

# On Moral Legitimacy of the Normative Reconstruction of Subject Behavior in Post-pandemic Era

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## Abstract

The enlightening significance of contemporary and modern biopolitics' appearance in COVID-19 pandemic lies in Life's appeal of both the fear of death and the fear of been dominated. Therefore, the authority and its agency are responsible for the moral promise of individual safety which follows the logic of survival and free development which follows the logic of human beings' development. The value ranking of the above two parts in different social contexts constitute the moral legitimacy basis when the authority formulates the policy on the normative reconstruction of subject behavior. In this respect, the Post-pandemic Era means the reverse of value ranking in the state of emergency, meanwhile, the normal and regulation of subject behavior need to be reconstructed, and then the moral rationality and legitimacy need to be simultaneously and theoretically illustrated. The relational thinking based on commensalism, rather than the reductionism thinking based on individualistic-atomic theory, will help to recognize the internal connection among the individual, the other and the community. Then the illustration of moral rationality which is constructed for the social temporary order in a state of emergency will be provided, and a probable path to deal the dilemma of the contemporary biopolitics will finally be proposed.

## Keywords

**The Logic of Survival; The Logic of Development; Moral Standard; Biopolitics Interactive Commensalism.**

## 1. Introduction

The global spread of COVID-19 pandemic forced the inner connection of politics, technology and the individual life to jump into the focus of the public attention, especially when professor Giorgio Agamben gave several public speeches, the relevant topics about the biopolitics pushed the discussion into the core of academic circle. Someone considered the standpoints about biopolitics as the darkest hour during its development, someone attempted to actively confront the real puzzles, and tried to come up with the possible path for biopolitics in post-pandemic era. No matter whether Giorgio Agamben could represent the whole standpoints of biopolitics or not, returning to the theoretical purport and the philosophical mission itself will be the key point of this paper. Starting from biopolitics' unremittingly interested questions including authority, technology and life, its warning on contemporary real world will be reflected. Meanwhile, from the giant leap between the standpoints put forward by biopolitics during the COVID-19 pandemic and the realistic problems, how to normatively reconstruct the subject in post-pandemic era will be re-discussed.

## 2. The Two Tasks of Life: Double Fear and Governance Authority

How the authority connects with individual life and how the connection acts on the consideration of questions about life, are thoroughly different from the the view of Aristotle's

idea which is men are naturally created as “political animal”. Biopolitics reveals another relation between politics and individual, which is men are forced to step into the community because of their dependence of the capability of authority to provide essential demand for life. This thought of biopolitics could be traced back to the setting of men’s state of nature in Hobbes’ philosophy, which is that the state of nature is the war of all oppose to all. In this situation, men are considered to live in the constant fear and risk of violent death[1]. As the representative of biopolitics, Michel Foucault and Giorgio Agamben spontaneously make some connection between Hobbes’ philosophy and their own thoughts[2]. And also they found the inner connection between politics authority and individual life. Therefore, different from Aristotle’s definition of a well-ordered society and the community where people devote to the common will of “public good”, in the view of biopolitics, for the fear of death, people willingly or unwillingly choose to live in the community on the account of waiving some or all rights. In other words, as long as people choose to live in the community at the expense of their own rights, then the top priority of the community is to ensure life security and to prevent people from the fear of violent death.

In Foucault’s theoretical system of biopolitics, he didn’t deny the effects of the community to ensure life security, on the contrary, it is the effect of protecting the individual life that has lay sound foundation for the moral legitimacy of emperor’s ultimate power of killing. Therefore, when Foucault says “Only when the emperor kill someone, does he exercise the power”[3], someone will understand and offer his support. Of course, Foucault subtly analyses the process of the unremitting permeation, penetration and strengthening of political authority towards life., which is the change from negatively ensuring life security to actively fostering life. It could be seen as a conspiracy between the modern sovereign stat, knowledge and technology. From this kind of conspiracy, we could clarify that through the manipulation of discourse power, science and technology, the authority gradually and compulsorily intervene into the individual life. Finally the discipline mechanism of authority over individual takes shape.

Hence, strictly speaking, there are two meanings underlying in the inner connection between the common authority and individual life, one is to protect and foster life, the other is to discipline and manipulate life. Obviously, Foucault develops great passion for the later one, it seems to him that a kind of murdering actually hides in the back of the second meaning. Under the manipulation of the technological safety and the supervision of ubiquitous authority, the individual life has to be continually homogenized and instrumentalized, and finally each individual will become a tamed body like an expert without soul, a hedonist without heart. We could clearly see that from then on the biopolitics scholars, along with Foucault, focus on the manipulation and manipulation of authority over individual life. In other words, represented by Giorgio Agamben, biopolitics scholars show great passion on the freedom of individual life rather than the basic level of authority to ensure life security.

The wide and deep focus on individual freedom for the modern and contemporary biopolitics actually reveals the second layer of fear of human nature in modern society which is the fear of being mentally and psychologically manipulated. As a eternal moral theme and value ideal about human beings since the Enlightenment, in Foucault’s opinion, freedom and discipline come as a coin with its two sides[4]. The discipline, based on the logic of authority just determines the homogenization process of how authority takes effect on each individual. this is a kind of proven technology, a well - calculated and sustainable mechanism in which human beings are considered both as an object and also as a tool[5]. However, with the quick development of modern science and technology, and the increasingly hidden connections between politics and technology, the supervision, manipulation and discipline of authority over individuals become increasingly easier and deeper.

Therefore, biopolitics has always kept a highly vigilant and sensitive towards the forecast and warnings of "Panopticon", which is also closely consistent with ideological core of biopolitics scholars. If Foucault elaborates the manipulation of authority over life from the side of "survival", then in Giorgio Agamben's view, the manipulation of authority over life is elaborated from the side of "death", which is noncompliance equals to death. Agamben has ever said that the sacred and inalienable rights of human beings tell us that when they could not appear with the form of the civil right of a country, they would immediately lose the protection and reality embedded in themselves[6]. That is to say, the modern and contemporary biopolitics has always stood on the opposite of the community and the authority, in which a kind of scanning, critical and even opposing view is utilized to defend the freedom of each individual. In such kind of theory context, we could easily understand the following two views when the COVID-19 pandemic spread all over the world in Giorgio Agamben's paper of "Lo stato d'eccezione provocato da un'emergenza immotivata", one is the argument of conspiracy theory that the authority deliberately creates the fear and the state of exception, the other is paranoid ideation to call on that to wear a mask or not is a divine, inalienable and god-given right.

In conclusion, the biopolitics firstly proposes that it is a kind of life in a biological sense, in which an individual enters and lives in a community by willingly or unwillingly alienating some personal rights. Secondly, in the pursuit of physical and mental freedom, an individual keeps an internal tension with the community and authority, in which a kind of life in a political sense is revealed. Therefore, in front of the above two distinct pursuits of life, the modern country and its authority are required to shoulder double kinds of responsibility, which is the country and its authority will provide its members with the protection against the fear of death and the fear of been dominated. Then, a kind of dilemma has long been hidden in the theory criticism of the modern and contemporary biopolitics, that is represented by Giorgio Agamben, too much emphasis is placed on the criticizing the effect of authority over individual life, while the dimension that how the authority protect and foster life has been totally abandoned. Some scholars has already realized that different from Foucault's emphasis on the positive effect that how the "steel cage with modernity"(authority) protects and fosters life, Giorgio Agamben's research on biopolitics has practically promote the process of nakedness of the "steel cage" over individual life[7].

### **3. The Logical Value and its Normative Meaning of the Form of Life Existence**

Since the moral intention and value order tend to be unambiguous in the normal society, the tear hidden in the modern and contemporary will usually not appear in the form of fierce confrontation. To be more concretely, in the previous argument of the double value pursuits for individual life on the community, both survival logic and development logic of life to maintain itself and its independence have been clearly illustrated. On one hand, escaping from death, which reflects individual rights of life security and conforms to survival logic, is the biological demand for living. On the other, escaping from manipulation, which emphasizes on the right of freedom as a person and conforms to development logic, is the political demand for living. There will not be too more clashes between the both logic in a normal society since people have different value pursuits in different stage of social development. People will usually place the logic of survival first in the society of turbulence, resource starvation since they will concentrate on how to be alive. However, People will usually place the logic of development first in the stable, peaceful society with abundant resources since the problem of how to be alive has already be settled. On such occasion, the logic of development will naturally ranks before the logic of survival, and it is also the key core of the modern and contemporary biopolitics.

The outbreak and global spread of the COVID-19 pandemic has brought an essential issue. Survival and security which is no longer the main problem after World War Two, suddenly jumps first in the value order. That is to say, in an abnormal situation, the logic of survival has again ranked before the logic of development. And it is easy to understand that why the standpoints and proposition of the modern and contemporary biopolitics are essentially antipathetic and even incredible during COVID-19 pandemic. As it is mentioned above, all the theoretical purports of biopolitics which are based on the development logic of human beings, point to the critiques of the manipulation of authority over individual life. But the problem is the logic of survival of how the community protect the individual life, which has long been neglected, appears to be particularly important. If we go deeper into biopolitics, an unexpected and realistic conclusion emerges which is Giorgio Agamben has never deviated from the original position during the pandemic: the logic of development has always come first before the logic of survival. Also, Agamben has already given his answer to the value choice of life itself: if one body needs to be purely maintained with the support of medical skill, then the one to be firstly sacrificed is the life rather than faith[8].

The anachronism of biopolitics during this pandemic actually the long-standing inner tension hidden between the logic of survival and the logic of development in the form of life existence, in other words, it has revealed the internal tear between the individual physical life and political life which has put forward a essential question to us: to what extent could the freedom(political life) sacrifice for survival(physical life )? It is of great significance that the moral legitimacy of whether we need to adjust the social norm on the basis of the order of life value. Agamben has clearly illustrated the inner connection in his paper as follows:

“The authority which declares a state of emergency keeps telling us: we need to conform to the identical norm, however, the meaningful euphemism aims to reorganize the social norm. But, no matter for spite or kindness, once we have accepted, we could not go back to the past”[9].

From the words, we could clearly find that Giorgio Agamben has publicly voiced for several times because he has realized that how to protect life and its value ranking is of normative significance not only for individual behavior but also for political governance. That is to say, the value logic ranking of life actually constitutes various political principles, social norms and the basis of moral legality for system formulation and individual behavior normalization. The outbreak of the pandemic plunges the society into an abnormal mechanism which absolutely includes the abrupt change of the order of life value from development logic priority to survival logic priority. In such case, the social norm will be absolutely reorganized. In post-pandemic era, we need to re-constitute the social norm of life, and make clear illustration of its moral legitimacy.

If we calmly look at the untimely biopolitics' appearance in this pandemic, we could find that although biopolitics jumped into the center of public opinion in a incredibly paranoid way, yet it has made a remark to the world: the outbreak and continuation of the pandemic will possibly trigger the change of moral legitimacy of social norm. Concretely speaking, from the view of social norm, the post-pandemic era could tell us that the development logic will give way to the survival logic and the individual freedom will give way to life security until the time when qualified and effective vaccines are largely and widely produced and provided, human beings will coexist with the novel coronavirus like influenza virus. Simultaneously, the politics and technology will become more closely linked than ever before. As it is mentioned above, the reverse ranking of life value order has prompted the question what extent could human beings' right of freedom sacrifice for survival to the center of our daily life. And the academic area needs to make a thorough, deep and timely discussion and research on the problem of the privacy, freedom and the reorganization of social norm in such abnormal situation.

#### 4. The Surrender of Privacy, the Boundary of Freedom and the The Moral Rationality of the Normal Construction of Subject Behavior

Practically speaking, during the Covid-19 pandemic, it is right that we need to obey the temporary social norms and yield some privacy, for example, our track has to be recorded and reported necessarily, and we need to limit our activities consciously wear a mask. After all, just because we do as above, the spread trend of the pandemic has been effectively contained, and China is the first big country in which the social order has returned to normal. However, if we make a further thinking from the academic view, why the temporary social norms are right, or in what sense the temporary norms are legitimate. We need to present a responsible answer above the level of empirical fact.

Starting from the lowest boundary of freedom, that is, the discussion of whether there is freedom, we may need to make a strict distinction between the "exceptional state" and the "emergency state" of society. The exceptional state generally refers to a social state in which various unexpected, emergency, and sudden major social events cause the "society as a precision operating system to deviate from its usual operation track, the normal progress of all levels of daily activities is forcibly terminated, and all factors in society cannot operate in their usual way", and may even cause "the overall operation of society to be on the brink of termination"[10]. The "exceptional state" is a core concept in Agamben's life political system. It generally refers to a divisive mechanism that is artificially established by the highest power (modern state), which suspends the law and allows power to directly affect life itself. "The exceptional state is a mechanism that sets up a threshold between order and chaos, life and law, sovereignty and governance, making it difficult to distinguish between them...The authority suspends the norm and directly acts on life"[11].

In a sense, both the state of emergency and the state of exception can be said to be constructed, because whether society enters the state of emergency or the state of exception needs to be judged, identified and announced by the highest power and its agents. However, in terms of judgment criteria, the identification of the state of emergency is still based on the factual judgment of the current society and its true consideration of development status. Based on the uncertainty and suddenness of unexpected situations, each society may enter a state of emergency due to various major and urgent social events. While the state of exception is completely artificially designed through human intervention. In other words, the emergence of the state of exception has no inevitable connection with real social events. Or, a social event may provide "those who want it" with an opportunity to create an exception, but it cannot be said that this event is the fundamental reason for a society to fall into an exception. Secondly, in the state of emergency, the state and its power institutions will formulate some emergency and temporary social norms and treaties based on the situation, establish a social order suitable for the state of emergency as soon as possible, so as to rescue society from a sudden state of disorder and restore normalcy as soon as possible. The temporary change of social order may lead to changes in individual freedom rights or limits, but this temporary order is ultimately established to protect individual lives. In the state of exception, because the law has been suspended, the decision-making power of the highest power is equivalent to the governance power. Then the highest power has arbitrary power over individual life. Because in the state of exception, individual life is actually "left in a situation where no power protects"[12], which is Agamben's so-called "bare life". In such a social state, individuals' survival rights and life freedom are completely manipulated deprived.

Based on the above distinction, the impact of this epidemic on society is easy to understand now. The epidemic has indeed trapped many countries in a state of emergency. However, the failure of normal order and the establishment of temporary order do not mean that the sovereign state and its agents have "deliberately" created an "exceptional state". The

restrictions on individual freedom in the state of exception do not equal to the deprivation of individual freedom in the exceptional state. Of course, one important warning given by biopolitics with such a "counter-example" is that in the post-epidemic era, we must distinguish with more accurate political vision the purpose of governance and carefully judge the ethical boundaries between limiting freedom and depriving freedom. This is another huge and complex theoretical topic related to the fundamental nature of the country and its basic social system. What needs further discussion now is that even if most people prioritize life safety over freedom development during social unusual states, Agamben as an individual or representing a scholarly position cannot be said to prioritize life development over value ranking for free development as wrong. Because as a free individual, he actually has the right to choose value ranking. So what is the fundamental problem with this "incongruity" from biopolitical perspective? Or more generally speaking, we cannot deny that social special needs caused by epidemic have limited individual freedom to some extent (and even greatly limited it at some moments), and requested individuals.

When considering the boundary between freedom and privacy, we may return to the starting point of the discussion, which is how individuals are willing to live in a community. This starting point gives us an important hint: when discussing individual freedom in the context of "living in a community" as the basic ethical premise, it means that we are in a specific ethical field (community); and in these specific fields, we are concerned about a real, concrete, and achievable freedom, rather than discussing an abstract and formal concept of freedom in general. Therefore, when discussing topics related to freedom in the context of community life, if we understand that "the essence of human beings is not an abstract concept inherent to individual people, but in reality, it is the sum total of all social relationships[13], we should be aware that the discussion on freedom actually involves at least three basic dimensions: individual-other-community.

That is to say, we need to disintegrate the absolute moral status of the atomized individual in reductionism and "devalue" it, making it one of the multiple dimensions of world construction; and connect individuals, others, and communities in an internal relationship, thinking about individual freedom issues in a symbiotic way. Under this mode of thinking, when we advocate that the state and its power governance institutions need to make moral commitments and bear responsibilities to individuals' freedom, it also requires us to consider what moral responsibilities and obligations we bear for the safety of other people's lives and freedoms, as well as the stability and security of the community. With the inclusion of "others" and "community" into the theoretical perspective of individual freedom issues, the original abstraction, formalization, and absolutism of freedom, as well as the binary opposition between individuals and the state and its power institutions, are dissipated and resolved. As mentioned earlier, the fear and rejection of modern scientific technology in biopolitics is fundamentally fear and rejection of the control and domination of life. In this sense, understanding the relationship between politics, technology, and the social normative construction of life subjects is no longer a relationship of mutual opposition between surveillance and monitoring, manipulation and being manipulated. Rather, it is a relationship of cooperation, mutual assistance, and symbiosis.

It can be said that incorporating other people and communities into the theoretical framework of individual freedom discussions actually incorporates the dimension of responsibility towards others and society. In other words, we agree to give up our privacy rights and narrow our scope of freedom based not only on individual survival logic but also on responsibility towards others and society. In this relational thinking, a real freedom or a definition of freedom boundaries should be based on not hurting or hindering the survival and safety of others as a bottom line. Based on the above understanding, the various restrictions on individual freedoms and requirements to give up privacy rights made by countries and their power institutions

under pandemic are not moral purposes to monitor and manipulate life. Instead, they are temporary measures that aim to protect human life safety as their ultimate goal and rescue their members from the fear of death so that they can better achieve their own development.

It still needs to be emphasized that we give up our privacy rights and narrow our scope of freedom in a social exceptional state not because we are forced into the state constructed by power governance but because we do not want to enter another state of "every man against every man" or "every person against every person" again due to social disorder. Secondly, even in the temporary norms established in an exceptional state, power governance needs to make a moral commitment to maintain individual life safety and support their potential for development while also assuming actual responsibilities and obligations. Thirdly, we are willing to comply with the social norms established temporarily by power governance out of our moral requirement to be responsible for others and society. We believe that these normative criteria are only temporary provisions in an exceptional state (although this "temporary" may last for quite a long time). From a long-term perspective, state governance can ultimately lead its people out of the exceptional state of society, restore normal social order, normalize life, and provide better guarantees for its members to realize their own development goals.

## **5. In Conclusion, the Independent and Symbiotic Nature of Life - the Future-oriented "Breakout" of Life Politics**

Finally, based on the above arguments, let's try to analyze the fundamental reasons for the moral dilemma in contemporary life politics. As mentioned earlier, under the current theoretical perspective of life politics, individual life has always been an atomic, isolated existence. Therefore, it lacks the dimension of a "other" and has been treating the relationship between individuals and communities as a state of dual opposition. So firstly, a core perspective that runs through contemporary life politics is that from the beginning, the history of political communities has been based on the appropriation and expropriation of biological bodies[14]. Or in Agamben's own language, "from the beginning, Western politics has been a politics of life"[15]. If we follow this theoretical path, individuals in any society will actually be in a state of high alert, suspicious and hostile to other people and the community; and their fear of occupation (domination) and deprivation (death) will translate into various fears of power governance, social norms, and science and technology. It neither sees the positive significance of the community to individuals, nor recognizes the changes and development of society. As political thinker Esposito realized, "Agamben equates Nazi biopolitics with modern democratic politics, believing that they are both in exceptional states. The result is that he emphasizes the similarity between Nazi biopolitical features and contemporary democracy, without recognizing their respective uniqueness"[16].

Secondly, the independence and freedom that life politics has always strived to uphold are actually still caught in an abstract, formal vacuum of freedom. This kind of freedom is either full of powerlessness in real political and life situations, or can only "retreat" to the domain of ideas as an idealistic conception. Without a plan for freedom that involves the dimensions of "other" and "community", there is often a feeling of reality's emptiness, or it is called "the paranoia of theory". This theoretical logic is different from the need for theory to be higher than reality in terms of "idealism". It needs the theory to adjust, correct, correct or supplement itself internally. As mentioned earlier, on one hand, it can be argued that contemporary life politics represented by Agamben has never betrayed its own philosophical position; on the other hand, it can also be seen that contemporary life political theory is indeed lacking. One of these deficiencies is still regarding freedom as an abstract transcendental existence, thus disconnecting individuals from their other and real-world relationships. However, when Agamben himself regards freedom as

a priori logic and demands its ethical priority in all situations, he has already violated his own ontological philosophical foundation[17], and lost the prerequisite conditions for truly realizing human free development. Incorporating the dimension of "other" into the perspective of life politics is a theoretical integration work being undertaken by some political thinkers. In any case, the "breakout" of life politics towards the future should not continue to expand or deepen the opposition and contradiction between life and politics, but should work towards integrating politics and life. It should focus more on how to design and plan a "politics that is no longer imposed on life but belongs to life"; and the future theoretical focus of life politics should not be "to impose any modern political category on life that has already been destroyed", but rather to "give life the ability to innovate and rethink the complexity and relevance of life within the same politics"[18].

The next paragraph: In general, the appearance of Western scholars of biopolitics in this epidemic seems to be so "untimely", but its appearance allows us to see the hidden worry of the internal rift between biopolitics and the entire era, and also poses a question that cannot be ignored and reflected upon in the "post-epidemic era" to the academic community: that is, to survive, to what extent can we give up our privacy and narrow our freedom boundary, and why are such regulations and restrictions morally justified? In an era when politics, technology, and individual life will inevitably be more closely integrated, the mission of ethicists may be to focus on and discuss how to make politics truly committed to life, how to make technology treat life well, and how to make algorithms comply with "good laws".

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