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Between Urgency and Exception: Rethinking Legal Responses to the Ecological Crisis

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Abstract: The acceleration of the climate crisis calls into question the effectiveness of traditional legal frameworks in addressing environmental emergencies. This article examines whether France should adopt an environmental state of exception, inspired by the legal mechanisms implemented during the COVID-19 pandemic. While such exceptional measures could enhance the State's capacity to respond swiftly to climate threats, they also raise concerns about the concentration of executive power and potential infringements on fundamental rights. Through a comparative legal analysis, this study assesses the benefits and risks of an environmental state of exception, highlighting its potential to accelerate climate action while scrutinizing its democratic and legal implications. It also explores alternative frameworks and advocates for a regulated model of environmental emergency governance, ensuring that urgent climate interventions remain subject to the rule of law and democratic oversight. By drawing on French legal precedents, international climate commitments, and case studies, this research evaluates whether legal exceptionalism is a viable tool for addressing environmental crises or whether a more structured and accountable legal approach would better ensure long-term climate resilience.

Keywords: environmental state of exception; climate emergency; legal exceptionalism; democratic governance; climate resilience; environmental law; fundamental rights; ecological crisis



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1. Introduction

The contemporary ecological crisis, characterized by the increasing frequency of natural disasters and the worsening of climate disruptions, challenges the ability of the law to respond effectively and swiftly to environmental threats. While the current legal framework is primarily based on principles of prevention and the gradual management of risks, it often proves inadequate in addressing the urgency of ecological crises. The limitations of traditional mechanisms have thus sparked debate on the necessity of introducing a specific state of exception, enabling public authorities to act with greater speed and authority in response to imminent environmental threats (Libchaber 2023).

In this context, some advocate for the establishment of an environmental state of exception, inspired by the emergency measures implemented during the COVID-19 pandemic (Ganser et al. 2024). This approach would grant the executive enhanced powers to impose immediate measures, such as emission restrictions, expropriations for environmental purposes, or the accelerated prohibition of certain polluting activities. However, this solution raises significant concerns regarding its democratic and legal implications, particularly in terms of the concentration of power and potential infringements on fundamental freedoms (Basilien-Gainche 2013; Beaud and Guérin-Bargues 2018; Goupy 2016).

This raises a fundamental question: in response to ecological crises, should the French legal framework draw inspiration from the emergency measures used during health crises, or should it develop an alternative model that balances rapid action with democratic oversight?

This article will offer an in-depth analysis of this issue by first examining the lessons learned from the health emergency regime implemented during the pandemic and its implications for governance. Second, it will assess the similarities and differences between health crises and ecological crises to determine the relevance of transposing the state of exception model. Finally, the study will explore the contours of a legal framework specifically designed for environmental emergencies, ensuring effective action while preserving the rule of law.

Through a combined approach of comparative legal analysis and case studies, this article aims to identify the foundations of an environmental emergency governance framework that reconciles the need for swift action with institutional safeguards.

2. Materials and Methods

This study employed comparative legal analysis and a case study approach to assess the relevance and implications of an environmental state of exception.

- **Comparative Legal Analysis:** This methodology was used to examine existing legal frameworks governing emergency governance, particularly the state of emergency and the state of exception, across different jurisdictions. The study contextualized climate emergency laws, public health emergency legislation (e.g., measures adopted during the COVID-19 pandemic), and national security exceptions to evaluate their applicability to environmental crises ([Riaz et al. 2024](#)).
- **Case Study Approach:** This study analyzed concrete instances where emergency measures have been applied to ecological crises, such as national climate emergency declarations and regulatory responses to extreme environmental disasters. These case studies helped identify the benefits, limitations, and risks associated with the implementation of exceptional legal measures to combat climate change.

By integrating these approaches, this research provided a structured legal assessment to determine whether an environmental state of exception can serve as a legitimate and viable response to the ecological crisis.

3. Literature Review and Theoretical Framework

The analysis of exceptional measures within the framework of a health emergency and their transposition to ecological crises was grounded in a thorough reflection on the concept of a state of exception. Legal scholarship, particularly the work of Xavier Magnon, highlights the complexity of this legal mechanism, which is defined by a temporary suspension of the ordinary legal order in favor of a special derogatory regime ([Shah 2007](#)). This regime is justified by an exceptionally severe crisis and the imperative to safeguard public order or public health. Doctrinal analyses, particularly those of [François Saint-Bonnet \(2001\)](#), [Troper \(2011\)](#), and [Giorgio Agamben \(2003\)](#), emphasize the inherent tensions within a state of exception: on the one hand, the need for a swift response to a systemic threat, and on the other, the risk of perpetuating restrictive measures that infringe upon fundamental freedoms.

The study of comparative law, particularly within French and foreign constitutional frameworks, reveals that a state of exception relies on a fragile balance between efficiency and the preservation of the rule of law. In this regard, the management of ecological crises presents a unique challenge: while a health emergency occurs within a short timeframe and requires responses to immediately identifiable events, environmental crises unfold over the long term and require structural transformations. This raises the question of whether a state

of exception—designed to be temporary and narrowly defined—is suitable for addressing climate challenges or whether alternative legal mechanisms should be explored, such as structural reforms incorporating duties of vigilance and environmental resilience. This reflection is part of a broader debate on the capacity of the law to reconcile urgency with sustainability while preserving the democratic balance and fundamental rights (Bigo 2007).

3.1. Concepts

First of all, we need to define the concepts that will be used in our study.

State of Emergency: This concept refers to a specific legal regime adopted to address a severe crisis (e.g., terrorism, public health emergencies, natural disasters). It is typically established by the law and activated by the executive branch, often under parliamentary or judicial oversight. A state of emergency can modify certain legal rules without necessarily suspending the existing legal order (Roudier et al. 2016). Examples include the public health state of emergency in France during the COVID-19 pandemic and the security state of emergency declared after the 2015 terrorist attacks.

State of Exception: This concept is broader than a state of emergency. It encompasses situations where the ordinary legal order is suspended and a special normative regime is established (Giorgio Agamben 2003). A state of exception can involve a profound alteration of the legal framework, potentially challenging the Constitution or the separation of powers. Unlike a state of emergency, it is not merely an immediate response to a crisis but can lead to structural transformations of the political system. This is exemplified by Article 16 of the French Constitution, which grants exceptional powers to the President of the Republic in times of extreme crisis.

Ecological Crisis and Climate Crisis: Related but Distinct Concepts: The terms “ecological crisis” and “environmental crisis” are often used interchangeably. They encompass a wide range of disruptions affecting ecosystems, such as biodiversity loss, air, water, and soil pollution, deforestation, habitat degradation, and other forms of environmental deterioration (Bourg and Papaux 2016). These crises may have natural or anthropogenic origins and impact both species and ecosystems in various ways.

In contrast, the climate crisis refers specifically to the severe challenges arising from global climate change, primarily driven by human activities. It includes phenomena such as rising average temperatures, glacier melt, sea level rises, and extreme weather events (hurricanes, floods, droughts), along with their consequences for human societies and ecosystems. While the climate crisis is a critical component of the broader ecological crisis, it focuses on disruptions linked to atmospheric and climatic systems.

As a term, ecological crisis is broader than climate crisis, which is why we will use it in this study.

3.2. Natural Threats

The most frequent natural disasters worldwide are floods and storms, exacerbated by climate change and urbanization. While earthquakes are less frequent, they remain among the deadliest, particularly in regions with high tectonic activity. Droughts and wildfires are increasing at an alarming rate, accelerating desertification and causing food crises, especially in Africa and South America. Volcanic eruptions and landslides, though more localized, have a significant destructive impact. These trends highlight the urgent need to strengthen infrastructure resilience and implement adaptive policies to address growing climate and geophysical risks (Figure 1).

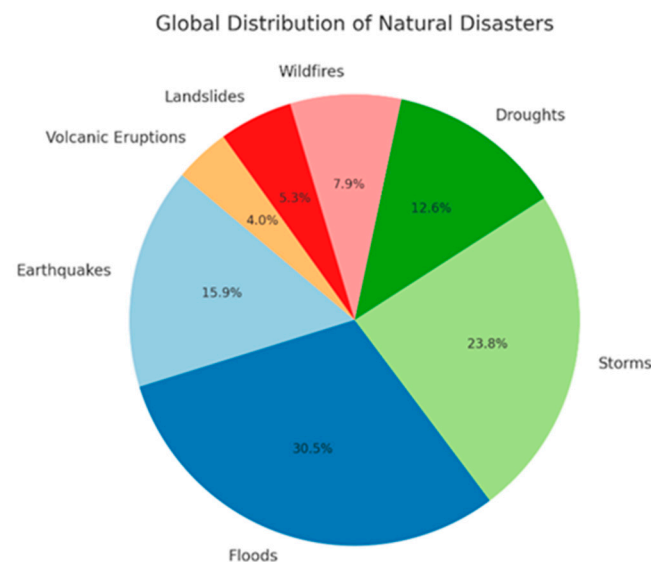


Figure 1. Global distribution of natural disasters.

Floods account for the majority of natural disasters in France (67%), followed by atmospheric phenomena (15.1%) and landslides (11.3%). Earthquakes, avalanches, wildfires, and volcanic eruptions, though less frequent (<7%), can cause significant localized impacts (Figure 2). This chart highlights the importance of managing risks related to climate change and vulnerable infrastructure.

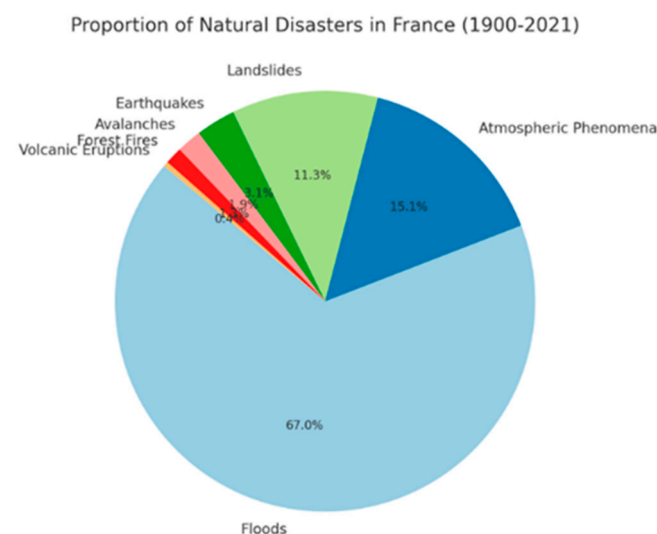


Figure 2. Proportion of natural disasters in France (1900–2021). Source: ONRN, BDE (DGPR/SRNIH and BARPI, BD Gaspar; AFP; CCR; France Assureurs; Météo-France). Data processing: SDES, 2022.

The following chart shows the evolution of direct economic losses caused by natural events in France between 2015 and 2019. Losses in the real estate sector dominated each year, accounting for between 43% and 78% of the total, reflecting the impact of disasters on urban and residential infrastructure. Losses related to damaged crops and agricultural assets varied but remained significant, highlighting the agricultural sector's vulnerability to extreme climatic events (Figure 3). Other productive assets sustained lower but still noteworthy losses. The year 2017 stands out with particularly high losses reaching a peak, likely due to major events that year. This chart underscores the need to strengthen the resilience of infrastructure and agricultural systems in the face of increasing natural risks.

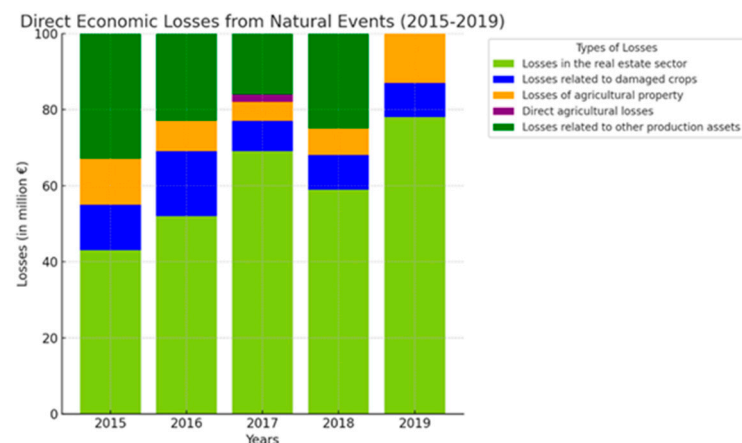


Figure 3. Direct economic losses from natural events (2015–2019). Sources: CCR; France Assureurs; MRN, 2021. Processing: SDES, 2022.

4. The COVID-19 Public Health State of Emergency: A Legal and Institutional Precedent

The principle of necessity in exceptional measures requires an assessment of whether less restrictive alternatives could achieve the same results. The existing legal framework already contains instruments that, while different, could be effective in times of crisis. These pre-existing legislative and judicial mechanisms provide a solid legal foundation that could support certain emergency measures without the need for a formal declaration of a state of emergency (Troper 2011).

4.1. The Pre-Existing Legislative Framework

Since its introduction in 2004, the French Public Health Code has dedicated an entire section to serious health threats and crises. For instance, Article L.3131-1 grants the Minister of Health the authority to take any proportionate measures necessary to address an epidemic threat in the interest of public health. The application of this provision does not require a formal declaration of a state of emergency; it is sufficient that the public health threat is serious enough to justify urgent measures (Troper 2011).

This legislative framework appears sufficient to justify some of the measures adopted during the COVID-19 crisis. The Minister of Health holds special police powers, allowing for the issuance of emergency public health measures. Moreover, these powers can be delegated to local authorities (prefects), who are authorized to implement localized emergency responses. The 2020 Public Health Emergency Law did not fundamentally alter this provision but merely expanded its application beyond the duration of the public health state of emergency (Sizaire 2020).

Although this framework was initially limited to public health, it demonstrates how pre-existing legislation can be leveraged to manage crises, thereby questioning the systematic necessity of declaring a state of emergency (Report of the Public Health Ethics Committee 2020).

4.2. Technical Mechanisms Available Before the Crisis

Beyond legislative instruments, jurisprudential mechanisms also exist to manage crisis situations. One such tool is the doctrine of exceptional circumstances, developed through case law (Council of State 1918). This doctrine allows administrative authorities, under judicial oversight, to derogate from ordinary legality when exceptional events require it, particularly to ensure the continuity of public services. This doctrine, formalized after World War I, allows for the legal tolerance of certain irregularities during crises, thereby

legitimizing exceptional decisions in unprecedented situations. The existence of these legislative and jurisprudential tools suggests that some of the measures implemented under emergency law could have been justified within the pre-existing legal framework (Sizaire 2020; Chaltiel 2020).

Given the availability of these alternatives, a fundamental question arises: was the declaration of a state of emergency truly necessary and effective?

4.3. Assessing the Effectiveness of Exceptional Measures

The public health emergency regime adopted in France included several exceptional measures. Among them were strict lockdowns, travel restrictions, the closure of public and private establishments, and the requisitioning of certain economic sectors to meet immediate public health needs (Nelson et al. 2024).

According to the results of a study conducted by researchers (Ganser et al. 2024) (Figure 4) which considered infection rates and patient age groups, the first lockdown reduced virus transmission by 84%. Subsequent lockdowns were less effective, with reductions of 74% (69–77) and 11% (9–18), respectively. A 6 p.m. curfew proved more effective than an 8 p.m. curfew, reducing transmission by 68% (66–69) compared to 48% (45–49).

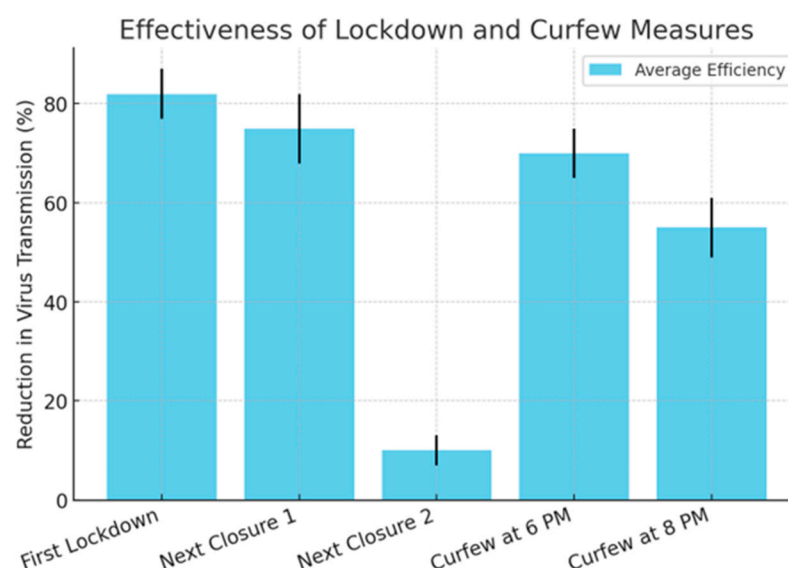


Figure 4. Effectiveness of lockdown and curfew measures. Source: data from institutions such as the WHO, INSEE, Institut Pasteur, and scientific journals on the impact of sanitary measures on virus transmission.

The effectiveness of exceptional measures, often implemented in emergency contexts, remains a subject of debate. While their primary objective is to provide a rapid response to a critical situation, their implementation raises several concerns regarding their actual impact and legitimacy, particularly due to infringements on fundamental rights and the social inequalities they may exacerbate (Sizaire 2020).

4.4. The Limitations and Criticisms of the Public Health State of Emergency

A state of emergency is designed to allow authorities to respond quickly to severe and immediate crises, such as natural disasters, security threats, or pandemics (Molfessis 2020). It often leads to a temporary concentration of executive powers and restrictions on civil liberties. However, the necessity of establishing an entirely new emergency framework remains debated for several reasons.

(1) Proportionality of Exceptional Measures

Legal norms must not only align with legislative objectives but also comply with the principle of proportionality, a cornerstone of constitutional and fundamental legal doctrines (Dyzenhaus 2006). Any restriction on individual freedoms must be necessary and proportionate to the severity of the crisis (Schwarze 2009).

The French legislator stated during the pandemic that the objective was “to combat the COVID-19 epidemic, limit its multiple consequences, and facilitate the gradual resumption of national life in all its dimensions”¹.

Within this framework, certain exceptional measures, such as the authorization of remote meetings for various legal entities, appeared well suited and were even maintained beyond the crisis.

However, some measures exceeded the threshold of proportionality (HCGE 2020). For instance, corporate governance exceptions introduced by Ordinance No. 2020-321 of 25 March 2020, as amended by Decree No. 2020-418 of 10 April 2020 and Decree No. 2020-1614 of 18 December 2020, allowed listed companies to hold general meetings behind closed doors, without the physical or remote participation of shareholders (Jobert and Joly 2020). This measure, while complying with public health requirements, raised major democratic concerns:

The Restriction of Shareholder Participation: Decisions affecting shareholder assets could only be challenged through pre-submitted written questions, limiting their rights (Article 4, Ordinance No. 2020-321 of 25 March 2020).

Increase in Litigation: The Financial Markets Authority (AMF) reported a rise in shareholder disputes in 2020, reflecting dissatisfaction with these restrictions (AMF 2021).

Undermining the Sovereignty of General Meetings: The absence of shareholders’ physical or virtual presence hindered the ability to amend resolutions in real time (Bonneau 2020; Couret et al. 2020).

Similarly, the forced closure of certain businesses (tourism, hospitality, sports) represented a major restriction on economic freedoms. While these measures aimed to protect public health, their effectiveness remains debatable. Alternatives, such as allowing businesses to operate under strict health protocols, could have mitigated economic damage while still ensuring public safety.

(2) Impact on Fundamental Rights

The frequent use of a state of emergency directly affects civil liberties. Freedom of movement, freedom of assembly, and private interactions were severely restricted, impacting fundamental principles of the rule of law (Pellegrini 2005).

During the pandemic, numerous violations of fundamental rights were reported (Jamin et al. 2010). Article L.3131-15 of the Public Health Code granted authorities the power to restrict certain freedoms to protect public health, leading to the widespread closure of businesses and public spaces.

However, disparities in enforcement were observed:

The Unequal Treatment of Businesses: Shopping centers larger than 20,000 m² were closed, while slightly smaller ones remained open, raising concerns about the arbitrariness of certain decisions (Jamin et al. 2010).

The Erosion of Public Trust: Measures perceived as disproportionate or unjustified led to growing skepticism and public resistance.

When emergency measures appear excessive or inconsistently applied, citizen compliance weakens, fostering disobedience and protest movements.

(3) Risks of Abuse and Normalization

¹ Impact Study, Bill Extending the Public Health State of Emergency and Supplementing Its Provisions, 2 May 2020, and Opinion, Emergency Law Bill to Address the COVID-19 Epidemic, Senate, March No. 380, 9, 2020.

A major concern is the normalization of exceptional measures. Initially designed to be temporary, emergency frameworks often become permanent features of ordinary legislation, as observed with counterterrorism laws. The undue extension of emergency powers can shift the institutional balance in favor of the executive branch, thereby weakening parliamentary oversight and democratic accountability (Ackerman 2006).

(4) Ethical and Social Justice Issues

From an ethical perspective, emergency measures can disproportionately impact vulnerable populations, exacerbating social inequalities. Low-income communities and frontline workers often bear the greatest burden of restrictions without adequate social protection (Report of the Public Health Ethics Committee 2020). Thus, the legitimacy of emergency law must be assessed through the lens of equity and justice, ensuring that exceptional policies do not reinforce systemic inequalities (Mérieau 2024).

This case study of the public health state of emergency raises a fundamental question: could the COVID-19 crisis management model be applied to environmental emergencies?

5. The Potential Transposition of Lessons from the Public Health Emergency to the Ecological Emergency

5.1. The Characteristics of the Public Health Emergency Model

The public health emergency model took the form of establishing a state of emergency, allowing the State to act swiftly to combat the spread of the virus. The tools used by the State were numerous:

The management of exceptions through decrees and ordinances: In many countries, including France, legislative and regulatory measures were enacted through decrees and ordinances (32 ordinances were issued between 25 March and 27 March 2020). This allowed for an immediate response to specific health threats through derogating from standard procedures.

The temporary suspension of certain individual freedoms: Restrictions on movement, lockdowns, and bans on public gatherings were imposed, limiting freedoms in the name of the collective interest of public health.

Centralization of decision-making and implementation of urgent measures: The State centralized decision-making to avoid inefficiencies associated with lengthy legislative processes. The Ministry of Health was granted the authority to act swiftly, even beyond its initial competences.

The mobilization of extraordinary resources: The government was able to deploy emergency funds, accelerate the production of medical equipment, and redirect industries to manufacture essential supplies (masks, ventilators, etc.). It also implemented measures to mitigate the adverse effects of exceptional measures, such as the Solidarity Fund, which provided financial aid to eligible businesses experiencing at least a 50% revenue loss in April 2020 compared to April 2019 or their average monthly revenue in 2019.

While some exceptional legal instruments may prove useful, ecological crises differ in nature and scale, requiring distinct institutional and legal responses.

5.2. The Ecological Emergency: A Threat Comparable to a Public Health Crisis?

The question of whether the climate and environmental emergency can be compared to a public health crisis like COVID-19 requires an analysis of the similarities and differences between these two types of crises. Although their manifestations differ, they share common legal, political, economic, and societal challenges.

(1) Similarities Between the Climate Emergency and a Public Health Crisis

The climate and environmental emergency shares striking similarities with a public health crisis in terms of its global and systemic impact, risk acceleration, the urgency of a response, and legal and institutional mobilization. Both crises disrupt interconnected systems such as health, the economy, infrastructure, and governance, transcending geographical boundaries. For instance, extreme climate events—such as floods and droughts—disrupt supply chains, much like pandemics interrupt global trade. Additionally, vulnerable populations disproportionately suffer the consequences in both cases, highlighting issues of equity and resilience. Both emergencies are also worsened by human factors: greenhouse gas emissions accelerate climate change, while deforestation and ecosystem exploitation facilitate the emergence of zoonotic diseases. Delayed responses lead to irreversible consequences, just as late public health measures result in surges in cases and fatalities (Nicolas et al. 2021). Similarly, climate inaction exacerbates environmental disruptions and raises adaptation costs.

Finally, both crises often justify the use of emergency mechanisms that impose temporary restrictions on fundamental rights to protect populations, while requiring coordinated public policies at the national and international levels. These similarities underscore the need for proactive and systemic responses to both health and environmental emergencies.

(2) Differences Between the Climate Emergency and a Public Health Crisis

The climate emergency and a public health crisis differ significantly in their temporal dynamics, risk perception, crisis management, and legal framework.

(2.1) Temporal Dynamics and Risk Perception

Public health crises, such as COVID-19, produce immediate and visible effects, including a rapid increase in infections and hospital overcrowding, which facilitate collective awareness and prompt responses. In contrast, the climate crisis is unfolding over the long term, with gradual yet cumulative and irreversible effects, such as rising temperatures and sea level rises. This prolonged nature complicates social and political mobilization.

Additionally, risk perception varies between the two crises. Public health emergencies elicit immediate individual fear due to their direct threat to human health, prompting swift policy action. Conversely, the climate crisis is often perceived as abstract or distant, which hampers large-scale public engagement and collective mobilization.

(2.2) Crisis Management Approaches

The management of public health crises relies on immediate technical solutions, such as vaccination programs, lockdowns, and medical interventions. In contrast, climate crisis mitigation requires profound, costly, and long-term structural transformations, including energy transition strategies and systemic changes in production and consumption patterns.

(2.3) Legal and Institutional Challenges

Public health states of emergency are typically temporary and event-specific, designed to address short-term crises. In contrast, a climate emergency framework would necessitate a hybrid or permanent legal structure, given the prolonged and complex nature of ecological crises.

(2.4) Lessons from Pandemic Management for Climate Emergency Governance

Despite these differences, key lessons from the COVID-19 crisis—such as the rapid mobilization of resources, the public acceptance of restrictive measures, international cooperation, and the reliance on scientific expertise—could inform effective climate emergency strategies.

From a legal perspective, a specific framework must be established to recognize the ecological emergency as an exceptional occurrence, while ensuring the protection of fundamental rights and preventing social inequalities or authoritarian excesses.

(3) Limitations of General Environmental Law in Addressing Ecological Crises

In the event of a climate or environmental crisis, various legal instruments operate at international, national, and local levels to manage risks and their consequences. These mechanisms can be categorized into two main types.

(3.1) Risk Prevention Tools

International agreements and conventions impose legal obligations on signatory states to mitigate environmental risks. The 2015 Paris Agreement established a legally binding framework aimed at reducing greenhouse gas (GHG) emissions and enhancing adaptation capacities to climate change ([Paris Agreement 2015](#)). However, its effectiveness remains contested due to three main factors. First, the lack of enforcement mechanisms weakens compliance, as the agreement does not impose binding sanctions for non-compliance. Second, insufficient temperature targets create ambiguity, as the commitment to limit warming to 1.5 °C competes with the broader threshold of 2 °C, leading to policy inconsistencies. Finally, financial disparities between developed and developing countries generate disagreements over financial commitments, impeding effective global cooperation.

At the European level, the 2021 Climate Law (Regulation EU 2021/1119)² committed the European Union and its Member States to strengthening their adaptation capacities and reducing climate vulnerability, establishing legal obligations to achieve carbon neutrality by 2050.

In France, a National Climate Change Adaptation Plan (PNACC) is currently being developed, aiming to enhance institutional and infrastructural resilience to climate change. This plan is currently under public consultation ([PNACC 2024](#)).

Regarding maritime areas, the National Strategy for the Sea and Coastline (2024–2030) sets 18 objectives to be achieved by 2030. It includes measures for the protection of marine ecosystems, coastal risk management, and the promotion of sustainable economic activities (Decree No. 2024-530 of 10 June 2024)³.

Regarding flood risk management, Directive 2007/60/EC, transposed into French law, requires EU Member States to map flood-prone areas and develop risk management plans. France implements this directive through Flood Risk Management Plans (PGRI) and local prevention strategies (Articles L.566-1 to L.566-13 of the Environmental Code)⁴.

Finally, at the local level, municipalities are required to integrate climate emergency measures into their Territorial Climate–Air–Energy Plans (PCAET), ensuring that urban planning incorporates climate risk mitigation ([PCAET 2024](#)).

Current and future risk prevention tools must be designed to anticipate potential climate risks effectively. This requires the ability to identify environmental threats before they occur, using monitoring systems, climate modeling, and data analysis. Additionally, these tools must enable the rapid determination of appropriate measures to provide immediate responses to critical situations. Clear planning and operational response mechanisms are therefore essential to minimize the impacts of climate crises.

(3.2) Post-Crisis Risk Management Tools

Managing climate risks after their occurrence requires legal instruments that help mitigate impacts, restore ecosystems, and protect affected populations. The French legal framework includes several exceptional measures for effective crisis management, such as the natural disaster declaration system (Cat-Nat regime), established under Article L.125-1 of the Insurance Code.

² Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021, establishing the framework required to achieve climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (“European Climate Law”).

³ Decree no. 2024-530 of 10 June 2024 adopting the national strategy for the sea and the coast, *JORF* no. 0135 of 11 June 2024, Text no. 13.

⁴ The Environmental Code, 2025, France.

The process for declaring a natural disaster is initiated by municipal mayors in affected areas, then transmitted to the prefecture and reviewed at the national level⁵.

The official declaration of a natural disaster state is made through an interministerial decree formally recognizing the situation. This declaration allows for the following:

1. Regulatory exemptions: Temporary waivers of certain administrative obligations to expedite reconstruction, as provided in Article L.152-4 of the Urban Planning Code.
2. The mobilization of emergency response plans: The activation of risk management plans, such as Civil Security Response Organization Plans (ORSEC), to coordinate interventions by civil security forces, firefighters, and non-governmental organizations (NGOs), as set out in the [PCAET \(2024\)](#).
3. Financial assistance for affected communities and businesses: These funds support emergency response efforts, infrastructure reconstruction, and economic recovery in disaster-affected areas. Several types of aid can be provided, including grants to local authorities to repair damaged public infrastructure, such as roads, schools, sports facilities, and water and electricity networks. Financial support may also cover the securing of disaster-affected areas, including debris removal and the restoration of public spaces (Article L.1613-6 of the General Code of Local Authorities—CGCT)⁶. Businesses, particularly SMEs, may also receive specific financial aid in the form of exceptional grants provided by the State or local authorities to support the repair of their premises and the resumption of operations. They may also benefit from tax and social relief measures established under existing legislation. For instance, Article L.247 of the Tax Procedure Code (LPF)⁷ allows for such relief in cases of financial hardship or the inability to pay taxes. This provision could therefore be applied in the event of a natural disaster.

It is also worth noting that aid programs initially designed for a crisis response, such as those implemented during the COVID-19 pandemic, could be mobilized in or adapted to exceptional circumstances, including natural disasters, to provide direct assistance to affected businesses ([Fales 2024](#)).

Similarly, in the event of a large-scale disaster, exceptional tax measures are often introduced through decrees or circulars. These measures may include deferrals of tax deadlines (e.g., VAT, corporate tax, property tax) or the cancellation of surcharges and late penalties. For example, following the 2018 floods in Aude, specific ministerial orders granted affected businesses extended deadlines for tax payments and temporary exemptions ([Ministry for the Economy and Finance 2018](#)).

4. Tax relief measures: Businesses affected by environmental disasters may qualify for tax exemptions under Article L.247 of the Tax Procedure Code (LPF).
5. Accelerated compensation through the Cat-Nat regime: This mechanism ensures rapid financial assistance for victims of natural disasters, facilitating swift recovery and reconstruction.

For marine environmental crises, France implements the POLMAR Plan ([Marine Pollution Response Plan 2017](#)), which includes coordinated response strategies managed by maritime prefectures.

For long-term environmental crises, specific legal mechanisms exist, such as strategic territorial adaptation policies, which enable the relocation of populations living in high-

⁵ Information Report No. 603 (2023–2024), Submitted on 15 May 2024, Natural Disaster Compensation Scheme, Senate, France.

⁶ The General Code of Local Authorities, 2025, France

⁷ The Tax Procedure Code (LPF), 2024, France.

risk areas. The National Climate Change Adaptation Plan (PNACC) defines territorial adaptation strategies to mitigate climate risks (PNACC 2024).

6. Towards a Specific Legal Framework for Environmental Emergencies: Between Exception and Adaptation

In response to the accelerating ecological crisis, the concept of an environmental state of exception is gaining traction. While such a legal framework could enable swift and targeted action, it also raises concerns about potential abuses and the power concentration. A viable alternative could lie in a hybrid model that combines crisis responsiveness with long-term structural adaptation.

6.1. An Environmental State of Exception: A Reactive but Risky Solution

The establishment of an environmental state of exception could enable rapid responses to critical situations, such as massive wildfires, major climate disasters, or large-scale industrial pollution.

Among its potential benefits, this framework could accelerate decision-making processes, bypassing administrative and judicial complexities that often delay the implementation of environmental policies. It would also allow for the imposition of drastic measures, such as energy consumption restrictions, limitations on polluting industrial activities, and expropriations in cases of imminent environmental risk, ensuring an immediate and effective response to climate emergencies (Elmaghrabi et al. 2025).

Finally, such a regime would facilitate the immediate mobilization of exceptional resources, both financial and logistical, to address ecological disasters swiftly and implement adaptive solutions within the shortest possible timeframe.

However, this model presents significant legal and democratic risks that cannot be overlooked. First, it concentrates excessive power in the hands of the executive branch, thereby weakening parliamentary and judicial oversight, which is essential for maintaining the institutional balance. Second, it poses a risk of disproportionate restrictions on public freedoms, potentially limiting property rights or freedom of movement for environmental reasons, without sufficient safeguards against potential abuses. Finally, it encourages the normalization of exceptional measures, which could lead to the permanent integration of derogatory mechanisms initially designed as temporary, thereby threatening the rule of law and democratic stability (Ackerman 2006).

Thus, while an environmental state of exception may serve as a short-term response, it must be strictly regulated and supplemented by a more sustainable governance model.

6.2. Towards a Regulated Environmental Emergency Framework

France's existing ecological transition initiatives address various aspects of environmental governance but remain insufficient to establish a comprehensive regulated environmental emergency framework. In the absence of a dedicated legal mechanism, responses to ecological crises rely primarily on ad hoc emergency laws, which are often limited in scope and effectiveness.

To ensure a rapid and effective response to environmental crises while preserving the rule of law, it is essential to implement a preventive and adaptive legal framework. Such a mechanism should enable swift action while maintaining rigorous democratic oversight, thereby preventing institutional overreach and disproportionate infringements on fundamental freedoms.

This model could be based on several key principles:

(1) A Dedicated Legal Framework for Environmental Emergencies

The adoption of an Environmental Emergency Law establishing strict conditions for the implementation of exceptional measures (Elmaghrabi et al. 2025).

The integration of ecological crises into existing risk management mechanisms (e.g., natural disaster laws, compensation schemes).

(2) Enhanced Parliamentary and Judicial Oversight

Mandatory parliamentary approval for any prolonged exceptional measure.

Strengthened judicial oversight to prevent abuses and institutional overreach.

(3) A Public Consultation and Citizen Participation Mechanism

The involvement of local authorities and scientific experts in emergency decision-making.

Mandatory prior consultation for any measure significantly affecting fundamental freedoms.

(4) Time-Limited and Reversible Measures

Any environmental emergency declaration should include a sunset clause (Stoclin-Mille 2021) requiring regular reassessment.

A guarantee of the reversibility of imposed restrictions once the threat has passed.

(5) A Dedicated Fund for Climate Emergency Measures

The creation of a pre-established financial mechanism to ensure rapid resource mobilization in the event of a major ecological crisis.

The climate and ecological emergency cannot be addressed solely through temporary or situational measures. To ensure it can be addressed in the long term, a structural reform of constitutional law appears necessary (Tushnet 2005). This reform should enshrine the principle of non-regression in environmental law, preventing any rollback in climate and biodiversity protection. It should also impose a binding obligation on the State to act preventively against climate risks, requiring concrete results rather than a mere obligation of means. Finally, it should recognize a fundamental right to a healthy environment, enabling citizens to legally challenge governmental inaction and demand measures proportionate to contemporary ecological challenges (Alhoussari 2025).

7. Conclusions

An environmental state of exception could provide an operational response to acute crises, but its implementation carries significant risks for the rule of law and fundamental freedoms. A more secure alternative lies in a regulated environmental emergency framework, ensuring rapid action while preserving democratic oversight and fundamental rights.

Rather than multiplying emergency laws, the ecological crisis requires a deep structural adaptation of legal mechanisms to ensure effective anticipation, transparent governance, and long-term institutional resilience. The challenge is not only to respond to crises but to prevent them by equipping the legal system with tools commensurate with the climate and ecological challenges of our time.

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