Analyzing the Emergency Institutions from the Perspective of Security Theory

Batchimeg Davaajav[1]* and Narmandakh Badarch[2]

[1]*Ph.D Candidate Shihihutug University, Mongolia.*

[2]*Ph.D, Prof. Director of the Research Institute, Shihihutug University, Mongolia.*

***Corresponding Author**
Batchimeg Davaajav , Ph.D Candidate Shihihutug University, Mongolia.

Abstract
The main goal of our study highlighted the institution's legal foundations, its dual impact on democracy and human rights—balancing necessary restrictions with potential risks to civil liberties—and identifies key concerns such as the potential for abuse, the importance of oversight, and the challenges in maintaining democratic norms during emergency situations. The institution of emergency is analyzed from the perspective of security theory, and the nature of the institution of emergency, its legal basis, its impact on democracy and human rights, and issues of concern are summarized.

We suggested our study, the institutional implementation of a state of emergency is deeply influenced by a country's political, legal, and security frameworks, necessitating a balance between safeguarding state stability and upholding democratic values and human rights. Also, we analyzed emergency powers through security theories highlights their dual potential to address genuine threats while posing risks of rights abuses, underscoring the need for robust legal oversight, enhanced civilian control, and adherence to international best practices to ensure their responsible use.

1. The Nature of the Institution of Emergency
The state is required by international treaties and national laws to formally declare a state of emergency if a nation experiences certain conditions, such as a pandemic, biosafety risks, nuclear, chemical, or other technological accidents, terrorism, internal or external armed attacks, political instability, divided governance, political or constitutional crises, and it is judged impossible to exercise state power through normal procedures. The state must use its exceptional authorities to safeguard its independence, sovereignty, security, liberties, and human rights while also upholding public order.

The use of exceptional powers and the proclamation of a state of emergency are two special functions of constitutional law. A state of emergency is a legal term that grants the government the authority to take extraordinary actions and exercise state power when there is an ongoing emergency in the nation.

According Fitzpatrick, J. (2018), explained that the emergency law and other laws grant authorities the ability to take necessary actions in emergency situations, and the constitutions of democratic nations typically provide the substantive basis for emergency powers. Emergency powers are crucial for preserving public order and national security because they give the executive branch sole authority to make decisions during crises, limiting some constitutionally guaranteed rights and disrupting the checks and balances among state institutions. In accordance with the idea of maintaining a balance between the risk of misuse and the exclusive authority at one's disposal, it is vital to exercise power in a democratic and lawful manner [1].

According Kälin, W. (2019), examined the legal framework governing states of emergency, emphasizing that such regimes must be grounded in the principles of legality and proportionality to prevent abuse of power. The study highlights that while states of emergency grant governments exceptional powers to address serious threats, these powers must be exercised with strict adherence to constitutional safeguards to preserve democratic institutions and fundamental human rights. Kälin underscores the necessity of maintaining a balance between ensuring national

security and protecting democratic governance by enforcing clear limits, oversight mechanisms, and temporal restrictions on emergency measures. This approach aligns with broader legal standards that require emergency actions to be lawful, necessary, and proportionate, ensuring that even in crises, the rule of law and democratic principles remain intact [2].

According Bieber F (2020) acrossed a wide range of constitutional law, security, and political disciplines, the stability of a state of emergency should be founded on the following principles: stability, justice, maintaining national security, and avoiding interference with the system of checks and balances. However, there is a risk that state power may be abused during a state of emergency and that constitutional institutions—such as the state's independence, sovereignty, human rights, and freedoms—could be threatened if these principles are not applied in a manner consistent with legality. To ensure the stability of governance in such times, a unique regime based on multidisciplinary laws like security law, humanitarian law, and constitutional law must be established. This regime covers many aspects, including declaring a state of emergency, determining its duration, limiting state authority as well as human rights and freedoms, implementing the necessary oversight, and outlining the conditions and limitations for their enforcement [3].

We concluded as allow researchers' framework that emergency powers, while essential for preserving public order and national security during crises, must be exercised within a democratic and lawful framework to prevent the concentration and misuse of executive authority. States of emergency require strict adherence to principles of legality, proportionality, and constitutional safeguards to balance the need for security with the protection of democratic institutions and fundamental human rights. The stability and legitimacy of emergency governance depend on establishing a comprehensive legal regime that clearly defines the scope, duration, limitations, and oversight of emergency powers to uphold justice, national security, and the rule of law.

2. Using Security Theory to Define
The Institution of Emergency
We will use security theory to examine and analyze the relationship between emergencies and emergency control in constitutional law, at a time when scholars are keenly interested in exploring new concepts of security in important spheres of the nation, such as nature, society, politics, law, economics, law enforcement, defense, and education.

Duffy (2015), explained that it has been scientifically demonstrated that the theory of emergency institutions within security theory is crucial for maintaining the balance between human rights, democracy, and national security; preventing and safeguarding against abuses of power; maintaining defense stability; and exemplifying global best practices in this area. The essence, content, and developments of the emergency institution in contemporary security theory, including its capabilities and

approaches, are examined. The institution of emergency is regarded as scientifically justified within the framework of security theory since it is a constitutional institution designed to establish special powers to protect the constitutional order [4].

2.1. The Theory of Realism
Hans Joachim Morgenthau's Politics Among Nations (1948), presented "Realism," viewing the state as a tool for preserving and enhancing the balance of power (The Struggle for Power and Peace, New York). Kenneth Neal Waltz's Realism and International Politics (2008) further develops this perspective. According to this view, the state safeguards the institution of emergency to reduce the dangers associated with crises. Although the state maintains internal security and consolidates power, it may also foster the rise of authoritarian tendencies.

States place a high priority on safeguarding their national security, and according to realist theory, the institution of emergency is particularly important in preserving the state's capacity to endure as a defense against threats, internal unrest, and external aggression [5].

The following are real-world examples where the application of the institution of emergency, as explained by realism theory, has been observed:
Waltz, K. N. (2008), passed the "USA Patriot Act" and took drastic measures to safeguard its security following the September 11, 2001 terrorist attacks. To protect national security, the United States justified efforts to consolidate power and curtail civil liberties, citing the threat terrorism posed to both domestic and international security. Institutions such as the White House and the Pentagon were founded on the principle that "national security must be a priority."

The US president strengthened national security by enacting a strict counterterrorism policy and declaring a state of emergency. Under the Patriot Act, authorities gained greater access to personal information, and intelligence services were able to conduct increased monitoring. Public surveillance was intensified, and police and military activities were initiated.

Human rights groups denounced the measures, claiming they unduly curtailed people's freedoms, while the US strengthened its defenses against terrorist attacks after the attack [6].

The French government used force in response to the immediate threat to national security following the declaration of a state of emergency after the November 13, 2015, terrorist attacks in Paris. Within the bounds of the law, the administration took unprecedented measures to preserve national security.

According to Neocleous, M. (2014), strengthened security forces and gave national interests top priority. During this period, a state of emergency was imposed, which prohibited public meetings and protests, granted police and intelligence services the authority

to detain suspects without a court order, and tracked down all individuals suspected of involvement in terrorism. The general public strongly objected to these measures.

In an attempt to stabilize the nation, Egyptian military forces assumed political authority and declared a state of emergency in 2013, following the removal of democratically elected President Mohamed Morsi. It was stated that Egypt's national security was at risk due to the fragmentation of state leadership. The government's stance was "state stability first, democracy second." All national leadership was seized by the military administration, which then launched efforts to suppress the opposition. Political freedoms were curtailed as opposition protests were violently dispersed. The state of emergency was maintained for a considerable period and governed all state administrative functions. Human rights abuses escalated, military regimes stabilized, and the democratic process was undermined, despite the political crisis being resolved [7].

According to this viewpoint, the institution of emergency has been employed by numerous nations for the sake of preserving national security, as per realist philosophy. In other words, under the framework of realist theory, the institution of emergency plays a significant role in maintaining national security; nevertheless, the way it is applied directly depends on the political and legal climate of the respective nations.

2.2. Liberal Theory

According Owen M John (1997) identified that such as IV in Liberalism and Security and Barry Buzan and Ole Wæver in Liberalism and Security: The Contradictions of the Liberal Leviathan, emphasize the importance of promoting democracy, the rule of law, human rights, and international cooperation to ensure national security. The liberal concept holds that operating an emergency institution should defend civil liberties, exercise democratic control over citizens, minimize the concentration of governmental power as much as possible, and safeguard civil society participation [8].

Liberals contend that emergency declarations can harm democratic systems and lead to an excessive concentration of governmental power. An essential component of security is upholding the rule of law and protecting human rights, and these principles must be maintained even in emergency situations. Examples of actual states of emergency imposed in accordance with liberal doctrine include the following as:

Friedman, L. M. (2021), ordered that to stop the spread of COVID-19, the government of New Zealand imposed stringent lockdowns and restrictions and declared a state of emergency. However, these measures were taken in accordance with international cooperation and human rights policies, all within the framework of democratic citizen oversight. To safeguard the general welfare and public health, the government implemented emergency measures. These measures were enacted in compliance with the law and are subject to judicial review to protect citizens' rights. Their main objectives have been to ensure public participation, promote transparency, and foster international cooperation. A stringent lockdown and a nationwide state of emergency were implemented in March 2020. Public education and immunization were given top priority by health authorities. The government gradually loosened restrictions, which remained in place only as long as necessary. New Zealand has thus been effective in controlling the spread of COVID-19. The measures have been supported by the public and have managed to strike a balance between democracy and human rights. However, some firms have experienced financial difficulties as a result of the restrictions [9].

Kunz, B. (2022), defined that In July 2021, Germany experienced floods that left cities in a state of emergency and claimed hundreds of lives. To safeguard citizens and emphasize the protection of human rights and public participation, the government declared a state of emergency and implemented temporary restrictions within the bounds of the law, such as prohibiting entry into dangerous areas. However, it coordinated a humanitarian aid and reconstruction effort with the help of the European Union and other international partners, keeping information accessible and transparent to maintain public confidence. This led to the prompt management of the flood disaster, preserving public confidence in the government and safeguarding citizens' lives and property. These instances demonstrate how emergency management based on liberal theory is institutionalized and characterized by adherence to key values, including preserving democracy, respecting the rule of law, and defending human rights [10].

2.3. The Theory of Constructivism

According to Ronen Palan (2004) explained that World of Their Making: An Evaluation of the Constructivist Critique in International Relations and E-International Relations, security is not based solely on actual threats but also on political concepts and social values. The definition of security is shaped by political discourse, culture, beliefs, and social constructions. In other words, security depends on what a nation, its people, and its leaders perceive as a threat rather than on objective threats. Stated differently, constructivist theorists contend that a nation's security is determined by its politicians, social ideology, and media rather than by actual threats. They also argue that when social groups perceive a phenomenon as a "threat," they respond by enacting security policies, declaring states of emergency, and implementing military measures. In other words, societal orientation and political definitions influence security challenges in addition to the actual circumstances [11].

Buzan, B., & Wæver, O. (2009), argued that the establishment of a state of emergency is linked to political manipulation, the creation of societal beliefs, and perceptions of security. By taking advantage of security concerns, the state can justify declaring a state of emergency. According to constructivist theory, the establishment of a state of emergency poses a threat to social security and the political environment, in addition to the actual emergency itself. The 2015 surge in migration to Europe from countries like Syria, Afghanistan, and Libya prompted some Western nations, such as Hungary and Poland, to seek solutions to the European migration crisis. As a result, borders were closed, and states of emergency

were declared in several countries.In 2013, the Indonesian island of Sumatra emitted black smoke, which also caused dangerously high levels of air pollution in Malaysia and nearby Singapore. As a result, the Malaysian government declared a state of emergency in two districts in the south [12].

2.4. Securitization Theory
This theory (the process of transforming ordinary political problems into security phenomena, the theory of determining their scope. Decision-making-acceptance-planning measures, etc. However, it is not necessarily dangerous in nature.) also argues that security problems depend not only on the actual threat, but also on how political leaders define the threat and make it understood by the public. Political leaders justify extraordinary state measures by defining an emergency situation as a security problem. This may be a legitimate protective measure in some cases, but there is a risk that the emergency will be abused for political interests.

Fourth. Security Theory (Securitization Theory). This theory (the process of transforming ordinary political problems into security phenomena, the theory of determining their scope. Decision-making-acceptance-planning measures, etc. However, it is not necessarily dangerous in nature.) also argues that security problems depend not only on the actual threat, but also on how political leaders define the threat and make it understood by the public. Political leaders justify extraordinary state measures by defining an emergency situation as a security problem. This may be a legitimate protective measure in some cases, but there is a risk that the emergency will be abused for political interests.

We collected all contents from four theoretical framework on table 01 as below:

Theory	Core concepts	Cases of concepts
Realism	Views the state as a tool to preserve and enhance the balance of power (Morgenthau, 1948; Waltz, 2008).	Patriot Act (2001): Post-9/11, the U.S. expanded surveillance and emergency powers to combat terrorism, curtailing civil liberties.
	Emphasizes safeguarding national security and state stability.	France (2015): State of emergency declared after Paris attacks, restricting protests and increasing police powers.
	Emergency powers consolidate state authority, sometimes fostering authoritarianism.	Egypt (2013): Military declared emergency after political crisis, prioritizing state stability over democracy, leading to human rights abuses.
Liberalism	Prioritizes democracy, rule of law, human rights, and international cooperation (Owen, 1997; Buzan & Wæver).	New Zealand (2020): COVID-19 emergency measures balanced public health with democratic oversight and human rights protection.
	Emergency powers should minimize government overreach and protect civil liberties.	Germany (2021): Flood emergency managed with legal restrictions, transparency, and international cooperation, maintaining public trust and protecting rights.
Constructivism	Security is socially constructed, shaped by political discourse, culture, and beliefs (Palan, 2004; Buzan & Wæver, 2009).	European Migration Crisis (2015): Countries like Hungary and Poland declared emergencies, closing borders based on perceived threats.
	Threat perceptions influence emergency declarations more than objective threats.	Malaysia (2013): Declared emergency in districts due to haze pollution from Sumatra, reflecting social and political responses to environmental threats.
Securitization Theory	Focuses on how political leaders frame issues as security threats to justify extraordinary measures (Buzan, Wæver & de Wilde, 1998; Balzacq, 2011).	Political leaders worldwide use securitization to legitimize emergency declarations.
	Security problems depend on political definition and public acceptance.	Examples include counterterrorism, migration control, and public health emergencies were framing influences policy and public response.
	Risks include politicization and abuse of emergency powers.	Highlights the need for vigilance against misuse for political gain.
Noted: the results of our study.		

Table 01: The comparisons of theory framework with concepts

3. The Comparisons of Throeritical Framework of our Study
We studied and compared a few instances where the institution of emergency was applied within the framework of the theory:

1. The Syrian civil conflict caused a massive refugee crisis in Europe in 2015. Some nations in the European Union declared this situation a "security crisis" and implemented emergency protocols. To garner public support, the refugee crisis was framed as a security concern. Several countries, including Germany, France, and Hungary, viewed the refugee crisis as a threat to national security. Emergency measures were favored by the public, who opposed the refugee acceptance policy. Hungary and a few other

European nations have strengthened border security and erected tall walls to keep refugees out. They have tightened regulations and made obtaining visas more difficult. To address the refugee issue, the European Union established a special commission. This has led to a revision of European security policy and tighter border controls. Human rights organizations have condemned discrimination against refugees.

2. In accordance with the threat identification theory, the Chinese government has identified the Uyghur separatist movement and extremist groups in Xinjiang as "threats to national security" since 2014. The public, or Chinese citizens, have endorsed this policy, and the government has begun taking stringent measures to eradicate "extremism" and "terrorism."

The state established a Uyghur incarceration camp called the "Education and Reform Center," significantly expanded its authority over the area, and began tracking every citizen's whereabouts. International groups have accused the Chinese government of violating human rights, but China has managed to stabilize Xinjiang and has implemented a strong anti-terrorism program as a result. The institution of emergency, which is founded on the theory of threat identification, tends to politicize threats and win over public support. This includes labeling certain issues as dangerous, swaying public opinion in one's favor, justifying actions that would otherwise be prohibited under the state of emergency, and restricting human rights in the name of security.

Security theory	How to explain the institution of emergency?	Positive effects	Adverse effects
Realist theory	Means of ensuring national security of the state	Rapid response to threats	Centralization of power and establishment of authoritarian regimes
Liberal theory	Must be under legal control	Protecting democracy and not restricting human rights	Government decision-making may be delayed during a state of emergency
Constructive theory	The concept of security depends on society and politics.	Identifying danger through social perception	The risk of exaggerating the threat to suit the interests of political leaders
Security theory	Emergency situations can be used as a political weapon	Protect public safety when necessary	Abuse of the state of emergency for political gain
Noted: the results of our study.			

Table 02: The following is a summary of how the institution of emergency affects security

These instances demonstrate the widespread application of the notion of defining security in political decision-making and the likelihood that the state of emergency may be exploited as a means of extending authority.

From the standpoint of security theory, when considering the Republic of Korea's president, Yoon Seong-yeol, who was the most recent to declare a state of emergency globally and garner international attention:
1. A state of emergency was proclaimed by South Korean President Yoon Seok-yeol on December 3, 2024, after the opposition was accused of "conducting anti-government activities and planning an uprising." He stated in a statement that the legislation was intended to "eliminate pro-North Korean forces and protect the free system established by the Constitution."
Following the opposition Democratic Party's submission of a budget amendment bill to the parliament's budget committee, which called for the removal of the state prosecutor general and state auditor general, a state of emergency was declared. The Republic of Korea's Minister of Defense called an urgent meeting of military commanders following the proclamation of a state of emergency, advised them to be more vigilant, and directed the forces to immediately take defensive positions. Nevertheless, the state of emergency was lifted six hours after it was declared, following a unanimous vote by all 190 members of the National Assembly.

If we examine the events from the standpoint of security theory, we may observe that:
Under the threat-definition theory, South Korean President Yoon Seok-yeol's use of force to justify his actions—such as declaring a state of emergency and deploying military forces—seems reasonable. However, the public believes that he might be trying to suppress his political rivals and portray the opposition's efforts as a security concern.

Realist theory could support President Yoon Seong-yeol's declaration of a state of emergency and his goal of consolidating state authority to eradicate pro-North Korean elements stemming from external threats and to maintain state stability.

Liberals can argue that President Yun Seong-yeol violated democratic principles and human rights when he declared a state of emergency in South Korea, and that his actions constituted a security concern. According to liberal theory, the international community is taking notice of the situation in South Korea, and this is demonstrated by the fact that US Deputy Secretary of State Kurt Campbell voiced his concern about it and advocated for a peaceful conclusion.

The Republic of Korea's December 3, 2024, declaration of a state of emergency can be interpreted from various security theory perspectives, and several considerations must be taken into account, such as political interests, state stability, conflicts between democratic values, and the international community's reaction.

4. Conclusion

We concluded our study that effectively managing emergencies demands a vigilant balance between security needs and democratic principles, critically dependent on robust oversight to prevent abuse of power as below:

Firstly, the country's political system, legal system, and security environment all influence how the state of emergency is institutionally implemented. The liberal approach places more emphasis on defending democracy and human rights than the realist approach does on maintaining state stability. The concept of security in social and political contexts is explained by the notion of dangerous and productive situations. Therefore, it is crucial to maintain a balance between state stability, human rights, and democratic ideals when implementing the institution of a state of emergency. Additionally, it is vital to study international best practices and regulate them within a legal framework.

Secondly, it is crucial to analyze the institution of emergency from the standpoint of security theories in order to understand both its advantages and disadvantages. While a state of emergency may be imposed by the government to combat an actual threat, it can also lead to abuses of human rights and the rule of law. Therefore, aligning the operation of this institution with the principles of democracy and the rule of law is essential. The institution of emergency must be examined from the standpoint of security theories in order to comprehend both its advantages and disadvantages. Declaring a state of emergency can result in abuses of human rights and the rule of law, even though the state has the right to do so to combat an actual threat. Thus, it is essential to align this institution with democratic principles. Countries will need to expand civilian oversight mechanisms to ensure proper law enforcement during emergency situations, improve inter-institutional coordination, develop policies to prepare for emerging threats such as cybersecurity and information warfare, and enhance laws and regulations governing this institution in accordance with legal and security theories, methodologies, and international standards.

Finally, we sum that the implementation of a state of emergency is shaped by a country's political, legal, and security context, requiring a careful balance between maintaining state stability and protecting democracy and human rights. Understanding the institution of emergency through security theories helps reveal both its benefits in addressing real threats and its risks, such as potential abuses of human rights and the rule of law. To ensure emergency powers are used appropriately, countries must strengthen legal frameworks, enhance civilian oversight, and adopt international best practices that align with democratic principles and evolving security challenges.

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