



Parliamentary Oversight in Safeguarding the Constitution: A Comparative Analysis of the Constitutional Laws on Civil Emergencies in Indonesia and South Korea

Khaidar Abdan Syakuran¹

Universitas Pembangunan Nasional Veteran Jakarta

Corresponding email: 2310611010@mahasiswa.upnvj.ac.id

Abstract: *Both Indonesia and South Korea have authoritarian backgrounds that have shaped how their respective constitutions address states of emergency; however, the two countries currently find themselves in very different situations when it comes to addressing abuses of executive power during such situations. This study analyses the constitutional structure of civilian governance during a state of emergency in Indonesia, specifically Article 12 of the 1945 Constitution and Law No. 23 of the 1959 Prp on States of Emergency, in comparison with Article 77 of the Constitution of the Republic of Korea, which was put to the test during the military emergency declaration issued by President Yoon Suk Yeol in December 2024. Using a normative legal approach and comparative methods, this article demonstrates that the key factor distinguishing the two systems is not the delegation of emergency powers as outlined in the constitution, but rather the strength and efficiency of the parliamentary oversight mechanisms inherent in each. The South Korean Constitution requires the President to terminate a state of military emergency if a majority of the National Assembly requests it. This mechanism ended Yoon's state of military emergency within six hours and ultimately led to his removal from office by a unanimous Constitutional Court decision in April 2025.*

In contrast, Indonesian Law No. 23 of 1959 lacks a corresponding legislative termination clause. This shortcoming became apparent during the civil emergency in Maluku and North Maluku, which lasted nearly three years from 2000 to 2003 based solely on a single presidential decree. This article argues that the agenda for reforming Indonesia's emergency laws – repeatedly attempted and abandoned since the beginning of the reform era – must emphasise binding parliamentary review and judicial oversight rather than merely changing emergency categories.

Keywords: Constitutional Law, States of Emergency, Civil Emergencies, Parliamentary Oversight

A. Introduction

Every legal system is fundamentally designed to function under normal conditions. However, historical records of governmental structures – both in Indonesia

and in many other countries – show that these normal conditions can be disrupted at any time by threats that force the government to act outside usual legal norms. Jimly Asshiddiqie calls this situation a subject of constitutional law in times of emergency – that is, the branch of legal scholarship that examines how state functions can continue to operate effectively during abnormal circumstances without undermining the principles of democracy and the rule of law itself.¹

The problem is that emergency powers granted to the executive branch always carry the potential for abuse. Comparative constitutional law literature consistently shows that what truly distinguishes democratic states from authoritarian ones is not the presence or absence of emergency powers in the constitution, but the strength of the accompanying oversight mechanisms. Recent research on the architecture of emergency constitutions confirms that a balance of power during a state of emergency can be achieved through restrictions on the authority to declare a state of emergency, parliamentary approval requirements, time-limit clauses, or substantial limitations on the powers granted to the executive branch.

The military emergency in South Korea in December 2024 serves as one of the most relevant case studies for testing this argument. President Yoon Suk Yeol suddenly declared a state of martial law in a late-night national television address, citing the existence of anti-state forces sympathetic to North Korea that were attempting to overthrow liberal democracy.

Article 77, paragraph (1) of the South Korean Constitution does indeed grant the president the authority to declare martial law when necessary to address military needs or to maintain public safety and order through the mobilisation of military forces during times of war, armed conflict, or similar national emergencies.²

However, what drew attention to this moment was not only the declaration of a state of emergency, but also how quickly the South Korean government responded and resolved the situation. Within just six hours, President Yoon lifted the military state of emergency after 190 of the 300 members of the National Assembly voted unanimously to reject the declaration. This swift response was no coincidence; it directly followed the constitutional provision requiring the president to lift martial law as soon as a majority of National Assembly members requested it. In contrast, Indonesia's governance history reveals a much longer and harder-to-manage experience. When President Abdurrahman Wahid declared a state of civil emergency in the provinces of Maluku and North Maluku

¹ Jimly Asshiddiqie, *Hukum Tata Negara Darurat* (Jakarta: Rajawali Pers, 2007)

² Pasal 77 ayat (1) Constitution of the Republic of Korea. https://www.constituteproject.org/constitution/Republic_of_Korea_1987.pdf?lang=en, sebagaimana diterjemahkan dalam Jeong-In Yun, "2024 Martial Law in South Korea: The Crossroads Between Democratic Regression or Proof of Strong Democracy," IACL-AIDC Blog, 6 Desember 2024. <https://blog-iacl-aidc.org/2024-posts/2024/12/5/martial-law-in-south-korea>.

in 2000 via a Presidential Decree, that emergency status was not fully lifted until three years later. No system compels the president to lift it earlier, nor is there a constitutional obligation requiring the president to follow the decisions of the People's Representative Council, as is the case in South Korea.

This article was written in light of these differences. Previous research on emergency constitutional law in Indonesia has generally focused only on normative descriptions of the three categories of emergencies regulated under Law No. 23 Prp of 1959—namely, civil emergencies, military emergencies, and states of war—without delving deeply into comparisons with the systems of other countries that have stricter parliamentary controls. Research by the Constitutional Court of the Republic of Indonesia shows that attempts to repeal the 1959 emergency law have been made since the beginning of the reform era, but have consistently failed because of widespread civil society opposition concerned about the potential for abuse of power.³

The novelty of this paper lies in its use of the 2024 military emergency in South Korea as a recent reference—a topic that has not been extensively studied in constitutional law literature in Indonesia—and its direct connection to the real-world experience of the civil emergency in Maluku, which serves as a domestic case study.

B. Method

This study adopts a normative legal method with a comparative law approach. The study uses a legislative approach to analyse Article 12 of the 1945 Constitution, Law No. 23 Prp of 1959 on States of Emergency, as well as Article 77 of the Constitution of the Republic of Korea and South Korea's Military Emergency Act. In addition, a case study approach was applied to examine two real-world events: the declaration of a civil emergency in the provinces of Maluku and North Maluku from 2000 to 2003, and the declaration of a military emergency issued by President Yoon Suk Yeol in December 2024 until the South Korean Constitutional Court decides to revoke it in April 2025.

The primary legal sources in this study include the text of the 1945 Constitution, Law No. 23 Prp of 1959, Presidential Decrees No. 88 of 2000 and No. 71 of 2003, and the Constitution of the Republic of Korea. Secondary sources include Jimly Asshiddiqie's work on emergency constitutional law, accredited legal journals, official reports from the Constitutional Court of the Republic of Indonesia, and international publications related to comparative constitutional law, such as *International IDEA* and the *International Journal of Constitutional Law*. Tertiary sources—namely news reports from credible

³ Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi Republik Indonesia, *Laporan Penelitian Hukum Tata Negara Darurat* (Jakarta: Mahkamah Konstitusi Republik Indonesia, 2021). https://s.mkri.id/public/content/infoumum/penelitian/pdf/hasilpenelitian_140_laporan%20Penelitian%20HTN%20Darurat.pdf.

media outlets – were used sparingly to construct a chronology of the 2024 South Korean military emergency, given that this information is still recent and has not yet been extensively discussed in peer-reviewed academic literature. The analysis used qualitative structural comparison techniques, comparing elements of parliamentary oversight, time limits, and emergency resolution mechanisms in both legal systems to identify normatively relevant patterns of difference.

C. Result & Discussion

1. Constitutional: The Legal Framework for States of Emergency in Indonesia: Between Article 12 of the 1945 Constitution and the Lack of Parliamentary Oversight

Article 12 of the 1945 Constitution states, in brief, that the president declares a state of emergency, and that the conditions and consequences thereof are prescribed by law.⁴ The framers deliberately kept the wording general, leaving further clarification to organic laws. To this day, the primary reference remains Law No. 23 Prp of 1959 on States of Emergency, a regulation that is more than sixty years old.

This law classifies states of emergency into three levels: civil emergency, military emergency, and state of war. Each of these may be declared if security or public order throughout all or part of the country's territory is threatened by rebellion, riots, or natural disasters that are feared to be beyond the capacity of regular law enforcement agencies to handle.⁵ The fundamental problem with this law lies not in its three-tier classification of emergency levels, but in the absence of binding legislative oversight mechanisms. Article 2, paragraph (2) of this law merely states that the declaration or revocation of a state of emergency is carried out by the president, without mentioning the role of the House of Representatives at all in the process of terminating it.

Alternatively, the president has the exclusive right to declare and revoke a state of emergency, without having to comply with a request from parliament, as in South Korea. This structure makes sense when we trace its historical origins. Law No. 23 Prp of 1959 emerged during the era of Guided Democracy, immediately following the Presidential Decree of July 5, 1959, which dissolved the Constituent Assembly and reinstated the 1945 Constitution. This draft law still contains the term "First Minister," which refers to the head of government in the semi-parliamentary system of the 1945 Constitution before its

⁴ Pasal 12 Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. https://www.mpr.go.id/uploads/jdih/UUD_1945_DALAM_SATU_NASKAH.pdf.

⁵ Undang-Undang Nomor 23 Prp Tahun 1959 tentang Keadaan Bahaya, Lembaran Negara Republik Indonesia Tahun 1959 Nomor 139, sebagaimana telah diubah dengan Undang-Undang Nomor 52 Prp Tahun 1960, Pasal 1 ayat (1). <https://ppid.tni.mil.id/files/Perpu-Keadaan-Bahaya.pdf>.

amendments. This anachronism shows the law was never designed to operate within the purely presidential system that emerged after the reform era.⁶

This lack of legislative oversight is not merely a theoretical issue on paper; it has concrete implications for the conduct of government in Indonesia, as shown by the experience of the state of civil emergency in the Maluku and North Maluku regions. The violent communal conflict ravaging the provinces of Maluku and North Maluku since early 1999 prompted President Abdurrahman Wahid to declare a state of civil emergency in both regions on June 27, 2000, through Presidential Decree No. 88 of 2000.⁷ When a state of civil emergency is declared, nearly all public activities in both provinces – except religious worship – must be based on clear and justifiable reasons that can be accounted for to the security authorities. Residents who gather to chat or hold a social gathering without a permit risk arrest and could even face imprisonment without due process.

Notably, government officials directly admitted shortcomings in the legal basis used. At that time, the Minister of Law and Legislation stated that the Presidential Decree was based on Law No. 23 Prp of 1959, which was a legal product of the Old Order and was known to be highly authoritarian because each of its articles was flexible, allowing those in power to act harshly without clear limitations. The state of civil emergency in Maluku Province was lifted only by Presidential Decree No. 71 of 2003, meaning the state of emergency lasted about three years from its initial declaration.⁸ This three-year timeframe is clearly not comparable to the six hours it took the South Korean government to end Yoon Suk Yeol's state of military emergency. This striking disparity cannot be explained solely by differences in the severity of security threats, as both the conflict in Maluku and the threat declared by President Yoon fall under domestic security, not threats of foreign military invasion.

A more decisive factor is the absence of a legal obligation requiring the Indonesian executive branch to comply with legislative decisions. This obligation is, in fact, at the heart of Article 77, paragraph (5) of the South Korean Constitution.⁹

⁶ Hukumonline, "Memaknai Irisan Perppu dan UU Darurat," 5 September 2017. <https://www.hukumonline.com/berita/a/memaknai-irisan-perppu-dan-uu-darurat-lt59ad2f9c2a944/>.

⁷ Keputusan Presiden Republik Indonesia Nomor 88 Tahun 2000 tentang Keadaan Darurat Sipil di Propinsi Maluku dan Propinsi Maluku Utara, Lembaran Negara Republik Indonesia Tahun 2000 Nomor 100. <https://peraturan.bpk.go.id/Details/57999/keppres-no-88-tahun-2000>.

⁸ Keputusan Presiden Republik Indonesia Nomor 71 Tahun 2003 tentang Penghapusan Keadaan Darurat Sipil di Provinsi Maluku, Lembaran Negara Republik Indonesia Tahun 2003 Nomor 104. <https://peraturan.bpk.go.id/Details/56309/keppres-no-71-tahun-2003>.

⁹ Penulis menghitung rentang waktu berdasarkan tanggal penetapan dalam Keppres Nomor 88 Tahun 2000 (27 Juni 2000, <https://peraturan.bpk.go.id/Details/57999/keppres-no-88-tahun-2000>) hingga pencabutan melalui Keppres Nomor 71 Tahun 2003 (<https://peraturan.bpk.go.id/Details/56309/keppres-no-71-tahun-2003>), yakni kurang lebih tiga tahun.

2. The Parliamentary Oversight Methods in South Korea and a Comparison with Indonesia

After identifying gaps in Indonesia's emergency legal system regarding parliamentary oversight, the discussion turned to South Korea's constitutional design as an example. To do this properly, we conducted a theoretical review and prepared a table of structural comparisons. Under the South Korean Constitution, there are two types of martial law: emergency martial law (emergency laws) and defensive martial law (military security laws). The first category consists of special emergency powers granted to the president to mobilise the armed forces to take over the functions of certain state institutions temporarily; these powers may be invoked only in the event of war or a serious disturbance of public order that significantly impedes the state's administrative and judicial functions.

Then, on December 3, 2024, this final clause was tested. President Yoon declared martial law at approximately 10:28 p.m. local time, accusing the opposition – which held a majority in parliament – of engaging in anti-state activities sympathetic to North Korea. Military Emergency Command Decree No. 1 subsequently banned all activities of the National Assembly, local councils, and political parties, and placed the media under military control. The suspension of the National Assembly's operations clearly contradicted the spirit of Article 77(3), which should not be used to stifle the legislature's oversight functions, since the legislature itself is responsible for lifting the state of emergency. Consequently, this action immediately sparked significant legal controversy. Both civilians and members of parliament reacted quickly. At midnight, they flocked to the National Assembly building; some even climbed over the fence to enter the plenary hall, which security forces surrounded. The 120 members of parliament who attended the session unanimously rejected the declaration of martial law at 1:00 a.m. local time. President Yoon then re-announced martial law via a televised address around 4:27 a.m., just six hours after the initial declaration, as it was the only option available to him under his constitutional mandate.

Lifting martial law within a few hours did not end the legal consequences for President Yoon. South Korea's constitutional system provides impeachment through the Constitutional Court as a second line of defence after legislative oversight. The National Assembly filed an impeachment motion, and after a trial that lasted several months, the Constitutional Court of South Korea unanimously decided on April 4, 2025 – by a vote of eight to zero – to remove President Yoon from office.¹⁰

¹⁰ UPI, "South Korean Court Removes Yoon From Office in Unanimous Impeachment Verdict," 4 April 2025. https://www.upi.com/Top_News/World-News/2025/04/03/Yoon-Suk-Yeol-impeachment-verdict-Constitutional-Court-verdict-unanimous-removal/4861743725838/.

The Constitutional Court justices explicitly stated in their ruling that President Yoon did not meet the legal requirements for a national state of emergency as stipulated by the Constitution, and that his actions violated the people's fundamental rights by declaring a military state of emergency.¹¹

This ruling shows that oversight of emergency powers in South Korea is not limited to legislative mechanisms alone, but is also supplemented by an independent judiciary unafraid to take a firm stance, even against the sitting head of state. Many observers view this ruling as evidence of the resilience of South Korea's democracy, and as a reminder that the country's constitutional institutions can function as intended amid significant political pressure.¹² Nevertheless, some analysts have also noted that this institutional success does not automatically resolve deep political polarisation in South Korean society; thus, the resilience of procedural democracy must be distinguished from genuine social reconciliation, which remains a separate challenge.¹³

The following table compares key elements of emergency regulations in Indonesia and South Korea to clarify the fundamental differences between the two legal systems described earlier.

TABLE 1. *Compiled by the author from Law No. 23 Prp of 1959, Presidential Decree No. 88 of 2000, Presidential Decree No. 71 of 2003, and Article 77 of the Constitution of the Republic of Korea, 2026.*

Regulatory Provisions	Indonesia (Law No. 23 Prp/1959)	South Korea (Article 77)
Party declaring a state of emergency	The President, without the prior approval of the House of Representatives	The President, with the obligation to immediately notify the National Assembly
Obligation to revoke upon parliamentary request	Not explicitly regulated in Law No. 23 Prp/1959	Must be revoked once a majority of the National Assembly requests it
Automatic time limit (sunset clause)	None	Not explicit, but parliamentary mechanisms effectively limit the duration

¹¹ CBC News, "South Korea's Constitutional Court Orders Impeached President Yoon Suk Yeol Removed From Office," 4 April 2025. <https://www.cbc.ca/lite/story/1.7501685>.

¹² Heritage Foundation, "South Korea Court Upholds Presidential Impeachment," 22 April 2025. <https://www.heritage.org/global-politics/commentary/south-korea-court-upholds-presidential-impeachment>.

¹³ Carnegie Endowment for International Peace, "After the Verdict: South Korea's Democracy Endures, but Its Partisan Divides Widen," 26 Februari 2026. <https://carnegieendowment.org/emissary/2025/04/south-korea-impeachment-verdict>.

Post-emergency judicial review	No precedent for similar review by the Constitutional Court of the Republic of Indonesia	The Constitutional Court may impeach a president who abuses the state of emergency
Empirical examples of emergency duration	The Maluku civil emergency, June 27, 2000, to 2003—approximately three years	Yoon Suk Yeol's military emergency, December 3, 2024—lasted six hours

The theoretical framework used in this comparative study of emergency constitutional laws worldwide supports the comparative findings above. In its guide to drafting constitutions, International IDEA states that in a bicameral parliamentary system, obtaining approval from both legislative chambers can serve as an additional safeguard against the partisan misuse of emergency provisions. However, its effectiveness depends on the political composition of both chambers.¹⁴ According to a study published in the *International Journal of Constitutional Law*, a combination of six elements can constrain the executive branch during a state of emergency. These include restrictions on the power to declare a state of emergency, parliamentary approval, and time-limit clauses.¹⁵ In a comparison between Indonesia and South Korea, South Korea has provisions allowing forced revocation through parliamentary approval.

In contrast, Indonesia, through Law No. 23 Prp of 1959, has virtually no provisions limiting such revocation. This is reinforced by academic research on emergency regulation models in Indonesia, which emphasises that the concept of a state of emergency is not aligned with various applicable laws, such as Law No. 23 Prp of 1959, Law No. 24 of 2007 on Disaster Management, and Law No. 6 of 2018 on Health Quarantine. These laws define emergencies differently and lack a common framework.¹⁶

In addition, academic discussions in Indonesia often focus on the relationship between Article 12 and Article 22 of the 1945 Constitution regarding Government Regulations instead of Law, as these two articles are often viewed as interrelated from the perspective of emergency constitutional law.¹⁷ Constitutional law experts argue that South Korea's system has a distinct advantage because it includes an automatic mechanism that allows emergency laws to be amended by executive decree and for the

¹⁴ International IDEA, *Emergency Powers: International IDEA Constitution-Building Primer* 18 (Stockholm: International IDEA, 2017). <https://www.idea.int/sites/default/files/publications/emergency-powers-primer.pdf>.

¹⁵ Christian Bjørnskov dan Stefan Voigt, "The Architecture of Emergency Constitutions," *International Journal of Constitutional Law* 16, no. 1 (2018). <https://academic.oup.com/icon/article/16/1/101/4995561>.

¹⁶ Fitra Arsil dan Qurrata Ayuni, "Model Pengaturan Kedaruratan," *Jurnal Hukum & Pembangunan* 50, no. 2 (2020). <https://scholarhub.ui.ac.id/cgi/viewcontent.cgi?article=1129&context=jhp>.

¹⁷ Pasal 22 ayat (1) dan ayat (2) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. https://www.mpr.go.id/uploads/jdih/UUD_1945_DALAM_SATU_NASKAH.pdf.

old laws to return to effect once conditions return to normal automatically. Indonesia's Perppu system does not explicitly include this mechanism.¹⁸

For the record, this comparison is not intended to suggest that South Korea's system is entirely flawless. South Korea's own constitutional history records sixteen declarations of martial law since the country's founding in 1948, most of which were in fact used by authoritarian regimes in the past to silence political opposition. What distinguishes the events of December 2024 from these dark precedents is precisely the success of constitutional checks and balances in functioning as intended – not the absence of the threat of abuse of emergency powers itself. In other words, sound constitutional design does not eliminate the risk of abuse of power, but ensures swift and binding recourse when such abuse occurs. Discussions of parliamentary oversight must not be considered in isolation from the international human rights legal framework that also binds both countries. Indonesia ratified the International Covenant on Civil and Political Rights through Law No. 12 of 2005, meaning the covenant's derogation provisions are legally binding on Indonesia.¹⁹ Derogation allows a state to deviate from human rights standards in emergencies, but only with strict limitations that must not be violated. The main principle of derogation is that certain rights cannot be restricted under any circumstances; these are known as non-derogable rights, including the right to life and the prohibition against torture. Derogation cannot be applied to these rights, and the International Covenant on Human Rights typically explicitly states which rights fall into this category.²⁰

Recent studies on emergency constitutional law from a human rights perspective emphasise that, even during a state of emergency, protecting human rights must remain a priority. Key principles in this research include temporality, proportionality, non-discrimination, legality, protection of non-derogable rights, transparency, and accountability.²¹ The principle of temporality is the most relevant to the main argument in this article. Derogations recognised under international law must be temporary and proportional to the threat faced, not lasting for years without any certainty as to when

¹⁸ Hukumonline, "Memaknai Irisan Perppu dan UU Darurat," 5 September 2017, <https://www.hukumonline.com/berita/a/memaknai-irisan-perppu-dan-uu-darurat-lt59ad2f9c2a944/>.

¹⁹ Pasal 4 ayat (2) International Covenant on Civil and Political Rights, naskah resmi PBB. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>, sebagaimana disahkan dalam Undang-Undang Republik Indonesia Nomor 12 Tahun 2005 tentang Pengesahan International Covenant on Civil and Political Rights, <https://peraturan.bpk.go.id/Download/29901/UU%20Nomor%2012%20Tahun%202005.pdf>.

²⁰ Hukumonline, "Arti Derogasi dalam Hukum Hak Asasi Manusia dan Syaratnya," Klinik Hukumonline, 12 September 2023. <https://www.hukumonline.com/klinik/a/arti-derogasi-dalam-hukum-hak-asasi-manusia-dan-syaratnya-lt650022b06e08c/>.

²¹ M. Reza Saputra, Irwan Triadi, dan Taufiqurrohman Syahuri, "Hukum Tata Negara Darurat dalam Perspektif HAM: Dilema antara Keamanan Negara dan Hak Asasi Manusia," *Birokrasi: Jurnal Ilmu Hukum dan Tata Negara* 2, no. 4 (2024): 182–194. <https://doi.org/10.55606/birokrasi.v2i4.1585>.

they will end. Thus, binding parliamentary oversight, as stipulated in Article 77(5) of the South Korean Constitution, is not merely a domestic political tool but also a mechanism that helps the state fulfil the temporary obligations imposed by international human rights law.

Unfortunately, studies on Indonesia's emergency health policies during the COVID-19 pandemic show that the government relied solely on sectoral laws such as the Health Quarantine Law and the Disaster Management Law, without formally invoking Article 12 of the 1945 Constitution as the legal basis for a state of emergency. As a result, the emergency status in effect was *de facto* rather than *de jure*. Consequently, Indonesia never met many ICCPR requirements—including providing formal notification to international monitoring bodies.

These findings reinforce the argument that the problems with emergency law in Indonesia stem not only from weak parliamentary oversight but also from the government's choice of legal basis during different crises. Ideally, future emergency law reforms should implement binding parliamentary oversight mechanisms, as in South Korea, and align the domestic legal framework with established obligations regarding derogations.

At the beginning of the reform era, the Indonesian government sought to draft a bill on National Safety and Security, which was later revised into a bill on the Management of Emergency Situations. Unfortunately, civil society rejected both proposals, and neither was ever enacted.²² From the political perspective at the time, this rejection was quite justified, as the trauma caused by the abuse of emergency powers during the New Order era was still very fresh. However, rejecting the draft laws should not have stopped there. Indonesia remains bound by Law No. 23 of 1959, which is clearly more repressive and lacks checks and balances compared to its successor, because no successor law exists.

Based on a comparison with Article 77 of the South Korean Constitution, at least three practical lessons can inform plans to reform Indonesia's emergency laws. First, a provision must be included that explicitly states that the president must revoke the state of emergency once the People's Representative Council requests it by a majority vote of its members. This is similar to the obligation outlined in Article 77(5) of the South Korean Constitution. Such an obligation must be legally binding, not merely a consultative mechanism the executive branch can ignore. Second, the Constitutional Court's role must

²² General Secretariat and Registry of the Constitutional Court of the Republic of Indonesia, Research Report on Emergency Constitutional Law (Jakarta: Constitutional Court of the Republic of Indonesia, 2021), https://s.mkri.id/public/content/infoumum/penelitian/pdf/hasilpenelitian_140_laporan%20Penelitian%20HTN%20Darurat.pdf. This report notes that efforts to replace Law No. 23 Prp of 1959 through the Draft Law on State Safety and Security and the Draft Law on the Management of Emergency Situations at the beginning of the reform era failed to pass due to widespread opposition from civil society.

be clear in evaluating the substantive validity of a declaration of a state of emergency, rather than merely the formal legislative procedures. South Korea's experience shows that post-emergency judicial review is crucial as a last line of defence, especially when legislative oversight fails to prevent the abuse of power from the outset. Third, revising emergency laws should ideally unify a consistent framework of definitions and procedures across existing sectoral laws, rather than allowing each law to operate under different logic and procedures, as is currently the case. This is because Indonesia faces a wide variety of emergencies, from natural disasters to public health crises. Unifying this framework is crucial so the public and law enforcement agencies clearly understand which rights may be restricted and for how long.

D. Conclusion

A comparison of South Korea's and Indonesia's constitutional emergency legal systems shows that the most fundamental difference between the two lies in the strength of the accompanying parliamentary oversight mechanisms, not in the extent of emergency powers granted to the president. Article 77, paragraph (5) of the South Korean Constitution states that the president must lift martial law once a majority of the National Assembly requests it. This occurred in December 2024, when President Yoon Suk Yeol's martial law was terminated in just six hours, and he was subsequently impeached by a unanimous decision of the Constitutional Court in April 2025.

In contrast, Article 12 of the 1945 Constitution and Law No. 23 Prp of 1959 in Indonesia do not impose a similar responsibility so that the president can lift a state of emergency without a clear deadline. A case study of the civil emergency in the provinces of Maluku and North Maluku, conducted over nearly three years from 2000 to 2003, provides empirical evidence demonstrating the tangible impact of a lack of oversight.

This article concludes that Indonesia's agenda for reforming emergency law must go beyond technical discussions about categorising emergency levels. Instead, this agenda should focus on strengthening legally binding parliamentary oversight mechanisms and affirming the Constitutional Court's role in substantively evaluating the validity of emergency declarations. Without these changes, a state of emergency in Indonesia will end only with robust constitutional safeguards and the president's good faith. Further research is needed to examine the constitutional possibilities and challenges associated with drafting a new emergency law that provides for compulsory revocation by parliament. This research should also examine how Indonesia's presidential system differs from South Korea's.

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Author(s) Biography

Khaidar Abdan Syakuran is a law student at Universitas Pembangunan Nasional "Veteran" Jakarta. This paper is part of the author's final project for the course on emergency constitutional law. It is the author's academic work, stemming from the author's interest in constitutional law, particularly comparative constitutional law and emergency constitutional law.