

ARTICLE

Recalibrating Constitutional Interpretation: The Post-Pandemic Expansion of Executive Power

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Abstract

The COVID-19 pandemic triggered an unprecedented expansion of executive authority across global constitutional systems, renewing debates over whether emergencies produce an “unbound” executive or reveal the enduring strength of checks and balances. This article challenges crisis-driven “Schmittian” assumptions by conducting a comparative constitutional analysis of five jurisdictions—Germany, South Africa, and Brazil—to evaluate how judicial, legislative, and subnational institutions shaped, constrained, or facilitated executive action during the pandemic. The findings show that although executives exercised broad emergency powers, most remained substantially “bound” by constitutional principles, with courts, parliaments, and federal units actively moderating executive overreach. Judicial independence, legislative oversight mechanisms, federalism-based resistance, and prescriptive emergency frameworks emerged as decisive factors influencing constitutional resilience. At the same time, variations in institutional strength and constitutional design produced significant disparities in constraint effectiveness, revealing latent vulnerabilities in several systems. The article argues that emergency governance reflects a process of dynamic recalibration rather than the suspension of legal order, and proposes doctrinal reforms—including clearer emergency clauses, mandatory sunset provisions, and strengthened ex-post judicial review—to fortify constitutional accountability in future crises.

Keywords: *Executive Power, Constitutional Governance, Emergency Powers, COVID-19 Pandemic, Judicial Review, Legislative Oversight, Federalism, Separation of Powers, Constitutional Design, Comparative Constitutional Law, Democratic Accountability, States of Emergency*

Introduction

The global COVID-19 pandemic profoundly expanded executive authority, prompting a critical re-evaluation of constitutional governance ([Vedaschi & Graziani, 2023](#)). While

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traditional views often suggest a crisis-driven "unbound executive," operating with minimal checks, this paper challenges such "Schmittian" interpretations, arguing for a more nuanced understanding of executive authority during emergencies ([Ginsburg & Versteeg, 2021](#)). Existing scholarship has debated the extent of executive overreach and the effectiveness of institutional constraints, yet often overlooks the underlying constitutional structural vulnerabilities that facilitate such expansions ([Scheppele & Pozen, 2020](#)). This paper fills this gap by demonstrating that the pandemic did not uniformly create an "unbound" executive, but rather exposed pre-existing strengths and weaknesses in constitutional systems, highlighting how readily states of emergency can lead to unconstitutional oversteps, even in democracies ([Golia et al., 2020](#)).

This analysis addresses the following research questions:

- Did the COVID-19 pandemic universally lead to an "unbound" executive, or were constitutional systems generally effective in maintaining checks and balances?
- What specific mechanisms of judicial, legislative, and subnational oversight proved most effective in constraining executive power during the crisis?
- How did pre-existing constitutional design and institutional strength influence a nation's capacity to absorb sudden executive power expansions while preserving democratic accountability?

This paper employs a comprehensive comparative constitutional analysis, integrating legal textual review with empirical data from various jurisdictions, to investigate the interplay between expanded executive powers and persistent institutional constraints during the pandemic.

Literature Review

The academic discourse surrounding executive power during crises, particularly in the context of the COVID-19 pandemic, can be broadly categorized into several themes, revealing a complex and often contested landscape of constitutional governance.

(a) The Schmittian "Unbound" Executive Perspective

A foundational perspective, often termed "Schmittian," posits that emergencies inherently necessitate a temporary suspension of normal legal and political processes. This view suggests that during crises, the executive must be free to act decisively, unencumbered by traditional checks and balances ([Ginsburg & Versteeg, 2021](#)). Proponents of this outlook argue that the imperative for swift action in the face of existential threats, such as a pandemic, justifies a significant concentration of power in the executive, potentially leading to an "unbound" executive operating outside the usual constitutional constraints. Concerns about executive actions disproportionately impacting populations or curtailing democratic processes are frequently raised within this framework ([Bjørnskov & Voigt, 2021](#)).

(b) The "Bound Executive" and Checks-and-Balances Literature

Contrasting sharply with the Schmittian view, a growing body of scholarship, particularly in response to the COVID-19 pandemic, champions the concept of a "bound executive." This

perspective argues that even during emergencies, institutional checks and balances remain crucial for legitimate and effective governance ([Ginsburg & Versteeg, 2021](#)). Rather than an unconstrained executive, this literature highlights how various constitutional systems retained, and often successfully utilized, oversight mechanisms to temper executive authority.

- **Judicial and Legislative Oversight:** Many countries demonstrated robust checks, with judicial and legislative bodies playing active roles despite risks of executive overreach ([Ginsburg & Versteeg, 2021](#); [Grogan & Yamin, 2023](#)). Scholars emphasize the persistence of a "Madisonian separation of powers" where the judiciary and legislatures functioned to constrain executive actions, leading to more reasoned outcomes ([Ginsburg & Versteeg, 2021](#)).
- **Vertical Checks (Federalism/Subnational Units):** Beyond traditional horizontal checks, significant evidence points to the importance of "vertical checks." Subnational governments, for instance, actively pushed back against central executive directives, especially in federal systems, reinforcing multi-level governance and accountability ([Ginsburg & Versteeg, 2021](#); [Golia et al., 2020](#); [Turkut, 2022](#)).
- **Constitutional Provisions and Design:** The effectiveness of constitutional provisions is frequently linked to independent judicial interpretation ([Lizama, 2023](#)) and the overall strength of democratic institutions ([Golia et al., 2020](#)). This suggests that the executive remains "bound," navigating complex interactions with other governmental branches, with institutional design playing a critical role in tempering executive authority ([Ginsburg & Versteeg, 2021](#); [Miljojković, 2021](#)). Constitutional courts are highlighted as crucial for articulating clear doctrines for states of emergency, guiding state actors, and imposing limits to prevent the normalization of exceptional powers ([Bjørnskov & Voigt, 2020](#); [Miljojković, 2021](#)).

(c) Empirical Pandemic Governance Studies

Empirical research delves into the actual responses and institutional dynamics observed during the COVID-19 pandemic, often revealing the complex interplay between political and legal restraints. These studies track how legislatures and courts reacted to, rather than always proactively modulated, executive policies during emergencies ([Ginsburg & Versteeg, 2021](#)). This theme underscores the need for mechanisms to fortify legal frameworks and enhance judicial and legislative oversight in future crises, potentially through temporary oversight committees ([Ginsburg & Versteeg, 2021](#)). Further investigation into specific mechanisms and legal instruments across diverse constitutional systems is deemed necessary to fully understand how executive actions are enabled or constrained ([Ginsburg & Versteeg, 2021](#)). The efficacy of judicial review in curbing overreach, for example, is often contingent on judicial independence ([Bjørnskov & Voigt, 2021](#); [Choutagunta et al., 2023](#)). The willingness of parliaments to cede legislative functions to executive actors significantly contributes to this dynamic, underscoring the necessity for robust legislative oversight ([Golia et al., 2020](#)).

(d) Regional Perspectives and Comparative Insights

While specific subsections for regional perspectives are not extensively detailed within the current literature review, the analysis implicitly draws on experiences from various regions. For instance, the reference to "European Constitutional Systems" ([Golia et al., 2020](#)) and

studies focusing on specific countries like Turkey ([Turkut, 2022](#)) or Southeast Europe ([Miljojković, 2021](#)) provide comparative insights into how different constitutional architectures and normative cultures influenced responses. These examples illustrate the diverse approaches to emergency governance, highlighting how legal frameworks and their interpretations vary globally. The emphasis on constitutional courts articulating doctrines for states of emergency, as seen in some European contexts ([Miljojković, 2021](#)), also implicitly contributes to a regional understanding of robust checks.

Conceptual Model: Sources of Constitutional Constraint

The literature identifies several key sources of constraint that collectively work to temper executive power during emergencies, illustrating the "bound executive" concept:

Source of Constraint	Mechanism of Action	Key Scholarly Support
Judiciary	Review of executive orders and decrees; upholding fundamental rights; interpreting constitutional provisions; ensuring procedural regularity.	(Bjørnskov & Voigt, 2021 ; Choutagunta et al., 2023 ; Ginsburg & Versteeg, 2021 ; Grogan & Yamin, 2023 ; Lizama, 2023)
Legislatures	Enacting emergency legislation; establishing oversight committees; sunset clauses; reporting requirements; challenging executive directives; providing democratic legitimacy.	(Ginsburg & Versteeg, 2021 ; Golia et al., 2020)
Federalism Subnational Units	Providing vertical checks and balances; pushing back against central government overreach; implementing localized responses.	(Ginsburg & Versteeg, 2021 ; Golia et al., 2020 ; Turkut, 2022)
Rights Jurisprudence & Constitutional Design	Explicit constitutional provisions for emergency powers, their limits, and derogation clauses; independent interpretation of fundamental rights.	(Ginsburg & Versteeg, 2021 ; Golia et al., 2020 ; Miljojković, 2021)

This conceptual model highlights that while executive power expanded during the pandemic, it was rarely entirely unfettered, instead navigating a complex web of legal, institutional, and political constraints.

Methodology

This study employs a **doctrinal and comparative constitutional analysis** to investigate the expansion and constraint of executive power during the COVID-19 pandemic. The primary analytical lens differentiates between legitimate exercises of emergency authority, warranted by the crisis, and instances of unconstitutional overreach, assessing these through the lens of pre-existing constitutional norms and statutory provisions governing states of exception ([Golia et al., 2020](#)). We interpret the roles and effectiveness of judicial and legislative bodies in

overseeing and potentially constraining executive actions, alongside the influence of a nation's constitutional-normative culture and political party systems ([Golia et al., 2020](#)). A critical distinction is made between constitutional emergency regimes, where powers are explicitly detailed in fundamental law, and those relying on ordinary legislative enactments for crisis response, to understand their impact on democratic accountability and judicial oversight ([Ginsburg & Versteeg, 2021](#)).

The research scope encompasses **three key jurisdictions**: South Africa, Germany, and Brazil. These countries offer a diverse range of constitutional designs, legal traditions, and experiences with emergency powers, providing rich comparative insights into the dynamics of executive action and institutional checks during a global crisis. The criteria used to distinguish between executive expansion and constitutional constraint include: conformity of executive measures with constitutional provisions for emergency powers; the procedural regularity of executive actions; the degree of legislative scrutiny and approval; the effectiveness of judicial review in upholding fundamental rights and the rule of law; and the level of pushback or engagement from subnational governmental units.

Data for this analysis is primarily sourced from **legal textual analysis** of relevant constitutional provisions, statutes, emergency decrees, and legislative debates. We also integrate findings from published constitutional court decisions to track the evolution and application of emergency powers. To complement this, empirical datasets tracking government responses to the pandemic, including declarations of states of emergency, stringency of measures, and documented judicial, legislative, and subnational involvement, are considered to provide a broader context of governmental actions ([Ginsburg & Versteeg, 2021](#)).

Limitations of this study include a primary focus on democratic systems, potentially overlooking nuances in autocratic or hybrid regimes. The analysis is also largely dependent on publicly available legal texts and scholarly interpretations, with an emphasis on English-language sources, which may introduce a degree of selection bias. Further, while the study aims for comprehensiveness, the complex and rapidly evolving nature of the pandemic response means that some specific local dynamics may not be fully captured.

Results

Our analysis of executive power dynamics during the COVID-19 pandemic reveals a nuanced landscape where, despite significant expansion, executive authority was frequently subject to constitutional constraints. Rather than a universally "unbound" executive, findings indicate that the degree of constraint varied significantly across jurisdictions, influenced by the resilience of institutional checks and balances.

Comparative Case Snapshots

Germany: A System Under Pressure, Yet Bound

In Germany, executive actions faced considerable judicial scrutiny, with courts frequently engaging in a delicate balancing act between public health imperatives and individual rights ([Ginsburg & Versteeg, 2021](#)). While the executive did expand its powers, the robust federal structure and active judiciary ensured that measures were often challenged and sometimes

modified or overturned, demonstrating a system that remained largely "bound" by constitutional principles.

South Africa: Judicial Assertiveness in Limiting Executive Overreach

South Africa provides a clear example of a "bound" executive, where the judiciary actively intervened to enforce constitutional limits. The Constitutional Court, for instance, notably invalidated a presidential lockdown order due to its lack of legislative basis, compelling the government to rely on existing infectious disease legislation and highlighting the judiciary's capacity to enforce procedural regularity and legislative involvement ([Ginsburg & Versteeg, 2021](#)). This demonstrates strong judicial resistance to executive overreach.

Brazil: Assertive Courts amidst Executive Dominance

Brazil presented a more complex picture. While the executive sought to dominate the policy space, particularly within a presidential federal system, courts demonstrated an assertive role in curbing executive overreach ([Chattopadhyay & Knüpling, 2021](#); [Llanos & Marsteintredet, 2023](#)). This indicates a judiciary willing to act as a crucial bulwark against the erosion of constitutional norms, even as the executive attempted significant power expansions.

Judicial Responses

Judicial bodies across various countries played a critical, albeit often reactive, role in constraining executive power. Courts, including those in Germany, the United States, and South Africa, consistently engaged in balancing individual rights against public health imperatives, actively mediating the scope of executive discretion ([Ginsburg & Versteeg, 2021](#)). Instances of judicial assertiveness, such as those observed in South Africa and Brazil, demonstrated courts' capacity to invalidate executive orders and compel adherence to established legal procedures ([Ginsburg & Versteeg, 2021](#); [Llanos & Marsteintredet, 2023](#)). This sustained engagement by the judiciary suggests a "compulsion to legality" that often triggered virtuous circles, distinguishing between the mere appearance and the substantive legality of executive actions ([Golia et al., 2020](#)). However, the effectiveness of judicial oversight was highly contingent on judicial independence and a willingness to engage in robust review rather than mere deference to executive claims ([Grogan & Yamin, 2023](#)).

Legislative Responses

Legislatures generally played a significant role in the pandemic response, with 64% of surveyed countries showing active legislative involvement in declaring or extending states of emergency or enacting new legislation ([Ginsburg & Versteeg, 2021](#)). Even when granting broad emergency powers, legislatures often implemented oversight mechanisms such as sunset clauses, reporting requirements, or dedicated oversight committees to ensure accountability ([Ginsburg & Versteeg, 2021](#)). The involvement of national parliaments was particularly crucial in cases requiring the adjustment of powers and functions of sub-national units ([Golia et al., 2020](#)). However, the extent of legislative involvement varied, ranging from robust oversight to more ceremonial "rubberstamping" of executive decisions ([Ginsburg & Versteeg, 2021](#)). This was particularly evident in cases of rapid legislative processing, where adequate parliamentary scrutiny was sometimes curtailed ([Steytler, 2021](#)). The robustness of legislative oversight was strongly correlated with the broader democratic health and constitutional design of a nation,

with 68% of democratic regimes ensuring an ongoing legislative role compared to 30% in autocratic regimes ([Ginsburg & Versteeg, 2021](#)).

Federalism/Subnational Responses

Vertical checks and balances, particularly through federalism and subnational units, also served as a crucial source of constraint. Approximately 34% of countries experienced resistance from subnational units, with democracies exhibiting higher rates of such pushback compared to autocracies ([Ginsburg & Versteeg, 2021](#)). This resistance often involved subnational governments actively pushing back against central executive directives, thereby reinforcing multi-level governance and accountability ([Golia et al., 2020](#)). This demonstrates that in many systems, executive power was not just horizontally constrained but also vertically challenged, preventing unitary executive dominance.

Rights Limitations and Derogations

The extent to which rights could be limited or derogated from during states of emergency was significantly shaped by the constitutional framework. Systems with prescriptive, tiered, and differential states of exception experienced less erosion of democratic norms compared to those with more open-ended provisions ([Grogan & Yamin, 2023](#); [Kneuer & Wurster, 2023](#)). The specific design of constitutional emergency provisions, such as those detailing legislative approval for executive decrees or specialized oversight bodies, proved pivotal in mediating the tension between urgent action and constitutional fidelity ([Ginsburg & Versteeg, 2021](#)). Conversely, "hyper-executivization," where the executive's expanded role exceeded normal governmental functions, was more pronounced in states lacking clear constitutional limitations ([Vedaschi & Graziani, 2023](#)).

Comparison of Executive Power Constraints in Selected States

State	Judicial Assertiveness	Legislative Oversight Robustness	Subnational Resistance	Rights Protection Level	Executive Characterization (during pandemic)
Germany	High (active balancing)	Moderate-High (scrutiny present)	Not explicitly detailed	High (judicially enforced)	Largely Bound
South Africa	High (invalidated orders)	Moderate-High (enforced legal basis)	Not explicitly detailed	High (judicially enforced)	Strongly Bound
Brazil	High (curbed overreach)	Moderate (some deference)	Not explicitly detailed	Moderate-High (judicially defended)	Significantly Bound (despite executive attempts)

Overall, the findings indicate that while executive power expanded across almost all surveyed jurisdictions during the pandemic, the institutional robustness of judicial review, legislative oversight, and subnational autonomy played a decisive role in whether this expansion led to an

"unbound" executive or one that remained largely "bound" by constitutional principles. This underscores the critical importance of constitutional design and the active engagement of oversight bodies in safeguarding democratic governance during crises.

Discussion

The findings of this study offer crucial insights into the enduring relevance and limitations of the "bound executive" model in constitutional theory, particularly in the context of unprecedented global crises like the COVID-19 pandemic. Our analysis reveals that while executive power demonstrably expanded across most jurisdictions, the notion of a universally "unbound" executive is largely challenged by the persistent activity of institutional checks and balances.

The "Bound Executive": Successes and Limitations

The "bound executive" model largely succeeded where judicial, legislative, and subnational bodies actively engaged in oversight, demonstrating that constitutional constraints are not necessarily suspended during emergencies. In systems like South Africa and Germany, judicial assertiveness in reviewing executive decrees and legislative actions, sometimes leading to their invalidation, provided clear evidence of an executive that remained accountable ([Ginsburg & Versteeg, 2021](#)). Brazil's assertive courts also exemplified a judiciary acting as a vital bulwark against executive overreach, even amidst attempts at presidential dominance ([Llanos & Marsteintredet, 2023](#)). This active engagement by various institutions frequently triggered a "compulsion to legality," pushing executive actions toward greater procedural regularity and substantive justification ([Golia et al., 2020](#)).

However, the "bound executive" model also revealed its limitations and areas of vulnerability. The model proved less effective where institutions exhibited deference, particularly in some legislative bodies that engaged in "rubberstamping" executive decisions, especially during the initial shock of the crisis ([Ginsburg & Versteeg, 2021](#)). The "hyper-executivization" observed in states lacking clear constitutional limits for emergency powers further illustrates a breakdown in effective constraint ([Vedaschi & Graziani, 2023](#)). Furthermore, instances of direct executive defiance of judicial rulings, though exceptional (e.g., El Salvador ([Ginsburg & Versteeg, 2021](#))), highlight the ultimate reliance of the "bound executive" on political will and respect for the rule of law. The efficacy of these mechanisms was profoundly "context-dependent" ([Lind, 2023](#)), suggesting that the mere existence of checks is insufficient without their active and independent exercise.

Institutional Resilience and Oversight Effectiveness

Our findings indicate that the capacity of democracies to resist executive overreach was directly correlated with several institutional design factors:

- **Judicial Independence and Assertiveness:** Strong judicial independence, coupled with a proactive stance in robustly reviewing executive actions rather than merely deferring to claims of necessity, was a critical factor in constraining power ([Grogan & Yamin, 2023](#)). Jurisdictions where courts moved beyond passive review to active substantive intervention, or even mandated affirmative government actions ([Ginsburg & Versteeg, 2021](#)), demonstrated greater resilience against unchecked executive power.

- **Separation of Powers and Legislative Structure:** Constitutional designs that clearly delineate powers, as opposed to systems with a more blurred legislative-executive relationship (e.g., Westminster models ([Vedaschi & Graziani, 2023](#))), generally provided more effective legislative oversight. The ability of legislatures to implement oversight mechanisms like sunset clauses or dedicated committees, rather than simply reacting to executive decrees, was crucial ([Ginsburg & Versteeg, 2021](#)). The correlation between democratic regimes and ongoing legislative roles (68%) versus autocratic regimes (30%) ([Ginsburg & Versteeg, 2021](#)) underscores this point.
- **Robust Federalism and Subnational Autonomy:** Decentralized governance structures, where subnational units could actively resist central directives, acted as a powerful vertical check, preventing unitary executive dominance ([Ginsburg & Versteeg, 2021](#); [Golia et al., 2020](#)). This multi-layered approach to governance added significant depth to constitutional constraints.
- **Prescriptive Emergency Frameworks:** Constitutions with "prescriptive, tiered, and differential states of exception" ([Grogan & Yamin, 2023](#); [Kneuer & Wurster, 2023](#)) were more successful in limiting executive power and protecting rights than those with ambiguous or open-ended emergency provisions ([Ginsburg & Versteeg, 2021](#)). These frameworks provide clear boundaries and procedural requirements that enhance accountability.

Original Insights for Constitutional Theory

1. **The Crisis as a Constitutional Stress Test:** The pandemic acted as an unprecedented stress test for constitutional systems, revealing not only their theoretical design but also their practical resilience and the latent capacity of their institutions. It highlighted that constitutional effectiveness is not just about formal rules but also about the ingrained culture of constitutionalism and the willingness of actors to uphold it under duress. This test exposed the true "muscle memory" of constitutional checks.
2. **Dynamic Recalibration, Not Static Balance:** Rather than a static separation of powers, the pandemic response showcased a dynamic process of **constitutional recalibration**. Executive power expanded rapidly, but was often subsequently reined in, or its exercise refined, through iterative challenges from the judiciary, legislative amendments, or subnational resistance. This suggests that constitutional balance is an ongoing, often contentious, process of adjustment rather than a fixed state, particularly during emergencies.
3. **The "Activist Deference" Paradox:** In many contexts, a subtle "activist deference" emerged where legislatures initially deferred to executive action due to perceived urgency or lack of expertise, yet this very deference inadvertently empowered other actors (judiciaries, subnational units) to become more activist in their oversight. This created a paradoxical situation where initial legislative passivity catalyzed more assertive checks elsewhere, ultimately reinforcing the "bound executive" through an indirect, multi-institutional path.

While the COVID-19 pandemic saw a marked expansion of executive power, the degree to which this translated into an "unbound" executive was critically mediated by the strength of constitutional design and the active engagement of oversight institutions. The findings underscore that a resilient constitutional system requires not only formal checks but also independent and assertive actors willing to employ them, continually recalibrating the balance of power in the face of crisis.

Conclusion

This paper examined whether the unprecedented expansion of executive authority during the COVID-19 pandemic universally led to an "unbound" executive or if constitutional systems were effective in maintaining checks and balances. Our central argument is that while executive power expanded considerably, most executives largely remained "bound" by constitutional principles and institutional oversight, albeit with varying degrees of efficacy and under significant duress. This binding was a nuanced process, often facilitated by active judicial review, legislative scrutiny, and subnational resistance, which collectively triggered a "compulsion to legality" and pushed executive actions towards greater procedural regularity and substantive justification ([Golia et al., 2020](#)). However, the effectiveness of these oversight mechanisms proved highly context-dependent, with pre-existing constitutional design, institutional strength, and the willingness of actors to assert their roles critically influencing outcomes. Instances of rapid legislative processing ([Steytler, 2021](#)) and executive attempts to bypass traditional channels highlighted vulnerabilities, yet the active engagement of courts, for example in South Africa invalidating presidential orders ([Ginsburg & Versteeg, 2021](#)), and the robust role of subnational units ([Ginsburg & Versteeg, 2021](#)) underscore that the constitutional framework often provided crucial, if sometimes strained, checks.

Based on these findings, several key policy and doctrinal implications emerge for fortifying constitutional resilience in future crises: Constitutions require clearer, more prescriptive, and tiered emergency clauses to prevent ambiguous power grants ([Kneuer & Wurster, 2023](#)). Emergency legislation should incorporate mandatory sunset clauses to ensure temporary measures are periodically reviewed and renewed by legislative bodies. Robust ex-post judicial review frameworks are essential, allowing courts to effectively scrutinize the proportionality and necessity of emergency measures after their implementation, contingent on their independence and willingness for active review ([Grogan & Yamin, 2023](#)). The establishment of dedicated parliamentary oversight committees for emergencies can significantly enhance legislative scrutiny ([Ginsburg & Versteeg, 2021](#)), and clearer, more transparent protocols for derogating from fundamental rights are needed to prevent arbitrary limitations ([Grogan & Yamin, 2023](#)).

Future research should delve deeper into the long-term impacts of pandemic-era constitutional adjustments on democratic norms and civil liberties, particularly examining the effectiveness of accountability mechanisms once the immediate crisis subsides. This includes investigating whether the observed "activist deference" ultimately strengthens or weakens the separation of powers and how best to institutionalize the lessons learned from this unprecedented constitutional stress test.

References

- Aoláin, F. D. N. (2021). Exceptionality: A Typology of COVID-19 Emergency Powers. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3987447>
- Bjørnskov, C., & Voigt, S. (2020). This Time is Different? - On the Use of Emergency Measures During the Corona Pandemic. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3715043>
- Bjørnskov, C., & Voigt, S. (2021). This time is different?—on the use of emergency measures during the corona pandemic. *European Journal of Law and Economics*, 54(1), 63. <https://doi.org/10.1007/s10657-021-09706-5>
- Chattopadhyay, R., & Knüpling, F. (2021). Comparative summary. In *Routledge eBooks* (p. 277). Informa. <https://doi.org/10.4324/9781003251217-27>
- Choutagunta, A., Gutmann, J., & Voigt, S. (2023). Shocking resilience? Effects of extreme events on constitutional compliance. *Journal of Institutional Economics*, 20. <https://doi.org/10.1017/s1744137423000279>
- Fombad, C. M., & Abdulrauf, L. A. (2021). Comparative overview of the constitutional framework for controlling the exercise of emergency powers in Africa. *African Human Rights Law Journal*, 20(2), 1. <https://doi.org/10.17159/1996-2096/2020/v20n2a2>
- Ginsburg, T., & Versteeg, M. (2021). The bound executive: Emergency powers during the pandemic. *International Journal of Constitutional Law*, 19(5), 1498. <https://doi.org/10.1093/icon/moab059>
- Golia, A., Hering, L., Moser, C., & Sparks, T. (2020). Constitutions and Contagion. European Constitutional Systems and the COVID-19 Pandemic. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3727240>
- Grogan, J., & Yamin, A. E. (2023). Mapping COVID-19 Legal Responses: A Functionalist Analysis. In *Cambridge University Press eBooks* (p. 354). Cambridge University Press. <https://doi.org/10.1017/9781009265690.037>
- Kneuer, M., & Wurster, S. (2023). Democratic health in the corona pandemic. The corona pandemic as a trigger or amplifier of democratic erosion or autocratization? *Zeitschrift Für Vergleichende Politikwissenschaft*, 16(4), 615. <https://doi.org/10.1007/s12286-023-00558-8>
- Lind, Y. (2023). Pandemocracy in Europe: Power, Parliaments and People in Times of COVID-19. *The American Journal of Comparative Law*, 71(2), 491. <https://doi.org/10.1093/ajcl/avad025>
- Lizama, D. A. (2023). Catástrofe, nueva Constitución y oversight legislativo: Buscar el equilibrio. *Revista de Derecho Público*, 98. <https://doi.org/10.5354/0719-5249.2023.71318>
- Llanos, M., & Marsteintredet, L. (2023). Introduction. In *Routledge eBooks* (p. 1). Informa. <https://doi.org/10.4324/9781003324249-1>

- Miljojković, T. (2021). Emergency governance (un)bound: A brief reflection on Southeast Europe's response to Covid-19 pandemic. *Pravni Zapisi*, 12(1), 123. <https://doi.org/10.5937/pravzap0-29534>
- Scheppele, K. L., & Pozen, D. (2020). Executive Overreach and Underreach in the Pandemic. In *Cambridge University Press eBooks* (p. 38). Cambridge University Press. <https://doi.org/10.1017/9781108955690.003>
- Steytler, N. (2021a). Comparative Federalism and Covid-19. In *Routledge eBooks*. Informa. <https://doi.org/10.4324/9781003166771>
- Steytler, N. (2021b). Federalism under Pressure. In *Routledge eBooks* (p. 396). Informa. <https://doi.org/10.4324/9781003166771-28>
- Turkut, E. (2022). Emergency Powers, Constitutional (Self-)Restraint and Judicial Politics: the Turkish Constitutional Court During the COVID-19 Pandemic. *Jus Cogens*, 4(3), 263. <https://doi.org/10.1007/s42439-022-00064-7>
- Vedaschi, A., & Graziani, C. (2023). New Dynamics of the “Post-COVID-19 Era”: A Legal Conundrum. *German Law Journal*, 24(9), 1612. <https://doi.org/10.1017/glj.2023.116>