

Applicability of the Doctrine of Necessity in Constitutional Law (A Comparative Study (Jordan, Egypt, France))

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ABSTRACT

This research sheds light on applying the doctrine of necessity in constitutional law through a comparative study (Jordan, Egypt, and France). The study concludes that the doctrine of necessity necessitates the departure of the executive branch from the principle of constitutional legitimacy towards an exceptional power which allows it to temporarily legislate to confront emergencies or crises faced by the State, including imminent perils. The study argues that dealing with such matters cannot tolerate any delay and that the doctrine of necessity is constitutionally legitimate. The state of necessity is given legitimacy by being applied in the face of unusual circumstances the State encounters. It involves the constitutional authorities taking necessary legal measures to confront perils and extraordinary circumstances encountered by the State. It also involves granting the executive branch the power to enact laws. The Jordanian constitutional legislature did not explicitly address the grave peril but referred to the occurrence of serious emergencies, events, or unforeseen dangers under Articles 124 or 125 of the Jordanian Constitution of 1952 and its amendments. Most constitutional legislation adopted the doctrine of necessity explicitly, setting guidelines and conditions to ensure the executive branch does not misuse it and remains within the scope of adopting this doctrine. However, the Jordanian constitutional legislature did not determine matters requiring confrontation for the enactment of provisional laws, as stated in Article 94 of the Jordanian Constitution, such as public disasters, so the text is general in a way that allows interpretation by the executive branch with jurisdiction to determine and assess the occurrence of a state of necessity. The constitutional legislature overlooked the oversight role of the Jordanian Parliament, whether in session or dissolved when declaring a state of necessity and imposing martial law by royal decree and Council of Ministers decision.

Keywords: Doctrine of necessity, Constitutional Law, Jordanian Legislature.

Introduction:

The principle of the separation of powers dictates that each authority exercises its assigned functions under the constitution. The legislative branch is tasked with drafting and approving laws, while the executive branch is responsible for implementing these laws. The judicial authority undertakes the application of the law in conflicts that arise between individuals on the one hand, and between individuals and the government on the other hand. However, this division may not be strictly adhered to in challenging circumstances encountered by the State and thus insisting on this division becomes contrary to the purpose of the constitution and laws in such difficult conditions. This leads to what is known as a state of necessity. In this state, everything that is prohibited becomes permissible, as legislation is required to regulate this situation. Since legislation requires extreme speed and since the legislative branch, which possesses the inherent jurisdiction, is unable to do so due to its absence, it becomes necessary in such a situation to grant the executive branch the power to address the emergency. So, the executive branch can address it through various means based on the doctrine of necessity.

The doctrine of necessity has gained widespread attention in most constitutions and laws. It includes general texts that outline its conditions and effects. Its legitimacy is derived from these texts that regulate and specify its provisions. In constitutional systems, when countries face internal or external crises that threaten their existence and stability, constitutional and legal texts may become insufficient or incapable of addressing those crises or dangers. Dealing with such situations requires lifting restrictions on the executive branch's will, granting it exceptional powers under unusual circumstances. This allows it to take extraordinary measures and deviate from the provisions of the constitution. This forms the basis of the doctrine of necessity, which has emerged in contemporary jurisprudence and legal practice. It permits the executive branch, under specific conditions and constraints, to deviate from constitutional norms and gives it a degree of discretion to confront emergencies.

Importance of the research:

The significance of the research is highlighted in the study of the doctrine of necessity, being one of the most important exceptions that arise within the supremacy of the constitution and the principle of constitutional legitimacy. Additionally, this research gains particular importance because the application of the doctrine of necessity occurs in emergencies encountered by the State, and such emergencies are often severe and challenging. It also gains importance because of the impact that may result from applying this doctrine on the principle of the separation of powers as well as the executive branch's sole authority in enacting laws and regulations, especially in the absence of the legislative branch.

Research Problem:

The research problem revolves around cases that necessitate the application of the doctrine of necessity and the legal conditions required when implementing it. It also addresses the rules followed for enacting laws in emergencies and evaluates the

validity of applying the doctrine of necessity in the practical and real-world context, considering its impact on the overall life of the State and individuals. The research discusses the legal nature of the doctrine and the legal consequences resulting from its application.

Research Methodology:

The research will adopt a comparative analytical approach for Jordanian, Egyptian, and French legislation when applying the doctrine of necessity. This will be achieved through analyzing the constitutional texts in the study.

Research Division:

To achieve the desired results, the research will be divided into two sections: the first section - nature of the doctrine of necessity, and the second section - comparative constitutional legislature's stance on the doctrine of necessity.

First Section - Nature of the Doctrine of Necessity:

The doctrine of necessity is considered one of the general theories in constitutional and legal jurisprudence. To understand the nature of this doctrine, the research will shed light on the concept of the doctrine and its conditions in two topics:

First topic - Concept of the Doctrine of Necessity:

The doctrine of necessity forms the foundation for the legal exceptional state, constituting a constitutional legal system designed to address extraordinary exceptional situations.¹ This means that certain laws, regulations, and systems, which may be deemed illegitimate under normal circumstances, become legitimate under exceptional circumstances, especially if their aim is to preserve public order and the functioning of public facilities. This doctrine suggests that some decisions, considered illegitimate under normal circumstances, temporarily become legitimate in extraordinary circumstances, such as civil disobedience, wars, and disasters.²

Despite the implications of the application of this doctrine, which may involve violating constitutional or legal rules, actions originating from the executive branch cannot be exempted from judicial oversight; rather, the executive branch is subject to this judicial oversight. However, what the executive branch is exempted from is the responsibility for the harm that may befall individuals as a result of such actions.³ The concept of the doctrine of necessity refers to those ordinary constitutional provisions that are supposed to be subject to a state of necessity for the sake of the State's security. This doctrine exempts the state or one of its institutions, especially the executive branch, from respecting the provisions of the constitution or laws if necessity requires it for the supreme safety of the State, within the framework of what

1. Gamal al-Din, Sami (1982), "Regulations of Necessity and Guarantee of Judicial Oversight," Ma'arif Establishment, Alexandria, p. 13.

2 Imam, Muhammad Abdo (2007), "Administrative Judiciary, the Principle of Legitimacy, and the State Council," Dar al-Fikr al-Jamei, Cairo, p. 51.

3 Al-Wakil, Mohamed Mustafa (2003), "State of Emergency and Administrative Control Authorities, a Comparative Study," Dar al-Nahda al-Arabiyya, Cairo, p. 159.

is known as the people's safety above the law.⁴ The doctrine of necessity is defined as "a legal system established to confront extraordinary and dangerous situations that threaten the existence and interests of the State. In such situations, some authorities of the State find themselves compelled to bypass or deviate from established constitutional principles to counteract this danger and face critical emergencies."⁵

The essence of the doctrine of necessity is that constitutional principles and provisions established for normal circumstances may not be suitable if the State is exposed to a grave peril that occurs immediately, or as a result of exceptional circumstances such as war, internal conflicts, or natural disasters that threaten the existence of the State. In such cases, constitutional rules and legal texts become inadequate or unsuitable to face such conditions, given the restrictions they impose on the will of the executive branch and other public authorities in the State. Consequently, the executive branch and public authorities are compelled to take exceptional measures and actions, even if it means deviating from constitutional provisions, to confront the danger and mitigate the harm.⁶

Therefore, the concept of the doctrine of necessity implies that urgent necessities arise due to exceptional circumstances that require the executive branch to take immediate action to confront an imminent danger or severe harm. This action may contradict constitutional provisions; however, it becomes the only means to avert harm and ward off danger, such as imposing martial law and declaring a state of emergency. In this context, the task of the executive branch, according to the doctrine of necessity, becomes legislative, replacing the legislative branch in enacting laws.

Nevertheless, the doctrine of necessity has become an integral part of the majority of constitutional systems. It is challenging for any constitutional system to address severe threats without resorting to this doctrine. It is considered an exceptional legal means that grants the executive branch the power to confront extraordinary circumstances that conventional legal means are incapable of handling effectively.⁷

Necessity regulations have gained significant importance in most constitutions. Therefore, many constitutions around the world explicitly include provisions granting the executive branch, exceptionally and exclusively, the power to enact laws required during a state of necessity. These regulations are often referred to as necessity laws or regulations, issued to address sudden exceptional circumstances that demand swift

4 Mutawalli, Abdel Hamid (1993), "Constitutional Law and Political Systems with a Comparison to Constitutional Principles in Islamic Sharia," 5th edition, Ma'arif Establishment, Alexandria, p. 208.

5 Gamal al-Din, Sami (2003), "Regulations of Necessity and Guarantees of Judicial Oversight," 2nd edition, Ma'arif Establishment, Alexandria, p. 13.

6 Sabry, Al-Sayed (1949), "Principles of Constitutional Law," 4th edition, Abdullah Wahba Bookshop, Cairo, p. 475.

7 Abdel Naeem, Mohamed Ahmed (2002), "The Condition of Necessity before Constitutional Judiciary, An Analytical Study," Dar al-Nahda al-Arabiyya, Cairo, p. 11.

action to preserve the State's entity and its safety.⁸ These regulations, issued by the executive branch when the State urgently needs specific laws to address unforeseen exceptional conditions, replace the role of the parliament in enacting legislation under the laws or legislative regulations during times of necessity.⁹

It can be inferred from the above that the doctrine of necessity is constitutionally legitimate. The state of necessity is granted legitimacy to be applied in facing exceptional circumstances encountered by the State. It involves the adoption of necessary legal measures by constitutional authorities to address dangers and extraordinary conditions facing the State. The executive branch is granted the power to issue regulations, which may, in some cases, infringe upon human rights such as freedom of movement. However, this infringement, within the framework of the doctrine of necessity, is permissible and justifiable at times when there is no alternative to applying the state of necessity, following the principle of "necessity knows no laws."

Second topic - Conditions of the Doctrine of Necessity:

In order to enable the application of the doctrine of necessity in accordance with the constitutional systems that adopt it, there must be a set of conditions or controls that make the recourse to it restricted. This is to prevent the doctrine from becoming a tool solely in the hands of the executive branch, allowing it to resort to it for the purpose of achieving its own interests. These conditions, when met, justify the deviation of the executive branch from the principles of legitimacy and the separation of powers during emergencies and crises. Jurisprudence has agreed upon these conditions, which are as follows:

First - There must be a serious threat to the existence of the State:

This condition is one of the essential prerequisites for the activation and application of the doctrine of necessity. Serious threats include natural disasters such as earthquakes, volcanoes, floods, epidemics, and deadly diseases. Economic risks may also arise, such as labor strikes, protests, financial and economic crises. Another type of threat could involve armed rebellion, insurrection, violent demonstrations, and terrorist operations that threaten the security and civil order of the State. External threats, such as wars and conflicts with neighboring countries or within the region, are also possible. This threat must be beyond expected and ordinary risks and must be unusual, unfamiliar, serious, and imminent, as the life of the State may face ordinary risks that can be addressed by regular legislation. In such cases, there is no place for the application of the doctrine of necessity. For emergencies, the measure of a grave peril is exceeding the usual and familiar risk that could occur at any time. The grave peril must have an exceptional nature to be described as seriously perilous, as the

8 Al-Hilu, Majed Ragheb (2009), "Administrative Decisions," Dar al-Jami'ah al-Jadida, Cairo, p. 137.

9 Gamal al-Din, Sami, op. cit., p. 63.

usual and familiar danger is expected and can be addressed by regular legislation.¹⁰

The grave peril means that it is a current threat that has begun and has not yet ended. If it had already ended, it would not be considered serious, and the State authorities would have controlled it through regular means. This is affirmed by constitutional jurisprudence, stating that "a grave peril refers to any real situation that threatens vital interests, endangering them with decrease or elimination."¹¹

The grave peril falls under the umbrella of hazardous situations, such as natural disasters, internal threats to State security like ethnic or sectarian conflicts that may occur within the State's territory and threaten its security and political system. It can also include economic crises, or dangers that affect external State security, such as wars with neighboring states that may impact the State's security and stability due to attacks. Additionally, international alliances that may pose a threat to the State are also considered grave perils.¹²

It is worth noting here that assessing the severity of the danger is not tied to a fixed international standard but takes a side direction related to the State's political, economic, and social system. Each State has its own unique entity and system based on the purpose of its existence. There are dangers that may occur within the State's territory and may not be serious, but once they extend to neighboring regions, they become dangerous and may signal an internal crisis.¹³

The condition of a grave peril is stipulated in some legislations. The French Constitution of 1958, in Article 16, addresses the grave peril by stating, "if the institutions of the Republic, the independence of the nation, the integrity of its territory, or the fulfillment of its international commitments are threatened by a severe and imminent peril that leads to the regular functioning of constitutional authorities being interrupted- the President of the Republic may take the measures required by these circumstances, after consulting with the Prime Minister, the President of the National Assembly, the Senate, and the Constitutional Council. The purpose of the measures taken by the President of the Republic shall provide effective means for the constitutional authorities in the shortest possible time to carry out their duties and functions. The opinion of the Constitutional Council shall be sought regarding such measures. In such circumstances, Parliament convenes with the force of the law, and the President of the Republic may not dissolve the National Assembly while

10 Al-Jamal, Yahya (1994), "The doctrine of Necessity in Constitutional Law and Some Contemporary Applications: A Comparative Study," 2nd edition, Dar al-Nahda al-Arabiyya, Cairo, p. 15.

11 Ghubrayyal, Wajdi Thabit (1988), "Exceptional Powers of the President of the Republic: An Analytical and Comparative Study," 1st edition, Ma'arif Establishment, Alexandria, p. 100.

12 Al-Jarf, Taaima (1960), "The Principle of Legitimacy," Journal of Law and Economics, Issue (1), Cairo, p. 62.

13 Abdelkader, Samir (1972), "Exceptional Powers of the Head of State," 1st edition, Ma'arif Establishment, Alexandria, p. 289.

exercising these exceptional powers."¹⁴

The Jordanian constitutional legislature did not explicitly mention what a grave peril is but rather referred to the occurrence of serious emergencies. These emergencies are understood to be unexpected events or dangers. Article (125) of the Jordanian Constitution of 1952 and its amendments states: "(1) In the event of dangerous emergencies where the actions and measures under the preceding Article of this Constitution are considered insufficient for the defense of the Kingdom, the King, based on the decision of the Council of Ministers, may by a Royal Decree declare martial law in the whole of the Kingdom or any part thereof. (2) When martial law is declared, the King may by a Royal Decree issue any instructions as may be necessary for the purposes of the defense of the Kingdom, notwithstanding the provisions of any law in force. All persons charged with the implementation of such instructions shall remain to be subject to the legal liability resultant from their acts under the provisions of the laws until they are relieved of such liability by a special law to be enacted for this purpose."¹⁵

The amended Egyptian Constitution of 2014 did not explicitly mention the condition of a grave peril but rather stipulated the existence of an urgent situation as one of the cases of necessity that require expedited measures which cannot tolerate delay. The executive branch is temporarily empowered to replace the legislative branch in this jurisdiction. Article (156) of the Egyptian Constitution states¹⁶:

"In case an event which requires taking urgent measures, which cannot be delayed, occurs while the House of Representatives is not in session, the President of the Republic shall call the House for an urgent meeting to present the matter thereto. If the House of Representatives has not been elected, the President of the Republic may issue decrees having the force of law.."

We see from the previous texts that the French constitutional legislature explicitly stipulated the condition of grave peril, while the Jordanian legislature did not expressly mention it but rather referred to serious emergencies. This implies that the Jordanian legislature intended the grave peril when stating the occurrence of serious emergencies, i.e., emergencies or events that have occurred, emphasizing the grave peril that requires the declaration of martial law. Similarly, the Egyptian constitutional legislature did not refer to the condition of grave peril but instead mentioned a state of emergency. This state refers to martial law that grants the executive branch, represented by the President of the Republic, the government, and the security agencies, the legislative powers in most cases. In light of this, the French legislature made a wise decision by explicitly stating the condition of grave peril to apply the

¹⁴ See Article 16 of the French Constitution of 1958.

¹⁵ See Article 125 of the Jordanian Constitution and its amendments.

¹⁶ See Article 156 of the amended Egyptian Constitution of 2014.

doctrine of necessity.

Second - The impossibility of applying ordinary provisions and rules in the face of a state of necessity:

The application of the doctrine of necessity requires that the executive branch cannot follow ordinary provisions and rules. The executive branch finds itself compelled to use unconventional means to confront the danger that threatens the existence of the State, such as declaring a state of emergency or martial law. Jurisprudence holds that for the doctrine of necessity to be applied, the executive branch must be incapable of applying ordinary legal means through constitutional institutions in the face of a state of necessity. If it has a legal or constitutional means available to overcome these exceptional circumstances and emergencies, it must follow it. Another aspect of jurisprudence argues that the doctrine of necessity can be applied when the executive branch is unable to confront serious dangers that threaten the existence of the State in order to preserve public order and constitutional institutions with ordinary legal rules without reaching the point of absolute impossibility.¹⁷

Thirdly - The peril must threaten the public interest in the State:

The occurrence of grave peril alone is not sufficient to justify the application of the doctrine of necessity. It must be such that its occurrence would harm the public interest in the State. Therefore, taking necessary measures and actions should be aimed at confronting this danger to protect the public interest. The public interest here refers to the protection of the State's entity, the integrity of its territories, or the preservation of its constitutional institutions. Thus, this ensures the protection of public order and the guarantee of the functioning of public facilities. In light of this, the executive branch is not justified in a state of necessity if its actions suggest that it aims to protect personal interests rather than public ones, as such actions would be tainted with abuse of power. Additionally, a danger that threatens private interests cannot fall within the framework of the doctrine of necessity. This condition is one of the most important requirements for the application of the doctrine of necessity because it serves as a criterion to determine the exceptional powers that the executive branch can exercise in times of necessity.¹⁸

Second Section: Compared Constitutional Legislature Stances on the Doctrine of Necessity

In light of the constitutional systems providing possibilities and powers within the hands of the executive branch to manage a state of necessity, aiming to confront potential dangers that threaten the security and stability of the State, it was essential to shed light on the comparative constitutional systems that sought to regulate the application of the doctrine of necessity through robust constitutional principles.

¹⁷ Abdel Naeem, op. cit., p. 24.

¹⁸ Ukasha, Hisham Abdel-Mone'm (1998), "Administration's Responsibility for Necessity Actions," 1st edition, Dar al-Nahda al-Arabiyya, Cairo, p. 17.

As is well known, the application of the doctrine of necessity occurs when there are dangers and crises that threaten the existence of the State, and it becomes impractical to confront these dangers through ordinary or traditional legal rules. This necessitates the presence of an exceptional legal system that includes a set of legal rules to address the dangers faced by the State. This comes after specific conditions specified in the constitution are met. Constitutional texts grant the executive branch the legislative power and the ability to enact laws because the legislative branch may be in a state of paralysis or absence in such circumstances. The executive branch alone has the authority to declare a state of emergency or enact laws that regulate a state of necessity, such as martial law, defense laws, or emergency laws, allowing the enforcement of these laws.¹⁹

The state of necessity is an exceptional condition derived from constitutional and legal texts in countries that recognize it. It is temporarily resorted to when the State faces exceptional and challenging circumstances that ordinary laws are unable to address. However, if it is resorted to, it is subject to the principles of legitimacy. Constitutions grant these powers to the executive branch only when it becomes evident that the parliament cannot effectively intervene to address the state of necessity. Therefore, what is required is a balance between the state of necessity and the principle of legitimacy.²⁰

The Jordanian Constitution is part of constitutional systems that regulated the state of necessity and the application of the doctrine of necessity. Among the most important laws adhered to by the Jordanian legislature are the Defense Law and martial law, both of which are based on constitutional texts. Article (124) of the Constitution stipulates: "In the event of what necessitates the defense of the country in the case of emergencies, a law in the name of the Defense Law shall be enacted by virtue of which power shall be given to the person specified by the law to take the necessary actions and measures including the power of the suspension of the ordinary laws of the State to ensure the defense of the country. The Defense Law shall come into force when this is declared by a Royal Decree to be issued on the basis of a decision by the Council of Ministers."²¹

Also, Article 125 thereof states²²: 1. In the event of dangerous emergencies where the actions and measures under the preceding Article of this Constitution are considered insufficient for the defense of the Kingdom, the King, based on the decision of the Council of Ministers, may by a Royal Decree declare martial law in the whole of the Kingdom or any part thereof. (2) When martial law is declared, the King may by a Royal Decree issue any instructions as may be necessary for the purposes of the defense of the Kingdom, notwithstanding the provisions of any law in force. All

19 Taoudros, Gamal Gerges (2006), "Constitutional Legitimacy of Judicial Control Actions," Dar al-Nahda al-Arabiyya, Cairo, p. 252.

20 Al-Adaila, Amin Salama (2024), "Concise Guide to the Constitutional System," Dar Al-Thaqafah for Publishing and Distribution, Amman, pp. 123-124.

21 See Article 124 of the Jordanian Constitution.

22 See Article 125 of the Jordanian Constitution.

persons charged with the implementation of such instructions shall remain to be subject to the legal liability resultant from their acts under the provisions of the laws until they are relieved of such liability by a special law to be enacted for this purpose.”

It is worth noting that successive Jordanian constitutions of 1928 and 1947 adopted the term "regulations of necessity" or what is known as provisional laws. However, this designation faced opposition from Jordanian jurisprudence, as it is not precise from a legal standpoint. In constitutional terms, the term "law" is exclusively applied to legislation enacted and approved by the legislative branch with the original jurisdiction. On the other hand, regulations issued by the executive branch, even if they contain binding general rules, can be referred to as laws regardless of their legal force. Some scholars of Jordanian jurisprudence argue that the Jordanian constitutional legislature was not accurate when stating in Article (94) of the Constitution: "The provisional laws - which should not violate the provisions of the Constitution - shall have the force of law."²³ It is supposed that both provisional and non-provisional laws should have the force of law as long as they bear the name "law." This contradicts the intention of the constitutional legislature to distinguish the regulations of necessity that have the force of law and are mandatory as the ordinary laws issued by the legislative branch from the ordinary regulations, such as executive regulations, issued by the executive branch.²⁴

However, in the current constitution of 1952, regulations of necessity have been outlined. The Jordanian constitutional legislature adopted the regulation of the state of necessity that justifies the issuance of provisional laws (necessity regulations) if the executive branch deems it necessary to enact such laws, similar to previous constitutions.²⁵ Article (94) of the Jordanian Constitution of 1952 and its amendments states: "(1) When the House of Representatives is dissolved, the Council of Ministers - with the approval of the King - shall have the right to issue provisional laws to cover the following matters:

- General disasters.
- The state of war and emergencies.
- The need for necessary and urgent expenditures which cannot be postponed.

The provisional laws - which should not violate the provisions of the Constitution - shall have the force of law, provided they are placed before the Parliament in the first sitting it holds. The Parliament shall take decisions in their regards during two consecutive ordinary sessions from the date of their referral. It may approve, amend

²³ See Article 94 of the Jordanian Constitution.

²⁴ Al-Hayari, Adel (1977), Provisional laws in Jordan, Published Research, Jordanian Lawyers Syndicate Journal, Supplement (1), Year 35, p. 12.

²⁵ Ben Ali, Mohammed Ahmed (1994), "Regulations of Necessity, a Comparative Study: Egypt, Jordan, Bahrain," Doctoral Dissertation, University of Jordan, Amman, p. 56 and beyond.

or reject such laws. If it rejects them or the period provided for in this Paragraph elapses without decisions, the Council of Ministers should - with the approval of the King - declare their nullity immediately; and from the date of such declaration the force of law they had shall cease provided that this shall not affect contracts or acquired rights. (2) Provisional laws shall come into effect in the manner laws come into effect by virtue of the provision of Article (93) of this Constitution.”²⁶

In the amended Jordanian Constitution of 2011, a time constraint emerged for issuing provisional laws during the dissolution of the House of Representatives. It is noteworthy that the previous text before the amendment granted the executive branch this power in two cases: the non-convening of the council and the condition of the council being dissolved, without specifying the state of necessity, which is the primary condition for enacting provisional laws. However, due to the chaos of provisional laws and their proliferation, there were increasing calls to limit the powers of the executive branch, as constitutional amendments should address this situation. The authority was limited to the case of the dissolution of the House of Representatives only, in addition to specifying cases of necessity related to public disasters, war, emergencies, and the need for urgent expenditures that cannot be delayed.²⁷ It is important to note that the executive branch in Jordan often seized opportunities during the non-convening of the parliament, vacation periods, or the period between regular sessions, enacting provisional laws without considering the availability of the urgent necessity conditions intended by the Jordanian constitutional legislature.²⁸

The Jordanian Constitution distinguishes between two conditions in a state of necessity:

First: The declaration of a state of emergency: The Jordanian Constitution grants the Council of Ministers the right to declare a state of emergency, during which it is given two exceptional powers. The first is the declaration of the enforcement of the Defense Law based on the provisions of Article (124)²⁹ of the Jordanian Constitution.

²⁶ See Article 94 of the Jordanian Constitution.

²⁷ Nasraween, Laith (2017), "Constitutional Reforms in Jordan After the Arab Spring," Published Research, International Kuwaiti Law Journal, Issue (2), Fifth Year, Serial Number (18), p. 408.

²⁸ Al-Shanag, Ra'id (2016), "The Impact of Constitutional Amendments on the Executive Branch and Its Relationship with Other Authorities in Jordan After 2011," Doctoral Dissertation, University of Jordan, p. 113.

²⁹ Article 124 of the Jordanian Constitution states: "In the event of what necessitates the defense of the country in the case of emergencies, a law in the name of the Defense Law shall be enacted by virtue of which power shall be given to the person specified by the law to take the necessary actions and measures including the power of the suspension of the ordinary laws of the State to ensure the defense of the country. The Defense Law shall come into force when this is declared by a Royal Decree to be issued on the basis of a decision by the Council of Ministers."

The second power is the declaration of martial law according to the provisions of Article (125)³⁰ of the Jordanian Constitution.³¹

Second: The right to enact provisional laws: The norm in the legislative process is that it falls within the jurisdiction of the legislative branch, and the role of the executive branch is typically to execute the laws established by parliament. However, many constitutions, including the Jordanian Constitution, grant the executive branch the license to issue necessary legislation when facing exceptional circumstances and when parliament is not in session. This allows the executive branch to fulfill its duties under those exceptional circumstances.³²

As for the Egyptian constitution, Article 156 of the amended constitution in 2014 specifies the following: “In the event that the House of Representatives is not in session, and where there is a requirement for urgent measures that cannot be delayed, the President of the Republic convenes the House for an emergency session to present the matter to it. In the absence of the House of Representatives, the President of the Republic may issue decrees that have the force of law, provided that these decrees are then presented to the House of Representatives, discussed and approved within 15 days from the date the new House convenes. If such decrees are not presented to the House and discussed, or if they are presented but not approved, their legality is revoked retroactively, without the need to issue a decision to that effect, unless the House affirms their validity for the previous period, or chooses to settle the consequent effects.”³³

The researcher infers from the previous text that the Egyptian constitutional legislature has granted the President of the Republic the authority to issue decrees with the force of laws, subject to the condition of urgent events that cannot tolerate any delay. This necessity mandates the issuance of such decrees by the President in any situation falling under the category of necessity.

If we look at the French Constitution of 1958 and its amendments, we will find that it provides an idea about the state of necessity and its consequences, as outlined in Article 16. The article states:

30Article 125 states: “1. In the event of dangerous emergencies where the actions and measures under the preceding Article of this Constitution are considered insufficient for the defense of the Kingdom, the King, based on the decision of the Council of Ministers, may by a Royal Decree declare martial law in the whole of the Kingdom or any part thereof. 2. When martial law is declared, the King may by a Royal Decree issue any instructions as may be necessary for the purposes of the defense of the Kingdom, notwithstanding the provisions of any law in force. All persons charged with the implementation of such instructions shall remain to be subject to the legal liability resultant from their acts under the provisions of the laws until they are relieved of such liability by a special law to be enacted for this purpose.”

31 Al-Adaila, "Al-Wajeez in Constitutional Law," op. cit., pp. 124-125.

32 Al-Adaila, *ibid*, p. 126.

33 See Article 156 of the amended Egyptian Constitution of 2014.

“Where the institutions of the Republic, the independence of the Nation, the integrity of its territory or the fulfilment of its international commitments are under serious and immediate threat, and where the proper functioning of the constitutional public authorities is interrupted, the President of the Republic shall take measures required by these circumstances, after formally consulting the Prime Minister, the Presidents of the Houses of Parliament and the Constitutional Council.

He shall address the Nation and inform it of such measures. The measures shall be designed to provide the constitutional public authorities as swiftly as possible, with the means to carry out their duties. The Constitutional Council shall be consulted with regard to such measures. Parliament shall sit as of right. The National Assembly shall not be dissolved during the exercise of such emergency powers.”³⁴

The implication of this article is that it has given the President of the Republic both executive and legislative powers. It entrusts the President with all matters of the State by temporarily replacing the legislative branch to take all necessary measures imposed by the state of necessity, even if these fall within the original jurisdiction of the legislature. This clearly represents the dominance of the executive branch over the parliament, enhancing its role in facing legislative challenges during times of perils and crises. This idea is not contested by any dispute in jurisprudence regarding the legitimacy of these powers exercised by the President of the Republic to confront such crises and dangers, even if it leads to amending or repealing existing legislation.³⁵

The state of necessity in French laws is regulated through ordinary legislation entrusted to the French legislative branch in accordance with the provisions of the law. Among these laws is the Martial Law of 1948, amended in 2004. Article (1) of this law states: "Martial law shall be declared in the event of an imminent threat to internal and external security." Additionally, Article (63) of the French Constitution stipulates that: " Martial law shall be declared by order of the Council of Ministers and may not extend beyond 12 days without the permission of Parliament."³⁶

Some countries distinguished between the law of defense and martial law, considering that martial law regulates more critical circumstances than the law of defense. The French legislature made a distinction between martial law and the state of necessity, which operates based on the doctrine of necessity. The martial law constitutes a legal system designed to confront external threats such as wars or the threat of war. On the other hand, a state of emergency or necessity is declared when facing internal

34 See Article 16 of the French Constitution of 1958.

35 Ash-Sha'ir, Ramzi Taha (1986), "Ideologies and Their Impact on Contemporary Political Systems," Ain Shams Printing Press, Cairo, p. 245. Ad-Dabs, Issam Ali (2011), "Political Systems, Fourth Book, Executive Power," Dar Al-Thaqafah for Publishing and Distribution, Amman, Jordan, pp. 565-57.

36 Al-Jamal, Yahya (2005), "Necessity in Constitutional Law and Some Contemporary Applications: A Comparative Study," 3rd edition, Dar al-Nahda al-Arabiyya, Beirut, p. 14 and beyond.

disruptions that compromise national security and public order. This implies that the restrictions imposed by the State on public liberties during the declaration of martial law are more severe than those imposed during a state of emergency.³⁷

There is no doubt that enacting provisional laws or emergency regulations is the appropriate solution to confront a state of necessity. This is especially true in light of the inability of ordinary laws to address such a situation. This important condition, agreed upon by the majority of jurists, is essential for dealing with a state of necessity and enacting provisional laws or emergency regulations.³⁸ The grave peril affecting the State and its entity is not sufficient to apply the doctrine of necessity. It is necessary for State institutions to confront this peril through their various powers, especially the executive branch, which takes the place of the legislative branch in this case. The executive branch is granted the power to enact and legislate laws by virtue of a declaration of a state of emergency or martial law, or similar laws and regulations. The condition is that the situation reaches a critical point where the executive branch cannot address it under ordinary laws which prompts it to confront the situation through exceptional legislation to preserve the state's system, ensure the safety of public facilities, and enforce internal or external security and peace.³⁹

Here we note that the Jordanian constitutional legislature did well when stipulating the state of necessity, as per the provisions of Article (124)⁴⁰ of the Jordanian Constitution, as previously explained. Additionally, the enactment of the Defense Law grants the King and the Prime Minister the authority to take necessary measures to confront the state of necessity. Among these measures is the suspension of regular laws to secure the defense of the nation, according to Article (125)⁴¹ of the Jordanian Constitution. This underscores that if the government cannot achieve the desired objectives through the declaration of the Defense Law, the King has the right to declare martial law. This state represents the highest level of preparedness for the executive branch to assert its influence and take measures to confront the state of necessity.

Martial law is part of legislation for states of necessity, and the majority of jurists define the term emergency regulations as regulations issued during the period when the parliament is not in session or during its dissolution. This also includes regulations issued by the executive branch in case of emergency circumstances and the declaration of martial law.⁴²

37 Al-Janabi, Saadoun Antar (1981), "Provisions of Exceptional Circumstances in Iraqi Legislation," Master's Thesis, University of Baghdad, Iraq, p. 71.

38 Hafez, Mahmoud (1979), "Administrative Judiciary," 1st edition, Cairo, Dar al-Nahda al-Arabiyya, p. 41.

39 Abu Laimon, Awad (2016), Constitutional Controls for Issuing Provisional Laws in the Jordanian Constitution of 1952 in Light of the Constitutional Amendments of 2011, Published Research, Sharia and Law Journal, University of the Emirates, p. 8.

40 See Article 124 of the Jordanian Constitution.

41 See Article 125 of the Jordanian Constitution.

42 Al-Kaid, Ziad (2000), "Provisional Laws in the Jordanian Legal System," Master's Thesis, University of Jordan, p. 8.

The concept of martial law refers to the measures and actions taken by the executive authorities of the State within its territory, whether in its entirety or in part. This is done to preserve the political system of the State, ensure the safety of public facilities, and enforce internal or external security due to exceptional circumstances experienced by the State. These circumstances may be natural, such as earthquakes, volcanoes, and hurricanes, or the result of internal conflicts or external invasions.⁴³

It is important to note that there is a distinction between the terms 'martial law' and 'exceptional circumstances.' Martial law is the inevitable result of exceptional circumstances. This means that the term "martial law" is broader and more comprehensive than the term "exceptional circumstances." The readiness, preparedness, and mobilization of the executive branch occur due to the occurrence of dangerous events and the State being under imminent peril. It is worth mentioning that the quality of urgency that may accompany the actions of State authorities during the state of necessity is nothing more than necessary measures without delay. Therefore, the concept of urgency is a characteristic of the executive branch's actions only.⁴⁴

From the above, we see that there is a distinction between martial law and a state of necessity. The difference between them is not significant, as the constitutional texts governing both are almost identical. However, martial law tends to involve more stringent procedures in its application. As for a state of necessity, it is an exceptional constitutional system based on the concept of imminent peril to the national entity, allowing the competent authorities to take all measures specified in the law to protect the State's territories, waters, and airspace as a whole or in part against threats arising from armed aggression, whether internal or external. This may involve transferring the powers of civilian authorities to military authorities.

Martial law and when it is resorted to is referred to in the Jordanian Constitution in Article 125. This Article states: " In the event of dangerous emergencies where the actions and measures under the preceding Article of this Constitution,⁴⁵ referring to Article (124) related to the Defense Law in this Constitution," are considered insufficient for the defense of the Kingdom, the King, based on the decision of the Council of Ministers, may by a Royal Decree declare martial law in the whole of the Kingdom or any part thereof." ⁴⁶

Paragraph (2) of the same Article states: "When martial law is declared, the King may by a Royal Decree issue any instructions as may be necessary for the purposes of the defense of the Kingdom, notwithstanding the provisions of any law in force. All

43 At-Tahrawi, Hani (1992), "The Doctrine of Necessity in Administrative and Constitutional Law and Its Applications in Jordanian Legislation: A Comparative Study," Doctoral Dissertation, Al-Qahira Group, p. 208-209.

44 Layla, Mohamed Kamel (1971), "Constitutional Law," 2nd edition, Dar al-Nahda al-Arabiyya, Cairo, p. 440; Al-Jamal, "The Doctrine of Necessity in Constitutional Law and Some Contemporary Applications," op. cit., p. 17 and beyond.

45 See Article 125 of the Jordanian Constitution.

46 See Article 124 of the Jordanian Constitution.

persons charged with the implementation of such instructions shall remain to be subject to the legal liability resultant from their acts under the provisions of the laws until they are relieved of such liability by a special law to be enacted for this purpose.”⁴⁷

The text of the aforementioned article clarifies the nature of the situation that may lead to the activation of martial law. Since the royal decree has been issued approving the activation of Defense Law No. (13) of the year (1992) to address any emergency, it is evident that the state of emergency requiring the declaration of martial law must be of a serious nature, threatening the security and safety of the State and merely declaring the activation of the Defense Law is not sufficient to protect and ward off these risks to the State.

Defense Law specifies that the person authorized to take necessary measures and actions to ensure public safety in the Kingdom without being bound by the provisions of ordinary laws is the Prime Minister. The Prime Minister has the authority to authorize all or some of his powers to anyone he deems suitable to undertake this in all parts of the Kingdom or in a specific region, under the conditions and restrictions determined by him.⁴⁸

From the above, it becomes clear that for the legitimacy of declaring martial law, there must be evidence of the inadequacy of the measures and procedures stipulated in the Defense Law to confront these dangerous and urgent circumstances. Constitutionally, it is not permissible to declare martial law without ensuring that the measures and procedures stipulated in the Defense Law alone cannot protect the security and safety of the State. The Jordanian Constitution of 1952 and its amendments have granted the executive branch broad discretionary power to assess the severity of the state of emergency surrounding the State and whether it necessitates the declaration of martial law. The legislative branch has no role in this regard, as the Jordanian Constitution of 1952 and its amendments did not give the parliament any authority in the field of declaring, terminating, or even extending martial law. This would, in effect, open the door wide for the executive branch to encroach on individuals' rights.

By analyzing the text of Article 125 of the Jordanian Constitution of 1952 and its amendments, it is evident that there are some formal and substantive conditions for a state of emergency that requires the declaration of martial law, as follows:

1. The declaration of the implementation of martial law must be associated with the approval of His Majesty the King, based on a decision issued by the Council of Ministers. This means that the declaration of the implementation of martial law is subject to the approval of the King after it is declared by the government. In other words, this martial law does not become effective until it

⁴⁷ See Article (125/2) of the Jordanian Constitution.

⁴⁸ Al-Khatib, Nu'man (2023), "Al-Wajeez in Constitutional System," Dar Al-Thaqafah for Publishing and Distribution, Amman, p. 109.

is ratified by the King. The text of the Article grants the King the authority to declare martial law in the entire country or in a specific region within the country, upon the decision of the Council of Ministers, due to the occurrence of a serious emergency where the existing measures are no longer sufficient to secure the defense of the State. The King also has the authority to issue specific instructions outlining the procedure for implementing martial law, referred to as martial administration instructions.⁴⁹

2. The state of emergency that requires the declaration of the implementation of martial law must be of a significant and grave level of peril. This necessitates that the declaration of a state of emergency involves a serious threat to the State, and potential dangers that may trigger a state of emergency include natural disasters, a state of war, civil unrest, and internal disturbances.
3. The procedures and measures taken must not be sufficient for the defense of the Kingdom under the Defense Law. This means that the nature of the procedures and measures implemented during the declaration of a state of emergency should be based on what is known as the Defense Law in Jordan. The authority to issue defense laws rests with the Prime Minister, and there is no need for the approval of the House of Representatives or the King.
4. The enforcement of martial law is suspended by royal decree based on a decision by the Council of Ministers in this regard. As mentioned earlier, martial law implies a transition from the normal state people are accustomed to, to a state unusual and exceptional for them. This, of course, leads to the establishment of a special legal system with its own consequences. Among these consequences is the suspension of regular laws and the granting of extensive powers to the executive branch, which may intersect with the rights and freedoms of individuals. The powers given to the executive branch are often concentrated in the hands of a small body or a single individual, whether civilian or military. Additionally, the instructions of the executive branch are executed by the armed forces and public security personnel. Anyone who violates these instructions is referred to special courts established for this purpose. Moreover, the executive branch is granted exceptional powers, such as the issuance of regulations related to the defense of the State and the maintenance of security and order within it.⁵⁰

One of the most important guarantees for the principles of implementing and enforcing the legitimacy of martial law is the principle of the separation of powers. This principle delineates the jurisdiction and scope of each authority in the State. It is effective in safeguarding individual freedoms and upholding the sovereignty of the principle of legitimacy. Each of the three authorities works to restrain the other two if there is an attempt to exceed their respective boundaries. This is in line with the idea

49 At-Tahrawi, "The Doctrine of Necessity," p. 443.

50 Shatnawi, Faisal (2002), "Principles of Constitutional Law and the Jordanian Constitutional System," 1st edition, Dar Maktabat Al-Hamid for Publishing and Distribution, Amman, pp. 572-573.

articulated by Montesquieu (Power checks power).⁵¹

As long as the norm is for legislation to be issued by the legislative branch, which represents the people and speaks on their behalf, being elected by them, it is the most fitting authority to enact laws and legislate, given its direct impact on the lives of citizens. However, due to exceptional circumstances and as an exception to the norm, it has been permitted for the executive branch to enact laws under specific conditions. Article (94) of the Jordanian Constitution states: "(1) When the House of Representatives is dissolved, the Council of Ministers - with the approval of the King - shall have the right to issue provisional laws to cover the following matters:

- General disasters.
- The state of war and emergencies.
- The need for necessary and urgent expenditures which cannot be postponed.

The provisional laws - which should not violate the provisions of the Constitution - shall have the force of law, provided they are placed before the Parliament in the first sitting it holds. The Parliament shall take decisions in their regards during two consecutive ordinary sessions from the date of their referral. It may approve, amend or reject such laws. If it rejects them or the period provided for in this Paragraph elapses without decisions, the Council of Ministers should - with the approval of the King - declare their nullity immediately; and from the date of such declaration the force of law they had shall cease provided that this shall not affect contracts or acquired rights. (2) Provisional laws shall come into effect in the manner laws come into effect by virtue of the provision of Article (93) of this Constitution."⁵²

The previous text implies that the declaration of any law by the executive branch must be presented to the parliament for approval. The failure of the parliament to approve it renders it null and void. If the parliament rejects the law, it loses its legal validity, becomes ineffective immediately upon the announcement of the parliament's rejection, and is annulled. The text specifies several conditions that must be met for the executive branch to enact provisional laws when the House of Representatives is dissolved; otherwise, this would deviate from the state of necessity, which is left to the discretion of the executive branch. The executive branch is not restricted by any indicators, and the third condition relates to the procedures that must be followed to enact provisional laws, emphasizing the necessity of presenting them to the parliament in its first meeting.⁵³

One of the elements leading to the declaration of martial law is the occurrence of specific events outlined in constitutional legislation in a general sense. These events fall under the umbrella of a state of emergency, necessity, or grave peril. The concept of a state of necessity, requiring the declaration of martial law, refers to a set of

51 At-Tamawi, Suleiman (1991), "General Theory of Administrative Decisions: A Comparative Study," 6th edition, Ain Shams University, p. 20.

52 See Article 94 of the Jordanian Constitution.

53 Al-Adaila, op. cit., p. 130.

measures taken by the executive authorities of the State within its territory in general or in a specific region. This is done to preserve the political order of the State, secure the safety of public facilities, and enforce internal or external security due to exceptional circumstances that the State encounters. These circumstances could be natural disasters like earthquakes, volcanoes, floods, and fires, or the result of external attacks or internal conflicts.⁵⁴

It's worth mentioning that there is a distinction between a state of necessity or emergency and exceptional circumstances. The state of necessity is an inevitable result of the existence of an exceptional circumstance. This means that the term "state of emergency" is more comprehensive and broader than the term "exceptional circumstances." The readiness, preparedness, and mobilization of the executive branch are due to the occurrence of alarming and dangerous actions (an exceptional circumstance)⁵⁵. At the same time, the attribute of urgency that may accompany the State authorities in a state of necessity during their work is nothing more than necessary measures without delay. Therefore, the concept of urgency is an attribute of the action of the executive branch alone.⁵⁶

In Jordanian legislation, as stated in Article (125) of the Jordanian Constitution, the cases for declaring martial law are as follows: "In the event of dangerous emergencies where the actions and measures under the preceding Article of this Constitution," referring to Article (124) related to the Defense Law in this Constitution," are considered insufficient for the defense of the Kingdom, the King, based on the decision of the Council of Ministers, may by a Royal Decree declare martial law in the whole of the Kingdom or any part thereof⁵⁷.

The text of the preceding Article indicates the nature of the situation that may lead to the activation of martial law, namely a serious emergency. Thus, the state of emergency that requires the declaration of martial law must involve a significant level of danger, threatening the security and safety of the State and merely declaring the Defense Law is not sufficient to protect and fend off these risks to the homeland.

Therefore, martial law resembles the Defense Law and the orders issued under it, in that both are based on granting the executive branch the power to issue exceptional legislation after declaring a state of emergency by royal decree, based on a decision by the Council of Ministers. Martial law is a system inherited by global constitutions from the French legal system, serving as a measure that the executive branch resorts to when circumstances threaten the security and safety of the country. This is done to confront these conditions, address their consequences, and restore stability and normal life⁵⁸.

54 At-Tahrawi, "The Doctrine of Necessity in Administrative and Constitutional Law and Its Applications in Jordanian Legislation," op. cit., p. 209.

55 Al-Jamal, "The Doctrine of Necessity in Constitutional Law and Some Contemporary Arab Applications," op. cit., p. 20.

56 Layla, Constitutional Law, op. cit., p. 440.

57 See Article 125(1) of the Jordanian Constitution of 1925.

58 Al-Khatib, "Al-Wajeez in Constitutional System," op. cit., p. 116.

Conclusion:

In this research, we examined the application of the doctrine of necessity in constitutional law through a comparative study (Jordan, Egypt, France). We clarified the nature of the necessity doctrine in terms of its definition and conditions, and explored the stance of comparative constitutional legislatures on the doctrine of necessity. The research concluded with several results and recommendations, as follows:

Results:

1. The doctrine of necessity necessitates the departure of the executive branch from the principle of constitutional legitimacy towards exceptional legitimacy, allowing it to legislate temporarily to address emergencies or crises facing the State. This includes imminent perils, as such matters cannot tolerate any delay.
2. The implication of the necessity doctrine suggests that urgent cases arise from exceptional circumstances requiring the executive branch to take immediate action to confront imminent and grave perils, even if it contradicts constitutional provisions. This is the only means to avert such perils, and such actions include declaring martial law and a state of emergency.
3. The necessity doctrine is constitutionally legitimate, and the state of necessity is given legitimacy by dealing with unusual circumstances faced by the State. It involves constitutional authorities taking necessary legal measures to address the dangers and extraordinary circumstances facing the State, empowering the executive branch to legislate.
4. The Jordanian constitutional legislature did not explicitly mention grave perils but referred to the occurrence of serious emergencies. These emergencies refer to sudden and unexpected events or perils, according to Article (125) of the Jordanian Constitution of 1952 and its amendments.
5. The executive branch enacting laws in a state of necessity is an exception of the principle of the separation of powers. In a state of necessity, the executive branch replaces the legislative branch and enacts laws and regulations that have the force of law to preserve the political system, security, and public facilities of the State.
6. Most constitutional legislation has explicitly adopted the doctrine of necessity, setting conditions and criteria to ensure that the executive branch does not misuse it and deviate from its intended purpose.

7. The Jordanian constitutional legislature was not clear in specifying the matters that require confrontation for enacting provisional laws, as mentioned in Article (94) of the Jordanian Constitution. The text was general and open to interpretation by the executive branch, the entity with the jurisdiction to enact provisional laws and determine the state of necessity.
8. According to Article (125) of the Jordanian Constitution, the declaration of an emergency state moves from the normal level to the serious one without clear constitutional constraints on how the executive branch decides this serious level. This allows the executive branch to declare what is known as martial law.
9. The constitutional legislature overlooked the oversight role of the Parliament, whether in session or dissolved, when declaring martial law by royal decree and decision of the Council of Ministers.
10. The legitimacy of declaring martial law requires demonstrating the inadequacy of measures and procedures stipulated by the Defense Law to address such grave and urgent circumstances. Constitutionally, martial law cannot be declared without ensuring that the measures specified by the Defense Law alone cannot protect the security and safety of the State. The Jordanian Constitution of 1952 and its amendments granted the executive branch broad discretionary powers to assess the severity of the state of emergency surrounding the state, whether it warrants the declaration of martial law or not.

Recommendations:

1. Granting the executive branch the right to declare a state of emergency should be an inherent right according to the Constitution. However, there should be a provision requiring the decision to declare a state of emergency to be presented to the Parliament shortly after the declaration, as the Parliament represents the people, creating a form of oversight over the appropriateness of the decision to declare a state of emergency according to the situation and the extent of the need for such a decision, which facilitates taking quick measures to confront the state of necessity.
2. Activating legislative oversight over the actions of the executive branch in a state of necessity, especially concerning the enactment of laws, to ensure they align with the requirements of the state of necessity and exceptional emergencies faced by the State.
3. Laws enacted by the executive branch in a state of necessity should be presented to the Constitutional Court to verify their conformity with the constitution. This process ensures that the state of necessity truly cannot tolerate delay and, therefore, invalidates anything contradictory to the constitution.
4. Activating judicial oversight over the actions of the executive branch in a state of necessity. The judiciary serves as the protector of individual rights and freedoms in ordinary and emergency circumstances, without returning to the doctrine of sovereign immunity of the executive branch's actions against such oversight, especially in a state of necessity.

5. Urging the constitutional legislature to work on limiting exceptional laws when possible in a state of necessity. This aims to prevent arbitrary restrictions on individual freedoms and rights imposed by such laws.
6. We hope that the constitutional legislature will intervene in specifying the period for presenting provisional laws, in a state of necessity, to the Parliament. This prevents such exceptional laws from remaining in force for an extended period before being presented to the Parliament for approval, amendment, or rejection, limiting potential abuses by the executive branch in enacting provisional laws.
7. Specifying the exceptional powers granted to the executive branch in a state of necessity with clearer and more precise expressions to ensure the protection of individual rights and freedoms.

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