alman Hukuk kuramcısı Carl Schmitt’in eleştirel bir yeniden okumasıyla Agamben’e yöneltilen eleştirilere katkıda bulunmaktadır. Ana argüman, Agamben’in salgına yaklaşımının güçlü toplumsal inşacı, aşırı felsefi, aşırı politik ve tarih dışı bir eğilimden muzdarip olmasıdır. Bu onun genel felsefi-politik projesinden kaynaklanmaktadır. Onun ilham kaynaklarından biri, Schmitt ve onun kararcı ve aşırı politik yaklaşımını yansıtan sorunlu “istisna hali” kavramıdır. Bununla birlikte, Agamben’in kullanımı daha da sorunludur çünkü kavramın analitik



tutarlılığını ortadan kaldıran çeşitli siyasi gelişmeleri tarih dışı bir şekilde analiz etmek için kullanır.

Anahtar Kelimeler: Giorgio Agamben, Carl Schmitt, KOVİD-19 Pandemisi, siyaset sosyolojisi, siyasal akımlar ve siyasal düşünce tarihi.



