



June 20-22, 2025

Singapore, Singapore

3rd International Conference on Social Sciences in the Modern Era

Human Rights in The Context of the State of Emergency: The Balance Between National Security and Fundamental Freedoms

Mihai ȘTEFĂNOAIA

Faculty of Law and Administrative Sciences, Ștefan cel Mare University Suceava, Romania

ABSTRACT

The proclamation of a state of emergency, whether triggered by armed conflict, terrorist threats, natural disasters, or global pandemics, constitutes a critical test for the resilience of democratic institutions and the protection of fundamental human rights. This paper explores the complex interplay between national security imperatives and the safeguarding of civil liberties during states of exception. Building on a multidisciplinary framework that integrates international human rights law, constitutional theory, and security studies, the analysis examines both normative constraints and empirical practices associated with the temporary suspension or limitation of rights.

The study focuses on the legal mechanisms and justifications invoked by states to derogate from certain obligations under international treaties, such as the European Convention on Human Rights and the International Covenant on Civil and Political Rights. It also addresses the principle of proportionality, the requirement of legality, and the obligation of non-discrimination in the implementation of emergency measures. Special attention is paid to the role of constitutional courts and supranational bodies in reviewing the legitimacy and necessity of such restrictions.

Through a comparative analysis of recent case studies—including the COVID-19 pandemic response—this research highlights the risk of normalization of emergency powers and the erosion of democratic oversight. The paper argues for a strengthened normative framework that ensures a fair balance between protecting national security and preserving individual freedoms, emphasizing the importance of legal predictability, transparency, and accountability in emergency governance.

Keywords: state of emergency, human rights, national security, proportionality principle, democratic oversight

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