

State of Emergency in Turkey (July 2016-July 2018): A Case of Utilization of Law as a Political Instrument

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Abstract : In this study, we will aim to analyze how the period of the state of emergency in Turkey lead to gaps in law and the formation of areas in which there was a complete lack of supervision. The state of emergency that was proclaimed following the coup attempt of July 15, 2016, continued until July 18, 2018, that is to say, 2 years, without taking into account whether the initial circumstances persisted. As part of this work, we claim that the state of emergency provided the executive power with important tools for governing, which it took constant use. We can highlight how the concern for security at the center of the basic considerations of the people in a city was exploited as a foundation by the military power in Turkey to interfere in the political, legal, and social spheres. The constitutions of 1924, 1961, and 1982 entrusted the army with the role of protector of the integrity of the state. This became an instrument at the hands of the military to legitimize their interventions in the name of public security. Its interventions in the political field are indeed politically motivated. The constitution, the legislative, and regulatory systems are modified and monopolized by the military power that dominates the legislative, regulatory, and judicial power, leading to a state of exception. With the political convulsions over a decade, the government was able to usurp the instrument called the state of exception. In particular, the decree-laws of the state of emergency, which the executive makes frequent and generally abusive use, became instruments in the hands of the government to take measures that it wishes to escape from the rules and the pre-established control mechanisms. Thus the struggle against the political opposition becomes more unbalanced and destructive. To this must also be added the ineffectiveness of ex-post controls and domestic remedies. This research allows us to stress how a legal concept, such as 'the state of emergency' can be politically exploited to make it a legal weapon that continues to produce victims.

Keywords : constitutional law, state of emergency, rule of law, instrumentalization of law

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