

Abstract

Title of Thesis: New World, New Rules: Exploring the Impact of COVID-19 Responses in Sweden and Denmark

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The COVID-19 Pandemic presented significant challenges for the Danish and Swedish governments. Despite overarching political and social similarities, these longstanding historical connections between countries did not ensure similar approaches. This thesis argues that while the Danish government's actions were politically motivated, the Swedish government's were legalistic. This is demonstrated by their policy-making and interactions with their public health authorities and has broader implications for the public response to pandemic policy. Denmark skirted the boundaries of constitutionality by concentrating executive power, limiting personal freedom, and selectively following their health authority's advice. Sweden relied on an uncharacteristic strict adherence to their Constitution, soft governance, and upholding personal liberty.

New World, New Rules:
Exploring the Impact of COVID-19 Responses in Sweden and Denmark

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Dedication

For my Papa, Rabbi Dr. Alan Corré (Z"l).

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I would like to thank my advisors for supporting me throughout this process. I have learned so much from you about writing and about learning, and I will carry these lessons with me.

To my friends, thank you for the support, the love, and the late nights.

I would not have been able to complete this thesis without my family. To Erica, thank you for pushing me, for teaching me, and for understanding me like nobody else. To my dad, thank you for believing in me at every turn. To Mommy, thank you for everything.

כה אמר ה' מנעי קולך מבכי ועיניך מדמעה כי יש שכר לפעלתך נאמיה' ושבו מארץ אויב

וישיתקוה לאתריתך נאמיה' ושבו בנים לגבולם

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Chapter One: Introduction

In December 2019, health authorities in Wuhan, China, discovered a previously unidentified respiratory disease. This disease was a novel coronavirus that the World Health Organization (WHO) designated COVID-19. On January 13, 2020, the first case outside of China was identified in Thailand, and by January 30, the WHO declared a health emergency. On March 11, COVID-19 was classified as a global pandemic.¹ By this point, COVID-19 was already spreading rapidly through Europe, where distinct domestic conditions influenced responses and outcomes, and there was significant variation throughout government responses and outcomes.

Longstanding historical connections between countries did not ensure similar approaches. Sweden and Denmark are Nordic nations with deep cultural ties. The Nordic model is defined by strong welfare states, largely homogenous populations, and high life satisfaction.² Both countries also have universal healthcare, which is funded by taxes.³ Sweden has a population of approximately 10.5 million people.⁴ Denmark, by comparison, has a population of 5.9 million people.⁵ Sweden and Denmark's population distribution between urban and rural areas is nearly identical, with 88% of Danes⁶ and 87% of Swedes⁷ living in urban areas. Despite these similarities, their COVID-19 responses were different in significant ways.

¹ Nour Chams et al. "COVID-19: A Multidisciplinary Review." *Frontiers in Public Health* 8 (July 29, 2020). <https://doi.org/10.3389/fpubh.2020.00383>.

² Mary Hilson. "The Nordic Region." Aarhus University, February 25, 2019. <https://nordics.info/show/artikel/the-nordic-region>.

³ Karsten Laugesen et al. "Nordic Health Registry-Based Research: A Review of Health Care Systems and Key Registries." *Clinical Epidemiology* 13 (2021): 533–554. <https://doi.org/10.2147/CLEP.S314959>.

⁴ "Population Statistics - Statistikmyndigheten SCB." Statistics Sweden, September 2023. <https://www.scb.se/en/finding-statistics/statistics-by-subject-area/population/population-composition/population-statistics/>.

⁵ "Facts about Denmark." Nordic Cooperation, 2023. <https://www.norden.org/en/information/facts-about-denmark>.

⁶ "Urban Population (% of Total Population) - Denmark." World Bank Open Data, 2022. <https://data.worldbank.org/indicator/SP.URB.TOTL.IN.ZS?locations=DK>.

⁷ "Land Use in Sweden 2020 - Statistikmyndigheten SCB." Statistics Sweden, 2020. <https://www.scb.se/en/finding-statistics/statistics-by-subject-area/environment/land-use/land-use-in-sweden/pong/tables-and-graphs/land-use-in-sweden-2020/>.

My thesis will analyze these differences. My research question is: How did the Danish and Swedish governments balance the legal requirements of their political systems, recommendations from health experts, personal freedom, and mitigation of harms from the disease in their responses to the COVID-19 pandemic?

When the COVID-19 pandemic hit, governments were ill-prepared to contend with it. In the aftermath of the pandemic, we can look back and assess governmental responses, their impact on their populations, and what drove the governments's decisions to act the way they did. It is likely another epidemic will occur, and according to experts, the chances are going to rise over the next several decades.⁸ We can expect that governments will again be faced with difficult choices, and by learning from our collective experience during the COVID-19 pandemic, we can be more prepared to respond to the next one.

During the pandemic, governments had to balance limiting personal freedoms while mitigating harm from the disease. The Danish government's response was to concentrate executive power – skirting the boundary of legality – and only selectively adhere to the public health authority's recommendations. The Danish government's willingness to restrict personal freedoms and curtail other fundamental rights was politically motivated. The Swedish government, in contrast, displayed a strict adherence to constitutional precedent, consistently acted on the advice of their public health administration, and minimized interference with personal freedoms. The Swedish government's response was atypically legalistic.

When discussing the legal challenges of confronting the COVID-19 pandemic, Professor Kristian Cedervall Lauta – Associate Dean of Education in the Faculty of Law at the University of Copenhagen – applies the Collingridge Dilemma, a concept that originated to discuss

⁸ B. Adam Williams et al. “Outlook of Pandemic Preparedness in a Post-Covid-19 World.” *NPJ Vaccines* 8, no. 1 (November 20, 2023). <https://doi.org/10.1038/s41541-023-00773-0>.

technological change but has applications for any new circumstances that require government intervention.⁹ Lautá quotes Collingridge’s description of this dilemma: “during its early stages, when it can be controlled, not enough can be known about its harmful social consequences to warrant controlling its development; but by the time these consequences are apparent, control has become costly and slow.”¹⁰ Costs are not only financial but can include infringement on personal liberty, loss of trust in government, and even death. During the COVID-19 pandemic, governments around the world confronted this dilemma. Sweden and Denmark, despite deep historical ties and political similarities, chose different paths.

Balancing competing priorities, Danish scholars addressed the legal complications that arose around the pandemic. In two articles, Lautá provides some of the most relevant commentary on the pandemic in Denmark and its interaction with the law. In the first one, from May 2020, he describes the initial pandemic response and speculates about the implications and lessons to be learned. He identifies that the concentration of executive power seemed to work in the short term, but he questions whether that truly stemmed from the Danish government’s response or from Danish society’s inherent resilience.¹¹ In Lautá’s second article, from March 2021, he reflects on the response to the pandemic one year later. During this time, he chaired a task force run by a Danish labor union. The task force was created to assess the government’s actions from a legal perspective. His view of the government’s actions was, on the whole, positive, but he remarks that perceptions of government behavior are colored by ultimate success. Lautá identifies several areas where the policies ran into legal trouble and recommends

⁹ Kristian Cedervall Lautá. Something is Forgotten in the State of Denmark: Denmark’s Response to the COVID-19 Pandemic, *VerfBlog*, 2020/5/04, <https://verfassungsblog.de/something-is-forgotten-in-the-state-of-denmark-denmarks-response-to-the-covid-19-pandemic/>, DOI: 10.17176/20200504-133656-0.

¹⁰

¹¹ Lautá, “Something is Forgotten.”

reconsidering emergency procedures to ensure future success while protecting the separation of powers.¹²

Klinge et al. composed a commentary on the Danish Constitution and its impact on the COVID-19 response. They discuss the constitutional foundations of Danish emergency response and identify how the policies operated within the framework established by the Constitution. They point out that there is a concept in Danish law that is specifically not enshrined in the Danish Constitution that allows the executive branch of the government to enact laws that defy the Constitution if there is “constitutional necessity.” Rather than using this vague concept, the Danish government chose to act at the edge of constitutional legality. They highlight that the government’s response did potentially violate constitutional boundaries and was subject to criticism from legal scholars.¹³

Lars Jonung, a Swedish economist, noted the significance of the Swedish Constitution in its pandemic response. In particular, Jonung highlighted the influence of the constitutional rights to freedom of movement, the independence of public agencies, the right to local government, and, in addition, the impact of public trust.¹⁴ I draw on this analysis in my third chapter, where I discuss Sweden’s response to the pandemic. My interpretation highlights Sweden’s legalistic approach.

¹² Kristian Cedervall Laut. The Eternal Emergency? Denmark’s Legal Response to COVID-19 in Review, *VerfBlog*, 2021/3/22, <https://verfassungsblog.de/the-eternal-emergency-denmarks-legal-response-to-covid-19-in-review/>, DOI: 10.17176/20210322-151511-0.

¹³Sune Klinge et al. 2020. "COVID-19 and Constitutional Law in Denmark." In *COVID-19 and Constitutional Law*, edited by J. M. Serna de la Garza. E-book by The International Association of Constitutional Law (IACL) and the Institute of Legal Research of Mexico’s National University Instituto de Investigaciones Jurídicas, of Mexico’s National University.

¹⁴ Lars Jonung. "Sweden’s constitution decides its exceptional Covid-19 policy." *voxeu.org*. June 18, 2020. <https://voxeu.org/article/sweden-s-constitution-decides-its-exceptional-covid-19-policy>.

The definition of legalism is strict adherence to the law, but the term is also used more technically to mean the use of the law to justify and create acts and policies.¹⁵ Francesca Bignami claims that legalism in European countries is primarily what she calls “cooperative legalism” – “a regulatory process that combines tough, legalistic administrative enforcement of government rules, extensive public pressure on industry actors to self-regulate, and low levels of litigation.”¹⁶ This is in contrast to American “adversarial legalism,” which is litigious.¹⁷

Public trust studies are an important tool for understanding both the environment in which pandemic policies were received and how public opinion shifted over the course of the pandemic. They provide insight into both how popular government policies were and how effective they could be. I reference two primary studies, Nielsen and Lindvall and Kallemose et al., which are particularly relevant because both studies were conducted in both Sweden and Denmark during key moments of the pandemic.

In Nielsen and Lindvall’s study, participants were asked to rank their confidence in their government and public health authorities on a scale from 0-10. They conducted an identical survey three times in late March, late April, and late June 2020.¹⁸ Kallemose et al.’s study in April 2021 asked individuals to identify their trust in both government and public health authorities using a five-point Likert scale. This scale includes ‘very high trust,’ ‘high trust,’ “neither high nor low trust,” “low trust,” and “very low trust.”¹⁹

¹⁵ Ian Hurd. "The Empire of International Legalism." *Ethics & International Affairs* 32, no. 3 (Fall, 2018): 265-278. doi:<https://doi-org/10.1017/S0892679418000394>.

¹⁶ Francesca Bignami. “Cooperative Legalism and the Non-Americanization of European Regulatory Styles: The Case of Data Privacy.” *The American Journal of Comparative Law* 59, no. 2 (2011): 411–61. <http://www.jstor.org/stable/23045667>. 412.

¹⁷ Ibid.

¹⁸ Julie Hassing Nielsen and Johannes Lindvall. “Trust in Government in Sweden and Denmark during the COVID-19 Epidemic.” *West European Politics* 44, no. 5–6 (May 18, 2021): 1180–1204. <https://doi.org/10.1080/01402382.2021.1909964>.

¹⁹ Thomas Kallemose et al. “Political Trust in the Handling of the COVID-19 Pandemic: A Survey in Denmark and Sweden.” *BMC Global and Public Health* 1, no. 1 (August 9, 2023). <https://doi.org/10.1186/s44263-023-00009-2>.

This thesis is organized into two case studies, Denmark and Sweden. I use qualitative analysis of several source types to create a clear image of each government's response to COVID-19. I use news sources to establish pandemic timelines and government documents and communications for the content of their pandemic policies. In addition, I draw on qualitative academic research on constitutional law and public trust and quantitative sources for mortality rates and excess death rates. Specifically, I use the dataset compiled by Economist, the largest, most comprehensive dataset on COVID-19 deaths, which used machine learning in order to track excess mortality.

Despite the underlying similarities between Sweden and Denmark, the frameworks that informed their pandemic responses differed, and this had important political implications. My analysis of Denmark and Sweden's policy responses to the pandemic will describe and provide insight into what legal tools governments use in novel circumstances. In a rapidly changing world, political resilience in the face of crisis will safeguard governments and the fundamental principles on which they are built. In order to meet future threats, we need to understand our past actions and learn from them.

Chapter Two: Denmark

A health emergency presents governments with complex legal and operational challenges. When the first case of COVID-19 was identified in Denmark in early 2020, the Danish Health Administration (DHA) maintained that the risk of widespread infection and mortality was low and did not recommend extraordinary containment measures.²⁰ Despite this, the Danish government instituted a strict and rapid response, which was more in line with how other countries were beginning to act. The Danish government was likely politically motivated by the expectation that they would be judged against their peers and not in absolute terms. Their responses throughout the pandemic would be colored by this political motivation, sidelining public health authorities and pushing legal boundaries through executive overreach.

The three components of the Danish state are the Executive, or Government – which is made up of the Prime Minister and their ministers – the Parliament, and the Judiciary. Denmark has a longstanding tradition of minority governments that form coalitions. The Prime Minister is the leader of the largest elected party that can form a coalition.²¹ The Danish Prime Minister during the pandemic was Mette Frederiksen, a Social Democrat who came to power in 2019.²²

The Danish Constitution states that the role of regional and municipal governments is governed by statutory law, and the Constitution empowers Parliament to dictate which tasks are assigned to local authorities. Denmark's current unitary state structure is the result of a massive government reform in 2007. Denmark was reorganized from 271 municipalities and 14 counties

²⁰ "Managing the Covid-19-Crisis: The Early Danish Experience." Report delivered to the Standing Orders Committee of the Danish Parliament. January 2021.

²¹ Hansen, Martin Ejnar, "The Government and the Prime Minister: More than Primus Inter Pares?", in Peter Munk Christiansen, Jørgen Elklit, and Peter Nedergaard (eds), *The Oxford Handbook of Danish Politics*, Oxford Handbooks (2020; online edn, Oxford Academic, 6 Aug. 2020), <https://doi.org/10.1093/oxfordhb/9780198833598.013.8>.

²² Andersen, D., Kirkegaard, S., Toubøl, J., & Carlsen, H. B. (2020). Co-Production of Care During COVID-19. *Contexts*, 19(4), 14-17. <https://doi-org./10.1177/1536504220977928>

into 98 municipalities and five regions. This reform redistributed roles and responsibilities between the national, regional, and municipal governments.²³

An important constitutional construct in Denmark is the separation of powers. The Government is given executive power, Parliament is given primary legislative power, the Government has secondary legislative power, and the Judiciary is responsible for exercising judicial power. There are no requirements for special skills or education to be made a minister of a particular field, and ministers do not need to be members of Parliament. Ministers can be overruled or removed from their position if Parliament is displeased with their performance. Ministers are empowered to create legislation as well as oversee enforcement.

Two types of rights are fundamental to the Danish Constitution: political rights and personal rights. Political rights encompass freedom of speech, unarmed assembly, and association. Personal rights include home and property rights as well as other personal freedoms, such as *habeas corpus*. Home and property rights protect against warrantless searches and unauthorized entry into private residences.²⁴

Denmark's Constitution contains relatively few references to emergency procedures, but there is an article that allows the Government to introduce provisional laws in the case that Parliament cannot meet. These temporary laws must be constitutional and are subject to parliamentary approval as soon as Parliament can meet. There is also a concept in Danish law known as "constitutional necessity," which allows the Government to take extraordinary and unconstitutional measures if they deem it necessary²⁵

²³ Kurt Houlberg and Niels Ejersbo, 'Municipalities and Regions: Approaching the Limit of Decentralization?', in Peter Munk Christiansen, Jørgen Elklit, and Peter Nedergaard (eds), *The Oxford Handbook of Danish Politics*, Oxford Handbooks (2020; online edn, Oxford Academic, 6 Aug. 2020), <https://doi.org/10.1093/oxfordhb/9780198833598.013.10>.

²⁴ Jens Peter Christensen. 'The Constitution', in Peter Munk Christiansen, Jørgen Elklit, and Peter Nedergaard (eds), *The Oxford Handbook of Danish Politics*, Oxford Handbooks (2020; online edn, Oxford Academic, 6 Aug. 2020), <https://doi.org/10.1093/oxfordhb/9780198833598.013.2>.

²⁵ Klinge et al. "COVID-19 and Constitutional Law."

The responsibility for healthcare in Denmark is divided between the three levels of government. The national government, specifically the Minister of Health, is responsible for overall healthcare policy and supervising agencies. The DHA is an advisory organization responsible for guiding the Minister of Health as well as institutions at every level of government, including the minister of health, and for creating standardized clinical recommendations. Smaller, specialized organizations include ones for healthcare data, patient complaints, and, most significantly, in the case of the COVID-19 pandemic, the State Serum Institute (SSI). The SSI is responsible for infectious disease management, including mitigation, vaccination, and surveillance.²⁶ The regional authorities are tasked with managing hospitals and the provision of primary and specialist care. The municipalities are responsible for community health, which includes home and institutional care for the elderly.²⁷

Denmark's first case of COVID-19 was identified on February 27, 2020.²⁸ Initially, the DHA maintained that the likelihood of a widespread COVID-19 crisis in Denmark was low, and they did not plan to adjust their risk assessment.²⁹ Despite this claim, Prime Minister Frederiksen made the first official COVID-19 recommendation that very day and suggested that Danes voluntarily limit the size of public gatherings.³⁰ On March 11, 2020, the Danish government announced a major shift from the initial voluntary measures, moving from the DHA's

²⁶ Morten Schmidt et al. The Danish health care system and epidemiological research: from health care contacts to database records. *Clin Epidemiol.* 2019 Jul 12;11:563-591. doi: 10.2147/CLEP.S179083. PMID: 31372058; PMCID: PMC6634267.

²⁷ Ibid.

²⁸ John Gitz Holler et al. First wave of COVID-19 hospital admissions in Denmark: a Nationwide population-based cohort study. *BMC Infect Dis* 21, 39 (2021). <https://doi.org/10.1186/s12879-020-05717-w>

²⁹ "Denmark confirms first coronavirus case in man returning from holiday in Italy." Reuters. Published February 27, 2020. <https://www.reuters.com/article/idUSKCN20L007/>

³⁰ "Managing the Covid-19-Crisis: The Early Danish Experience." Report delivered to the Standing Orders Committee of the Danish Parliament. January 2021.

containment-focused strategy that prioritized isolation and infection tracking to a more comprehensive mitigation strategy.³¹

This announcement preceded the introduction and passing of ‘Law Amending the Law on Measures Against Infectious Diseases and Other Contagious Diseases.’³² This law, then referred to as the “Epidemic Act,” a revision of the original Epidemic Act from 1915, which was overhauled in 1979. The law remained from 1979 to 2020 with minor adjustments. The 1979 iteration of the Epidemic Act dictated that the responsibility for epidemic management was divided among the five regions. Each region had an Epidemic Commission that was made up of public servants, physicians, and other regional leaders. The Epidemic Commissions were empowered to institute lockdowns, among other epidemic mitigation measures.³³ The March 2020 amended Epidemic Act centralized epidemic response by removing the regional Epidemic Commissions structure and reassigning power to the Health Minister.³⁴ The new Epidemic Act was passed unanimously by the Danish Parliament in only 12 hours (bypassing the standard 30-day protocol for passing laws), displaying unprecedented unity within the government. The law had a one-year sunset clause and was set to expire in March 2021.³⁵

In April 2020 testing became widely available through a partnership with Novo Nordisk, Denmark’s largest pharmaceutical company. The Danish government and Novo Nordisk announced their collaboration, allowing non-symptomatic Danes and exposed groups, such as

³¹ Ibid.

³² Michael Kluth et al. (2023). Denmark: Executive Power Concentration, Yet Still Consensus-Oriented. In: Lynggaard, K., Jensen, M.D., Kluth, M. (eds) *Governments' Responses to the Covid-19 Pandemic in Europe*. Palgrave Macmillan, Cham. https://doi.org/10.1007/978-3-031-14145-4_23

³³ Janne Rothmar Herrman. “How Denmark’s Epidemic Act Was Amended to Respond to Covid-19 - Bill of Health.” *Bill of Health - The blog of the Petrie-Flom Center at Harvard Law School*, May 26, 2020. <https://blog.petrieflom.law.harvard.edu/2020/05/26/denmark-global-responses-covid19/>.

³⁴ Lauterbach “Something is Forgotten.”

³⁵ Lauterbach “The Eternal Emergency.”

healthcare workers, to be tested regularly. Denmark had one of the highest per-capita testing rates in the world.³⁶

Over the next several days, the Danish government announced that they were implementing many restrictions, including school and daycare closures as well as public transit limitations, shutdowns of shopping centers, and further limitations on public gatherings. On March 13, they closed the borders. Frederiksen announced on April 6 that primary schools and daycares would reopen on April 15, and the limitations on public gatherings would be eased, although large gatherings would not be allowed until August.³⁷ Throughout 2020, restrictions fluctuated based on infection rates. Restrictions that eased over the summer – such as reducing the number of people allowed in a public gathering from 50 to 10 and a ban on selling alcoholic beverages after 10:00 PM – were reintroduced in October. New facemask requirements were introduced for all indoor public spaces.³⁸ These restrictions were all developed under the advisement of the SSI.

Public controversy began to arise over the next year. First, in November, the Government sought to update and codify the initial amendment to the Epidemic Act. In the first version, they proposed radical measures for epidemic mitigation, including forcible medical examination and vaccination with the potential for physical coercion.³⁹ This proposition was met with skepticism

³⁶ Darius Ornston. “Denmark’s Response to COVID-19: A Participatory Approach to Policy Making.” in *Coronavirus Politics: The Comparative Politics and Policy of COVID-19* edited by Andre Peralta-Santos, Elize Massard da Fonseca, Elizabeth J King, and Scott L. Greer. Ann Arbor: University of Michigan Press, 2021., <https://doi.org/10.1353/book.83273>.

³⁷ "Managing the Covid-19-Crisis: The Early Danish Experience." Report delivered to the Standing Orders Committee of the Danish Parliament. January 2021.

³⁸ Michael Barrett. “Denmark Announces New Coronavirus Restrictions: Here’s What You Need to Know.” *The Local Denmark*, October 23, 2020. <https://www.thelocal.dk/20201023/denmark-announces-new-coronavirus-restrictions-heres-what-you-need-to-know>.

³⁹ “Explained: What Is Denmark’s Proposed ‘epidemic Law’ and Why Is It Being Criticised?” *The Local Denmark*, November 15, 2020. <https://www.thelocal.dk/20201113/explained-what-is-denmarks-proposed-epidemic-law-and-why-is-it-being-criticised> ed.

and anger from opposition parties and the public. The final version of this law included parliamentary supervision and judicial review of Executive actions.⁴⁰

Another major source of controversy was a government-enforced mandatory culling of Denmark's entire farmed mink population. The decision to cull the minks was made after a mutated version of the coronavirus jumped from mink to humans, raising concerns about the effectiveness of the vaccine in development and worsening the pandemic. Despite being advised that it was illegal, the Minister for Agriculture recommended that all mink, including unaffected animals, be culled to reduce spread, and the Prime Minister mandated the cull. All 1,100 Danish mink farmers were instructed to kill their animals. The cull was halted midway through, and attention was redirected to infected animals. The Minister for Agriculture stepped down due to significant backlash from the opposition parties and the public.⁴¹ "Minkgate" also raised a constitutional issue, as the government interfered with private property without true public health necessity.

Denmark began a wide-reaching and rapid vaccination campaign against the virus in December 2020. Within a year, 73% of the Danish population had been fully vaccinated against COVID-19, and the government removed most remaining guidelines on gatherings by the end of September 2021. Although the Delta variant of the coronavirus was spreading, the government felt that with the high vaccination rate, they could reduce regulations.⁴² With the rise of the Omicron variant in the following months, the state reinstated some restrictions, but all COVID-19 mandates were removed permanently in February 2022.⁴³

⁴⁰ Lauta "The Eternal Emergency."

⁴¹ Thomas Erdbrink and Marc Santora. "The Culling of Minks in Denmark Prompts a Political Crisis." The New York Times, November 19, 2020.

<https://www.nytimes.com/2020/11/19/world/the-culling-of-minks-in-denmark-prompts-a-political-crisis.html>.

⁴² Aina J. Khan. "Denmark Lifts the Last of Its Coronavirus Restrictions." The New York Times, September 11, 2021. <https://www.nytimes.com/2021/09/11/world/denmark-lifts-Covid-restrictions.html>.

⁴³ Adrienne Murray. "Denmark Covid Restrictions Lifted despite Increase in Cases." BBC News, February 1, 2022. <https://www.bbc.com/news/world-europe-60215200>.

Health outcomes influence public perceptions of government efficacy and success during a pandemic. The primary metric is death attributed to the virus, especially excess death. Excess death refers to any deaths beyond the expected amount for that period based on mortality data from previous years.⁴⁴ Excess mortality, while an imperfect measure, gives a sense of the impact of the pandemic on human survival.

The Economist reported that excess deaths in Denmark through December 2022 were 113.4 per 100,000 people. The number of official COVID-19 deaths at the same time was 132.84 per 100,000, or 7,793 total reported COVID-19 deaths.⁴⁵

Denmark's excess and official death rates were low compared to the rest of Europe. Europe's official COVID-19 deaths were 270 per 100,000 people, but the Economist's estimated excess death rate for Europe was 520 per 100,000 people, more than four times Denmark's reported excess deaths.⁴⁶ Denmark's relative success compared to Europe may have contributed to high levels of satisfaction with the government because perceived success compared to other countries bolsters public opinion.⁴⁷

The Danish Government pushed the boundaries of legality and democracy several times during the pandemic. First, at the beginning of the pandemic, the hearing and debate process and 30-day waiting period for creating laws were set aside for 27 bills in favor of rapid action. This was unheard of.⁴⁸ Some of these bills gave unprecedented power to the executive, specifically, the Minister of Health, to create statutory law. The Danish Bar and Law Society and the Danish

⁴⁴ "COVID-19 mortality and excess mortality", in Health at a Glance: Europe 2022: State of Health in the EU Cycle, OECD Publishing, Paris

⁴⁵ The Economist and Solstad, S. (corresponding author), 2021. The pandemic's true death toll. [online] The Economist. <https://www.economist.com/graphic-detail/coronavirus-excess-deaths-estimates>. First published in the article "Counting the dead", The Economist, issue 20, 2021.

⁴⁶ Ibid.

⁴⁷ Nielsen and Lindvall. "Trust in Government."

⁴⁸ Klinge et al. "COVID-19 and Constitutional Law."

Institute for Human Rights were both critical of these decisions.⁴⁹ A group of judges also wrote to the Government about their concerns surrounding the initial response period.⁵⁰ While not technically illegal, it skirted the line of what would be considered appropriate for a democratic nation.

Another area where normal processes were suspended was the Judiciary. There were two primary constitutional issues with respect to the Judiciary in the early pandemic period. The first was an amendment to the penal code that called for harsh sentencing for crimes related to COVID-19. Right-wing parliamentarians took advantage of the penal code amendments to impose extreme punishments for non-citizens, threatening repatriation. Judges were disconcerted by the unusual sentencing guidelines and expressed concern that it interfered with the separation of powers. They also expressed concern over political interference with the actions of the courts during and after reopening, another violation of the separation of powers.⁵¹

Another possible violation was allowing for warrantless searches. While there is constitutional protection against warrantless entry into homes, the protection only exists when the law does not allow for entry. By proposing the amendment to the Epidemic Act, the Executive attempted to expand the powers of the Health Minister and police to enter private homes.⁵²

The Danish government's overreach was politically motivated, which is evidenced by the government's selectivity in the expert advice on which they chose to build their policies. After the first case of COVID-19 was diagnosed in Denmark, the DHA maintained its original position on the best course of action in response to the pandemic. They recommended against lockdowns

⁴⁹ "Managing the Covid-19-Crisis: The Early Danish Experience." Report delivered to the Standing Orders Committee of the Danish Parliament. January 2021.

⁵⁰ Kluth, Jensen and Lyngaard. "Denmark: Executive Power Concentration."

⁵¹ Klinge et al. "COVID-19 and Constitutional Law."

⁵² Herrmann. "How Denmark's Epidemic Act."W

and border closures.⁵³ Despite this, on March 12, Prime Minister Frederiksen announced the decision to lockdown, claiming that it was on the advice of experts, even though the DHA had made no such recommendation.⁵⁴ Frederiksen’s claim led to a parliamentary investigation into the Executive’s response to the pandemic and its misrepresentation of its consideration of expert advice.⁵⁵ At the hearing, Fredriksen said that they “... receive advices and recommendations on how to get the situation under control. But deciding if, how and how much were to be shut down was a political decision.”⁵⁶

The Danish government did not ignore expert advice entirely. Rather, it prioritized the advice of the SSI over the DHA. The SSI’s focus was limited to the pandemic and its narrow view allowed it to make dramatic recommendations. The DHA’s responsibility to greater societal health informed its less restrictive pandemic recommendations.⁵⁷

According to Kristian Cedervall Lauta, the decision to shift the power structure for pandemic management into the hands of the Executive rather than the regions or Parliament was in no small part because of the Executive’s disagreement with the recommendations of the DHA.⁵⁸

Public trust is a useful tool for understanding how of the government or health authority’s actions are perceived by the people. There were two primary studies on public trust in Denmark during the COVID-19 pandemic. The first study was conducted by Julie Hassing Nielsen and Johannes Lindvall and included a series of three identical surveys conducted in late March, late

⁵³ Tom Christensen et al. “The Nordic Governments’ Responses to the COVID-19 Pandemic: A Comparative Study of Variation in Governance Arrangements and Regulatory Instruments.” *Regulation & Governance* 17, no. 3 (October 2, 2022): 658–76. <https://doi.org/10.1111/regg.12497>.

⁵⁴ Lauta, “The Eternal Emergency.”

⁵⁵ Ibid.

⁵⁶ Klinge et al. “COVID-19 and Constitutional Law.”

⁵⁷ Christensen et al. “The Nordic Governments’ Responses.”

⁵⁸ Lauta “The Eternal Emergency.”

April, and late June 2020.⁵⁹ The second study was conducted by Thomas Kalleemose et al. in April 2021.⁶⁰ Both studies provide unique insights into the evolution of the Danish responses to their COVID-19 experiences.

In Nielsen and Lindvall's study, participants were asked to rank their confidence in their government and public health authorities on a scale from 0-10. The three surveys indicated that Danes ranked their belief that their government could guide them successfully through the pandemic at 7.8 in March, 7.4 in April, and 7.1 in June. When asked about their confidence in their public health authorities, they answered 8.0 in March, 7.7 in April, and 7.6 in June. While the numbers decreased, they still indicate a very high level of confidence. Nielsen and Lindvall note that their survey on public health authorities in Denmark referred to the SSI, not the DHA.⁶¹

Kalleemose et al.'s study asked individuals to identify their trust in government or public health authorities using a five-point Likert scale. This scale includes 'very high trust,' 'high trust,' 'neither high nor low trust,' 'low trust,' and 'very low trust.' Kalleemose et al. found that 61% of Danes rated their trust in the government as "high" or "very high." 83% of the respondents rated their trust in public health authorities as "high" or "very high." Unlike Nielsen and Lindvall, Kalleemose et al. were referring to the DHA in their survey rather than the SSI.⁶²

The Danish government was not immune to the impact of a scandal on public trust. In particular, the Minister of Agriculture's illegal recommendation to cull the entire farmed mink population in November 2020 diminished the public's perception of the government. In the aftermath of "minkgate," public support for the government dropped 20%.⁶³ Frederiksen was

⁵⁹ Nielsen and Lindvall. "Trust in Government."

⁶⁰ Kalleemose et al. "Political Trust."

⁶¹ Nielsen and Lindvall. "Trust in Government"

⁶² Kalleemose et al. "Political Trust."

⁶³ Erdbrink and Santora. "The Culling of Minks"

pressured by one of the parties in her coalition to call an election in October 2022 after they threatened to leave the coalition over her role in the mink cull.⁶⁴

“Minkgate” was a dramatic and emotional incident that crossed the line of executive overreach, harmed public opinion, and threatened government stability. The Government’s other boundary-pushing acts, including the rapid expansion of executive power through the amendment to the Epidemic Act and Parliament and the Executive’s interference in judicial affairs, did not cause a similar decline in public opinion. The government also ignored the expert advice of the DHA in favor of the limited-scope SSI and misrepresented these decisions to the public. None of these actions crossed the line into illegality, and their pandemic outcomes were better than those of their European neighbors. In addition, the state’s responsiveness and willingness to lift restrictions when conditions changed bolstered public opinion. Denmark’s high level of public trust empowered the Government to push boundaries without significant consequences.

Approaching the pandemic as a political crisis has potential drawbacks. Lauta recognized the risks of this strategy early on. In May 2020, he commented on the importance of ensuring accountability in the face of concentrated executive power as the checks that are built into the system become less effective. He warned that Denmark shouldn’t take the wrong lessons from its successes and to be cautious in the future before setting aside normal constitutional standards.⁶⁵

⁶⁴ Eline Schaart. “Brought to the Brink by Mink: Denmark’s PM Faces Election.” POLITICO, October 4, 2022. <https://www.politico.eu/article/brought-to-the-brink-denmark-prime-minister-faces-elections/>.

⁶⁵ Lauta. “Something is Forgotten.”

Chapter Three: Sweden

The Swedish response to the COVID-19 pandemic was unique. Their largely laissez-faire approach – recommending rather than mandating – drew significant global attention, both positive and negative, as well as harsh criticism among some Swedish scientists.⁶⁶ Despite skepticism, Sweden’s actions were in line with domestic public health recommendations and adhered to their constitutional legal requirements. Swedish constitutional practice generally relies on creating systems and organizations that address unfolding situations without trying to control outcomes, which was consistent with their COVID-19 pandemic policy.⁶⁷ However, Swedish political and legal decision-making is usually “pragmatic and consensual, where the government’s ability to take action...has been given deliberate precedence over constitutional ideas that focus on limiting government under higher law.”⁶⁸ Swedish Parliament and Public Health Authority's (PHA) singular actions were the result of an uncharacteristic legalistic compliance with the Swedish constitution.

Sweden’s government is a constitutional monarchy with a figurehead monarch and three active bodies of government. The primary legislative body is Parliament. The executive branch comprises the Prime Minister, who selects their cabinet. Sweden’s executive branch is closely intertwined with the Judiciary, the third branch of the government, which often acts as an

⁶⁶ Vogel, Gretchen. “Sweden’s Gamble.” *Science*, October 6, 2020.
<https://www.science.org/doi/10.1126/science.370.6513.159>.

⁶⁷ Ahlbäck Öberg, Shirin, 'Introduction: Constitutional Design', in Jon Pierre (ed.), *The Oxford Handbook of Swedish Politics* (2015; online edn, Oxford Academic, 2 June 2016),
<https://doi.org/10.1093/oxfordhb/9780199665679.013.42>

⁶⁸ *Ibid.*

instrument of executive power rather than a counterbalance against it.⁶⁹ This relationship allows for coordination and pragmatism and generally reduces the need for legalism.

The Constitution guarantees the rights of local government. Many areas, including healthcare, are under the authority of regional and municipal governments.⁷⁰ In Sweden, there are 21 regional bodies and 290 municipalities. The regional bodies are responsible for the vast majority of healthcare provision, including managing hospitals and primary care facilities, as well as employing physicians. Municipalities deal with caring for the elderly, children, disabled people, and other vulnerable populations.⁷¹ The Constitution also gives local governments broad power to govern in their regions. This prevents the national government from intervening in the areas directly governed by regional and municipal governments and also allows those governments to institute local public health regulations as necessary.⁷² National authorities, including the executive branch and agencies, rely on “soft governance”⁷³ – making recommendations and creating guidelines to influence the actions of local governments. Only Parliament can create binding legislation, which is a lengthier and more involved process.⁷⁴

Another important constitutional precept is the protection against ministerial rule, which further limits the role of the executive branch. The law governing ministerial rule in Sweden serves two primary purposes. The first is to create freedom for the agencies. This structure

⁶⁹ Shirin Ahlbäck Öberg and Helena Wockelberg, 'The Public Sector and the Courts', in Jon Pierre (ed.), *The Oxford Handbook of Swedish Politics* (2015; online edn, Oxford Academic, 2 June 2016), <https://doi.org/10.1093/oxfordhb/9780199665679.013.8>,

⁷⁰ Ibid.

⁷¹ Heshmati, Almas, Mike Tsionas, and Masoomah Rashidghalam. “An Assessment of the Swedish Health System’s Efficiency during the COVID-19 Pandemic.” *International Journal of Healthcare Management* 16, no. 3 (August 3, 2022): 336–52. <https://doi.org/10.1080/20479700.2022.2102184>.

⁷² Lars Jonung. “Sweden’s Constitution Decides.”

⁷³ Shirin Ahlbäck Öberg, 'Introduction: Constitutional Design', in Jon Pierre (ed.), *The Oxford Handbook of Swedish Politics* (2015; online edn, Oxford Academic, 2 June 2016), <https://doi.org/10.1093/oxfordhb/9780199665679.013.42>

⁷⁴ Ibid.

prevents agencies from having to make decisions based on the political whims of the public or elected officials, allowing them to exercise their expertise without interference. The second is to protect the elected officials from legal responsibility for agencies' decisions. The agencies are legally responsible for the outcomes of their decisions and actions. This accountability means they cannot blame orders from elected officials for their misguided efforts, as the elected officials are not allowed to intervene.⁷⁵ This structure had wide-reaching implications for pandemic policy, as the PHA was responsible for drafting guidelines and applying the existing laws without intervention from the government.

It is within Parliament's power to disregard public health officials' recommendations when crafting laws.⁷⁶ The PHA took an unusual and controversial stance, recommending against lockdowns, yet the Swedish Parliament largely chose to adhere to their recommendations. Other countries, for example, Norway and Denmark, closed schools despite their public health departments encouraging them not to, while Sweden's parliament heeded the PHA's advice.⁷⁷

In addition to the prohibition on ministerial rule, limiting elected officials' influence on the PHA, the Swedish Constitution enshrines certain individual rights and government responsibilities that informed the state's COVID-19 responses. The Constitution guarantees freedom of movement on the national level, which cannot be restricted during peacetime. This guarantee prevents restrictions on internal travel and is also the mechanism that prevents the government from establishing a state of emergency in peacetime. The constitutional protections

⁷⁵ Thomas Bull and Ian Cameron. 'The Evolution and Gestalt of the Swedish Constitution', in Armin von Bogdandy, Peter M. Huber, and Sabrina Ragone (eds), *The Max Planck Handbooks in European Public Law: Volume II: Constitutional Foundations* (Oxford, 2023; online edn, Oxford Academic, 22 June 2023), <https://doi-org.proxy.lib.umich.edu/10.1093/oso/9780198726425.003.0012>

⁷⁶ Arash Heydarian Pashakhanlou. Sweden's coronavirus strategy: The Public Health Agency and the sites of controversy. *World Med Health Policy*. 2022 Sep;14(3):507-527. doi: 10.1002/wmh3.449. Epub 2021 Jun 3. PMID: 34226854; PMCID: PMC8242624.

⁷⁷ Catherine Edwards. (2020). Who's actually responsible for Sweden's Coronavirus strategy? *The Local*. <https://www.thelocal.se/20200330/whos-actually-in-charge-of-swedens-coronavirus-strategy>

on freedom of movement do not prevent all government interventions to protect the public, as an additional article in the Constitution does allow the government to restrict the right to freely assemble for safety reasons, including public health.⁷⁸ which the Swedish government used to limit gatherings of more than 50 people early in the pandemic.

The first confirmed case of COVID-19 in Sweden was detected on January 31, 2020.⁷⁹ Swedish leadership took little action until the spread increased in early March. By adding COVID-19 to the list of reportable infectious diseases, however, Parliament opened additional avenues for intervention. On March 17, secondary schools (for individuals older than 16) were closed, and students shifted to online learning. On March 24, the PHA advised against standing in crowded lines at restaurants and recommended physical distancing between in-person diners. Municipalities were responsible for enforcement, and some restaurants were shut down for non-compliance.⁸⁰ In April 2020, the Swedish Parliament passed its first emergency COVID-19 law, which allowed the government to enact temporary measures, such as closing shopping malls or limiting transportation. The law automatically expired in July 2020.⁸¹

In December 2020, Sweden introduced its strictest set of COVID-19 regulations.

Non-essential public places, specifically pools, gyms, and libraries, were closed. The government

⁷⁸ Ibid.

⁷⁹ “The First Confirmed Coronavirus Case in Sweden.” Krisinformation.se, January 31, 2020. <https://www.krisinformation.se/en/news/2020/january/who-classes-the-outbreak-of-the-corona-virus-as-an-international-threat-to-human-life2>.

⁸⁰ Jonas F. Ludvigsson. The first eight months of Sweden's COVID-19 strategy and the key actions and actors that were involved. *Acta Paediatr.* 2020 Dec;109(12):2459-2471. doi: 10.1111/apa.15582. Epub 2020 Oct 11. PMID: 32951258; PMCID: PMC7537539.

⁸¹ Elin Hofverberg. Sweden: Swedish Parliament Gives Swedish Government Temporary Emergency Powers Because of COVID-19 Outbreak. 2020. Web Page. <https://www.loc.gov/item/global-legal-monitor/2020-04-22/sweden-swedish-parliament-gives-swedish-government-temporary-emergency-powers-because-of-covid-19-outbreak/>.

also recommended masks on public transportation.⁸² Masking was still not mandated despite high levels of infection and WHO recommendations.

The state was not empowered by the Constitution to declare a state of emergency to push laws through without normal procedures. However, by January 2021, the Swedish Parliament passed the COVID-19 Act in compliance with standard parliamentary practice.⁸³ This act allowed the government to institute stricter limitations on the size of gatherings, mandate social distancing in public places like shops and restaurants, and impose monetary fines on people who broke these restrictions. The act was written to be temporary and expired in September 2021.⁸⁴ The laws were enacted, presumably, so Parliament could institute stricter restrictions where it perceived the PHA as failing, yet they never instituted a mask mandate, a lockdown, or closed elementary schools.⁸⁵

The Swedish vaccination campaign against COVID-19 began at the beginning of January 2021 and progressed rapidly.⁸⁶ Sweden removed all remaining COVID-19 restrictions on February 9, 2022,⁸⁷ at which point 73% of the population had received at least one dose of the vaccine.⁸⁸

⁸² “Sweden Introduces Toughest Measures yet in the Face of Second Covid-19 Wave | Reuters.” Reuters, December 18, 2020.

<https://www.reuters.com/business/healthcare-pharmaceuticals/sweden-introduces-toughest-measures-yet-face-second-covid-19-wave-2020-12-18/>.

⁸³ Ala Sarah Alaqra and Akhona C. Kumalo. Handling Public Well-being During the COVID-19 Crisis: Empirical Study With Representatives From Municipalities in Sweden

⁸⁴ Carl Dahlström and Johannes Lindvall. “Sweden and the COVID-19 Crisis.” The Quality of Government Institute: The University of Gothenburg, October 2021.

⁸⁵ Almas Heshmati, Mike Tsionas, and Masoomeh Rashidghalam. “An Assessment of the Swedish Health System’s Efficiency during the COVID-19 Pandemic.” *International Journal of Healthcare Management* 16, no. 3 (August 3, 2022): 336–52. <https://doi.org/10.1080/20479700.2022.2102184>.

⁸⁶ Official data collated by Our World in Data – Last updated 15 April 2024 – processed by Our World in Data. “people_vaccinated” [dataset]. Official data collated by Our World in Data – Last updated 15 April 2024 [original data].

⁸⁷ Camille Gijs and Charlie Duxbury. “Sweden to Lift All Coronavirus Restrictions.” *POLITICO*, February 3, 2022. <https://www.politico.eu/article/sweden-lifts-coronavirus-restrictions-madgalena-andersson-omicron-endemic/>.

⁸⁸ Official data collated by Our World in Data – Last updated 15 April 2024 – processed by Our World in Data

The pre-pandemic health infrastructure influenced outcomes during the pandemic. The Swedish healthcare system is large and decentralized, which has benefits and drawbacks. Care is inexpensive and easily accessible, but the bureaucracy that makes the healthcare system operate efficiently under normal circumstances contributed to challenges during the pandemic.⁸⁹ While there were limited beds in the regional hospitals, a pre-pandemic problem, every patient who needed inpatient or ICU care was accommodated. However, this was only possible at the expense of overworked and overburdened medical professionals.⁹⁰ Ultimately, the regional healthcare systems were stressed by a pandemic that they were not prepared for, but their structures remained intact and functional.

Adverse results during the pandemic were most evident at the municipal level. The municipalities were responsible for long-term care facilities for the elderly, which were the sites of significant rates of COVID-19 infections and deaths. These deaths are partially attributable to high virus transmission in general society, but the problems were compounded by the fact that care facilities were ill-equipped, poorly organized, lacked competent staff, and the residents were more vulnerable than the general population due to their age. A significant structural failing was the inability of municipalities to acquire physician assistance for long-term care residents because physicians can only be employed by the region and not the municipality.⁹¹ Local governments were not given sufficient freedom (or resources) to govern or manage the pandemic effectively. The national government remained committed to its legalistic approach despite the

⁸⁹ Anders Anell, Anna H. Glenngård, and Sherry Merkur. Sweden: Health system review. *Health Systems in Transition*, 2012, 14(5):1–159.

⁹⁰ Jonas F Ludvigsson. “How Sweden Approached the COVID-19 Pandemic: Summary and Commentary on the National Commission Inquiry.” *Acta Paediatrica* 112, no. 1 (September 15, 2022): 19–33. <https://doi.org/10.1111/apa.16535>.

⁹¹ M. Tarvis et al. From chaos to a new normal—the COVID-19 pandemic as experienced by municipal health and social care providers in Sweden: A qualitative study. *Nordic Journal of Nursing Research*. 2023;43(1). doi:10.1177/20571585221124379

local government's struggles, which might have been alleviated with more pragmatic interventions from above.

The municipalities' challenges had real-world consequences. The total number of COVID-19 deaths for the through December 2022 is 21,827. Excess mortality is the measure of how many more people died in a particular period than in a previously established baseline period. The Economist's research found that the excess mortality rate in Sweden for the observed period was 187.4 per 100,000.⁹² Excess mortality is a difficult metric to use as it is heavily dependent on how the baseline is established. Despite this, it remains the most useful metric for understanding COVID-19 deaths in the context of annual mortality rates.

Death statistics have several complicating factors, as countries are responsible for self-reporting this data, and each one uses a different set of rules to determine what counts as a COVID-19 death. Sweden reported COVID-19 deaths as any person who died with a COVID-19 diagnosis in the 30 days preceding death.⁹³ This could mean that Sweden overestimated deaths that were caused by COVID-19, as opposed to deaths of individuals with COVID-19. The OECD found that Sweden's gap between COVID-19 deaths and excess mortality was negative, suggesting that Sweden was likely reporting COVID-19 deaths accurately and that the deaths from other causes were lower in the pandemic period than in other years.⁹⁴

Public trust in Sweden was high before the pandemic began and remained steady through the early period of the pandemic.⁹⁵ The two major studies on public trust during the pandemic were conducted by Nielsen and Lindvall and Kallemose et al. Nielsen and Lindvall's study

⁹² The Economist and Solstad, S. "The pandemic's true death toll."

⁹³ Johan Norberg. "Sweden During the Pandemic." Cato.org, August 29, 2023. <https://www.cato.org/policy-analysis/sweden-during-pandemic>.

⁹⁴ "COVID-19 mortality and excess mortality" OECD.

⁹⁵ Ludvigsson, Jonas F. "The First Eight Months"

consisted of three identical surveys conducted in March, April, and June 2020 that had participants rate government and health authority performance on a scale from 0 - 10.⁹⁶

Kallemose et al. conducted their study in April 2021, and participants ranked their trust in the government on a five-point Likert scale.⁹⁷

In Nielsen and Lindvall's study, Swedish respondents remained consistent in their confidence level in both the government and the PHA during March and April 2020 at 6.3 and 7.2, respectively. In the June survey, the confidence levels dropped to 5.5 and 6.5. Nielsen and Lindvall also found that political polarization affected the public opinion of government performance as reflected in this study.⁹⁸

In Kallemose et al. 42% of Swedish respondents expressed moderate or high trust in the government's response to the pandemic, and 74% expressed moderate or high trust in the PHA. 34% expressed low trust in the government, and 17% expressed low trust in the PHA. Kallemose et al. did not examine political and social opinions like Nielsen and Lindvall but suggest that political and social data would help to explain respondents' answers.⁹⁹

Global perception of Sweden's policy may have affected the manner in which it was viewed internally. Global news outlets were focused on Sweden's unique policies, and the country was subject to scrutiny and criticism for not adhering to global standards. It is a documented phenomenon that public trust is heavily dependent on comparisons with other countries. Nielsen and Lindvall also highlight that COVID-19 deaths were not the main driver of

⁹⁶ Nielsen and Lindvall. "Trust in Government."

⁹⁷ Kallemose et al. "Political Trust."

⁹⁸ Nielsen and Lindvall. "Trust in Government."

⁹⁹ Kallemose et al. "Political Trust."

changes in public trust in Sweden.¹⁰⁰ The public's perception of the government's efficacy relative to other countries rather than observed outcomes likely drove changes in public trust.

The Swedish government's legalistic approach to the pandemic, together with the PHA's high public trust allowed them to successfully employ soft governance. This maintained the autonomy of local governments, which was in line with the Swedish Constitution. This trust also led to increased prosocial behavior. When asked to social distance, but not required to, Swedes often choose to do so anyway.¹⁰¹ Cell phone tracking data supports this. For example, mobility on Easter in 2020 was significantly lower than in 2019. It rose again in 2021 but still remained at only one-third of pre-COVID Easter mobility, even though a majority of Swedish adults had been vaccinated by that point.¹⁰²

In its self-assessment, the Swedish Corona Commission found that the state could have responded more rapidly and with more restrictions at the beginning of the pandemic to reduce early spread and fatalities. Despite this, they maintain that their approach—public health recommendations rather than strict mandates—was appropriate and safeguarded individual liberty.¹⁰³ This confident conclusion reflects from the Swedish government's consistent, legalistic adherence to its Constitution.

¹⁰⁰Nielsen and Lindvall. "Trust in Government."

¹⁰¹ Coronakommissionen. Slutbetänkande: Sverige under pandemin (Sweden during the pandemic) – SOU 2022: 2022. <https://coronakommissionen.com>

¹⁰² I. Shuttleworth et al. "Did Liberal Lockdown Policies Change Spatial Behaviour in Sweden? Mapping Daily Mobilities in Stockholm Using Mobile Phone Data During COVID-19." *Appl. Spatial Analysis* 17, 345–369 (2024). <https://doi.org/10.1007/s12061-023-09543-w>

¹⁰³ Jonas F. Ludvigsson. "How Sweden Approached."

Chapter Four: Conclusion

As demonstrated in the previous chapters, Denmark and Sweden's approaches to the pandemic differed in several important ways. Not only were their effective policies distinct, but the ideologies that underpinned their actions were fundamentally different. Denmark's approach was politically motivated, as evidenced by its decisions to concentrate executive power and selectively adhere to the DHA's recommendations. Sweden's actions, by contrast, were legalistic and somewhat uncharacteristic given their generally pragmatic approach to policy-making. This was particularly apparent in their commitment to soft governance and deference to the PHA.

The Danish state responded to the COVID-19 pandemic as a political crisis rather than a public health one. This was most evident in their initial response when they acted against the advice of the DHA and instituted a lockdown in February 2020. The Government continued to prioritize potential political blowback over legal considerations. This was evident when they overstepped their authority in the "minkgate" scandal, which backfired by damaging public perception of government performance. Despite this, the government generally stayed on the right side of legality, avoided parliamentary fragmentation, and maintained a favorable public perception.

In contrast, the Swedish response to the pandemic was legalistic. They adhered to the recommendations of the PHA and prioritized voluntary measures and personal freedoms. They did not avoid all restrictions, but elementary schools remained open, masking was optional, and there were no lockdowns. However, the regional and municipal governments were tasked with most of the care responsibilities, and their systems were overtaxed. Additionally, the high rate of

mortality among the elderly represents a failure. The Swedish Corona Commission stood by their approach but acknowledged that it was not an unconditional success.¹⁰⁴

Despite their different approaches, Denmark and Sweden's actions converged in the latter part of the pandemic. Both countries removed all remaining COVID restrictions in February 2022.^{105 106} They both had high vaccination rates by this point, with 73% of the Swedish population and 80% of the Danish population having received at least one dose.¹⁰⁷ Along with the rest of the world, Denmark and Sweden moved towards the pre-pandemic status quo.

A key area for further research is inequality of outcomes for migrant communities. This is more of an issue where there is a large migrant population. Migrant communities in Sweden experienced high infection, complication, and death rates. Overcrowded housing and high-exposure jobs increased infections. Vaccination rates were also lower among migrants, which contributed to continued negative outcomes.¹⁰⁸ Migrant's trust in the government was also generally lower. This may be attributable to the news sources they use and their more negative portrayal of Sweden.¹⁰⁹ Low trust is correlated with low vaccination rates, compounding the issue.¹¹⁰ Future research could include using information gleaned from the impact of trust on vaccine hesitancy to improve outreach and outcomes in refugee and immigrant communities.

¹⁰⁴ Ludvigsson. "How Sweden Approached."

¹⁰⁵ Khan. "Denmark Lifts."

¹⁰⁶ Gijss and Duxbury. "Sweden to Lift."

¹⁰⁷ Official data collated by Our World in Data – Last updated 16 April 2024 – processed by Our World in Data. "people_vaccinated_per_hundred" [dataset]. Official data collated by Our World in Data – Last updated 16 April 2024 [original data].

¹⁰⁸ Håkan Soold. "Department of Public Health Sciences." Migrants were hit harder by the pandemic, September 4, 2023.

<https://www.su.se/departement-of-public-health-sciences/news/migrants-were-hit-harder-by-the-pandemic-1.671233>.

¹⁰⁹ Michael Strange and Tina Askanius. "Migrant-focused inequity, distrust and an erosion of care within Sweden's healthcare and media discourses during COVID-19." *Frontiers in Human Dynamics* 5 (2023). doi: 10.3389/fhumd.2023.1243289.

¹¹⁰ Elena Raffetti, Elena Mondino, and Giuliano Di Baldassarre. "Covid-19 Vaccine Hesitancy in Sweden and Italy: The Role of Trust in Authorities." *Scandinavian Journal of Public Health* 50, no. 6 (June 2, 2022): 803–9. <https://doi.org/10.1177/14034948221099410>.

COVID-19 infection rates are an important metric that offers potential insights, but they are not included in this thesis because there are questions about the accuracy of the data. Denmark, a country half the size of Sweden, reported 20% more infections.¹¹¹ This is in part due to Denmark's testing partnership with Novo Nordisk, which expanded the availability of COVID tests very early in the pandemic.¹¹² Understanding the spread of COVID-19 in these two countries through infection rates would provide more insight into the efficacy of lockdowns as opposed to voluntary measures.

The role of public health authorities in the pandemic depended on how the government chose to use their expertise. In Sweden, the government relied on the PHA to be the face of the pandemic response in addition to creating recommendations. In fact, the Swedish government's hands-off approach effectively turned the PHA into a quasi-legislative body. Most of the decision-making power for the pandemic was delegated to the PHA. While it was sensible to tap into the PHA's expertise, this may have placed an undue burden on them. On the other hand, Denmark's picking and choosing undermined the DHA's authority and prioritized the SSI and their narrower purview. It is worth assessing how governments can best coordinate with public health authorities to gain the most from the expert's advice, while ensuring that the responsibility for decision making remains with the democratically elected officials acting in accordance with the law.

In these case studies, I identify the dominant legal motivation behind Sweden and Denmark's pandemic responses. This provided insight into the interactions between government action, the role of expert health advice, and the public's response. The way governments chose to

¹¹¹ WHO COVID-19 Dashboard – processed by Our World in Data. “Total cases” [dataset]. WHO COVID-19 Dashboard [original data].

¹¹² Darius Ornston. “Denmark's Response to COVID-19.”

act during the pandemic can have long-lasting legal implications, and it is imperative that we seek to understand these impacts in order to make better judgements in future crises.

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