



# **A Matter of Life and Death: State Power and Control of the Body in a Pandemic Era in the Light of Foucault's Concept of Biopolitics**

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## **Abstract**

The advent of the COVID-19 pandemic saw the declaration of a state of national disaster in many countries globally, which meant that the countries were shut down with several restrictions on socio-economic and with it some human bodily activities. The situation has brought to the fore a revived interest in the interrogation of the nexus between state power and control of the freedom of citizens. As such, the issue has also brought into focus Foucault's analysis of power in modern and postmodern societies centring on the concept of biopower/biopolitics. Considering the centrality of citizen's constitutional right to several civil liberties including the right to bodily integrity, there is a need to explore the limits of state power in the idea of biopolitics. This essay utilises desktop methods to interrogate state's power and control of citizens' bodies during and after COVID-19 era. Ultimately, the article is an attempt to contribute to the discourse on how political theorising incorporates human embodiment.

## **Keywords**

*Biopolitics, Biopower, Civil Liberties, COVID-19, Foucault, Social Contract, State Power*

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## **Hayat ve Ölüm Meselesi: Foucault'nun Biyopolitika Kavramı Işığında Pandemi Çağında Devlet Gücü ve Bedenin Kontrolü**

### **Öz**

COVID-19 pandemisinin ortaya çıkışı, birçok ülkede ulusal felaket durumu ilan edilmesine neden oldu. Bu durum, ülkelerin sosyo-ekonomik faaliyetlere ve bazı insan bedeni faaliyetlerine çeşitli kısıtlamalar getirerek kapatılmalar uygulaması anlamına geliyordu. Süreç, devlet gücü ile vatandaşların özgürlüğünün kontrolü arasındaki bağlantının yeniden sorgulanmasına yönelik ilgiyi ön plana çıkardı. Bu nedenle, Foucault'nun modern ve postmodern toplumlarda güç analizine odaklanarak biyogüç/biyopolitika kavramı gündeme geldi. Vatandaşların beden bütünlüğü hakkı da dahil olmak üzere çeşitli medeni özgürlükler üzerindeki anayasal haklarının merkeziliği dikkate alındığında, biyopolitika fikrinde devlet gücünün sınırlarını keşfetmek gereklidir. Bu çalışma, literatür araştırması kullanarak, devletin COVID-19 sonrası dönemde vatandaşların bedenleri üzerindeki gücünü ve kontrolünü sorgulamaktadır. Bu çalışma, siyasi teorileştirmenin insan bedenselliğini nasıl içerdiği üzerine tartışmaya katkıda bulunma girişimidir.

### ***Anahtar Kelimeler***

*Biyopolitika, Biyogüç, Medeni Özgürlükler, COVID-19, Foucault, Toplumsal Sözleşme, Devlet Gücü*

## Introduction

There is no gainsaying the fact that the COVID-19 pandemic has had a devastating effect on the lives of people all over the world. It has not only led to the loss of lives but has also led to the loss of livelihoods. The response to the COVID-19 pandemic has been diverse in different countries but all pointing to the reality that the human body became the centre of political action towards containing the spread of the virus. Notably, in different locations certain bodies were considered biological threats; for example, the West/the USA saw China as a threat, souring relations between the countries (Christensen 2020); and at some point, in China Africans were seen as biological threats (Castilloa and Amoah 2020; Ngcobo 2021); in South Africa black people/townships were mostly targeted as biological threats hence the deployment of soldiers to mostly Black populated areas (Bond 2022). These incidents including the numerous restrictive regulations put in place by governments globally to contain the spread of the COVID-19 pandemic, necessitate an interrogation of how social beings were governed through discursive practices and disciplinary techniques and use of power. Notably, during COVID-19 two styles/types of power were exercised; repressive and productive power (Barceló et al. 2020; Patterson and Clark 2020). Both kinds of power produced different outcomes and deployed different strategies. The issue then would be to try and investigate how these deployments of different forms of power structured human ways of being during COVID-19.

According to Brown and Gershon (2017: 2) 'the theme of body politics directs our attention to how bodies are included or excluded in the polity. How do governments respond to the political demands of bodies that transgress normative boundaries? How does the regulation of bodies, or the lack of regulation, impact society?' The issue has also brought to the fore a revived interest in the interrogation of the nexus between state power and control of the freedom of citizens. Notably, by extension, the control of citizen's freedom meant the control of the human body through several restrictive acts as already mentioned. The issue has also brought into focus Michel Foucault's analysis of power and rule in modern and postmodern societies centring on the concept of biopower/biopolitics. Biopolitics concerns the administration of life – it is concerned with issues of life and death, birth and breeding, health and disease (physical and mental), and the procedures geared towards retarding or sustaining life optimisation in societies (Dean 2001; Armstrong 1983: 2-3).

Considering the centrality of citizen's constitutional right to several civil liberties including the right to bodily integrity, there is a need to explore the limits of state power in the idea of biopolitics. The essay is qualitative desktop-based and adopts Foucault's concept of biopower as a conceptual framework to interrogate the following questions: What are the limits of state power and should it be acceptable that governments engage in biopolitics in constitutional democracies? How can we justify the manifestation of biopolitics and biopower in contemporary state/governance discourse especially in the light of the COVID-19 pandemic?

### **Foucault's Analytics on Power**

Michel Foucault's body of scholarly works (*Truth and Power. Power/Knowledge; Discipline and Punish; The Politics of Truth, etc.*) is held together by his interest in understanding the nexus between knowledge and power. Notably, he concentrated on deciphering the saying "knowledge is power", seeking more to understand the knowledge of human subjects and the different forms of power that act on human beings (Foucault 1980; Desbruslais and Pandikattu 2009). On this Foucault (1980: 52) notes 'it is not possible for power to be exercised without knowledge; it is not possible for knowledge to engender power.' Foucault was not interested in systematically presenting a theory of power but rather proposed what he saw as analytics of power apparently opposed to theory. According to Foucault (1982: 778) 'Do we need a theory of power? Since a theory assumes a prior objectification, it cannot be asserted as a basis for analytical work. However, this analytical work cannot proceed without an ongoing conceptualisation. And this conceptualisation implies critical thought and constant checking.' Through this conceptualisation based on critical thought, it is possible to see a development of the theory of power in Foucault's work. Taylor (2011: 4) agrees that 'Foucault is perhaps best known as a theorist of power. Foucault analysed several different types of power, including sovereign power, disciplinary power and the subject of biopower.'

At the centre of Foucault's inquiry is to find a credible response to the question of how people agree with a particular form of truth since it is the one who convinces people to believe in his truth, is the one that weaves power (Foucault 1994; Desbruslais and Pandikattu 2009). As such, understanding the concept of knowledge and power becomes the centre of Foucault's thesis and this is for a reason;

*It is therefore not a matter of describing what knowledge is and what power is and how one would repress the other or how the other would abuse the one, but rather, a nexus of knowledge- power has to be described so that we can grasp what constitutes the acceptability of a system, be it the mental health system, the penal system, delinquency, sexuality, etc (Foucault 2007: 61).*

'analysis of power should look at its extremities and ultimate destinations, with those points where it becomes capillary (Foucault, 1980:96). Dean (2001: 325) agrees that crucial to Foucault's thoughts in the final decades of his life is the reflection on power which should be considered as being 'multiple, positive, productive and relational.' There is no one form of power according to Foucault, rather power is ubiquitous and 'present in all social relations and is exercised at innumerable points and in heterogeneous forms' (Foucault 1995; Dean 2001: 325).

Considering these qualities, understanding power and how it is wielded in modern and postmodern societies becomes important. As alluded to, at the centre of how society and its people are controlled is the view that one who wields power is the one who can control all aspects of a subject, and there is an understanding of punishment that awaits those who go against the wishes of the one who wield power (Foucault 1995). Furthermore, for Foucault 'power does not primarily operate through the repressive form of interdiction and law, but is creative of forms of subjectivity, of capacities, and of modes of action' (Foucault 1982). Hence controlling people through different forms of power is not only achieved through laws and edicts but also through getting people to agree and be convinced about certain understandings of knowledge and truth. This in a way could be understood as Foucault's "politics of truth" which explicates the scenario in which states create norms and expect society to abide by them. But notably, for power to be properly exercised, the subject of power needs to be free to act in different ways and this view is seen in Foucault's portrayal of the interactions of power as 'strategic games between liberties and a total structure of action brought to bear upon the actions of others' (Foucault 1982; Dean 2001: 325).

Subsequently, in Foucault's analysis, there are different forms of power which have been prevalent in the history of humankind. Power for Foucault is understood from a historical perspective and includes sovereign power, disciplinary power, and biopower (Foucault 2004; Layder 2006). Sovereign power was prevalent during the Middle Ages and is conceived as power wielded by the monarch in a feudal rule system. In this, the monarch is perceived as the one with unlimited power and has the right to publicly punish those who go against established norms in the feudal society. In the seventeenth and eighteenth centuries, sovereign power was replaced by disciplinary power which is conceived as a more efficient and profitable form of power for those who wield it. This form of power concentrates on the psychology of people in society and is based on the continuous surveillance of what people do in society (Foucault 2004; Layder 2006). Disciplinary power as such 'moved the focus of control to individuals themselves. That is, by understanding that they are constantly under surveillance, individuals begin to oversee themselves, to regulate their behaviour in the light of its assumed visibility to others (Foucault 2004; Layder 2006: 120). For Foucault, disciplinary power is demonstrated

in Bentham's idea of the Panopticon which is a circular building with a tower constructed with the aim of one observer being able to see what people in that building are doing. In the disciplinary form of power, people as a response automatically yield to power considering that they are aware of continuously being monitored in everything they do and are unable to escape, even if they are not being watched as their "bodies" are kept under control.

Foucault's analysis of power zeroes in on the concept of biopower which according to him is a key dimension or trajectory of power during the 18<sup>th</sup> century. Notably 'like disciplinary power, biopower is quite different from sovereign power. However, unlike the disciplinary form, biopower focuses on the body and targets whole populations instead of particular individuals or collections of individuals' (Foucault 2004; Layder 2006: 121). Foucault's analysis of biopower is embedded in his thesis on how governments in nation-states should be conceptualised. According to this understanding 'government would be regarded as a unitary, centralised and localised set of institutions that acted in a field that was exterior to itself' (Dean 2001: 329). Governance as such is conceived as cultivating, facilitating and working through the varied processes located in the field outside of government institutions. A key area in which the processes external to the state are constituted is "biopolitics". Biopolitics according to Foucault is used to justify the way the government handle certain phenomena (health, hygiene, birth rate, long life, race) typical of people living as members of a populace (Foucault 1997, 1998). For Foucault 'biopolitics concerns itself 'with matters of life and death, with birth and propagation, with health and illness, both physical and mental, and with the processes that sustain or retard the optimisation of the life of a population' (Foucault 1998; Dean 2001: 329).

Against the backdrop of the above explications, this article adopts Foucault's notion of biopower to interrogate the issues which emerge in contemporary societies because of the COVID-19 pandemic. The aim is to explore how biopolitics can be understood as being manifested in different governments' efforts to control people's ways of living as a result of the pandemic. The article argues that the near draconian way in which different governments proclaimed a state of disaster acts (summarily using different laws to control the way people live in the time of the COVID-19 pandemic including bodily activities) represents a manifestation of biopower. Arguably through this means governments in different countries which implemented restrictions on people, encroached into spheres which can be termed as outside the sphere of government. Foucault's analysis allows us to understand this phenomenon which in most cases led to the limiting of people's civil liberties. This is not by any means intended to limit Foucault's understanding of biopower as only repressive. According to Foucault (1995: 194).

*We must cease once and for all to describe the effects of power in negative terms: it 'excludes'; it 'represses'; it 'censors'; it 'abstracts'; it 'masks'; it 'conceals'. In fact, power produces; it produces reality; it produces domains of objects and rituals of truth. The individual and the knowledge that may be gained of him belong to this production.*

For this essay however, the question is: Do governments have the right to delve into the area of biopower and to play a significant role in the issue of health and hygiene during and post COVID-19 era? This leads us to consider next the idea of the limits of state power.

## **Limits of State Power and Biopolitics in a Pandemic Era**

### ***Limits of State Power***

The idea of the powerful state being understood as the dominant player in the administration of society's affairs is derived from Thomas Hobbes' views in the *Leviathan*. The debate on the role of the state in emerging liberal democracies is also *replete* in the works of Marx, Durkheim, Weber, etc. Suffice it to say that political theory in the Enlightenment/Modernist era was dominated by views which tried to understand the role of the state in society. In Hobbes' understanding, the state (civil government) exists to control people from their natural inclinations that are predominant in the state of nature – the state exists to help enforce social contracts and laws of nature (Wolfenden 2010). For Weber, the state is a human community which have a rightful claim to the hegemony of the use of legitimate physical force to control society established in a given territory (Weber 1949; Obo and Coker 2014). The views of Weber *et al.* perhaps ground the understanding of the role of the powerful state which became the dominant view of the state in liberal democracies. Also, Weber's view of the state as an apparatus of bureaucracy could be said to overlap with the notion of surveillance in biopower.

The views of Rawls (1971) provide a summary of what is now regarded as the liberal theoretical tradition of the understanding of the state. For Rawls the state exists to help guarantee people's rights and justice in a liberal democratic setting; the existence of the state as such is geared towards protecting people from living in the original position (state of nature) in which seemingly, everything goes and there is no guarantee of people's liberties and rights.<sup>1</sup> The liberal theoretical tradition, hence, adopts the notion of the state that denies Marxists' class understanding of the state. This notion of the state according to the Liberal tradition sees the state as a 'neutral and no-partisan force established in the society for the purpose of maintaining law, order, and stability, as well as the promotion of the welfare of all citizens' (Obo and Coker 2014: 532-533). In this, the state is conceptualised as an unbiased structure established for the defence and progression of people's interest in society. As such, the notion of the powerful state arises which is understood as being in control of every affair of society and ensuring that justice reaches everyone in the society (Migdal 1994). This is notably linked to the welfare state which is usually involved in the economy and society as an actor to ensure social justice (Rawls, 1971).

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<sup>1</sup> Notably this is also the state of nature and contractualist assumption of John Locke, who is one of the foundations of the liberal view? From Locke's analysis it can be deduced that the state of nature exists where no legitimate political authority exists and where people live according to the law of reason. See further Locke 1988, *Two Treatises* 2.19.

The notion of the powerful state is understood as being at the centre of government and politics in liberal democracies (Reddy 2021). Liberal democratic constitutions are hence constructed under the notion of protection of people's rights and liberties. It also presumes that people agree to be bound by the laws that govern society which according to the liberal understanding is better than living in the state of nature in which there is no control. The exercise of the authority of the state is hence guaranteed in liberal constitutions, which define the extent to which state power can be exercised. However, what seems to be the debate is on what is the limit of state power. This debate becomes central considering that there are views of the state which do not agree with the notion of the powerful state for example as seen in Marxists' understanding of the state. For Marx and Marxists, a state is 'mainly an instrument for domination, oppression and exploitation of the economically weak class' (Obo and Coker 2014: 530). This is to say that the state for Marx is simply an apparatus through which the privileged or dominant class uses to maintain control over the poor in society. This as such does not agree with the liberal understanding of the state. Robert Nozick also did not agree with the notion of the state as presented by Rawls. He argued for a minimal state of property privileges and basic law application which would naturally emerge from the state of nature (Mack 2018). According to Duignan (2021), the minimal state is the only form of state that is morally justified and 'By a minimal state Nozick means a state that functions essentially as a "night watchman," with powers limited to those necessary to protect citizens against violence, theft, and fraud.' The question then is on how to understand the role of the state in contemporary liberal states and indeed to understand the limits of the state – which areas of people's lives could be understood as being private and that the state does not have the right to intrude or intervene in? This question perhaps becomes pertinent in the current discourse on the government's restrictions on people's bodily activities during the COVID-19 pandemic and the people's apparent dissatisfaction regarding the state's restrictions on certain civil liberties during this time.

Subsequently, the debate on the limit of state powers also centres on the effort of the state to control society and the people's tendency to resist the control of the state. As noted by Andreescu (2016: 1) historically human society has been characterised by two ontological constants which are the struggle for and the fight against power. These two constants are;

*inevitable no matter the social form of organisation or characteristics of political regimes, including in democratic societies because the existential and functioning essence of any social system is the expression of the contradictory difference between governors and the governed, between society as a whole and on the other hand, the man in his concrete and personality, between the normative order and moral values, between law and liberty, between public interest and private interest and of course between the vocation of human intangible fundamental rights, and on the other hand the public interest of the state to condition, limit and restrict their exercise (Andreescu 2016:1).*



The above position points to the issue of the limit of state power especially as we debate it with regards to recent developments in which governments appropriated the authority to control people's bodily activities in the COVID-19 pandemic times. The issue is, considering this tendency of the government to enact laws that seem to put restrictions on people's rights and liberties, can it not be said that the power of the state should be limited? Can we say because we do not want to fall back into the state of nature in a supposed liberal democracy, then the state is right to use laws to control every aspect of people's lives including bodily activities. Again, this brings into focus the notion of biopolitics and biopower as conceptualised by Foucault who also argued that 'the body is a central point for analysing the shape of power' (Brown and Gershon 2017: 1).

### ***Biopolitics in a Pandemic Era – Justified?***

Foucault's thesis on power can be embedded in the discourse on the limits of the state. Just like other postmodernist thinkers, Foucault could be said to be sceptical with regard to modernist views and the tendency to put human thoughts into a neat theory. Desbruslais and Pandikattu (2009: 6) affirm that 'Foucault, perhaps the best known of all postmodernists, made an observation when he noted, the entire philosophical discourse of modernity ... is simply an anthropological intermezzo in the history of thought.' This statement alludes to the averse feelings that some postmodern thinkers have for modernism and modern philosophers who are accused of depersonalizing and alienating the human person from the community (Desbruslais and Pandikattu 2009). This is further summarised by da Silva (1999: 80) thus;

*In fact, modernization, with its bias towards a rational, scientific temper, leaves a value vacuum in the lives and identities of many; for example, modernism tends to alienate from traditional life-styles, customs and even belief patterns. Such a psychological dislocation of life invariably leads to self-doubt, insecurity and eventually to an identity crisis.*

Conversely, for postmodernists, the focus is and should be on the individual human person and there is an inclination in postmodern political and social theory towards what Francois Lyotard (1994) terms as little narratives rather than grand narratives. Hence theories such as the notion of the powerful state as conceptualised by modernists like Rawls and Weber come into criticism.

Metzger-Traber (2018: 63) rightly notes that 'our bodies define how we experience the world, and how we are experienced by the world...they offer the perceptual windows through which we see, hear, touch, taste, smell and they are the physical forms as which we are seen, by which we are touched.' Because of its centrality to our existence (since ultimately, we are corporal beings), it becomes pertinent to explore biopolitics, especially in the current

status quo of the global COVID-19 pandemic. It is argued that the state effort to regulate human bodily activities in the time of the COVID-19 pandemic reflects a manifestation of biopolitics which debatably goes against a central aspect of civil liberties undergirded by the Lockean notion that an individual is the proprietor and owner of their person and body (Locke 1997; Olsthoorn 2019). Notably, biopower which ‘controls every aspect of embodiment...addresses not only individual bodies but enables a “body politic” in that it collects knowledge and big data over bodies, which is generated through and applied in population control, public health care and genetics’ (Wehrle 2016: 59). In this case, biopower is manifested in the COVID-19 pandemic era seen in different government’s efforts to maintain public health by regulating people’s bodily activities including keeping statistics on number of death and those infected by the pandemic.

In Foucault’s analysis of power, there is an intersection between disciplinary power and biopower; both ‘create a ‘discursive practice’ or a body of knowledge and behaviour that defines what is normal, acceptable, deviant, etc. – but it is a discursive practice that is nonetheless in constant flux’ (Foucault 1995). On this Taylor (2011: 44) affirms that Foucault ‘at other times includes discipline within biopower, or describes discipline as one of the two levels at which biopower works.’ Arguably, Foucault is not happy with the exercise of power as exemplified in the concept of disciplinary power and the reality of the panopticon. Through the apparatus of the panopticon, people are surveyed and intruded upon necessitating that there is no privacy including bodily privacy. ‘The panopticon is the grand fulfilment of our deep, inborn desire to control, discipline and exercise over each other’ (Desbruslais and Pandikattu 2009). People as such are restricted by this kind of power as they fear punishment and as noted by Wehrle (2016: 58) ‘In modern times, punishment has turned into a plurality of techniques of “discipline” that produce economically useful bodies and that stabilise prevailing norms and the monopoly of power.’ As such, it will seem that the state has given itself the power to legislate on and about people’s lives and bodies; hence ‘biopower which is a power over bios or life’ (Taylor 2011: 44).

As noted by Brown and Gershon (2017: 1) ‘subjecting the body to systemic regimes – such as government regulation – is a method of ensuring that bodies will behave in socially and politically accepted manners.’ Perhaps there is no other time in contemporary times has this been exemplified than during the current COVID-19 pandemic. The pandemic has notably decimated populations and has constituted a great health problem for several countries all over the world. In response, governments appropriated some powers to protect human lives by putting in place legislation that among all things regulated human bodily activities. People were mandated to wear masks in public to cover their noses and mouths. There were also rules concerning social/physical distancing which gave the maximum distance one must be in proximity to

another body. Bodily activities also legislated upon by governments included banning/discouraging hugging and touching by people. All these measures were apparently geared towards curbing the spread of the virus and thus to protect people's lives. In these stipulations, it was evident that there was a manifestation of biopolitics. Notably, biopolitics is conceived as cultivating, facilitating and working through the varied processes located in the field outside of government institutions. It will seem that the COVID-19 pandemic has occasioned the reality that governments started paying close attention to the corporeal domain, which arguably the state does not ordinarily concern itself with except the normal investment in health. Hence it becomes pertinent to inquire regarding the justification for this move and how we can theoretically understand the use of state power to regulate human bodily activities as obtained in the current COVID-19 situation.

In Hobbes' analysis of state power, it is noted that people have the liberty to do what is reasonable and profitable to them and 'it would be ludicrous for a sovereign to attempt to regulate the corporeal dimensions of a subject's existence, and hence no covenant with the sovereign could be concerned with these aspects of a subject's life' (Taylor 2011: 42). For Hobbes it would be also ludicrous to envisage that such routine aspects of life, for example liberty over a person's body and private life become the focus of the covenant (contract) between the king and the people (Taylor 2011). But it can also be argued that the contract between the people and the sovereign also rightly gives the sovereign the authority to legislate on and regulate those so-called mundane aspect of life like bodily activities. To attempt to give a response to this, perhaps we should look at the social contract theory associated with modernism's moral and political theory, which has been given full elucidation in the thoughts of Hobbes, Locke and Rousseau. The social contract theory 'is the view that person's moral and/or political obligations are dependent upon a contract or agreement among them to form the society in which they live' (Friend 2021: 1). For Hobbes, the justification for political obligation hinges on the reality that human beings are naturally self-interested, but since they are rational, they will agree to acquiesce to the authority of a Sovereign, to live in a civil society favourable to their interests instead of a brutish state of nature (Friend 2021). Locke's understanding of the social contract differs from that of Hobbes in that he does not conceive the state of nature as brutish, rather the state of nature was practically decent and pleasant, however people's property (including property in their bodies) was not safe (Laskar 2013). As a result of this, the social contract becomes necessary for the protection of people's property rights. In Rousseau's exposition of the social contract theory, there is an understanding of the notion of consensus in his idea of the "general will" in which associates reach an agreement to privilege their collective interest over their particular interests (Neidleman 2012). It is noted that in the social contract 'human beings give up certain rights they have in

a state of nature to obtain the securities and rights provided by civilisation' (Weber 2014: 3).

Against the backdrop of the social contract, it can be argued that indeed the state in the era of the COVID-19 pandemic is justified in its exercise of what Foucault understands as biopower and for punishing those that contravene its legislations on this.<sup>2</sup> Notably, in Foucault's analysis of the economy of punishment, he agreeably mentions the economy and justification of punishment as based on the social contract; 'The theory of the contract...grants society a right to punish...since according to the theory of the contract, each citizen agrees once and for all to the laws of society - including the law by which he may be punished - he becomes an accomplice to his own punishment. In violating the law he puts himself outside of the entire society' (Foucault 1995: 47). The fact that people subscribe to the social contract as citizens of a country means that they give up the right to claim privacy of their bodies. Weber (2014: 8) affirms that 'as human society becomes ever more interdependent and united, Social Contract Theory will continue to provide a strong argument for continually heightening protections of bodily autonomy rights... bodily autonomy and its protection from infringement is a primary purpose of the society.' In other words, protecting bodily autonomy is the primary purpose of society and enacting laws to protect all bodies in society becomes valid under the social contract. Subscription to the social contract means that people have implicitly agreed that government can also regulate bodily affairs in the event of a life and death situation which can affect all members of the society. With the rate the COVID-19 pandemic was ravaging countries leading to economic breakdowns, the onus becomes of the state to legislate on how to protect people's lives, which is notably the first of the rights accruing to humans fundamentally. The right to life one will argue supersedes other rights considering that one has to be alive in order to claim other rights. If we agree that in the social contract citizens look up to the government to work towards establishing a living condition that is different from the brutish state of nature then we cannot but agree that governments, in the matter of life and death occasioned by the COVID-19 pandemic, had the right to engage biopolitics.

The above position makes more sense if we consider that in biopolitics, the government gets into such issues as health and hygiene since it has to protect the lives of people. As already stated, this is a central aspect of the agreement in the social contract in which people give up their rights to be protected by the state. Biopolitics as manifested by some government's regulations of

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<sup>2</sup> Notably, many of the regulatory laws that emerged roughly after the industrial revolution can be considered in this way - traffic laws, age regulations, smoking & alcohol regulations, birth control methods, regulations in educational institutions, etc. Perhaps the difference with the Covid-19 regulations is the fact that it was perceived as severely restricting individual freedoms and as such against the notion that individuals are owners of their own person and body (Locke 1997; Olsthoorn 2019).

bodily activities could then be understood based on the reality that the state only intends to protect all bodies within its boundary that subscribe to the social contract. Notably 'citizenship entitlements are not available for bodies that transgress cultural, social, sexual, and/or political boundaries' (Brown and Gershon 2017: 1). Rather what is obtained is punishment which according to Foucault is realised through subtle techniques including 'control and manipulation of movements and behaviour, as well as embodied subjects' time and space' (Wehrle 2016: 58).

Against this backdrop, it will seem that concerning the issue being discussed in this article, there is no limit to state power considering that in Foucault's understanding, the social contract 'gives society such a total right to punish' (Foucault 1995: 47). It is possible and can actually to a certain extent of utility be justified that the state goes beyond its normal exercise of political power to get into the domain of biopower. In this, people had to abide by laid down rules for wearing masks in public, hand sanitising and social/physical distancing; also, people's sick bodies were surveilled (and census of these sick bodies taken) and certain burial ceremonies suspended. Notably, people in different countries were arrested and punished for not abiding by these stipulations, hinting at the notion of disciplinary power exercised by the state in these countries. However, we can understand that in the different scenarios of COVID-19 restrictions, individuals were not targeted for punishment as obtained in the era of disciplinary power as conceived by Foucault, rather the situation of the COVID-19 pandemic justly called for biopolitics. Notably, if governments do not take steps towards biopolitics in the current era of the noxious COVID-19 pandemic, it may mean the death of many who also hope on the state (under the social contract) to ensure the protection of lives. Hence governments' encroachment in the field seemingly outside its sphere, becomes necessary since addressing the COVID-19 situation was a matter of life and death.

### **Conclusion**

Brown and Gershon (2017: 1) note that 'the politics of the body, different from the body politic, argues that the body itself is politically inscribed and is shaped by practices of containment and control.' The prevailing COVID-19 pandemic and the series of regulations put in place by various states as a response to curtail the effects of the pandemic have propelled the human body to the centre of politics. This essay has attempted to contribute to the discourse on state power and control of the human body during a pandemic era, by exploring the limits of state power and the concepts of biopower/biopolitics in Michel Foucault's work. In the final analysis, biopower as conceived by Foucault is not an aspect of politics to be apprehensive of especially as it plays out in the global COVID-19 scenario. It is to be noted that biopower is geared towards the administration of life and does not threaten to take life

away; it is about the optimisation of the life of the population (Taylor 2011; Dean 2001).

That said, as noted by Belyaeva *et al.* (2017: 197) 'state power objectively and indisputably needs limitations, otherwise it risks becoming a spontaneous uncontrolled phenomenon, devoid of its main purpose - serving the interests of an individual and society.' Notably, Foucault does not agree with some assumptions in conventional literature that power and liberty exist in an inverse relationship (Dean 2001: 325). But there is a possibility that the powers of the state in biopower can be abused resulting in the abuse of the basic freedoms of individuals and society at large. On this, Belyaeva *et al.* (2017: 199) note that 'the measure of an individual's freedom and responsibility must balance out the initially unequal positions of a state (the bearer of power) and an individual to the extent necessary, since everyone is equal before the law, including a state.' It is then pertinent to underscore that even though the COVID-19 pandemic situation guaranteed the state the power to engage in biopolitics, there must be parameters set to arrest state control when it oversteps its boundaries and limits civil liberties. This can be achieved with proper oversight over the executive by both the legislative and judiciary arm of governments and it is positive to see that in some instances (for example, South Africa), the government and its ministries were taken to courts by some civil society groups on account of some of its COVID-19 regulations (Kunguma, Ncube, and Mokhele 2021). This is arguably a sign of a healthy democracy.

## References

- Andreescu, M. (2016). The Limits of State Power in a Democratic Society, *Journal of Civil & Legal Sciences*, 5(6), 213. doi: 10.4172/2169-0170.1000213.
- Armstrong, D. (1983). *Political Anatomy of the Body Medical Knowledge in Britain in the Twentieth Century*. London: Cambridge University Press.
- Barcelo, J., Kubinec, R., Cheng, C., Rahn, T.H., & Messerschmidt, L. (2022). Windows of Repression: Using COVID-19 Policies Against Political Dissidents? *Journal of Peace Research*, 59(1), 73–89.
- Belyaeva, G.S., Makogon, B.V., Bezugly, S.N., Prokhorova, M.L., & Szpoper, D. (2017). 'Basic Ideas of State Power Limitation in Political and Legal Doctrine', *Journal of Politics and Law*, 10(4), 197-200.
- Bond, P. (2022). Beyond Sub-Imperial War, 'Blood Methane', and Climate-Debt Denialism: South Africa's Pro-Military Lobby Risks Worsening Multiple Injustices in Northern Mozambique, *The Thinker*, 90(2022), 69-80.
- Brown, N., & Gershon, S.A. (2017). Body Politics, *Politics, Groups, and Identities*, 5(1), 1-3.
- Castillo, R., & Amoah, P.A. (2020). Africans in post-COVID-19 pandemic China: is there a future for China's 'new minority'? *Asian Ethnicity*, 21(4), 560–565. <https://doi.org/10.1080/14631369.2020.1773760> 1-6.

- Christensen, T.J. (2020). A Modern Tragedy? COVID-19 and U.S.-China Relations. [https://www.brookings.edu/wp-content/uploads/2020/05/FP\\_20200511\\_covid\\_us\\_china\\_christensen\\_v3.pdf](https://www.brookings.edu/wp-content/uploads/2020/05/FP_20200511_covid_us_china_christensen_v3.pdf) (accessed 20 October 2022).
- Da Silva, A. (1999). Combatting Communalism in Twenty-First Century India: A Social-Psychological Perspective, *Jnanadeepa: Pune Journal of Religious Studies*, 2(1), 80-85.
- Dean, M. (2001). Michel Foucault: A Man in Danger. In Ritzer, G. and Smart, B. (eds), *Handbook of Social Theory*, 324-338. London: Sage Publications.
- Desbruslais, C., & Pandikattu, K. (2009). *Postmodernism Guidelines for an Optional Course*. Unpublished notes edited by Frank, N., St Joseph's Institute Cedara.
- Duignan, B. (2021). Robert Nozick. In *Encyclopedia Britannica*. <https://www.britannica.com/biography/Robert-Nozick> (accessed 20 May 2021).
- Foucault, M. (1980). *Truth and Power. Power/Knowledge*. New York: Random House.
- Foucault, M. (1982). The Subject and Power. *Critical Inquiry*, 8(4). 777-795.
- Foucault, M. (1994). *The Birth of the Clinic: An Archaeology of Medical Perception*. New York: Vintage.
- Foucault, M. (1995). *Discipline and Punish: The Birth of a Prison*. London: Penguin.
- Foucault, M. (1997). 'The Essential Works, 1954±1984'. In Rabinow, P. (ed.), *Ethics, Subjectivity and Truth*. New York: The New Press.
- Foucault, M. (1998). *The History of Sexuality: The Will to Knowledge*. London: Penguin.
- Foucault, M. (2004). Society Must Be Defended. *Lectures at the Collège de France, 1975-1976*. London: Penguin Books.
- Foucault, M. (2007). *The Politics of Truth*. Sylvere Lotringer, ed., trans. John Rajchman, USA: Semiotext.
- Friend, C. (2021). Social Contract Theory. In *The Internet Encyclopedia of Philosophy*, <https://iep.utm.edu/soc-cont/>.
- Kunguma, O., Ncube, A., & Mokhele, M.O. (2021). COVID-19 disaster response: South African disaster managers' faith in mandating legislation tested? *Jàmá: Journal of Disaster Risk Studies* 13(1), a1099. <https://doi.org/10.4102/jamba.v13i1.1099>.
- Langa, M., & Leopeng, B.B. (2020). COVID-19: Violent Policing of Black Men During Lockdown Regulations in South Africa. *African Safety Promotion: A Journal of Injury and Violence Prevention*, 18(2), 116-126.
- Laskar, M.E. (2013). Summary of the Social Contract Theory by Hobbes, Locke and Rousseau, *SSRN Electronic Journal*. April 2013 DOI: 10.2139/ssrn.2410525.
- Layder, D. (2006). *Understanding Social Theory, Second Edition*. London: Sage Publications.
- Locke, J. (1997). Essays on the Laws of Nature. In Goldie, M. (ed), *Locke: Political Essays*, 79-133. Cambridge: Cambridge University Press.
- Locke, J. (1988). *Two Treatises, Two Treatises of Government*. Peter Laslett (ed.), Cambridge: Cambridge University Press.
- Lyotard, F. (1984). *The Postmodern Condition*. Minnesota: University of Minnesota Press.
- Mack, E. (2018). Robert Nozick's Political Philosophy. In Zalta, E.N. (ed), *The Stanford Encyclopedia of Philosophy*. <https://plato.stanford.edu/archives/sum2018/entries/nozick-political/> (accessed 20 May 2021).

- Metzger-Traber J. (2018). The Body Politic. In *If the Body Politic Could Breathe in the Age of the Refugee*, 63-82. Wiesbaden: Springer.
- Migdal, J.S. (1994). The State in Society: An Approach to Struggles for Domination. In Migdal, J.S., Khli, A. and Shue, V. (eds), *State Power and Social Forces: Domination and Transformation in the Third World*, 7-34. Cambridge: Cambridge University Press.
- Ngcobo, M. (2021). *Mistreatment of Africans in China During the Covid-19 Outbreak: When Economic Interests Supersede All Others*. [https://media.africaportal.org/documents/210223-06\\_AP-WITS\\_Essay\\_series\\_Ngcobo\\_Final.pdf](https://media.africaportal.org/documents/210223-06_AP-WITS_Essay_series_Ngcobo_Final.pdf) Accessed 15 August 2022).
- Neidleman, J. (2012). *The Social Contract Theory in a Global Context*. <https://www.e-ir.info/2012/10/09/the-social-contract-theory-in-a-global-context/> (accessed 20 May 2021).
- Obo, U.B. and Coker, M.A. (2014). The Marxist Theory of the State: An Introductory Guide, *Mediterranean Journal of Social Sciences*, 5(4), 527-533.
- Olsthoorn, J. (2019). Self-Ownership and Despotism: Locke on Property in the Person, Divine Dominion of Human Life, and Rights-Forfeiture, *Social Philosophy and Policy*, 36(2), 242-263.
- Onwuegbuchulam, S.P.C. (2019). Religion Versus State and the Struggle for Control in Society's Developmental Arena: A Review, *Acta Academica*, 51(2), 1-20.
- Patterson, A., and Clark, M.A. (2020). COVID-19 and Power in Global Health. *International journal of health policy and management*, 9(10), 429-431.
- Rawls, J. (1971). *A Theory of Justice*. Cambridge: The President and Fellows of Harvard College.
- Reddy, T. (2021). South Africa and the crisis of liberal democracy: Settler-colonial modernity and a dominant friend-enemy conception of politics. In Mackert, J., Wolf, H., and Turner, B.S. (Eds.). *The Condition of Democracy: Volume 3: Postcolonial and Settler Colonial Contexts (1st ed.)*. London: Routledge.
- Statista (2022). *Number of Coronavirus (COVID-19) Cases in the African Continent as of March 02, 2022*, <https://www.statista.com/statistics/1170463/coronavirus-cases-in-africa/> (Accessed 18 August 2022).
- Taylor, D. (ed). (2011). *Michel Foucault: Key Concepts*. Durham: Acumen Publishing.
- Weber, M. (1949). Politics as a Vocation. In Gerth, H.H. and Wright, M. (eds), *From Max Weber: Essays in Sociology*. New York: Oxford University Press.
- Weber, T.M. (2014). Examining Social Contract Theory', *PRAXIS—Alumni for International Human Rights Law Peer Review Journal*, 1(1), 2-9.
- Wehrle, M. (2016). Normative Embodiment. The Role of the Body in Foucault's Genealogy. A Phenomenological Re-Reading, *Journal of the British Society for Phenomenology*, 47(1), 56-71.
- Wolfenden, K.J. (2010). 'Hobbes' Leviathan and Views on the Origins of Civil Government: Conservatism by Covenant', *Inquiries Journal/Student Pulse*, 2(12), 1-2.