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# The challenges for the rule of law in the state of emergency and the case of Vietnam during the COVID-19 pandemic

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## CITATION

Dang MT, Hoang TAQ. (2024). The challenges for the rule of law in the state of emergency and the case of Vietnam during the COVID-19 pandemic. *Journal of Infrastructure, Policy and Development*. 8(9): 7497. <https://doi.org/10.24294/jipd.v8i9.7497>

## ARTICLE INFO

Received: 27 June 2024

Accepted: 16 August 2024

Available online: 6 September 2024

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**Abstract:** A state of emergency allows authorities to exercise special powers, including the temporary suspension of regular legal provisions and human rights standards. This scenario engenders a conflict between extraordinary powers and the foundational principles of the rule of law. This paper investigates one of the most contentious legal dilemmas concerning emergency powers: whether these powers must be exercised within the bounds of legal constraints. This paper also explores whether ordinary principles of legality apply in situations involving emergency powers. This study aims to examine how this tension is approached from different perspectives. It focuses on discussing the challenges for the rule of law in the state of emergency. It also studies Vietnam's approach to addressing these challenges during the COVID-19 pandemic.

**Keywords:** the rule of law; state of emergency; human rights; supervision of power; Vietnam

## 1. Introduction

A state of emergency is an exceptional situation in which the state, especially the executive branch, is empowered to take actions or impose measures that would not be permitted under normal circumstances to stabilize the situation and solve urgent problems (Nguyen and Vu, 2020, pp. 418–433). In other words, when public safety is seriously threatened, it may be necessary for governments to act quickly and decisively without relying on ordinary constitutional norms. Consequently, contemporary constitutions often contain special provisions for dealing with emergency situations (Ferejohn and Pasquino, 2004, pp. 210–239). Therefore, many states' legal systems tend to incorporate emergency provisions into their constitutions and laws, allowing public authorities to implement emergency measures under particular circumstances. They take necessary steps to protect national security, maintain law and order, safeguard the lives and property of citizens, and stabilize essential public services to restore the normal state of society (Aigbokhaevbo, 2022; Jakab, 2006, pp. 453–477; Lomba, 2020; Nguyen, 2020a).

Typical grounds for declaring a state of emergency encompass situations such as war, invasion, civil unrest, insurgency, natural disasters, or threats to national independence and public institutions. Many Western European constitutions outline broad criteria to delineate a state of emergency, employing terms like “extraordinary circumstances”, “international crisis”, “urgent situations” or “times of war” (Khakee, 2009). Specific types of threats are often described in broad terms, such as “threats to the constitutional order”, “serious and immediate threats to public order” or “threats to territorial integrity and independence”.

A state of emergency refers to the government's exceptional authority to swiftly respond to a public crisis. These powers include issuing regulations without parliamentary approval, waiving statutory obligations that would normally apply, and taking actions outside their usual scope. It is widely recognized that such powers should be used only in extraordinary circumstances and to the extent necessary (Khakee, 2009). Emergency powers are implemented rapidly during crises but are intended to be temporary. Typically, declaring a state of emergency grants increased authority in three main areas: (i) temporarily restricting or suspending certain constitutional rights; (ii) temporarily centralizing power in the executive branch, potentially reducing the role of the legislature, and concentrating authority in the national government at the expense of local authorities; and (iii) in some cases, postponing scheduled elections (Bulmer, 2018).

The process of declaring a state of emergency involves two key stages: the proposal or initial decision to declare the emergency, and its subsequent approval or confirmation. In many countries, executives typically have the authority to propose and declare a state of emergency, while legislatures engage in deliberation, scrutiny, and ultimately endorse or ratify the executive's decision. A state of emergency is inherently temporary and is intended to address urgent needs. Therefore, such declarations usually come with a specified time limit. Competent authorities may terminate or extend these time limits as necessary based on the evolving circumstances. The temporary nature of an emergency declaration is essential for effectively managing the specific crisis and preventing potential misuse of emergency powers by the government.

Most modern constitutions incorporate provisions for a state of emergency, although some do not explicitly mention emergency powers in their constitutional texts. In cases where there is no explicit constitutional provision, it falls to the legislature to determine the scope of emergency powers (Bulmer, 2018). Within any constitutional order, a fundamental tension exists between the principle of a government constrained by law and the perceived necessity for extraordinary powers to address severe emergencies and crises. This tension specifically involves considerations of emergency powers, the rule of law, and liberalism, resulting in diverse perspectives and approaches.

The objective of this paper is to answer the following questions: (i) What are the main schools of thought on emergencies? (ii) What are the challenges faced by the rule of law in a state of emergency? How are these questions perceived in the Vietnamese context?

## **2. Research objective and methods**

In this qualitative study, the primary research method employed was document analysis. To address the research questions, the authors gathered and scrutinized secondary data from academic institutions and legal-political scientists. The theoretical framework for the analysis was informed by two main perspectives on states of emergency: Carl Schmitt's theories and those opposing Schmitt's views.

The study utilized interdisciplinary research methods, including dialectical materialism, analysis-synthesis, logic-history, and induction-interpretation. The

investigation focused on the context of the COVID-19 emergencies to evaluate the challenges faced by the rule of law during states of emergency in Vietnam.

### **3. Theoretical framework**

In theory, there are two broad schools of thought on the state of emergency, namely “Sovereignty” and “Legality”. Those who support state actions that are not in accordance with the law emphasize the sudden, sometimes unforeseen enforcement actions of executive discretionary power. On the other hand, others favor a rule-of-law approach, whether constitutional or legislative, for a state of emergency.

Carl Schmitt also aligns with this perspective, outlining his views on the state of emergency in his essay “On Dictatorship” (1921) and later developing the concept further in “Political Theology.” These works laid the groundwork for the contemporary understanding of the state of emergency. Schmitt’s thesis posits that the state of emergency or exception (*Ausnahmezustand*) represents the ultimate trial of political power, revealing where authority truly resides (MagShamhráin, 2023). A state of exception determines who is truly sovereign in a given state. According to Carl Schmitt, “*the exception is more appropriate than the rule*” (Meierhenrich and Simons, 2016) or it can be understood that liberalism is more appropriate than the rule of law in this case.

The latter, in contrary to Carl Schmitt’s view, “anti-Schmittians” argue that emergency powers can, and should be integrated into the state’s legal order in order to prevent the abuse of emergency powers (Khakee, 2009). Giorgio Agamben opposes Schmitt’s stance and aims to dismantle any theory that directly integrates the state of exception into the law or indirectly situates it within a legal framework. Instead, he reinterprets it as the law’s counterpart: the state of exception is not a “legal state” but rather a lawless space, a “zone of anomie.” (Humphreys, 2006, pp. 677–687). The state of exception as a whole was not a “pleromatic” but a “kenomatic state”, not a moment of dictatorial “fullness of powers”, but, on the contrary, an “emptiness and standstill of the law” (Antell, 2005, pp. 41–51).

Authors of this legal approach also argue that when states face a state of emergency, difficulties arise regarding the possibility of allowing emergency powers to become inevitably and permanently accepted, even in contexts where the Constitution and law do not allow it. This undermines the primacy and substantive content of the ordinary principles of the rule of law (Gross and Aoláin 2006). Accordingly, an important aspect is the construction of this concept. The concept of a state of emergency needs to be based on the principles of the rule-of-law state (Sheeran, 2012, p. 491; Zwitter, 2012, pp. 95–111). The core principle is that the application of exceptional rules during a state of emergency cannot lead to consequences that shake the foundations of democratic freedom or result in repeated violations of human rights. Additionally, it cannot entail violations of the law or agreements contained in the Constitution (Ferejohn and Pasquino, 2004, pp. 210–239).

In Vietnam, the state of emergency is stipulated in the Constitution, Ordinance on Emergencies, and other relevant legal provisions (Do, 2020, pp. 547–563). The law governs many aspects of a state of emergency, such as the authority to declare and apply a state of emergency, special measures, and coordination of the government and

local authorities in dealing with the emergency. However, current legal provisions need to clarify the concept and conditions for declaring and applying a state of emergency (Cam, 2020; Nguyen and Nguyen, 2022).

The gaps in legislation on the determination of emergencies impact the implementation of the provisions of the law when emergencies arise. Vietnam has never officially declared a state of emergency, even in the context of COVID-19 (Pham and Ta, 2020). Meanwhile, despite not declaring a state of emergency, the government and other state agencies have also implemented many measures to address the COVID-19 emergency. Indeed, the Government and all levels of government have taken many measures and even granted special powers, including imposing and enforcing many restrictive measures and suspending human rights and citizens' rights. The exercise of emergency powers without declaring a state of emergency is inconsistent with the conventional conception of emergency.

Nguyen and Vu (2020) defined "*A state of emergency is a special situation in a country in which the government, especially the executive agency, is empowered to take actions and impose special measures which would not be constitutionally permissible under normal circumstances.*" With this concept, they defined the state of emergency as "special situations," which empowers the government with special powers. Toan (2023) defines an emergency: "*A state of emergency is a special state of a country that is officially declared. A state of emergency requires that a competent state agency (usually an executive agency) be given certain powers and apply several special measures to operate and organize implementation to stabilize the situation. Under normal conditions, use is not allowed.*". Overall, this concept captured the characteristics of emergencies. However, the concept does not yet represent granting several special measures that, under normal conditions, are not allowed to be used but must be prescribed by the Constitution or law, or must ensure constitutionality and legality.

In general, it is necessary to develop a legal concept of emergency and define situations to declare a state of emergency as well as special governmental measures in a state of emergency in a law of state of emergency.

## **4. Discussion and results**

### **4.1. Challenges for the rule of law in the state of emergency**

#### **4.1.1. The concern of human rights violations**

The nature of a state of emergency often involves the risk of violating human rights; therefore, the concept of a state of emergency is frequently mentioned in international law related to human rights (Nguyen, 2023). Therefore, the state of emergency is codified in international law through the concepts of limitations and derogation. When faced with a public emergency that "threatens the life of the nation", international human rights treaties allow states to suspend the protection of certain fundamental rights. The existence of derogatory provisions is often seen as a "concession" to the "inevitability" of extraordinary state measures in emergencies and also as a means of somehow controlling these measures.

The International Covenant on Civil and Political Rights of 1966 (ICCPR) provides that during a time of an “emergency situation threatening the survival of the state” and when this situation has been “officially announced”, a member of the Convention may temporarily renounce the implementation of human rights obligations to focus on responding to that situation (Article 4(1)). Additionally, according to the ICCPR, the right to equality and non-discrimination must be respected and guaranteed in all situations, including emergencies (Article 4(2)). Accordingly, in a state of emergency, states can temporarily impose limits on human rights to address specific threats, but nonderogable rights must still be respected. The European Convention on Human Rights (Article 15) and the American Convention on Human Rights (Grossman, 1986, pp. 35–55) also include similar provisions.

In addition, the Siracusa Principles (In 1984 an International Conference was held in the city of Siracusa, (Italy) and adopted principles on the limitation and temporary suspension of human rights—called the Siracusa Principles. These principles have been approved by the Economic and Social Council (ECOSOC) of the United Nations and included in the appendix of Resolution—UN Doc E/CN.4/1985/4 (1985) With 9 Siracusa principles explained to further clarify the provisions on restrictions and temporary suspension of the exercise of human rights in the International Covenant on Civil and Political Rights), which address the limitations and derivations in the 1985 International Covenant on Civil and Political Rights, stipulate that governments must consider disproportionate impacts on vulnerable populations or groups when implementing measures related to emergencies. Furthermore, these principles require that all state measures be based on science, avoiding arbitrariness or discrimination, and respectful of human dignity (AAICJ, 1985).

However, which cases are considered a necessity, in which cases are considered emergencies threatening the life of the nation, to apply the limitations and derogation of rights is a complicated practical matter, especially in the context of an emergency. Confirming whether the limitations and derogation of human rights commensurate with the state of necessity and urgency is the next issue. Although international laws define standards and principles for this issue, their implementation in reality in countries is very diverse and complex.

Additionally, the issue of legal liability and exemption from liability in a state of emergency also expresses the interest of legal researchers. The research problem is to identify the actions that have liability and are exempt from liability in the state of emergency, in order to guarantee not only the rule of law but also movement and encouragement for subjects to participate in activities imposed by the requirements of the emergency (for example, “a public health emergency” due to Covid). Some studies that focus on this issue include (Hoffman, 2007) and (Jerry, 2020). The COVID-19 outbreak has prompted continued examination of these research problems owing to insufficient and incomplete conceptions and legal frameworks, leading to the study of various aspects of this issue.

#### **4.1.2. The need for supervision of power**

Supervision of power is a fundamental aspect of the rule-of-law state, particularly in times of emergencies. Despite these controversies, the majority of centralized jurists argue for the necessity of limiting and controlling the enactment and exercise of

emergency powers. Otherwise, the risks of power abuse and human rights violations will be significant. Regardless of immediacy or urgency, power limitations exist based on written or unwritten standards and norms, with the constitution being the highest authority. Studies have focused on oversight mechanisms aimed at enforcing emergency powers, including those at the international, regional, and national levels. At the international and regional levels, oversight bodies such as courts and human rights protection agencies ensure compliance with international and regional laws.

At the national level, both the legislature and judiciary play crucial roles in oversight, ensuring accessibility, transparency, and accountability. Bulmer (2018) argued that the legislature supervises the executive during a state of emergency by enacting emergency laws and overseeing their implementation. Meanwhile, studies emphasize the primary role of the judiciary in controlling the constitutionality and legitimacy of the state of emergency and its enacted measures. An idea's well-known study on emergency powers provides comprehensive knowledge, covering various aspects such as constitutional approaches; the proclamation, termination, and extension of a state of emergency; limitations on human rights; other effects of emergencies; restraint; counterbalance; and contextual considerations.

The construction of a state of emergency is based on principles of the rule of law. Therefore, the key to limiting a state of emergency must be derived from the legal provisions that delineate the causes leading to its declaration and the authority to declare it. Similarly, laws should establish criteria for power control in such states. Democracy inherently serves as a check on power during an emergency. Hence, actions violating the principles of the rule of law should be reviewed, both during and after a state of emergency, by the judiciary. Some constitutions specifically provide for the power of the judiciary to carry out inquiries in connection with (a) the declaration or extension of a state of emergency and/or (b) the exercise of emergency power.

Furthermore, during a state of emergency, it is essential to consider the constitutionality of the emergency law enforcement decisions issued by executive authorities. Constitutions often establish mechanisms to check the exercise of power of the executive branch. These checks serve as a means of controlling state power during emergencies. This is because, in situations where public safety is seriously threatened, the government may need to act quickly and decisively, even if it means deviating from ordinary constitutional norms.

#### **4.1.3. Democratic contexts**

The relationship between the rule of law and the state of emergency has been studied in relation to political institutions. Zwitter (2012) argues that the principle of the rule of law in a state of emergency exists only in liberal democratic institutions. Therefore, the study of state power must be contextualized within the foundations of democracy, the rule of law, and decentralization. In contrast, the rule of law is often absent in authoritarian regimes, making violations even more serious during a state of emergency. Several case studies have highlighted instances of states of emergency without the rule of law, particularly in limited democracies, such as Venezuela (Casal Hernández, 2020). The state of emergency has raised concerns in transitional countries. For instance, a draft of a state of emergency in Cambodia violates the rule of law.

Similarly, enacting regulations regarding the COVID-19 emergency situation in Hungary has faced significant criticism. However, the rule of law is recognized and sometimes plays a specific role in the state of emergency. In 2021, IDEA published “Emergency Law Responses to COVID-19 and the Impact on Peace and Transition Processes” (Molloy, 2021). Overall, studies suggest a complex relationship between the state of emergency, politics, and the rule of law.

## **4.2. The case of Vietnam**

The rule of law has been a topic of intense discussion over the past two decades since the principle was enshrined in the revised Constitution in 2001. However, research on this principle in the context of the state of emergency has only been conducted when Vietnam and other countries face and handle COVID-19 emergency. The Faculty of Law, Vietnam National University, Hanoi, first discussed this topic at the international conference on “Law on State of Emergency” in June 2020. In a total of 20 papers in the workshop, many issues regarding the relationship between the rule of law and emergencies, such as respect, protection of human rights, and monitoring of power during emergencies, have been raised (Dang, 2020; Donson, 2020; Le, 2020; Nguyen et al., 2020; Nguyen, 2020a; Vu et al., 2020; Yukiko, 2020,). After this workshop, the state of emergency and legal issues related to it began to be studied. These include issues such as the concept of a state of emergency, the authority, scope, and duration of the declaration of a state of emergency, the position, the role of the government, and the special measures of the government to be applied in dealing with a state of emergency (Bui, 2020; Cam, 2021; Cao, 2021a; Nguyen, 2020b), and the status of constitutional law, administrative law, and related legal provisions on the state of emergency (Cao, 2021b; Nguyen, 2020c; Truong and Ngo, 2020). In terms of the rule of law, Vietnamese scholars have studied and discussed the issue of respecting and ensuring human rights and monitoring power.

### **4.2.1. Human rights in the state of emergency**

Human rights can be restricted or suspended during a state of emergency, a concept acknowledged by Vietnamese scholars. Vu and Nguyen (2020) define “state of emergency” as a situation arising from major natural or human-caused disasters, widespread epidemics that exceed capacity to manage, posing serious threats to individuals’ lives, health, property, state assets, and other organizations. Such emergencies may affect one or multiple localities, or the entire nation. Declaring a state of emergency inevitably results in limitations on democratic and personal freedoms, often extending to rights in political, economic, and social domains. They built the concept of emergency based on its aspects as “major disaster”, “wide area”, “serious threat”. In addition, they argue that the restriction of human rights is a fundamental problem in the government’s application of emergency measures. Do (2020) points that “*a state of emergency is understood as a government declaration that may suspend some normal government functions and may warn its citizens to change their actions, normal behavior or may order government agencies to implement emergency preparedness plans. It is also used as a rationale for suspending civil liberties.*”

According to the Constitution of Vietnam, human rights and citizens' rights may be restricted in the case of necessity for reasons of national defense, security, social order and safety, social morality, and public health (Clause 2, Article 14). Under the Ordinance on Emergencies, governments and government agencies may impose measures to restrict human rights. However, the law does not provide for the limitation of human rights and suspension of human rights, which applies only in the context of a state of emergency. The temporary suspension of human rights is understood to include the restriction of human rights stipulated in the constitution. This is also the basis for the fact that the government has taken many measures, including temporary suspension of human rights, despite never declaring a state of emergency. This is inconsistent with international law.

When restricting human rights, Vietnamese law does not provide a classification of human rights that can be limited or suspended and rights that cannot be restricted or suspended. Scholars argue that limiting and suspending human and citizen rights in a state of emergency is necessary. However, not all human rights are limited or suspended. These absolute rights include the right to life, freedom of thought, the right to not be subjected to coercion, and corporal punishment that cannot be suspended. In addition, the conditions for applying permission restrictions to each group are different.

The limitation or temporary suspension of human rights should be based on the extent commensurate with the necessary circumstances in which the limitations or suspensions are applied. This principle has only been recognized in Vietnam since the 2013 Constitution. Currently, there is yet to be a law explicitly explaining the application of this principle, while Vietnamese courts are not officially entitled to interpret the constitution. In fact, the Vietnamese government is among countries that have issued many tough measures, including restricting and temporarily suspending human rights, including freedom of movement, assembly, and business.

Anxious against the backdrop of the spread of COVID-19, the Government temporarily suspended the right to travel, requiring mandatory testing for people at risk of infection and when sick cases are required to live in special isolation wards provided by the state. When applying emergency measures, the Vietnamese government attaches greater importance to and values social order, safety, and public health than human rights do. From a cultural perspective, Vietnamese society based on Confucianism values the state, community, and social interests more than individual rights. Therefore, the public is highly supportive of applying special measures to limit and restrict human rights in the context of COVID-19.

However, by applying solid and excessive measures within limits, the temporary suspension of human rights is considered unnecessary in many cases, and there is a significant violation of human rights. A typical example of a privacy invasion during a state of emergency occurred during the early period of the COVID-19 pandemic in Vietnam. Authorities not only announced the patient's medical condition but also the medical history of patients infected with COVID-19. Many competent authorities state in detail that patients who died of COVID-19 had underlying diseases. People infected or suspected of being infected with COVID-19 have become the most vulnerable groups in society. Not only do they have to face discrimination from many people in society due to confusion and anxiety, but they are also terrorized and "attacked."



The processes and procedures for restricting and temporarily suspending human rights in a state of emergency have also not been recorded, so the application is inconsistent and, in many cases, violates the rule of law, especially regarding human rights and citizens' rights. One of the high-profile cases is that of a woman who was subjected to coercive measures, including breaking down the door and escorting her to a mandatory COVID-19 test. Therefore, Dat believes that the principle of proportionality should be considered according to strict procedures when applying measures to restrict and temporarily suspend human rights.

#### **4.2.2. The supervision of power in the state of emergency**

In Vietnam, there is no specific monitoring mechanism in a state of emergency, but power monitoring is performed using a normal monitoring mechanism. Under this system, the National Assembly has broad powers to oversee executive branches, while courts are less likely to delegate the necessary powers to control power.

From the reality of the role of the National Assembly in a state of emergency and the need to control state power in the context of increasing emergency power of the executive branch, Vietnamese authors believe that to ensure democracy, when applying a state of emergency, the role of the National Assembly should be strengthened by increasing its participation in the process of declaring a state of emergency. With the nature of being the highest representative body of the people and the highest state authority of the Socialist Republic of Vietnam, the participation of the National Assembly will, in theory, avoid the situation of regulation. Emergency regulations are applied arbitrarily, making the invocation of this regulation more careful and democratic. Specifically, to ensure timeliness in dealing with unexpected situations, a declaration of a state of emergency can be made according to the current procedures, but these decisions must then receive approval of the National Assembly in its most recent session. This approval should be applied to both cases, where the National Assembly Standing Committee issues a Resolution and the President announces it, and when the President himself announces it (Nguyen, 2022).

Regarding judicial oversight during emergencies, courts are not empowered to consider the constitutionality or legality of legal documents. Specifically, the Court can only recommend that competent agencies consider amending, supplementing, or cancelling legal documents, contrary to the Constitution, laws, resolutions of the National Assembly, and ordinances and resolutions of the National Assembly.

The Standing Committee of the National Assembly ensures legitimate rights and interests of individuals and agencies during the trial process. However, the law must still address the court's role in considering the constitutionality and legality of the state of emergency declarations, extensions, and annulments. Furthermore, People's courts at all levels in Vietnam require authority to review the constitutionality of legal documents promulgated by state agencies, both in normal situations and during emergencies.

The administrative court is one of the primary mechanisms for protecting human rights and citizens' rights against violations by competent agencies and individuals in the administrative system. The administrative court is a tool to restore and protect the legitimate rights and interests of individuals and organizations against the abuse of public authorities, aiming to protect human rights and civil rights. The Court

established the necessary conditions to respect and exercise the civil rights of individuals in resolving administrative complaints through litigation (Clause 7, Article 2). However, Article 13 of the Law on Administrative Procedures stipulates that ‘...[T]he People’s Court will not accept and resolve complaints from individuals, legal entities and other organizations related to: (1) State acts on international affairs defense and diplomacy’. Thus, if a state of emergency is declared a threat to national security and defense, the judiciary cannot consider activities that restrict or infringe upon human rights or the civil rights of state agencies.

The addition of authority and the role of the courts in controlling power are among the judicial reforms that need to be considered. The article by author Nguyen et al. (2020) addressed this issue. According to the author, “[T]he judicial supervision mechanism mainly plays the role of monitoring the law enforcement activities of subjects and their legality. During the period of political reform, not all state actions were legal (legally based) and legitimate, potentially causing conflicts. Therefore, the law allows relevant subjects the right to seek judicial assistance. Civil enforcement is also considered an exception to the rule of law/rule of law, when the constitution and laws can be suspended, the power of the government is expanded and the rights of citizens are extended”. During the national administrative reform period, it is easy for the abuse of power to occur, and conflicts arise in society. Therefore, it is necessary to strengthen remediation mechanisms, especially administrative complaints and judicial mechanisms.

To oversee the exercise of power in the executive system, internal controls within the executive system also need to be emphasized through the increased application of the principles of good governance, primarily based on the rule of law, openness, and transparency, as well as promoting civic participation. In recent years, Vietnamese scholars have highlighted the inadequacies of the traditional management model, highlighting the necessity of transitioning to a modern state governance model characterized by sound governance principles. Amidst the COVID-19 pandemic, there has been a heightened focus on good governance principles, including the dissemination of public and transparent information on epidemic prevention and control, and the engagement of society in addressing COVID-19.

## **5. Conclusion**

States of emergency present significant challenges to the rule of law from multiple perspectives: controlling state power, ensuring human rights, and maintaining democratic contexts. In states of emergency, state power is often expanded to respond swiftly, but this expansion needs to be tightly controlled to prevent abuse and maintain a balance of power.

The COVID-19 response in Vietnam highlights the necessity of independent oversight mechanisms to ensure that emergency measures do not exceed what is necessary and do not infringe upon citizens’ fundamental rights. Additionally, emergency measures must be applied carefully to avoid harming human rights; during the pandemic, the tension between protecting public health and individual rights needs to be carefully balanced to prevent human rights violations and ensure transparency. Furthermore, states of emergency can impact democratic mechanisms, reducing

citizens' participation in decision-making and political oversight. Vietnam's experience shows that, although emergency measures may be necessary, maintaining democratic mechanisms and citizen participation is crucial to ensure legitimacy and societal consensus.

A key lesson from the COVID-19 response is the importance of adhering to the principle of proportionality in applying emergency measures. This principle requires that emergency measures be appropriate to the severity of the state of emergency, not exceed what is necessary, and be implemented for a reasonable duration. Ensuring the rule of law during states of emergency requires balancing the protection of public health with safeguarding human rights, alongside maintaining democratic mechanisms and oversight of state power, thus enhancing the effectiveness of emergency measures while protecting citizens' fundamental rights and preserving democratic stability.

**Author contributions:** Conceptualization, MTD and TAQH; methodology, MTD and TAQH; software, MTD and TAQH; validation, MTD and TAQH; formal analysis, MTD and TAQH; investigation, MTD and TAQH; resources, MTD and TAQH; data curation, MTD and TAQH; writing—original draft preparation, MTD and TAQH; writing—review and editing, MTD and TAQH; visualization, MTD and TAQH; supervision, MTD and TAQH; project administration, MTD and TAQH; funding acquisition, MTD and TAQH. All authors have read and agreed to the published version of the manuscript.

**Funding:** This research is funded by Vietnam National Foundation for Science and Technology Development (NAFOSTED) under grant number 505.01-2021.05

**Conflict of interest:** The authors declare no conflict of interest.

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