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Ensuring the Rule of Law under Martial Law: A Comparative Study of Constitutional Mechanisms

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Scopo dello studio è di esaminare le peculiarità inerenti alla garanzia dello stato di diritto in regime di legge marziale e l'esperienza e la prassi internazionale di diversi Paesi (tra cui gli Stati Uniti, il Regno Unito, la Francia, Israele e l'Ucraina). Esso pone in evidenza la necessità di trovare un equilibrio tra sicurezza nazionale e protezione dei diritti umani. Lo studio ha rilevato che le misure restrittive, come i coprifuoco, le restrizioni alla libertà di movimento e di riunione, la censura e i tribunali militari, sono d'uso comune in molti paesi durante la legge marziale. Tuttavia, la portata e la durata di tali restrizioni variano notevolmente. Lo stato di diritto richiede una disciplina normativa chiara, una magistratura indipendente, meccanismi di governance efficaci e la trasparenza degli organi statali. Lo studio ha sottolineato il ruolo della cooperazione internazionale e dello scambio di esperienze nel rafforzamento dello stato di diritto durante i conflitti militari.

The study explores the rule of law under martial law in various states (including the United States, the United Kingdom, France, Israel, and Ukraine) and highlights the need for a balance between national security and protection of human rights. The study found that restrictive measures, such as curfews, restrictions on freedom of movement and assembly, censorship and military courts, were common in many countries during martial law. However, the extent and duration of these restrictions vary greatly. An effective rule of law requires clear legal regulation, an independent judiciary, effective governance mechanisms, and transparency of state bodies. Successful cases demonstrate the importance of international cooperation and exchange of experience in strengthening the rule of law during military conflicts.

Summary: 1. Introduction.- 2. Materials and Methods.- 3. Results.- 3.1. Interrelationships and factors affecting the rule of law under martial law.- 3.2. Chronological analysis and comparative historical analysis of sources.- 4. Discussion.- 5. Conclusions.

1. Introduction

Ensuring the rule of law under martial law is a pressing issue of our time, especially given the growing number of armed conflicts and crises in the world. Martial law, as an emergency legal regime, provides the state with the expanded powers necessary to effectively respond to threats to national security. However, these powers carry the risk of restricting human rights and freedoms, which may lead to a violation of the fundamental principles of the rule of law. Therefore, finding an optimal balance between security and human rights under martial law is an important task for legal scholarship and practice.

The issue of ensuring the rule of law under martial law has been actively studied in the international scientific discourse. Dyzenhaus^[1] examined the constitutional aspects of the legal regime during emergencies, focusing on the mechanisms of control over the actions of the authorities and the protection of human rights. He pointed out the importance of preserving the independence of the judiciary and the role of civil society in ensuring the rule of law during martial law. Neff^[2] studied the law of armed conflict, analysing permissible legal restrictions and their impact on the legal status of individuals. He noted that international humanitarian law establishes the limits of permissible restrictions on human rights during war, aimed at protecting civilians and preventing unnecessary suffering.

In the Ukrainian context, the issue of ensuring the rule of law under martial law has become particularly relevant after the outbreak of full-scale aggression in 2022. Kozyubra^[3] studied the issue of ensuring human rights and freedoms under martial law, emphasizing the need for strict compliance with international human rights standards. The author highlighted that even under martial law, the state is obliged to ensure fundamental human rights, such as the right to life, freedom from torture and the right to a fair trial. The study shows that Ukraine

has a positive track record in fulfilling its international human rights obligations, even under martial law.

In a broader context, Hirschl^[4] noted the importance of comparative analysis of constitutional law in different countries to understand the peculiarities of ensuring the rule of law in crisis conditions and situations. His research described that different countries have different approaches to balancing security and human rights during martial law, and this experience may be useful for Ukraine. Sikkink^[5] examined the role of the international community in ensuring human rights during armed conflicts and crises. She emphasized the importance of international pressure and cooperation to ensure respect for human rights during wartime. Cane^[6] studied the historical development of UK constitutional law, including periods of war and emergency. His work demonstrated that even in such difficult conditions, the British legal system remained committed to the fundamental principles of the rule of law, such as the independence of the judiciary and respect for human rights.

The gap in research is the lack of a comprehensive approach to the problem of ensuring the rule of law under martial law. Existing research works have mainly focused on certain aspects of this problem. However, there is a lack of studies that would combine these different aspects into a single conceptual framework and consider them in interconnection. In particular, insufficient attention has been paid to how the theoretical foundations of the rule of law, such as the principle of legality, independence of the judiciary, and protection of human rights, can be implemented in practice under martial law, when the state has expanded powers and faces the need to take swift and decisive action. In addition, existing studies have not always considered the specifics of different countries and their historical experience in ensuring the rule of law during wartime. For instance, studies conducted in countries with developed democracies and strong legal institutions may not be fully applicable to countries with less developed legal cultures or those experiencing protracted armed conflicts.

There has also been insufficient attention paid to the interaction of different legal institutions and mechanisms that ensure the rule of law under martial law. For example, how the judiciary, parliament, civil society and international organizations can cooperate to ensure respect for human rights and limit the excessive use of state powers. Thus, there is a need for a comprehensive study that

would take into account both the theoretical foundations of the rule of law and the practical experience of different countries in ensuring this principle during martial law, as well as analyse the interaction of various legal institutions and mechanisms in this process. The research was conducted to determine the details of ensuring the rule of law under martial law and to study international experience and practice.

2. Materials and Methods

The article uses a systematic method to study the peculiarities of ensuring the rule of law under martial law. The author defines the boundaries of the rule of law system, identifies its main elements (legislation, judiciary, law enforcement agencies, civil society) and defines their functions under martial law. The author analyses the interrelationships between the elements of the system, identifies direct and reverse relationships, and determines the factors affecting their effectiveness during wartime (restriction of rights and freedoms). Models have been developed that reflect the functioning of the rule of law system in different martial law conditions (e.g., in a full-scale war, local conflicts, occupation). This made it possible to assess the impact of various factors on the rule of law and to predict possible scenarios.

Comparative legal methods were used to analyse the legal systems of different countries that have introduced martial law. The legal norms of the United States^[7], the United Kingdom, France^[8], Israel^[9] and Ukraine^[10] were studied. This made it possible to identify common features and differences in the approach to the introduction of martial law, to assess the effectiveness of various legal mechanisms and their impact on human rights. Through thematic categorisation of institutional tasks within six functional domains (legislative, executive, judiciary, law enforcement, civil society, and international cooperation) comparison tables (Tables 1-4) were created. Each domain's content was taken from government decrees, court rulings, and national legal frameworks. These categories were chosen in light of frequent cross-jurisdictional references in scholarly commentary and legal writings. This methodology made it possible to compare institutional and legal practices under martial law in the five case study countries in a methodical manner.

Historical methods were used, namely chronological analysis and comparative historical analysis of sources. To study the evolution of legal regulation of martial law and its impact on the rule of law. An analysis was made of historical data on the introduction of martial law in different countries, as well as its impact on the legal system and society. This made it possible to understand how the approach to the legal regulation of martial law has changed over time and what lessons can be learnt from experience.

Analytical methods were used to analyse the information received, identify important trends and formulate results. International and national legal norms, judicial decisions of international and national courts, scientific publications and reports of international organizations such as Amnesty International^[11], Human Rights Watch^[12] and Freedom House^[13] were analysed. This made it possible to assess the degree of human rights observance under martial law and identify the factors that affect the effectiveness of legal mechanisms. The analysis used included reports and studies, policy, and case law. The main sources of research were international treaties^[14], domestic laws^[15], Conseil constitutionnel, court rulings^[16] and reports of international organizations^[17]. The main sources include the judgments of the European Court of Human Rights^[18], the Supreme Court of Ukraine and domestic legislation^[19] on the state of emergency in the country selected for comparative analysis.

In order to maintain methodological clarity, the study's empirical component is based on a purposeful selection of court rulings, human rights monitoring reports, and normative legal acts from 2000 to 2024. Targeted searches in publicly available legal databases (such as HUDOC, HeinOnline, Legifrance, the official websites of the Knesset and the Constitutional Court of Ukraine), as well as repositories of global human rights organisations like Amnesty International, Human Rights Watch, and Freedom House, were used to find the source materials. The inclusion criteria included the suitability, relevance, and accessibility of the information related to the introduction of martial law. The sample was representative and included documents from different countries and international organizations. Violations were classified according to their category and evaluated based on whether or not there were adequate legal remedies. Fisher's exact test (significance threshold: $p < 0.05$) was used for statistical testing to assess the association between the frequency of violations and the availability

of legal remedies. The R software environment (v.4.3.1) was used for data processing, and established protocols for categorical data analysis were followed to guarantee analytical robustness. The analysis of statistical data helped to identify crucial trends and problems in ensuring the rule of law under martial law.

3. Results

3.1. Interrelationships and factors affecting the rule of law under martial law

The rule of law under martial law is a complex mechanism whose effectiveness depends on the interaction of its components and the influence of various factors. These relationships fall into three main categories: horizontal (between different branches of government and civil society), vertical (hierarchy and control) and external (international cooperation). In wartime, vertical ties become particularly important as they ensure prompt and efficient decision-making^[20]. The parliament adopts laws that regulate this specific regime^[21], the executive branch (government, president) is responsible for their implementation, and the judiciary controls the legality of the actions of other branches of government. Law enforcement agencies and military forces ensure security and law and order, while civil society plays a key role in monitoring human rights and providing quality legal aid^[22]. The state can also cooperate with the United Nations (UN), the Organization for Security and Cooperation in Europe (OSCE) and other international organizations in the field of human rights protection^[23], share experiences with other states on best practices for ensuring the rule of law under martial law and ensure compliance with international humanitarian law during hostilities^[24].

The effectiveness of the rule of law system under martial law depends not only on the interaction of its elements, but also on several internal and external factors. Internal factors include the legal framework, institutional capacity, resources and public opinion. External factors include international support, information warfare and the geopolitical situation. The clarity and integrity of the legal framework and its compliance with international standards are crucial.

Legislation that complies with international standards, such as the International Covenant on Civil and Political Rights^[25] and the European Convention for the Protection of Human Rights and Fundamental Freedoms^[26], prevents ambiguous interpretation and abuse of power, and provides a predictable and stable legal environment even under martial law^[27].

The judiciary plays a key role in ensuring the rule of law during martial law, controlling the legality of restrictions and protecting human rights in the United States^[28], the United Kingdom^[29], France^[30], Ukraine and Israel^[31]. In the United States, the Supreme Court limits executive power and ensures that measures are proportionate. In the UK, the courts review government actions for compliance with the Human Rights Act. The French Council of State controls the legality of restrictions during a state of emergency. In Israel, the Supreme Court restricts the actions of the military in the occupied territories. In Ukraine, the courts are functioning, and the Constitutional Court controls the legality of government decisions. All these examples show that the judiciary is an essential element of the system of checks and balances that guarantees human rights and prevents the state from abusing its power during martial law. The independence of the courts is a key to their effectiveness^[32].

Restrictive measures during martial law are measures necessary to ensure state security and public order^[33]. They include curfews, restrictions on freedom of movement, bans on public events, censorship, and the establishment of military courts. The specific measures and their duration vary from country to country and from case to case. The legality of these measures is determined by the principle of proportionality. According to this principle, the restriction of human rights and freedoms must be appropriate and necessary to achieve a legitimate aim, such as national security. Restrictive measures must be clearly defined in law, applied only to the extent necessary, and must not violate fundamental human rights^[34].

International humanitarian law (IHL) plays a pivotal role in establishing the permissible limits of human rights restrictions during conflicts, including martial law^[35]. The main purpose of IHL is to protect those not taking part in hostilities and to limit the methods and means of warfare. IHL establishes the rules for the treatment of prisoners of war and guarantees the right to humane treatment, medical care and communication, as well as other fundamental rights. The

Geneva Conventions relative to the Treatment of Prisoners of War define in detail the conditions of detention, rights, and obligations of prisoners of war. For example, the Geneva Conventions^[36] prohibit the use of weapons “which by their nature are likely to cause unnecessary injury or suffering”. The International Covenant on Civil and Political Rights^[37] also allows for the restriction of certain rights in times of public emergency, but these restrictions must be proportionate to the threat and non-discriminatory. International courts, such as the International Criminal Court, play an important role in ensuring compliance with IHL. The Rome Statute of the International Criminal Court^[38] provides for jurisdiction over war crimes, including violations of IHL. The International Criminal Court investigates and prosecutes war crimes, including human rights violations, during conflict. The United States Constitution^[39] authorizes the President to declare martial law, but this power is not absolute and is subject to strict judicial review. The US Supreme Court has repeatedly emphasized the need to respect human rights even under martial law. In subsequent decisions^[40], the Supreme Court has repeatedly pointed out that restrictive measures during martial law must be necessary and proportionate to the threat and must not violate fundamental human rights.

In the United Kingdom, the Armed Forces Act 2006 clearly defines the rights and responsibilities of the armed forces and establishes the legal framework within which they operate. In particular, it guarantees the right to a fair trial, protection from discrimination and access to medical care. The Constitution of France^[41] provides that certain rights and freedoms may be restricted during a state of emergency (*l'état d'urgence*), which is introduced in case of a serious threat to the institutions of the Republic, the independence and territorial integrity of the state or the fulfilment of France's international obligations. In addition, all restrictive measures are subject to judicial review. This means that anyone who believes that their rights have been violated during the state of emergency can go to court to protect their rights. The *Conseil d'État*, the highest administrative court in France, has the right to review the legality and legitimacy of restrictive measures and to cancel them if they do not comply with the Constitution or the law. The Basic Laws of Israel^[42] do not contain specific provisions on martial law, but give the Knesset (parliament) the power to pass laws necessary to ensure the security of the state. The Defence Regulations

(Times of Emergency^[43]), adopted before Israel's independence, gives the government broad powers in the event of war or a threat of war. The Defence Regulations give the government the right to restrict freedom of movement, impose censorship, detain persons without trial and take other measures necessary to ensure security. While the Defence Regulations give the government broad powers, the Supreme Court plays a major role in overseeing the exercise of these powers and ensuring that human rights are respected.

After the start of Russia's large-scale invasion in 2022, Ukraine was forced to declare martial law in accordance with the Decree of the President of Ukraine No. 11/2022 "On the Report on the Results of the Review of Public Security and Civil Defence^[44]". This measure was necessary to ensure the security and defence of the country, but at the same time led to certain restrictions on the rights and freedoms of citizens. Ukraine has ratified important international human rights treaties, such as the European Convention for the Protection of Human Rights and Fundamental Freedoms^[45] and the International Covenant on Civil and Political Rights^[46], and continues to fulfil its obligations under these treaties. Restrictions have been imposed on freedom of movement, freedom of assembly, freedom of expression and access to information. In addition, the martial law affects the judicial system, restricting access to justice and the ability to appeal against government decisions. There are also restrictions on freedom of expression, including on the dissemination of information that could harm national security. Thus, martial law creates a complex situation in which the state must strike a balance between ensuring national security and protecting human rights. Although states are obliged to comply with international human rights standards, martial law inevitably leads to certain restrictions. It is critical that these restrictions are proportionate to the threat, clearly defined in law and subject to effective judicial review. A study of the legislation and case law of the United States, the United Kingdom, France, Israel, and Ukraine confirms that no country is immune to this challenge.

A systematic analysis of the rule of law under martial law allows us to consider the legal system as a complex organism consisting of interconnected elements: legislative, executive and judicial branches of government, law enforcement agencies, military forces and civil society. The functioning of this organism changes under different martial law scenarios, requiring adaptation and flexibility

to ensure the rule of law and the protection of human rights (Table 1-3).

Table 1: The “Full-scale war” model.

Legislature	Adopts laws aimed at mobilizing resources by restricting certain rights and freedoms of citizens in the interests of national security.
Executive power	It carries out operational management of military operations and ensures the functioning of the state in times of war.
Judiciary	It plays a pivotal role in monitoring the legality of the actions of other branches of government and protecting human rights, although its functioning can be complicated.
Law enforcement agencies and military formations	They are strengthening their role in ensuring security and law and order.
Civil society	It plays a major part in monitoring human rights, providing assistance to victims and supporting the military, despite possible restrictions on freedom of speech and assembly.
International community	It can provide military, financial and humanitarian assistance, facilitate a diplomatic settlement of the conflict, monitor compliance with international humanitarian law and assist in the investigation of war crimes.

Source: created by the authors based on United States Constitution^[47], Anti-terrorism, Crime and Security Act 2001^[48], Title VIII: Judiciary (Articles 64 to 66^[49]), Constitution of 4 October 1958^[50], Constitution for Israel^[51], Decree of the President of Ukraine No. 11/2022 “On the Report on the Results of the Review of Public Security and Civil Defence^[52]”, European Convention for the Protection of Human Rights and Fundamental Freedoms^[53].

A situation where the state's constitutional architecture is maintained but is prone to increased centralisation and quick legal adaptation is reflected in the full-scale war model. One of the most important findings is the change in institutional balance: the legislative now plays a reactive rather than an initiating role, while the executive branch takes on an extended operational role that is frequently justified by urgency and national security imperatives. Despite being legally retained, the judiciary has severe restrictions on institutional independence, access, and procedural protections. This results in a structurally imbalanced arrangement where checks and balances are undermined via tangible limitations, like restricted court operations, lowered requirements for admissible evidence, or postponed legal remedies, rather than by official suspension. Additionally, the paradigm implies that civil society, while active, functions under conditions of limited autonomy and is frequently mobilised to support rather than to challenge official authority. When wartime demands are not backed by concurrent investments in legal continuity and rights-based oversight systems, this pattern highlights the dangers of normative disintegration. The local conflict model, on the other hand, shows a more unique and flexible constitutional response (Table 2). In this case, context-sensitive governance is made possible by the decentralised structure, in which the executive collaborates with non-state actors and regional institutions rather than monopolising power.

Table 2: Local conflicts model.

Legislature	Adopts special laws to resolve conflict situations.
Executive power	Focuses on conflict resolution and security in the region.
Judiciary	He actively protects human rights and ensures fair trials.
Law enforcement agencies and military formations	They are involved in ensuring security in the conflict zone, conducting anti-terrorist operations and protecting civilians.

Civil society	More actively involved in peaceful settlement and protection of the rights of the local population.
International community	The international community can play a mediating role in conflict resolution, provide humanitarian aid, monitor human rights and provide expert support in restoring law and order.

Source: created by the authors based on United States Constitution^[54], Anti-terrorism, Crime and Security Act 2001^[55], Title VIII: Judiciary (Articles 64 to 66^[56]), Constitution of 4 October 1958^[57], Constitution for Israel^[58], Decree of the President of Ukraine No. 11/2022 “On the Report on the Results of the Review of Public Security and Civil Defence^[59]”, European Convention for the Protection of Human Rights and Fundamental Freedoms^[60].

According to Table 2, the judiciary maintains its adjudicative validity and functional accessibility, especially while handling human rights complaints and overseeing emergency procedures. This implies a situation when martial law is imposed proportionately and selectively. Notably, civil society is not only present in this model but also has a significant impact on efforts for accountability, rights monitoring, and conflict mediation. The model shows that the risk of arbitrary governance is much decreased when legal institutions are integrated into a responsive and networked structure. Furthermore, the public’s opinion of state legitimacy is influenced by the ability to maintain procedural justice in conflict areas. This model supports the importance of distinct legal frameworks that take into account the temporal and spatial subtleties of conflict dynamics.

The model that deviates from constitutional normativity the greatest is the occupation model (Table 3). The state’s capacity to function as a sovereign legal system is essentially suspended when legislative and judicial institutions are either abolished or appropriated. If executive authority does exist, it is either severely limited by the occupying military or is only symbolic. According to this concept, any horizontal accountability mechanisms are undermined when civil society collapses or is suppressed, which results in systematic repression, arbitrary rule,

and widespread legal discontinuity. This arrangement highlights the importance of external players as the only sources of legal intervention and normative reference, including international institutions, human rights courts, and transnational investigative bodies. This approach shows how urgently international legal frameworks, such as occupation law and international humanitarian law, are needed to record transgressions and reinstate minimum rights. It also implies that previous documenting and acknowledgement of institutional collapse during occupation are crucial for post-conflict legal reconstruction. Thus, in the lack of institutional and territorial sovereignty, the paradigm emphasises the limitations of domestic constitutionalism.

Table 3: The “Occupation” model.

Legislature	Significantly weakened or replaced by the occupation administration.
Executive power	Faces obstacles in the administration of justice.
Judiciary	Faces obstacles in the administration of justice.
Law enforcement agencies and military formations	They can continue to fight in the form of guerrilla or underground activities, or be disbanded and replaced by the occupying forces.
Civil society	He is subjected to repression.
International community	It plays a key role in protecting human rights and upholding the rule of law.

Source: created by the authors based on United States Constitution^[61], Anti-terrorism, Crime and Security Act 2001^[62], Title VIII: Judiciary (Articles 64 to 66^[63]), Constitution of 4 October 1958^[64], Constitution for Israel^[65], Decree of the President of Ukraine No. 11/2022 “On the Report on the Results of the Review of Public Security and Civil Defence^[66]”, European Convention for the

Protection of Human Rights and Fundamental Freedoms^[67].

The functioning of the rule of law system under martial law shows that it depends on many factors, including the type of conflict, its intensity, the political situation in the country and the international situation. A systemic approach allows taking into account all these factors and developing the most effective strategies to ensure the rule of law and human rights protection in each case.

International cooperation and the exchange of experience play a pivotal role in strengthening the rule of law in times of armed conflict. International organizations such as the United Nations (UN), the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe have developed standards and guidelines for the protection of human rights in times of war. The Office of the United Nations High Commissioner for Human Rights (OHCHR) monitored the human rights situation in the conflict zones, provided expert assistance to states and investigated violations. The OSCE monitored the human rights situation in the conflict zones, supported war crimes investigations and facilitated dialogue between the parties to the conflict. The Council of Europe developed the European Convention for the Protection of Human Rights and Fundamental Freedoms^[68]. The European Court of Human Rights (ECHR) has considered and ruled on numerous cases of human rights violations during military conflicts. States have exchanged information on war crimes suspects, provided legal assistance in investigations, and transferred suspects for prosecution. For example, cooperation between Ukraine and the Netherlands led to the establishment of a Joint Investigation Team (JIT) to investigate the downing of flight MH17 in eastern Ukraine in 2014^[69]. International cooperation and exchange of experience are important tools for strengthening the rule of law during armed conflicts. This helps to protect human rights, ensure justice and bring perpetrators of war crimes to justice. Table 4 shows the results of a comparative analysis of the legal systems of each country (the United States, the United Kingdom, France, Israel, and Ukraine). Elements and functions of the rule of law.

Table 4: Elements and functions of the rule of law

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USA	Ukraine	Israel	France	United Kingdom
Legislature				
The US Congress enacts laws governing martial law (the Insurrection Act, the Martial Law Act). Congress has the power to declare war, allocate funds for defence, and oversee the executive branch during martial law.	The Verkhovna Rada of Ukraine adopts laws regulating the legal regime of martial law. It also approves presidential decrees on the introduction and cancellation of martial law, and exercises control over the activities of the executive branch.	The Knesset (Israel's parliament) adopts laws that regulate the activities of the military and law enforcement agencies in the security sector (the Basic Defence Law). The Knesset also approves government decisions to declare a state of war and can amend legislation.	The French parliament (National Assembly and Senate) adopts laws that regulate the state of emergency (l'état d'urgence) and the scope of the president's powers during this period. Parliament also exercises control over the government's actions during the state of emergency.	The UK Parliament makes laws governing the government's emergency powers (Emergency Powers Acts) in times of war or other emergencies. Parliament also exercises control over the government's actions during the emergency powers.
Executive power				

<p>The US judicial system continues to function under martial law, but some cases may be transferred to military courts. The U.S. Supreme Court has the power to review decisions of military courts and other authorities regarding the legality of their actions during martial law.</p> <p>Law enforcement agencies</p>	<p>The Ukrainian judicial system continues to function during martial law, but some cases may be transferred to military courts. The Constitutional Court of Ukraine has the right to review the decisions of other authorities regarding the legality of their actions during martial law.</p>	<p>The Israeli judicial system continues to function during martial law, but some cases may be transferred to military courts. The Supreme Court of Israel has the right to review decisions of military courts and other authorities regarding the legality of their actions during martial law.</p>	<p>The French judicial system continues to function during a state of emergency, but some powers may be transferred to administrative authorities. The <i>Conseil d'État</i> (Council of State) oversees the legality of the government's actions during a state of emergency.</p> <p>The UK judicial system continues to function during the emergency powers, but the government may impose restrictions on certain court procedures. The UK courts have the power to review the government's decisions on the legality of its actions during the emergency powers.</p>
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The FBI, state police, and other law enforcement agencies continue to operate under martial law, but may be given additional powers and tasks.	The SSU, the National Police and other law enforcement agencies continue to operate under martial law, but may be given additional powers and tasks.	The Israeli Police, Shin Bet (security service) and other law enforcement agencies continue to operate under martial law, but may receive additional powers and tasks.	The police, gendarmerie, and other law enforcement agencies continue to operate during the state of emergency, but may be given additional powers and tasks.	The police, intelligence services (MI5, MI6) and other law enforcement agencies continue to operate under emergency powers, but may be given additional powers and tasks.
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Military formations

The United States Army plays a key role in ensuring national security and defence during martial law. They can be called upon to perform a variety of tasks.	The Armed Forces of Ukraine play a key role in ensuring national security and defence during martial law. They conduct combat operations and protect the country's territorial integrity.	The IDF (Israeli Defence Forces) plays a key role in ensuring national security and defence during martial law. It conducts combat operations, protects the integrity of the country and exercises control over the occupied territories.	The Forces armées françaises (French armed forces) may be called upon to maintain law and order during a state of emergency, especially in the event of terrorist threats.	The British Armed Forces may be involved in maintaining law and order during emergency powers, especially in the event of terrorist attacks.
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Source: created by the authors based on ArtII.S2.C1.1.14 Martial Law Generally^[70], Anti-terrorism, Crime and Security Act 2001^[71], Title VIII: Judiciary (Articles 64 to 66^[72]), Constitution of 4 October 1958^[73] (2024), Constitution for Israel^[74] (1958), Decree of the President of Ukraine No. 11/2022 “On the Report on the Results of the Review of Public Security and Civil Defence^[75]”.

Table 4 compares the roles of the main elements of the rule of law (legislative, executive and judicial branches, law enforcement agencies, the army and civil society) under martial law. The table shows which institutions are responsible for making laws, providing security, administering justice, maintaining law and order, and protecting the rights of citizens under martial law in each country.

3.2. Chronological analysis and comparative historical analysis of sources

These four conventions and their additional protocols form the basis of international humanitarian law (IHL). During armed conflict, states parties to the Geneva Conventions are obliged to protect medical personnel and facilities from attack^[76]. The International Covenant on Civil and Political Rights^[77] is one of the fundamental international human rights treaties adopted by the UN General Assembly in 1966. The fundamental rights guaranteed by the International Covenant on Civil and Political Rights include the right to life; freedom from torture and cruel, inhuman or degrading treatment or punishment; liberty and security of person; the right to a fair trial; freedom of thought, conscience, and religion; freedom of expression; freedom of peaceful assembly and freedom of association. However, such restrictions must be prescribed by law, be necessary to protect national security, public order, public health or morals, or the rights and freedoms of others, be proportionate to the aims pursued and not exceed what is strictly necessary.

Most countries have constitutional provisions and specific laws governing the introduction and operation of martial law^[78]. During martial law, the state may restrict freedom of movement, but such restrictions must be aimed at achieving a legitimate aim (e.g., protection of national security) and must not be excessive^[79].

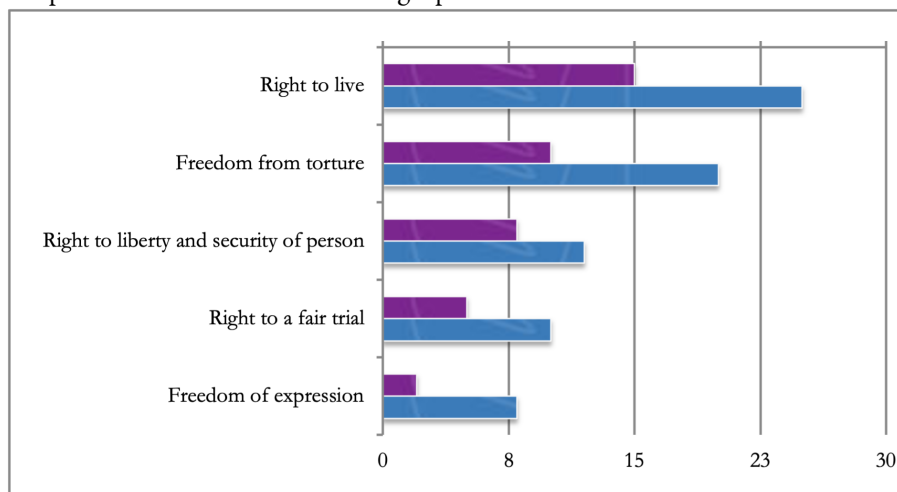
For example, the Constitution of Ukraine (Articles 64, 85) and the Law of Ukraine No. 389-VIII “On the Legal Regime of Martial Law^[80]” define the conditions and procedure for the introduction of martial law. With the beginning of Russia's full-scale invasion of Ukraine on 24 February 2022, martial law was introduced in the country. This allowed the government to introduce a number of restrictions aimed at ensuring national security and defence.

In its case law, the ECtHR has repeatedly emphasized that even under martial law, states are obliged to respect the fundamental human rights enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms^[81]. Some rights, such as the right to life and the prohibition of torture, are absolute and cannot be restricted even during martial law^[82]. Other rights, such as freedom of movement, freedom of expression and freedom of assembly, may be restricted during martial law, but only if such restrictions are absolutely necessary for the achievement of a legitimate aim and are proportionate to that aim^[83]. The ECtHR has also repeatedly pointed out the importance of ensuring effective remedies for victims of human rights violations during martial law. This includes access to court, the right to a fair trial and the right to an effective investigation of complaints. In the case of *Ukraine and the Netherlands v. Russia*, the ECtHR found that Russia had exercised control over parts of eastern Ukraine since May 2014 and was responsible for numerous human rights violations in those territories. The ECHR case law plays an important role in shaping international standards for the protection of human rights under martial law; it is binding on Council of Europe member states and influences the development of national legislation and practice. In addition, the ECHR case law is an essential source for other international and national courts considering cases related to martial law. Thus, the ECHR is a crucial mechanism for protecting human rights under martial law and helps to ensure compliance with international standards and prevent states from abusing their powers.

Courts in different countries also considered cases related to martial law, and their decisions contributed to the development of national legislation and its application. The courts assessed the legality and proportionality of restrictions on rights and freedoms, protected the rights of detainees and prisoners of war, and controlled the actions of the authorities. The reports of Amnesty International^[84], Human Rights Watch^[85] and Freedom House^[86] are a critical

source of information on the human rights situation in the world, especially in countries with martial law or other emergency regimes. These organizations conduct independent research, document human rights violations, analyse the causes and consequences of such violations, and offer recommendations to governments and the international community to address them^[87].

Figure 1: The number of cases of human rights violations during martial law in the presence/absence of effective legal protection mechanisms.



Source: created by the authors, based on Amnesty International^[88] and Human Rights Watch^[89].

The test results showed that there is a statistically significant relationship between the type of human rights violation and the availability of effective remedies ($p < 0.05$). This means that the availability of effective legal remedies has a significant impact on the likelihood of human rights violations under martial law. Countries with effective remedies, such as independent courts and active human rights organizations, are less likely to experience human rights violations than countries with no or ineffective remedies^[90].

The results of the study show that the right to life and the right not to be subjected to torture are the most frequently violated rights, especially in countries where legal mechanisms are ineffective. This indicates that these rights are the most vulnerable under martial law and require special protection. At the same

time, the research findings show that human rights violations occur even where effective legal mechanisms are in place. This indicates that even in the presence of an appropriate legal framework and institutions, martial law creates special conditions that complicate the protection of human rights. Therefore, this analysis highlights the importance of strengthening legal mechanisms for the protection of human rights in all countries, especially those under the threat of armed conflict. This includes ensuring the independence of the judiciary, establishing effective mechanisms for challenging government decisions, supporting the work of human rights organizations and raising legal awareness.

4. Discussion

The study confirms the complexity and multifaceted nature of the problem of ensuring the rule of law during martial law, which echoes the findings of many researchers in this area. For example, Dyzenhaus^[91] emphasized that martial law should not lead to a complete abandonment of legal principles, but rather aims to find a balance between security and human rights. This study expands on this assertion by showing that this balance is achieved not only by legal measures, but also by a comprehensive approach that includes the effective functioning of the judiciary, public oversight and international cooperation. Similarly, Hart^[92], in his concept of law, pointed out the importance of primary and secondary rules for the structure and legitimacy of the legal system. In the context of martial law, this study has demonstrated that secondary rules, such as judicial oversight and parliamentary control, are critical to ensuring that the rule of law is upheld and preventing abuses of power. The study also found that restrictions on rights and freedoms during martial law should be clearly defined by law, necessary and proportionate to the threat, which is consistent with the position by Bandurka^[93] on the need to preserve the rule of law even during emergencies.

A historical analysis of the legal regulation of martial law in different countries has revealed a variety of approaches and decisions that have developed under the influence of historical, political and cultural factors. This was confirmed by the study by Hirschl^[94], which emphasized the importance of taking into account the national context when analysing legal systems. However, like the study by Dyzenhaus^[95], the present study revealed some general trends, such as the

increasing role of international law and judicial review, which indicates the universality of some legal principles. These findings also echo those of Raymond^[96], who found that international norms and standards increasingly influence national human rights legislation, even during times of armed conflict. The study by Miles^[97] also highlighted the influence of international factors on domestic policies, including the decision to impose martial law and restrictions on human rights. It is important to note that Cane's^[98] study emphasized that the historical development of constitutionalism in the UK demonstrates the importance of a balance between the executive and other branches of government, especially in times of crisis, which was confirmed by the need for judicial and parliamentary control identified in this study.

A comparative analysis of the legal frameworks of different countries has shown that there is no single model of martial law regulation. This is consistent with the findings of the study by Neff^[99], which emphasized that international humanitarian law establishes only a general framework, and that specific human rights protection mechanisms depend on national legislation. However, this study went further, highlighting some general principles that should be taken into account when developing and applying legal norms during martial law, such as the principle of legality, necessity, and proportionality of restrictions, the principle of non-discrimination and the principle of access to justice. These principles are also emphasized in the studies of other authors, such as Dworkin^[100], who highlighted the importance of respecting human rights even in emergency situations. In addition, the study by Finnis^[101] emphasized the importance of natural law, which is the basis for any legal system, including the legal norms applied during martial law. Raz's^[102] study also pointed out the importance of moral constraints on the exercise of state power, even in times of emergency, which is consistent with the findings of this study on the need to balance security and human rights. These findings are further supported by Chemerinsky^[103], who analysed US constitutional law and emphasized the importance of judicial review of government actions during emergencies such as martial law.

The statistical analysis of the data showed that there is a correlation between the level of development of the legal system, the independence of the judiciary and the effectiveness of human rights protection during martial law. The results

coincide with the study of Doronin^[104], where he pointed out that national security is the main function of the state. This also confirms the findings of the study by Gur and Jackson^[105], which showed that adherence to the rule of law is an important factor in ensuring public support and legitimacy of the legal system. In addition, the study by Kravchuk^[106] emphasized the importance of the independence of the judiciary to ensure effective human rights protection, especially during martial law, when there is an increased risk of abuse of power. This is also consistent with the arguments of Hart^[107], who put an emphasis on the importance of an independent court to interpret and apply legal norms, especially in complex situations such as martial law. Levy's^[108] study also emphasized the importance of institutional mechanisms, such as independent courts and parliamentary oversight, to ensure the rule of law and the protection of human rights during crises.

The study also identified certain challenges in ensuring the rule of law during martial law, such as the lack of a clear legal framework, insufficient judicial oversight, restrictions on civil society and lack of transparency in the activities of state bodies. This is in line with the findings of Sikkink^[109], which highlighted the importance of international pressure and cooperation to ensure human rights during crises. In addition, a study by Reiter^[110] showed that martial law can be used by authoritarian regimes to consolidate power and restrict political freedoms. These conclusions are confirmed by Articles ArtII.S2.C1.1.14 Martial Law Generally^[111] and ArtII.S2.C1.1.13 President as Commander of Armed Forces^[112], which analysed the historical experience of the United States and showed that martial law can lead to significant restrictions on civil liberties and abuse of power. The study by Neocleous^[113] also emphasized the potential risks of martial law for human rights and democratic values, as well as the study by Kostiuk^[114].

Given these conclusions, it is important to point out that ensuring the rule of law during martial law is not only a legal, but also a political and moral necessity. As noted by Hayek^[115] in his work, the rule of law is the foundation of freedom and justice in society. During martial law, when there is an increased risk of abuse of power and human rights violations, the rule of law becomes even more relevant. This requires the state not only to comply with formal legal procedures, but also to adhere to fundamental principles of justice and human rights^[116]. As noted by

Brooke-Holland and Mills^[117], even during martial law, the state must ensure the protection of the rights of military personnel and veterans, which is an essential aspect of the rule of law and social justice.

5. Conclusions

The study provided a better understanding of the complex and multifaceted nature of ensuring the rule of law under martial law. It confirmed that this process requires a comprehensive approach that takes into account not only legal norms but also political, social and economic factors. The analysis of international legal norms, national legal norms, court practice and reports of international organizations showed that even under martial law, states are obliged to respect fundamental human rights and ensure the functioning of the legal system. This means that restrictions on rights and freedoms under martial law must be legitimate, necessary, and proportionate to the threat.

The study found that clear legal norms, an independent judiciary, effective administration and transparency of state institutions are key elements for ensuring the rule of law under martial law. Clear legal norms guarantee predictability and stability of the legal environment, an independent judiciary protects human rights and checks the legality of government actions, effective public administration ensures the implementation of legal norms and the maintenance of law and order, and transparency of state institutions increases public trust and prevents abuse of power.

An important outcome of this study was the identification of the role of international humanitarian law and international human rights law in establishing the limits of permissible restrictions on human rights during war. These norms help to ensure minimum human rights protection in armed conflict and prevent unnecessary suffering of the civilian population. The importance of international cooperation and exchange of experience in strengthening the rule of law during armed conflicts was also highlighted. International organizations and other states can provide support to countries at war in the form of expert assistance, financial support, monitoring of the human rights situation and assistance in the investigation of war crimes.

Statistical analysis of the data using the Fisher's exact test confirms the hypothesis

that the existence of effective legal protection mechanisms significantly affects the likelihood of human rights violations under martial law. In other words, strengthening the judiciary, supporting the work of human rights organizations and raising legal awareness are crucial steps to ensure that human rights are respected in wartime. However, the study also revealed certain difficulties in ensuring the rule of law under martial law. In particular, the absence of a clear legal framework and inadequate judicial oversight can lead to abuse of power and human rights violations. This underscores the need for further research in this area to identify and address these challenges.

As this study examined the experience of only five countries (the United States, the United Kingdom, France, Israel, and Ukraine), it cannot be concluded that the patterns and trends identified can be generalized. Future research could also examine the experience of countries such as India, South Africa, Colombia, Turkey, and Japan. As these countries have different legal systems and historical backgrounds, it may be possible to gain a broader picture of how to ensure the rule of law under martial law and identify the most successful practices. In addition, a historical study of martial law regulation will help to understand the history of martial law and identify the reasons for the emergence of modern legal norms.

1. D. Dyzenhaus, *Legality in a time of emergency*, in *The Constitution of Law: Legality in a Time of Emergency*, Cambridge University Press, Cambridge, 2006.
2. S. Neff, *The law of armed conflict*, in R. Lesaffer, J.E. Nijman (ed.), *The Cambridge Companion to Hugo Grotius*, Cambridge University Press, Cambridge, 2021.
3. M.I. Kozyubra, *Philosophy of law, jurisprudence and science: Commonalities and differences*, in *Philosophy of Law and General Theory of Law*, vol. 2, 2019, pp. 128-142.
4. R. Hirschl, *Comparative matters: The Renaissance of comparative constitutional law*. Oxford University Press, Oxford, 2014.
5. K. Sikkink, *Evidence for Hope: Making Human Rights Work in the 21st Century*, Princeton University Press, Princeton, 2019.
6. P. Cane, *The Cambridge Constitutional History of the United Kingdom*, Cambridge University Press, Cambridge, 2023.
7. Art. II.S2.C1.1.14, Martial Law Generally, 2024, available on the page https://constitution.congress.gov/browse/essay/artII-S2-C1-1-14/ALDE_00013476/.
8. Title VIII: Judiciary (Articles 64 to 66), available on the page https://www.legifrance.gouv.fr/loda/article_lc/LEGIARTI000006527555/1958-10-05.
9. Constitution for Israel, 1958, available on the page

- <https://faolex.fao.org/docs/pdf/isr129765.pdf>.
10. Decree of the President of Ukraine No. 11/2022 (On the Report on the Results of the Review of Public Security and Civil Defense), available on the page <https://www.president.gov.ua/documents/112022-41141>.
 11. Amnesty International, *Syria: Former refugees tortured, raped, disappeared after returning home*, 2021, available on the page <https://www.amnesty.org/en/latest/news/2021/09/syria-former-refugees-tortured-raped-disappeared-after-returning-home/>; Amnesty International, *Myanmar: Military should be investigated for war crimes in response to 'Operation 1027'*, 2023, available on the page <https://www.amnesty.org/en/latest/news/2023/12/myanmar-military-should-be-investigated-for-war-crimes-in-response-to-operation-1027/>.
 12. Human Rights Watch, *World Report 2023: Ethiopia*, 2023, available on the page <https://www.hrw.org/world-report/2023/country-chapters/ethiopia>.
 13. *Freedom in the World 2023: Ethiopia*, 2023, available on the page <https://freedomhouse.org/country/ethiopia/freedom-world/2023>.
 14. U.N., *Report of the International Law Commission*, 2022, available on the page https://legal.un.org/ilc/reports/2022/english/a_77_10_advance.pdf.
 15. Art. II.S2.C1.1.14, Martial Law Generally, 2024; Title VIII: Judiciary (Articles 64 to 66); Constitution for Israel, 1958; Decree of the President of Ukraine No. 11/2022 "On the Report on the Results of the Review of Public Security and Civil Defense", 2022; Constitution of 4 October 1958, 2024, available on the page <https://www.conseil-constitutionnel.fr/le-bloc-de-constitutionnalite/texte-integral-de-la-constitution-du-4-octobre-1958-en-vigueur>.
 16. S. Buchko, *Ex Parte Milligan*, in *Indiana Law Review*, vol. 37, 2004, pp. 667-685.
 17. Amnesty International, *Myanmar: Military should be investigated for war crimes in response to 'Operation 1027'*, 2023; *World Report 2023: Ethiopia*, 2023; *Freedom in the World 2023: Ethiopia*, 2023, available on the page <https://freedomhouse.org/country/ethiopia/freedom-world/2023>; Amnesty International, *Syria: Former refugees tortured, raped, disappeared after returning home*, 2021.
 18. HUDOC, 2024, available on the page <https://hudoc.echr.coe.int/>.
 19. Law of Ukraine No. 389-VIII, 2015, (On the Legal Regime of Martial Law), available on the page <https://zakon.rada.gov.ua/laws/show/389-19#Text>.
 20. Yu.O. Zahumenna, *Legislation on national security of Ukraine as a systemic phenomenon: Theoretical and legal analysis*, Baltija Publishing, Riga, 2018.
 21. Decree of the President of Ukraine No. 11/2022.
 22. M.A. Alimbekova, A.S. Ibrayeva, G.T. Ichshanova, K.R. Useinova, N.S. Ibrayev, *Legal culture of public servants: The comparative legal analysis of the formation practices of various countries*, in *Journal of Advanced Research in Law and Economics*, vol. 10, no. 7, 2019, pp. 1956-1967.
 23. Amnesty International, *Syria: Former refugees tortured, raped, disappeared after returning*

- home*, 2021.
24. International Committee of the Red Cross, *Commentary on the Third Geneva Convention*, Cambridge, Cambridge University Press, 2021.
25. U.N., *International Covenant on Civil and Political Rights*, 1967, available on the page https://treaties.un.org/doc/treaties/1976/03/19760323%2006-17%20am/ch_iv_04.pdf.
26. ECHR, *European Convention for the Protection of Human Rights and Fundamental Freedoms*, 1950, available on the page https://www.echr.coe.int/documents/d/echr/Convention_ENG.
27. D. Dyzenhaus, *Legality in a time of emergency*, in *The Constitution of Law: Legality in a Time of Emergency*.
28. U.S. Constitution, 2024; S. Buchko, *Ex Parte Milligan*, cit., pp. 667-685.
29. *Human Rights Act*, 1998, available on the page <https://www.legislation.gov.uk/ukpga/1998/42/contents>.
30. Title VIII: Judiciary (Articles 64 to 66).
31. Constitution for Israel, 1958.
32. O. Millienco, *Internal migration and displaced persons in Ukraine: Governing policies and protections by the administrative courts*, in *Social and Legal Studies*, vol. 6, no. 3, 2023, pp. 103-112; D.B. Makhambetsaliyev, G.M. Sagynbekova, U.B. Abdykadyr, E.A. Alimova, A.B. Smanova, *Constitutional Law-Making in the U.S. Supreme Court*, in *Public Integrity*, vol. 26, no. 4, 2024, pp. 473-484.
33. N. Apakhayev, K. Adilova, D. Bugybay, G. Mukaldyeva, G.N. Mukhamadiyeva, B.M. Koshpenbetov, *Childhood legal protection in Kazakhstan*, in *Journal of Advanced Research in Law and Economics*, vol. 8, no. 3, 2017, pp. 714-721; N. Apakhayev, K. Adilova, D. Bugybay, A. Toktybaev, D. Kopbayev, *The problem of protecting the rights and legitimate interests of the child in the family and outside IT*, in *Danube*, vol. 15, no. 3, 2024, pp. 221-236.
34. D. Makhambetsaliyev, E. Alimova, C. Utegenov, G. Sagynbekova, A. Smanova, *The main directions of the judicial activity of the Supreme Court of the United States in the field of civil rights and freedoms*, in *Scientific Herald of Uzbhborod University. Series Physics*, vol. 55, 2024, pp. 1532-1542.
35. O. Taran, M. Hryha, *Application of international humanitarian law by the European Court of Human Rights*, in *Scientific Journal of the National Academy of Internal Affairs*, vol. 29, no. 2, 2024, pp. 9-17; A.S. Khamzin, Z.A. Khamzina, Y.A. Buribayev, Y.M. Tileubergenov, D.A. Ibraimov, A.T. Yermekov, *International legal aspects of exercising refugees' rights in Central Asia*, in *Journal of Advanced Research in Law and Economics*, vol. 7, no. 4, 2016, pp. 835-841.
36. Geneva Conventions, 1949, available on the page <https://www.icrc.org/sites/default/files/external/doc/en/assets/files/publications/icrc-002-0173.pdf>.
37. International Covenant on Civil and Political Rights, 1967.
38. Rome Statute of the International Criminal Court, 1998, available on the page

- <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>.
39. U.S. Constitution, 2024.
 40. S. Buchko, *Ex Parte Milligan*, cit.; U.S. Supreme Court, December 18, 1944, 323 U.S. 214, *Korematsu v. United States*, available on the page <https://supreme.justia.com/cases/federal/us/323/214/>.
 41. Constitution of 4 octobre 1958, 2024.
 42. A. Barak, *A constitutional revolution: Israel's basic laws*, in *Constitutional Forum*, vol. 4, 1993, pp. 83-84.
 43. Israel Emergency Regulation, 1945, (Reg. 25, Defense Regulations, Times of Emergency), available on the page <https://www.adalah.org/uploads/oldfiles/Public/files/Discriminatory-Laws-Database/English/03-Defense-Regulations-Times-of-Emergency-1945-Regulation125.pdf>.
 44. Decree of the President of Ukraine No. 11/2022 (On the Report on the Results of the Review of Public Security and Civil Defense, 2022).
 45. ECHR, *European Convention for the Protection of Human Rights and Fundamental Freedoms*, 1950.
 46. U.N., *International Covenant on Civil and Political Rights*, 1967.
 47. U.S. Constitution, 2024.
 48. U.K. Anti-terrorism, Crime and Security Act 2001, 2024, available on the page <https://www.legislation.gov.uk/ukpga/2001/24/contents>.
 49. Title VIII: Judiciary (Articles 64 to 66), 2024.
 50. Constitution of 4 October 1958, 2024.
 51. Constitution for Israel, 1958.
 52. Decree of President of Ukraine No. 11/2022 (On the Report on the Results of the Review of Public Security and Civil Defense, 2022).
 53. ECHR, *European Convention for the Protection of Human Rights and Fundamental Freedoms*, 1950.
 54. U.S. Constitution, 2024.
 55. U.K. Anti-terrorism, Crime and Security Act 2001, cit.
 56. Title VIII: Judiciary (Articles 64 to 66) 2024.
 57. Constitution of 4 Octobre 1958, 2024.
 58. Constitution for Israel, 1958.
 59. Decree of the President of Ukraine No. 11/2022 (On the Report on the Results of the Review of Public Security and Civil Defense), 2022.
 60. ECHR, *European Convention for the Protection of Human Rights and Fundamental Freedoms*, 1950.
 61. U.S. Constitution, 2024, cit.
 62. U.K. Anti-terrorism, Crime and Security Act 2001,
 63. Title VIII: Judiciary (Articles 64 to 66),.
 64. Constitution of 4 Octobre 1958.
 65. Constitution of Israel, 1958.

66. Decree of the President of Ukraine No. 11/2022 (On the Report on the Results of the Review of Public Security and Civil Defense, cit.).
67. ECHR, European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950.
68. *Ibid.*
69. HUDOC, 2024.
70. ArtII.S2.C1.1.14, Martial Law Generally, 2024.
71. U.K. Anti-terrorism, Crime and Security Act 2001,
72. Title VIII: Judiciary, (Articles 64 to 66).
73. Constitution of 4 October 1958, 2024.
74. Constitution for Israel, 1958.
75. Decree of the President of Ukraine No. 11/2022 (On the Report on the Results of the Review of Public Security and Civil Defense).
76. I. Kostiuk, *Forensic classification of military criminal offences and the place of abuse of power or authority by a military official*, in *Law Journal of the National Academy of Internal Affairs*, vol. 14, no. 4, pp. 66-77, 2024.
77. U.N., International Covenant on Civil and Political Rights, 1967.
78. I. Cherleniak, M. Tokar, *Effective governance and the doctrine of "total defence" as factors of state stability in wartime*, in *Democratic Governance*, vol. 17, no. 1, , 2024, pp. 5-17.
79. A. Khamzin, Y. Buribayev, K. Sartayeva, *Prevention of Human Trafficking Crime: A View from Kazakhstan and Central Asian Countries*, in *International Journal of Criminal Justice Sciences*, vol. 17, no. 1, 2022, , pp. 34-53.
80. Law of Ukraine No. 389-VIII "On the Legal Regime of Martial Law", 2015.
81. European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950.
82. L. Spytska, *Assessment of the Political and Security Decisions of the Nuremberg Trials from a Legal Perspective*, in *Pakistan Journal of Criminology*, vol. 15, no. 1, pp. 63-76, 2023; L. Spytska, *The Nature of Sexual Violence: The Criminological Concept of Victimisation*, in *Pakistan Journal of Criminology*, vol. 15, no. 4, 2023, pp. 1-20.
83. O. Gross, F.D. Ni Aolain, *The rhetoric of war: Words, conflict and categorization post-9/11*, in *Cornell Journal of Law and Public Policy*, vol. 24, no. 2, 2014, pp. 14-47; V. Lytvyn, V. Ahmadov, *Problematic aspects of at the scene police work with victims of terrorist acts on the territory of Ukraine*, in *Law Journal of the National Academy of Internal Affairs*, vol. 14, no. 2, 2024, pp. 52-60.
84. Amnesty International, *Syria: Former refugees tortured, raped, disappeared after returning home*, 2021; Amnesty International, *Myanmar: Military should be investigated for war crimes in response to 'Operation 1027'*, 2023.
85. Human Rights Watch, *World Report 2023: Ethiopia*, 2023.
86. *Freedom in the World 2023: Ethiopia*, 2023.
87. Human Rights Watch, *World Report 2023: Ethiopia*, 2023; *Freedom in the World 2023: Ethiopia*, 2023; Amnesty International, *Myanmar: Military should be investigated for war*

- crimes in response to 'Operation 1027'*, 2023.
88. Amnesty International, *Syria: Former refugees tortured, raped, disappeared after returning home*, 2021; Amnesty International, *Myanmar: Military should be investigated for war crimes in response to 'Operation 1027'*, 2023.
 89. Human Rights Watch, *World Report 2023: Ethiopia*, 2023.
 90. V. Teremetskyi, O. Kovalchuk, A. Kolesnikov, R. Bogdanov, M. Korniienko, I. Dir, *Improving the Information and Legal Support of the Judicial System of Ukraine: Experience of the European Court of Human Rights*, in *Journal of Ecobumanism*, vol. 3, no. 3, pp. 61-74, 2024.
 91. D. Dyzenhaus, *Legality in a time of emergency*, cit.
 92. H.L.A. Hart, *The concept of law*, Oxford University Press, Oxford, 2012.
 93. S. Bandurka, *Advocacy in the system of protection of human rights and freedoms in wartime*, in *Social and Legal Studios*, vol. 7, no. 4, pp. 212-221, 2024.
 94. R. Hirschl, *Comparative matters: The Renaissance of comparative constitutional law*.
 95. D. Dyzenhaus, *Legality in a time of emergency*, cit.
 96. G.A. Raymond, *International norms and the resort to war*, Palgrave Macmillan, Cham, 2021.
 97. J.R. Miles, *Soldiers' dilemma: Foreign military training and liberal norm conflict*, in *International Security*, vol. 46, no. 4, pp. 48-90, 2022.
 98. P. Cane, *The Cambridge Constitutional History of the United Kingdom*, cit.
 99. S. Neff, *The law of armed conflict*, cit.
 100. R. Dworkin, *Justice for hedgehogs*, Harvard University Press, Belknap Press, Cambridge, 2011.
 101. J.M. Finnis, *Natural Law and Natural Rights*, Oxford University Press, Oxford, 2011.
 102. J. Raz, *The authority of law: Essays on law and morality*, Oxford University Press, Oxford, 1979.
 103. E. Chemerinsky, *Constitutional law: Principles and policies*, Aspen Publishing, Waltham, 2023.
 104. M.I. Doronin, *Security essence of the state's functions security essence of the state's functions*, in *Information and Law*, vol. 1, no. 32, 2020, pp. 66-79.
 105. N. Gur, J. Jackson, *Procedure-content interaction in attitudes to law and in the value of the rule of law: An empirical and philosophical collaboration*, in D. Meyerson, C. Mackenzie, T. MacDermott (ed.), *Procedural Justice and Relational Theory: Empirical, Philosophical, and Legal Perspectives*, Routledge, London, 2020.
 106. V.M. Kravchuk, *Theoretical foundations of the constitutional and legal status of judges in Ukraine*, Uzhhorod National University of the Ministry of Education and Science of Ukraine, Uzhhorod, 2020.
 107. H. L.A. Hart, *The concept of law*, cit.
 108. J.T. Levy, Jeremy Waldron, *Political theory: Essays on institutions*, in *Review of Politics*, vol. 79, no. 2, 2017, pp. 321-323,
 109. K. Sikkink, *Evidence for Hope: Making Human Rights Work in the 21st Century*, cit.

110. D. Reiter, *Avoiding the coup-proofing dilemma: Consolidating political control while maximizing military power*, in *Foreign Policy Analysis*, vol. 16, no. 3, 2020, pp. 312-331.
111. ArtII.S2.C1.1.14, Martial Law Generally.
112. ArtII.S2.C1.1.13, President as Commander of Armed Forces, 2024, available on the page https://constitution.congress.gov/browse/essay/artII-S2-C1-1-13/ALDE_00013475/.
113. M. Neocleous, *Whatever happened to martial law?*, in *Radical Philosophy*, vol. 143, 2024, pp. 13-22.
114. I. Kostiuk, *Theoretical legal analysis of abuse of power or official authority by a military official in martial law or combat situation: Key aspects*, in *Scientific Journal of the National Academy of Internal Affairs*, vol. 29, no. 4, 2024, pp. 61-74.
115. F.A. Hayek, *The Constitution of liberty*, Routledge, London, 2012.
116. O. Gross, F.D. Ni Aolain, *Law in times of crisis: Emergency powers in theory and practice (American society of International 2007 Certificate of Merit for creative scholarship)*, Cambridge University Press, Cambridge, 2006.
117. L. Brooke-Holland, C. Mills, *The Armed Forces Covenant and status in law*, 2022, available on the page <https://commonslibrary.parliament.uk/research-briefings/cbp-9072/>.