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Balancing Necessity, Legitimacy, and Liberty: A Normative Evaluative Framework for Public Health Emergency Powers

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Abstract

Emergencies disrupt ordinary life and compel governments to act swiftly, often by setting aside rules that typically guide public decision-making. In public health crises, this creates a fundamental tension between the need for strong executive powers and the law's role in limiting authority and protecting individuals from abuse. Climate change, widening inequalities, zoonotic spillovers, and increased global mobility indicate that emergency powers will be invoked more frequently. While such exceptional measures may be necessary to protect the public, they often restrict individual liberties and raise concerns regarding accountability, transparency, and proportionality. Drawing on the theories of Carl Schmitt, Jürgen Habermas, and Lon Fuller, the authors propose an analytical framework grounded in jurisprudence and global public health governance standards to assess the legitimacy of public health emergency laws across jurisdictions.

Keywords

Public Health Emergencies; Emergency Powers; Legitimacy; State of Exception; Individual Liberties; Accountability; Jurisprudence

INTRODUCTION

Public health emergencies challenge legal systems with a recurring dilemma: how far may state authority depart from ordinary legality in the name of necessity without undermining the rule of law itself? Such emergencies may arise from infectious disease outbreaks, biohazards, natural disasters, or environmental crises. They present profoundly challenging situations for both the state and the rule of law. This is because they often involve suspending ordinary legal norms and stretching the limits of lawful power in the name of necessity.

While such crises are frequently treated as exceptional moments, contemporary systems of governance and community life reveal them to be recurring and structurally embedded phenomena. The World Health Organization (WHO) defines public health emergencies as occurrences or imminent threats of illness or public health conditions that pose a substantial risk of widespread fatalities or long-term disabilities (Voss et al. 2022, 4–10). Globally, societies have confronted many such exigencies in both the distant and recent past. These situations require rapid decision-making by the state or sovereign, including the adoption of swift actions and urgent measures through laws, rules, directives, and other legal instruments (Won 2025, 115).

In such contexts, law functions both as an instrument that enables state action and as a mechanism intended to limit excesses of power. Striking a balance between collective welfare and restrictions on individual rights is therefore neither straightforward nor purely technical (Lichtveld et al. 2002, 184).



Public health emergencies thus expose deep tensions between law, liberty, and power. These tensions have long shaped jurisprudential debates. While much of the scholarship on public health law focuses on administrative preparedness, epidemic management, and epidemiology, the deeper jurisprudential question of legitimacy remains underexplored. Most legal discussions examine the actions and measures governments adopt during crises, but comparatively little attention is paid to their legal and moral evaluation. There is therefore a need for a framework capable of testing and guiding the use of emergency powers. Without such limits, emergency powers risk becoming routine tools of governance rather than rare exceptions. Emergencies are no longer unusual events; consequently, democratic societies must carefully consider how to regulate emergency laws so that temporary measures do not quietly become permanent ones.

This study reconsiders emergency laws by situating them within foundational debates in legal philosophy. Carl Schmitt argued that the actual test of sovereignty emerges in moments of crisis, when a decisive authority determines that standard legal rules no longer apply. Jürgen Habermas advanced a contrasting perspective, insisting that even necessary emergency actions must be justified through public reasoning and democratic deliberation. Lon Fuller went further, maintaining that law cannot abandon its internal morality even in emergencies; it must remain transparent, stable, and fair. Taken together, these perspectives do not yield easy answers, but they help frame more incisive questions about emergency laws, specifically, whether they genuinely serve justice or instead normalize exceptional power.

Building on this jurisprudential analysis, the paper engages with global legal frameworks such as the International Health Regulations (2005) (IHR), the Global Health Security Agenda (GHS), the Siracusa Principles, and the Sustainable Development Goals (SDGs), as well as the scholarly contributions of public health law advocates such as Lawrence Gostin and Katharina Ó Cathaoir. Drawing on these sources, the paper proposes a normative evaluative framework that identifies the parameters under which rights-restricting state measures may be justified or assessed for legitimacy. In doing so, it offers a theoretically grounded and original conceptual approach to evaluating emergency laws.

This research aims to analyze the jurisprudential foundations of rights-restricting laws by integrating global best practices in order to identify the characteristics of legally and morally justified emergency measures. By bridging theory and practice, this study seeks to contribute to the development of a philosophically coherent model of public health emergency governance grounded in a robust, trustworthy legal framework.

METHODOLOGY

This study adopts a doctrinal and theoretical–analytical approach, grounded in the qualitative analysis of legal instruments, policy documents, and jurisprudential theories. The doctrinal component involves a close reading and systematic analysis of international legal instruments, governance frameworks, and the writings of legal scholars. The theoretical component examines key jurisprudential theories, particularly those advanced by Carl Schmitt, Jürgen Habermas, and Lon Fuller. Together, these approaches enable the authors to examine how legitimacy, authority, and legality are conceptualized and contested in the context of emergencies.

Normative principles recurring across legal instruments, jurisprudential theories, and scholarly literature are identified, analyzed, and distilled into an evaluative framework. This framework is presented as a table listing 9 parameters for assessing emergency laws in a clear, practical manner. The development of these parameters followed a three-stage analytical process. First, primary and secondary sources were reviewed to identify recurring normative ideas, such as necessity, transparency, proportionality, accountability, legality, and restraint. Second, these recurring ideas were grouped into thematic categories reflecting shared concerns across the sources. Third, an iterative comparison of jurisprudential theories and global governance instruments was conducted, yielding the consolidation of overlapping themes into nine distinct evaluative parameters. To ensure theoretical and practical grounding, these parameters were reviewed against the source material. For clarity and usability, they were subsequently organized into a table that includes guiding questions for each parameter.

Criteria of relevance, influence, and normative focus guided the selection of sources. Key international instruments and policy documents, including the International Health Regulations (2005), the Global Health Security Agenda, Sustainable Development Goal 3, and the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (ICCPR), were chosen because they represent widely accepted global standards for public health governance. Jurists such as Schmitt, Habermas, and Fuller were selected for their foundational and contrasting perspectives on authority and legality during crises. Scholars, including Lawrence Gostin and Katharina Ó Cathaoir, were included for their direct engagement with public health governance and rights-based frameworks. Collectively, these sources provide a balanced and robust foundation for the analysis and for the construction of the evaluative framework.

RESULTS AND DISCUSSION

Jurisprudential Perspectives on the Legitimacy of Emergency Laws

In ordinary situations, law mainly functions as a set of accepted rules and procedures that guide governance. In times of crisis, however, the law becomes more complex; it transforms into a space of tension between state power and legal restraint. Examining this tension through jurisprudential thought helps reveal the moral and philosophical ideas that shape how emergency laws are created and used. Drawing on the theories of Carl Schmitt, Jürgen Habermas, and Lon Fuller, this section focuses on why emergency powers are exercised rather than just how they operate. These ideas provide a framework for evaluating whether extraordinary, rights-restricting laws are legally and morally credible.

Carl Schmitt's theory of the "state of exception," developed in his 1921 essay "On Dictatorship" against the background of the unstable Weimar Republic, places necessity at the center of emergency governance (Head 2017, 16). He famously argued that "sovereign is he who decides on the exception." This emphasizes that the defining feature of sovereignty is the authority to suspend legal norms when extraordinary circumstances arise (Vinx 2025). It implies that true sovereignty lies in determining when standard law no longer applies. This places the sovereign both within the legal order and, in moments of crisis, beyond it. In this context,

emergency power is based more on decision and action than on legal procedure (McConkey 2013, 566).

However, Schmitt's account reveals the inherent danger of emergency governance: when necessity becomes the source of authority, almost any action risks being justified in the name of urgency. During the COVID-19 pandemic, many states relied on this logic to impose lockdowns, surveillance, and controls under the guise of emergency (MagShamhráin 2022, 95). While many of these measures may have been necessary, Schmitt's theory warns that without apparent limitations, the state of exception can gradually become the norm. This underscores the need for a clear threshold of necessity in evaluating emergency provisions.

This paper uses the concept of the state of exception in a limited and analytical sense to explain the risks when necessity is the sole basis of authority. The authors do not equate public health emergencies with Schmitt's radical state of exception; instead, they treat them as situations in which extraordinary powers are exercised within a framework of rights and accountability. While this concept demonstrates the risks of unchecked power, the paper's normative focus remains grounded in a legally constrained, rights-sensitive governance framework.

Jürgen Habermas offers a very different perspective, rejecting the idea that authority should rest solely on decisive power. He reorients emergency authority toward democratic legitimacy. Rejecting sovereignty as mere decisional power, he argues that the legitimacy of law lies in public justification and communicative rationality. For Habermas, legitimacy arises from public reasoning, participation, and justification. Law is valid not simply because it is necessary and enforced, but because it can be explained, justified, and defended to those who are expected to obey it. His theory is grounded in legitimacy and legality (Finalyson 2023).

In "The Theory of Communicative Action" (1981) and through his "Discourse Theory of Law and Democracy," Habermas argues that even in times of crisis, legal authority must remain anchored in transparent reasoning and inclusivity. States and governments must provide reasons, invite public opinion, and consider objections or alternative views wherever possible. They must act in ways that citizens can understand and question. He proposes that law acts as a bridge between facts, such as the realities of power and administration, and norms, which are ideals of justice and morality (Howard 1997, 143).

Applied to public health emergencies, this perspective establishes public justification and accountability as essential criteria for legitimacy. Emergency measures, even when necessary, must be capable of justification, defense, and contestation (Schaffer 2015, 98). In this framework, a public health emergency law must not only secure compliance but also withstand public scrutiny and reasoning (Rubins 2022, 55). Habermas does not deny the need for emergency action; instead, he insists that such actions remain answerable to the public, transforming sovereign commands into accountable authority.

His grounding of legitimacy in public reasoning is not clearly compatible with Schmitt's view, which grounds authority in necessity during times of emergency (Sharma 2024, 165). Urgent decision-making often leaves little room for deliberation. The framework proposed in this study does not seek to resolve this tension but aims to manage it by requiring justification and review even when immediate decisions are unavoidable (Brunila 2024, 34).

Lon L. Fuller adds another layer by focusing on the "inner morality of law," further expanding the evaluative criteria for the legality of emergency provisions. He argues that law

must follow certain formal qualities to deserve respect. His eight key principles of legality, generality, promulgation, prospectivity, clarity, non-contradiction, possibility of compliance, constancy, and congruence between official rules and action, highlight that legality is not suspended during crises but tested most severely in such times (Tucker 1965, 273). Fuller's contribution thus grounds transparency, clarity, and proportionality as non-negotiable parameters for legitimate emergency lawmaking and application. Fuller does not advocate abandoning legality during emergencies; instead, he argues that the accurate measure of a lawful order lies in its ability to preserve moral qualities. A good law must be clear, stable enough to guide behavior, and applied honestly (Gunther 2022, 142).

The authors discuss two distinct but related dimensions of legitimacy: legal legitimacy, which concerns whether emergency provisions follow proper procedures, and socio-political legitimacy, which concerns whether the public accepts emergency measures as justified and trustworthy. The first dimension relates more closely to Fuller's principles of legality, while the second resonates with Habermas's emphasis on public justification. This evaluative study, therefore, treats legitimacy as a combination of both dimensions, requiring not only procedural correctness but also public trust and accountability.

Together, Schmitt, Habermas, and Fuller demonstrate three essential aspects of emergency law: necessity, legitimacy, and legality. Schmitt explains why states may act decisively in crises; Habermas explains why those actions must be justified; and Fuller explains how they must be structured. These jurisprudential perspectives do more than explain emergency power; they also justify the normative parameters used in this study's evaluative framework. These theoretical insights should inform real-world legal and institutional design.

LEGAL FRAMEWORKS FOR PUBLIC HEALTH AND EMERGENCY RESPONSE

Global public health governance has evolved through a range of legal and normative instruments developed by international institutions and shaped by academic discourse. These instruments serve not merely as policy manuals, guidelines, or administrative checklists; they also reflect the substantive goals and standards that influence how states design their legal systems to respond to health emergencies. These instruments define not only what governments must achieve, but also how they should govern and act while doing so.

This section examines how specific international legal instruments clarify the legality of state emergency actions. A discussion of this topic demonstrates how international frameworks increasingly link the effectiveness of laws to accountability, fairness, and restraint, while maintaining a balance with state authority.

Sustainable Development Goals (SDGs)

Health occupies a central place within the Sustainable Development Goals, particularly SDG 3, which seeks to promote well-being and ensure healthy lives for all (United Nations General Assembly 2015). SDG 3 contains thirteen targets that together reflect a broad vision of public health, covering prevention, access, treatment, and system capacity. Target 3.d is vital for emergency governance because it focuses on early warning, risk reduction, and state capacity to

manage health emergencies. It also links preparedness with ending major epidemics, expanding health coverage, and supporting research in poorer regions (Takian 2022, 215).

Within the SDG framework, law is not viewed only as a tool used during crises. It also shapes long-term systems by defining responsibilities, building institutions, and protecting access to healthcare (Zeegers 2020, i32). In this way, the SDGs help us assess whether a legal system is structurally prepared for emergencies and whether its actions are legitimate.

Global Health Security Agenda (GHSA)

The Global Health Security Agenda (GHSA) focuses on preventing and controlling infectious diseases (Global Health Security Agenda n.d.). One of its main components is the Legal Preparedness Action Package, which treats strong laws as a fundamental condition for effective emergency response. Rather than promoting policy cooperation alone, it asks countries to closely examine their own legal systems, who holds authority, how powers are defined, and whether rules can be enforced. It encourages governments to review outdated laws and align them with international health standards (Ginsbach 2024).

Through this approach, the GHSA demonstrates that preparedness is not only about resources or planning, but also about having legal institutions that can function clearly and reliably during a crisis.

The Siracusa Principles on ICCPR Limitations and Derogations

The Siracusa Principles provide one of the clearest normative standards for assessing when and how rights may be restricted or limited during emergencies. These principles directly address the tension between state power and individual liberty. They establish strict conditions under which restrictions may be justified. Such restrictions must serve a legitimate purpose, be legally established, be strictly necessary, be proportionate, and be temporary. They must also be subject to checks and safeguards to prevent misuse (American Association for the International Commission of Jurists 1985). In this sense, the Siracusa Principles function as a rights-based threshold test for emergency governance.

According to the Siracusa Principles, any legal measures introduced during emergencies that restrict personal liberties should: (a) respond only to an urgent public or social need; (b) pursue a clearly defined legitimate aim or purpose; (c) be proportional to that purpose; and (d) be restricted to what is necessarily required to achieve the goal (Fidler 2006, 88; United Nations 2015).

Principles of Necessity and Proportionality: A Human Rights Approach

Katharina Ó Cathaoir's work (2021, 46) "Human Rights in Times of Pandemics: Necessity and Proportionality" builds upon the Siracusa Principles by embedding the balancing of individual rights with public health measures during pandemics. She examines how states balance individual rights with emergency provisions. Ó Cathaoir emphasizes that any restriction of rights during emergencies must satisfy two core principles: it must be necessary to address an

urgent public health issue, and it must be proportionate, meaning it does not exceed what is necessary to achieve the purpose.

Ó Cathaoir identifies three ethical principles to guide public health action in emergencies: solidarity, proportionality, and transparency. Solidarity refers to shared responsibility and the need to provide special protection to vulnerable groups. Proportionality requires that restrictions be limited to what is genuinely needed and remain reasonably balanced—transparency demands open communication and clear accountability to sustain public trust (Sirohi 2020). Together, Ó Cathaoir's principles show that emergency measures must go beyond necessity and also promote trust, accountability, and inclusion.

Proportionality is not a simple test; it must be reassessed over time, since governments often act with incomplete information and under political pressure. What seems necessary and proportionate at one moment may appear excessive later.

Lawrence Gostin's Principle of Duty, Power, and Restraint

Lawrence Gostin's framework provides a clear structural lens for assessing whether public health laws are effective and legitimate. He identifies three foundational principles that should shape any public health legal system: duty, power, and restraint.

Duty assigns clear responsibilities to public health authorities, requiring them to actively protect and promote the health of the population and reduce health inequalities. It imposes a positive obligation on states to act by clearly defining their responsibilities.

Power grants the legal authority to act in the face of health threats, such as enforcing isolation or quarantine measures. It enables authorities to implement appropriate interventions and regulate activities to control the spread of disease.

Restraint ensures that these powers are exercised reasonably, with safeguards to protect individual rights and prevent misuse or overuse. It is essential to maintain a balanced approach to extraordinary measures to safeguard against arbitrary and disproportionate actions. Without sufficient restraints, these powers may become tools of domination (Gostin 2007, 1).

Gostin thus insists that while many emergency laws emphasize power, legitimacy arises only when duty and restraint are equally institutionalized. Together, these principles promote effective, just, and accountable governance in public health emergencies. This framework helps evaluate whether emergency laws protect public welfare while also respecting rights, fairness, and democratic accountability.

International Health Regulations (2005)

The International Health Regulations (IHR) were created to prevent the spread of disease across borders without unnecessarily restricting travel and trade. They define when a situation becomes a "public health emergency of international concern" and require each country to establish a national contact point that can communicate directly with the World Health Organization. They also expect states to build basic systems so that outbreaks can be detected early, reported accurately, and managed before they escalate.

When it comes to preparedness, the IHR does not remain at a general level. Article 13 outlines what countries should do before a crisis occurs, and there are more detailed

instructions for influenza pandemics (World Health Organization 2017). A practical checklist supports these instructions. The checklist specifies who should act, what systems should already exist, and how quickly decisions should be made. One important focus is the law. Countries are asked to review their own legal frameworks to determine whether they truly allow for emergency action. The IHR asks whether restrictions are lawful, whether vaccination can be required, how new medicines can be approved quickly, and how private hospitals can be regulated during crises (World Health Organization 2018). In this way, the IHR shows that preparedness is not only about hospitals and doctors but also about having laws that function effectively during emergencies.

These global instruments do more than suggest good ideas. Taken together, they shape how legitimacy is understood in emergency governance. Each instrument approaches the issue from a different angle. The SDGs focus on long-term structure and capacity. The Siracusa Principles address rights and limits. The GHSA emphasizes coordination between systems. The IHR, meanwhile, focuses on procedures and readiness. When read together, they reflect a shared understanding that emergency powers are not acceptable simply because they are urgent. They are acceptable only when they are explained, limited, fair to people, and properly organized. These instruments, along with the previously discussed jurisprudential theories, are synthesized into a unified analytical framework that will be discussed later in this paper. They are not merely fragments of rules but form an essential component of a theory of legitimacy.

RATIONALE BEHIND PUBLIC HEALTH LAW REFORM AND REVIEW

Building on the jurisprudential concerns of legitimacy discussed earlier in this paper, the review of public health laws must not be seen merely as an administrative step but as a core mechanism that ensures democratic accountability and responds to evolving circumstances. A periodic legal review process acts as a corrective to the exceptional nature of emergency powers. It reaffirms that necessity must not displace legality or rights. This section, therefore, examines the rationale for reviewing public health laws.

Justifications for a Public Health Law Review

A review of public health laws is often triggered by recurring disease outbreaks, emerging health risks, and the recognition that existing legal frameworks are inadequate to address contemporary challenges (Tulchinsky 2014, 46). Laws are expected to reflect modern scientific knowledge, evolving realities, emerging human rights standards, and changing governance structures. When laws fail to keep pace, legal responses may become outdated, incoherent, or ineffective. Because health issues are dynamic, health systems must also evolve, and laws must be updated regularly to remain effective (Pollack 2018, 13s).

There is also a problem of law multiplicity in decentralized systems, which can exacerbate inconsistency and uncertainty during emergencies. International standards and obligations further compel states to reassess their domestic laws. A periodic legal review functions as a safeguard to ensure that exceptional powers are exercised only when necessary, remain aligned with constitutional and legal rights, and are proportionate to the need (Gostin 2001, 1366).

Scope of the Reform

The scope of reform in public health law is not fixed. It changes with a state's priorities, the types of health risks it faces, and the social conditions in which those risks emerge. Sometimes reform means only changing a few weak provisions. At other times, it may require replacing an entire law or drafting a new one. Reviews also examine rules that no longer work in practice or fail to respond to current health realities. Their purpose is to determine whether the law is understandable, workable, and consistent, and to identify gaps that block effective implementation (World Health Organization 2016, 29; Asim 2022, 1240).

From a legitimacy perspective, review cannot be limited to technical fixes. It must also ask whether authority is clearly defined, whether rights are protected, and whether measures match the level of risk they claim to address.

Public health emergencies demand not only medical and logistical readiness, but also timely scrutiny to preserve the temporary nature of emergency laws. Legal review thus functions as an institutional check, reconciling emergency governance with the rule of law, accountability, and rights. Such reviews are essential to ensure that public health laws remain coherent. This contributes to the normative framework for evaluating public health laws proposed in the next section.

NORMATIVE FRAMEWORK FOR STRENGTHENING PUBLIC HEALTH EMERGENCY LAWS

Drafting a legitimate and effective public health emergency legal framework must be based on a principled foundation that balances the imperatives of collective safety with civil liberties (James 2025, 61). A state may be required to take extraordinary measures, and such measures must be capable of adequately addressing the crisis of a public health emergency. However, extraordinary powers cannot be unlimited; they must always remain subject to legal and moral boundaries. Without clear guiding principles, emergency powers risk becoming tools of convenience rather than instruments of necessity.

The authors have developed the framework presented in Table 1 as a qualitative evaluative tool to assess whether emergency laws meet the requirements of legitimacy, accountability, and restraint. This framework is designed for legally binding emergency regimes, not for the absolute suspension of legality. It translates global legal standards and jurisprudential ideas into practical reference points for legal analysis. It does not attempt to impose rigid rules; instead, it offers guidance for carefully assessing the use of emergency powers. It helps determine whether a legal response is justified not only because it is urgent, but also because it is fair and responsible.

Each parameter is accompanied by guiding questions in the fourth column. These questions are meant to shape judgment, not to produce automatic answers. They shift attention away from outcomes alone and toward how decisions are made, why they are made, and where their limits lie. The framework can be applied across different countries and legal systems, enabling lawmakers, courts, and scholars to assess whether emergency laws protect public health without sacrificing the core values of legality and liberty.

Table 1: Normative Parameters for Evaluating the Legitimacy of Public Health Emergency Laws
(Source: Authors' own depiction)

Evaluation Parameter	Normative and Jurisprudential Foundations	Core Idea	Key Considerations for Evaluation
Legal Basis and Rule of Law	• IHR • Fuller • Gostin	Emergency powers must be grounded in apparent statutory authority and must remain consistent with constitutional limits and the rule of law.	Is the legal basis explicit and valid? Are responsibilities clearly assigned? Does the law respect constitutional procedures?
Necessity	• Siracusa Principles • Ó Cathaoir • IHR	Restrictions on rights must be strictly necessary, proportionate, and limited to achieving legitimate public health objectives.	Are measures based on evidence? Is there a clear factual threshold for declaring emergencies? Are interventions limited to genuine necessity?
Proportionality	• Siracusa Principles • Ó Cathaoir • Gostin	State actions must be limited to the least restrictive measures necessary to achieve public health objectives.	Does the framework require a proportionality analysis? Are less restrictive alternatives considered?
Temporality and Review	• Siracusa Principles • IHR • Fuller	Emergency powers must be limited in duration, regularly reassessed, and formally revoked or withdrawn when the emergency subsides.	Are time limits, review mechanisms, and sunset clauses built into the law? Is oversight ensured during renewal or extension?
Non-Discrimination and Equity	• SDG 3 (Good Health & Well-Being) • Human Rights Law	Laws must promote non-discrimination and provide special protection for vulnerable or marginalized groups.	Does the framework prevent discrimination? Are vulnerable populations specifically protected?
Transparency and Public Communication	• GHSA • Ó Cathaoir • Habermas (Communicative Rationality)	Public access to timely information and transparent communication strengthens legitimacy and encourages compliance.	Are decisions, data, and rationales made public? Are there requirements for timely, accessible communication?
Accountability and Oversight	• Gostin (Duty–Power–Restraint) • Siracusa • Habermas	Independent review mechanisms, accessible redress, and institutional checks and balances must accompany legal powers.	Is there independent oversight, judicial review, or grievance redressal? Are emergency powers subject to audit or reporting?

Preparedness and Institutional Capacity	• IHR • GHSA • SDG 3.d	The framework must establish comprehensive systems for prevention, timely detection, and coordinated response.	Does the framework mandate disease surveillance, biosafety standards, inter-agency coordination, and capacity building?
Clarity and Procedural Morality	• Fuller (Inner Morality of Law)	Laws must be clearly drafted, publicly available, internally consistent, and capable of being followed to ensure fairness and legitimacy.	Are definitions and procedures clear? Are penalties proportionate and predictable? Is the law accessible and coherent?

This table serves as a conceptual framework and evaluative tool for reviewing national public health emergency legal frameworks in accordance with jurisprudential principles and international standards. An emergency framework that restricts rights yet satisfies these criteria can be considered balanced and democratically legitimate.

CONCLUSION

Public health emergencies put governance systems to the test, exposing deep tensions among sovereignty, public safety, and individual liberty. Drawing on Carl Schmitt's concept of the state of exception, a crisis may blur the line between legality and illegality, allowing the sovereign to suspend norms in the name of necessity. Nevertheless, as Jürgen Habermas and Lon Fuller argue, such exceptional powers must be legitimized through procedural fairness, justice, transparency, and the internal morality of law. These jurisprudential insights emphasize that any law restricting rights, even if necessary and issued by the sovereign, must be accountable and acceptable to the public. This accountability can be ensured through clear reasoning, defined limits, and adherence to ethical and moral principles. Emergency power, therefore, cannot exist without responsibility. Power without a justified and transparent application undermines trust and weakens the moral authority of law.

This paper reinterprets these theories through the lens of global and institutional frameworks, including the International Health Regulations (IHR), the Global Health Security Agenda (GHSA), the Sustainable Development Goals (SDGs), the Siracusa Principles, and the work of scholars such as Lawrence Gostin and Katharina Ó Cathaoir. The researchers synthesized these principles into an evaluative tool, identifying core parameters and questions that can guide the assessment and improvement of emergency legal frameworks. This framework transforms abstract theory into a practical evaluation method and can be adapted over time as principles and circumstances evolve. It allows decision-makers to test not only what the law does, but also how and why it does so.

Rather than questioning whether emergency powers are useful, this paper asks when they are justified. The significance of this research lies in its applicability across jurisdictions and contexts. It offers lawmakers, courts, independent review committees, and rights bodies a structured lens through which emergency legal regimes may be redesigned, reviewed, or assessed. Moving from theory to practice, the proposed framework can guide legislative drafting

and policy analysis. Comparative analysis can further reveal how parameters of legitimacy operate within diverse political, cultural, and institutional settings. While the study proposes a normative framework grounded in jurisprudential thought and global principles, it also invites empirical testing within real legal systems. Future research can apply this framework to specific countries, crises, or court decisions, thereby contributing to a more universal, reliable, and justice-oriented model of emergency governance.

This study's principles-based approach has certain limitations. First, concepts such as accountability, legitimacy, and proportionality may be interpreted differently across cultural and political systems. Second, practical enforcement may be difficult in contexts where institutions are weak, since the framework focuses primarily on legal design. Third, even well-designed frameworks ultimately depend on political will, which the framework cannot guarantee. Therefore, the proposed tool should be used as a guiding framework rather than a fixed formula.

CRediT AUTHOR STATEMENT

Asmita Patel: conceptualization, formal analysis, data curation, investigation, resources, writing-original draft preparation, visualization, project administration. **Mamata Biswal:** conceptualization, methodology, supervision, writing - reviewing and editing

All authors have read and agreed to the published version of the article.

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