

Constitutional Crisis, Security and Democratic Resilience

Edited by

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INDEX

<i>Editors' Preface</i>	VI
MARIO PERINI, <i>Introduction</i>	1
ERA BUÇPAPAJ, <i>Constitutional Translation as Governance Infrastructure: Risk, Authority, and Resilience in Multilingual Constitutional Orders</i>	5
CLAUDIO CACCIAPAGLIA, <i>Beyond greenwashing: Artificial intelligence as a tool for environmental and consumer protection</i>	13
GIORGIO CATALDO, <i>Conditioned State and security. Some preliminary Constitutional Remarks</i>	29
XHEI ÇELIKU, <i>Cybercrime and the Security of Personal Data in Albania: The Role of Law No. 9887/2008 and the Harmonization with GDPR Standards</i>	41
Nicolò De Perto, <i>Neurotechnologies, Cognitive Autonomy and the Resilience of Democratic Principles. The Emergence of Neurorights</i>	47
CHIARA DORIA, <i>The Right to Disconnect through the Lens of Security: a Constitutional Reading</i>	61
YOAV DOTAN, <i>Judicial Review of National Security in Israel: Past Present and Future</i>	71
MATTEO GERLINI, <i>From Accounting for Atoms to Governing Hybrid Risk: The Evolution of IAEA Safeguards and the Contemporary Security Environment</i>	81
DELINA HAJRADINOVIC, <i>Supranational Responses to Cyber Threats: The Performance of EU and NATO in Cyberattacks</i>	89
LEJLA HASANOVIĆ, <i>The Humanization of Companies</i>	107
OMER KLEINMAN, <i>Digital Emergency: Constitutional Obsolescence and the 'Double Deficit' in the Age of Cyber Warfare</i>	119

JOVAN D. MALEŠEVIĆ, <i>Platforms are Built – can We still build Democracy? Algorithmic Power and the Limits of Liberal Constitutionalism</i>	129
MILENA MARZOVILLA, <i>Human Rights in the Evolution of European Security: the Role of the CSCE/OSCE</i>	147
SELMA METILJEVIĆ-LONČARIĆ, <i>Secret surveillance and Article 8 of the European Convention on Human Rights: the jurisprudence of the European Court of Human Rights</i>	159
IGOR MIRJANIĆ, <i>Tax Secrecy and Cybersecurity: Taxpayer Data Protection under Pressure</i>	171
VALERIA PIERGIGLI, <i>Emergency Powers and Constitutions. A European Overview</i>	183
ŽELJKA PILJAGIĆ, <i>Institutional Resilience of Bosnia and Herzegovina to Cyber Threats: An Overview of Jurisdictions and the Legal Framework</i>	201
BOAZ SEGAL, <i>Deterring Terror through Civil Law: A Framework for Strategic Tort Litigation</i>	213
EDIN ŠKREBO, <i>Constitutional Identity and The Dynamics of The Crisis in Bosnia and Herzegovina: Theoretical and Irenic Perspectives</i>	233
BUJAR TAHO, <i>Overcoming Constitutional Anaemia at the ECtHR: From Culturalist Approaches to Dignitarian Adjudication of Roma Claims</i>	249
VINCENZO TONDI DELLA MURA, <i>Political Theology and Constitutionalism: The New Knots of an Unresolved Conflict. Preliminary Notes</i>	265
PAOLO ZICCHITTU, <i>Judging in Times of Emergencies: The Role of the Italian Constitutional Court in Managing Legality, Legitimacy, and Functional Crises</i>	279
<i>Authors</i>	299

INTRODUCTION

MARIO PERINI

This volume is one of the outcomes of the International Mobility Programme – Assessing Constitutional Crisis impact and Security (IMP-ACCTS), a transnational educational initiative developed within the Italian PNRR framework for Transnational Education. Its significance, however, does not lie only in the institutional setting from which it originated. The project was conceived, from the outset, not as a mere framework for mobility, but as a structured academic enterprise intended to foster a stable network of research and teaching around a field of inquiry that has become increasingly central to contemporary systems: the relationship between constitutional crisis and security in present-day legal orders.

The project proposal identifies clearly this objective. IMP-ACCTS was designed to combine student and staff mobility with advanced training activities, intensive courses, workshops, and a shared digital infrastructure, so as to produce not only a quantitative increase in academic exchange, but also a qualitative strengthening of comparative and interdisciplinary cooperation. In this respect, the present collection should not be regarded as a fortuitous compilation of essays. It is, rather, the written outcome of a broader scientific endeavour, one that brought together Italian universities and foreign partner institutions to reflect, from different constitutional angles, on the forms, causes, and consequences of contemporary crises.

The institutional architecture of the project is itself revealing. IMP-ACCTS was built around three principal pillars: general student mobility, general staff mobility, and advanced skills activities centred on the themes of constitutional crisis and security. The selection of these themes was not incidental. As the proposal makes clear, they were chosen precisely because of their capacity to cut across disciplinary boundaries and to generate a durable field of comparison among legal systems marked by different political traditions, constitutional experiences, social cleavages, and geopolitical constraints. The underlying assumption was therefore methodological before being substantive: constitutional law can still offer a meaningful account of present-day instability, but only if it is willing to confront the institutional and material conditions within which constitutional categories operate.

This assumption appears particularly well founded in the present historical context. Constitutionalism now functions under pressures that no longer fit comfortably within the classical grammar of the exception. Crisis, in many democratic systems, no longer appears only in the form of a dramatic rupture, a coup, or the formal suspension of legality. More often, it emerges through gradual and overlapping phenomena: executive expansion without explicit authoritarian breakdown, recurring legislative incapacity, technological opacity, geopolitical dependence, institutional fragmentation, and the routinization of extraordinary powers. In parallel, security has progressively ceased to be a category confined to military

defence or public order. It increasingly extends to fields that, until recently, might have appeared conceptually distinct from it: labour relations in the digital environment, surveillance architectures, the protection of minorities, the integrity of legal communication, technological governance, and even the cognitive conditions of democratic self-determination.

It is against this background that the contributions collected in this volume should be read. Several chapters return to the more classical terrain of emergency powers and institutional stress. Yet they do so without reproducing the older and simpler opposition between normality and exception. Valeria Piergigli revisits the constitutional regulation of emergency powers in Europe and warns against the conceptual inflation by which structural or chronic difficulties are casually redescribed as “emergencies”. Paolo Zicchittu, in turn, approaches constitutional crisis as a structural category internal to modern constitutionalism and reconstructs the role played by the Italian Constitutional Court in preserving legality and institutional continuity within a system marked less by rupture than by persistent strain. Giorgio Cataldo introduces a further dimension by bringing geopolitical asymmetry into constitutional analysis, showing how the pursuit of security is shaped when the State acts under conditions of structural dependence. Omer Kleinman carries the discussion into the digital domain and argues that traditional emergency models have become increasingly inadequate in the face of cyber warfare and hybrid threats. Yoav Dotan, finally, examines the Israeli experience and shows how judicial review in matters of national security cannot be understood apart from the broader crisis of judicial autonomy and democratic backlash.

Taken together, these chapters suggest a broader conclusion. Emergency is no longer a marginal doctrine situated at the outer boundary of constitutional law. It has become one of the central points at which contemporary democracies negotiate legality, legitimacy, effectiveness, institutional resilience, and the limits of public power.

The volume, however, does not reduce security to the language of emergency powers. This is one of its principal merits. Other contributions show that the constitutional meaning of security is far wider and more complex. Chiara Doria reconstructs the right to disconnect through a constitutional perspective that treats security not merely as protection from external harm, but as a condition for the effective protection of the person in the digital age. Selma Metiljević-Lončarić addresses secret surveillance under Article 8 ECHR and shows that the tension between privacy and security cannot be adequately understood without close attention to legality, procedural safeguards, and forms of independent oversight. Boaz Segal explores the deterrent potential of tort law in the fight against terrorism, thereby shifting the focus from public-law exceptionalism to private-law mechanisms of accountability. Matteo Gerlini, in the nuclear field, examines the evolution of IAEA safeguards and argues that contemporary security risks must be addressed through the management of the interface between verification and protection. Milena Marzovilla reconstructs the role of the CSCE/OSCE and reminds us that, within the European tradition, security and human rights were never conceived as separate normative universes. Igor Mirjanić adds a further and particularly revealing perspective by examining tax secrecy and cybersecurity, namely the vulnerability of taxpayer data in an age of digitalized administration and AI-enhanced threats; in so doing, he shows that confidentiality, institutional trust, and fiscal legality must now be read as part of the broader constitutional grammar of security. Željka Piljagić, for her part, turns to the institutional resilience of Bosnia and Herzegovina in the face of cyber threats, making clear that cyber insecurity is not merely a technical problem but a direct function of constitutional fragmentation, divided jurisdictions, and incomplete securitization. Xhej Çeliku comple-

ments this line of inquiry from the Albanian perspective, analysing the relationship between cybercrime and personal data protection and showing how legal harmonization with GDPR standards has become a crucial index of constitutional and institutional resilience.

This broader understanding of security deserves emphasis. Contemporary constitutional discourse is often tempted to identify security with concentration of powers and institutional acceleration. Much in this volume points in the opposite direction. Security, within a constitutional democracy, is often secured precisely through limitation, review, legal accountability, and the thickening of guarantees rather than their suspension.

A further set of chapters pushes the inquiry beyond institutional crisis in the narrow sense and toward the deeper conditions of constitutional order. Edin Škrebo revisits constitutional identity in Bosnia and Herzegovina and examines whether it may serve as a pacifying and integrative category within a deeply fragmented post-conflict order. Bujar Taho critically analyses the case law of the European Court of Human Rights on Roma claims and argues for a dignitarian corrective to culturalist forms of adjudication that risk reproducing, rather than overcoming, structural marginalization. Era Buçpapaj turns to a theme often neglected in constitutional scholarship, namely constitutional translation, and shows that in multilingual legal orders translation is not a merely technical service but a component of governance infrastructure itself. Jovan Malešević interrogates the limits of liberal constitutionalism in the face of algorithmic power. Nicolò De Perto examines neurotechnologies and asks whether existing constitutional categories remain adequate to protect cognitive autonomy and the free formation of political will. Vincenzo Tondi della Mura, finally, situates current constitutional tensions within the wider re-emergence of political theology and the weakening axiological confidence of Western democracies. To these reflections must now be added Lejla Hasanović's analysis of the "humanization" of companies under the European Convention on Human Rights, which complicates any easy distinction between market actors and constitutional subjects by examining the conditions under which legal persons may appear as bearers of rights and victims before the Strasbourg Court. Claudio Cacciapaglia, in turn, brings into the volume the phenomenon of greenwashing, analysed as a constitutional problem at the intersection of environmental protection, consumer autonomy, and technological regulation, with artificial intelligence presented not merely as a source of risk but also as a possible antidote to deceptive environmental communication.

What unites these contributions is not a single doctrine, nor a uniform definition of constitutional crisis. Their unity lies elsewhere. Each, in its own way, shows that constitutional instability today is not exhausted by formal emergencies, governmental deadlock, or explicit constitutional breakdown. It may also arise where the semantic, symbolic, technological, and social conditions of constitutional authority begin to shift beneath the surface of formal legality.

This, then, is the deeper coherence of the volume. The essays gathered here do not merely describe national experiences. They contribute to a common inquiry into how constitutional orders endure, adapt, justify themselves, and sometimes falter when confronted with pressures that are at once familiar and unprecedented. The project proposal presented the dissemination of a shared European constitutional heritage among non-EU partners as one of the expected impacts of IMP-ACCTS. The present book gives that aspiration a more demanding meaning. Constitutional heritage, if it is to remain a living resource, cannot be transmitted as a fixed canon. It must be tested against conflict, translated across contexts, and re-elaborated in light of the changing forms of power and vulnerability that define the present.

The chapters that follow should therefore be read neither as isolated national reports nor as self-contained doctrinal exercises. They form part of a broader comparative reflection on constitutionalism under pressure. Their common lesson is not entirely reassuring, but it is intellectually valuable. Constitutional law still matters decisively in times of crisis and insecurity. It does so, however, only on the condition that it does not imagine itself as a self-sufficient technique. At its best, constitutional reasoning remains persuasive when it is historically informed, institutionally grounded, comparatively oriented, and capable of confronting the material transformations through which crisis and security are now being redefined.

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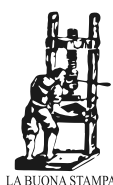
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