

# Safeguarding Citizens' Constitutional Rights through the Balance of Powers: An Analysis from the Perspective of the European Convention on Human Rights

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## Abstract

The protection of constitutional rights requires more than their formal recognition in domestic constitutions and international human rights instruments; it also depends on institutional arrangements capable of preventing the concentration and arbitrary exercise of public power. This article examines the role of the balance of powers in safeguarding citizens' constitutional rights within the framework of the European Convention on Human Rights. It focuses on the relationship between the separation of powers, the rule of law, judicial independence, judicial supervision, subsidiarity, the margin of appreciation, and proportionality. The analysis shows that the Convention system establishes a multilevel structure of rights protection in which national institutions retain primary responsibility for securing fundamental rights, while the European Court of Human Rights provides subsidiary supervision when domestic mechanisms fail to offer adequate protection. Particular attention is given to the role of independent courts in controlling legislative and executive action and to the importance of proportionality in balancing individual rights against legitimate public interests. The article also examines the manner in which subsidiarity and the margin of appreciation preserve national constitutional autonomy while maintaining minimum European standards of protection. It argues that the effectiveness of the Convention depends on maintaining an appropriate equilibrium between national discretion and European judicial control. This equilibrium is particularly important in relation to the right to liberty and security, the right to a fair trial, freedom of expression, and the right to privacy. The findings indicate that the balance of powers should be understood not merely as an organizational principle of constitutional government, but as a substantive mechanism for protecting individuals against arbitrary state action. Strengthening judicial independence, effective domestic remedies, and compliance with European Court judgments remains essential for ensuring sustainable protection of constitutional rights.

**Keywords:** European Convention on Human Rights; constitutional rights; balance of powers; separation of powers; rule of law; judicial independence; European Court of Human Rights; subsidiarity; proportionality.

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## 1. Introduction

The protection of constitutional rights in contemporary democratic systems depends not only on the formal recognition of rights in constitutional texts or international instruments, but also on the institutional arrangements through which public power is distributed, constrained, reviewed, and held accountable. Rights acquire practical meaning when individuals are able to invoke them against public authorities and when no single branch of government can determine, interpret, and enforce the scope of those rights without meaningful institutional restraint. In this respect, the European Convention on Human Rights occupies a distinctive position within the European legal order. The Convention was designed as a regional instrument for the protection of fundamental rights and freedoms, but its importance extends beyond the enumeration of substantive rights because it establishes a system of legal supervision capable of influencing the conduct of legislative, executive, and judicial authorities within the contracting states. The European human rights system therefore connects the protection of the individual with broader constitutional ideas concerning the rule of law, judicial independence, accountability, and the limitation of governmental power. The Convention's contribution to the protection of human dignity is closely associated with the existence of institutional mechanisms capable of ensuring that political authority remains subject to law rather than being exercised on the basis of unrestricted governmental discretion (Al-Midani, 2009). From this perspective, the balance of powers is not merely an organizational principle concerning the internal structure of the state; it is a practical safeguard through which constitutional rights can be protected against arbitrary interference.

The historical development of constitutionalism demonstrates that the recognition of public freedoms has consistently been connected to the problem of limiting state authority. The rule of law emerged as a response to the danger that political power might be exercised according to the will of rulers rather than according to general, accessible, and predictable legal norms. The subordination of rulers and citizens alike to law is therefore central to any meaningful conception of constitutional government (Asfour, 1961). Public freedoms cannot be effectively protected if the executive is able to disregard legal restrictions, if the legislature can remove judicial safeguards without constraint, or if the judiciary lacks the independence necessary to review acts of public authority. Classical analyses of public freedoms accordingly emphasize that individual liberty is inseparable from the institutional structure within which governmental authority is exercised (Metwally, 1977). The protection of constitutional rights consequently requires more than declarations of principle. It requires a system in which different public authorities possess distinct functions and in which effective mechanisms exist to prevent the concentration of legislative, executive, and adjudicative power in the same hands.

Within the European Convention system, these constitutional concerns are particularly important because the Convention operates through a relationship between national legal institutions and an international judicial mechanism. The Convention does not replace the constitutional systems of the contracting states, nor does it establish a single centralized governmental structure for Europe. Instead, it presupposes that national authorities remain primarily responsible for securing the rights protected by the Convention, while European supervision operates where domestic mechanisms prove inadequate. The European system thus combines national constitutional responsibility with supranational judicial oversight. This arrangement has allowed the Convention to function as a common standard of rights protection across different legal traditions without eliminating the institutional diversity of European states. The development of a European system of human rights protection has therefore depended on the interaction between domestic institutions and regional guarantees rather than on the complete transfer of constitutional authority to a European center (Al-Hawari, 2009). Such an arrangement makes the idea of balance especially significant because the relevant equilibrium exists both within national constitutional systems and between national discretion and European supervision.

The European Convention also reflects a broader transformation in the understanding of sovereignty. Traditional conceptions of sovereignty emphasized the authority of the state to regulate matters within its territory without external interference. Modern human rights law, however, subjects the exercise of sovereign authority to substantive and procedural standards designed to protect the individual. International and regional human rights mechanisms have consequently altered the legal relationship between the citizen and the state by recognizing that certain rights cannot be treated as matters of unrestricted domestic discretion (Abu Al-Wafa, 2008). Under the Convention, states retain substantial authority to legislate and administer according to their own constitutional traditions, but that authority is limited by their obligation to respect the

minimum standards established by the Convention. The balance between sovereignty and external legal supervision is therefore one of the most important dimensions of the European human rights system. It explains why doctrines such as subsidiarity, the margin of appreciation, and proportionality have become central to the jurisprudential structure of the Convention.

The notion of balance in this context should not be understood as an assumption that each branch of government must possess identical powers or that institutional conflict should be eliminated. Constitutional balance instead concerns the existence of legal and institutional arrangements capable of preventing domination by one public authority and ensuring that the exercise of power remains reviewable. The theory of the balance of power has historically been associated with the prevention of excessive concentration and with the establishment of countervailing forces capable of limiting domination (Abu, 1999). Applied to constitutional rights, this principle means that legislative majorities cannot enjoy unlimited authority to restrict rights, executive officials cannot exercise coercive powers without legal control, and judicial institutions must remain sufficiently independent to determine whether governmental conduct complies with legal standards. The effectiveness of rights therefore depends on the ability of institutions to restrain one another without paralyzing legitimate government.

The rule of law provides the normative framework within which this balance operates. It requires that public authority be exercised in accordance with law, that individuals have access to independent adjudication, and that restrictions on rights be based on sufficiently clear legal grounds. The constitutional philosophy of public freedoms has long emphasized that state authority must be reconciled with the autonomy and dignity of individuals rather than being conceived as an unlimited power over society (Attia, 1989). Under the Convention, this principle is reflected in the insistence that interferences with many protected rights must be prescribed by law, pursue a legitimate objective, and satisfy requirements of necessity and proportionality. These conditions prevent governmental institutions from relying solely on formal legislative authorization when restricting rights. Instead, state action must also satisfy substantive standards that can be reviewed by courts.

Judicial independence consequently becomes indispensable to the maintenance of constitutional balance. If judges are subject to political direction, judicial review cannot function as an effective limitation on governmental power. The European human rights framework therefore attaches considerable importance to the independence and impartiality of courts, particularly in relation to the right to a fair trial. Judicial institutions must be protected from pressures that could compromise their ability to assess the legality of legislative or executive conduct. Regional human rights protection has historically relied upon the availability of judicial bodies capable of reviewing state behavior and providing remedies where rights are violated (Al-Barai, 1985). The European Court of Human Rights strengthens this protection by introducing an additional level of supervision when national systems fail to provide adequate safeguards.

The European Court of Human Rights is especially important because it transforms Convention guarantees from abstract commitments into enforceable legal standards. Through individual applications, persons alleging violations can challenge actions attributable to contracting states after satisfying the relevant admissibility requirements. This mechanism allows the individual to become an active participant in the enforcement of European human rights law rather than remaining dependent solely on diplomatic or interstate processes. The system of international human rights law increasingly recognizes the individual as a bearer of rights capable of invoking legal protection against state authority (Khalifa, 2009). In the European context, this development has strengthened the connection between constitutional rights and judicial accountability because the conduct of state institutions may ultimately be examined by an international court.

At the same time, the European Court does not function as a general constitutional court exercising unrestricted authority over national legal systems. Its role is defined by the Convention, and its supervisory function operates within a framework that recognizes the primary responsibility of national authorities. The principle of subsidiarity expresses this relationship by requiring domestic institutions to secure Convention rights in the first instance, while European intervention remains secondary. Christoffersen explains the Convention system through an interaction among primarity, subsidiarity, and fair balance, emphasizing that national authorities bear the principal obligation to protect rights while European supervision remains essential where national protection proves insufficient (Christoffersen, 2009). This structure avoids treating European supervision as a substitute for domestic constitutional government and instead uses it as a means of ensuring that national discretion remains compatible with Convention standards.

The margin of appreciation performs a related function by allowing national authorities a certain degree of discretion in areas where local conditions, moral judgments, or social circumstances may differ among states. This flexibility is necessary

because the Convention applies across diverse constitutional, cultural, and legal systems. Yet the margin of appreciation is not unlimited. It exists within a system of European supervision and must be exercised consistently with the substance of protected rights. The Convention therefore seeks to reconcile pluralism with common standards, permitting national variation while preventing states from invoking sovereignty or tradition as an unrestricted justification for violations. The emergence of diversity within European human rights jurisprudence demonstrates the difficulty of constructing uniform standards while respecting differences among national systems (Ní Aoláin, 1995). The significance of the European system lies precisely in its attempt to maintain both common protection and constitutional diversity.

Proportionality is another central mechanism through which this equilibrium is achieved. Many Convention rights are not absolute, and states may interfere with them for legitimate purposes such as public safety, national security, protection of health, prevention of disorder, or protection of the rights of others. Such restrictions, however, must remain proportionate to the legitimate aim pursued. The concept of fair balance requires the decision-maker to examine whether the burden imposed on individual rights is justified by the public interest asserted by the state (Christoffersen, 2009). Proportionality therefore provides a structured means of reviewing governmental action without denying the state the authority necessary to pursue legitimate collective objectives. It also prevents the invocation of public interest from becoming a generalized justification for excessive interference with individual liberty.

The research objective of this article is to analyze how the balance of powers contributes to the effective protection of citizens' constitutional rights within the framework of the European Convention on Human Rights. Particular attention is given to the relationship between separation of powers, the rule of law, judicial independence, European judicial supervision, subsidiarity, proportionality, and the margin of appreciation. The article also examines how these principles collectively create a system in which national authorities retain meaningful constitutional autonomy while remaining subject to common European human rights standards. The analysis proceeds on the premise that the protection of constitutional rights depends not only on the substantive content of the Convention but also on the institutional relationships through which Convention obligations are interpreted and enforced.

The importance of this inquiry is intensified by contemporary challenges to democratic governance. Constitutional systems may preserve the formal appearance of legality while weakening judicial independence, concentrating executive authority, or reducing the effectiveness of remedies available to individuals. In such circumstances, the existence of an external supervisory mechanism can become particularly important. The Convention's understanding of democratic society is closely connected to the maintenance of effective rights, pluralism, and institutional accountability (Marks, 1996). The balance of powers must therefore be evaluated not simply as a theoretical constitutional doctrine but as an operational condition for the protection of rights. The Convention system illustrates how national and European institutions can interact to reduce the risk of arbitrary government while maintaining sufficient flexibility for states to govern according to their constitutional traditions.

## **2. Constitutional Foundations of the Balance of Powers and Human Rights Protection under the ECHR**

The constitutional significance of the balance of powers begins with the proposition that public authority must be organized in such a manner that no single institution can exercise unchecked control over the legal position of individuals. Although the European Convention on Human Rights does not prescribe a uniform constitutional structure for the contracting states, the rights it guarantees presuppose institutional arrangements compatible with the rule of law, effective judicial protection, and democratic governance. The protection of fundamental rights cannot be separated from the organization of public power because the principal threats to individual liberty frequently arise through legislation, administrative action, policing, prosecution, detention, or judicial processes. A system that formally recognizes rights while allowing a single political authority to control the legislature, administration, and judiciary would lack the institutional conditions necessary for those rights to be effectively enforced. The constitutional protection of public freedoms therefore requires mechanisms through which governmental functions are differentiated and subjected to reciprocal legal constraints (Attia, 1989).

The separation of powers should not be interpreted as requiring complete isolation among legislative, executive, and judicial institutions. Modern constitutional government depends on interaction among these branches. Legislatures establish general norms, executives implement laws and administer public affairs, and courts interpret legal standards and resolve disputes. Constitutional balance arises when these functions are distributed in a manner that prevents one authority from becoming

legally dominant over the others. The underlying purpose is not institutional symmetry but the control of power. A meaningful balance allows public institutions to perform their constitutional functions while subjecting them to mechanisms capable of correcting abuse. The broader theory of power balance is grounded in the need to prevent excessive concentration and to preserve stability through countervailing institutional forces (Abu, 1999). Within human rights law, the practical significance of this principle lies in its capacity to protect the individual from decisions taken by political institutions without independent scrutiny.

The rule of law transforms the separation of powers from an institutional arrangement into a normative system. Governmental authority must be exercised according to legal norms rather than according to personal or political discretion. The supremacy of law is therefore incompatible with a situation in which those exercising public authority can exempt themselves from legal obligations. Asfour's analysis of the conflict between law and authority emphasizes the fundamental constitutional problem created when political power seeks to escape legal limitation (Asfour, 1961). In the European human rights context, this problem is addressed through the requirement that restrictions on protected rights possess a legal basis and remain open to judicial review. The existence of legislation alone is insufficient if the law is arbitrary, inaccessible, unpredictable, or applied without independent control.

Legal certainty is closely connected to this conception of the rule of law. Citizens must be able to understand the legal consequences of their actions and to anticipate, within reasonable limits, how public authorities may exercise coercive powers. Vague or excessively discretionary legislation can undermine rights because it allows governmental officials to interfere with liberty without sufficiently defined limits. The protection of public freedoms consequently requires not only formal legality but also a degree of clarity and predictability in the legal rules governing state intervention (Al-Harf, 1980). This dimension is especially important in areas involving detention, surveillance, restrictions on expression, policing, or interference with private life, where broad discretionary powers can easily become instruments of arbitrary government.

The European Convention strengthens the constitutional significance of legality by subjecting national legal measures to standards that transcend domestic political preferences. States remain free to adopt laws consistent with their constitutional processes, but the exercise of legislative authority is constrained by Convention obligations. This does not mean that the European Court substitutes itself for national legislatures or determines the content of all domestic law. Rather, the Convention establishes minimum standards beyond which legislative action cannot legitimately proceed. The European system for the protection of human rights is therefore based on the coexistence of national lawmaking authority and external legal obligations (Al-Midani, 2009). This arrangement prevents parliamentary sovereignty or legislative supremacy from operating as an absolute defense when national laws interfere disproportionately with protected rights.

The executive branch presents a different but equally significant constitutional challenge because it possesses the institutional capacity to exercise coercive power directly. Police authorities, administrative agencies, immigration bodies, prison administrations, and security institutions can affect the liberty, privacy, property, dignity, and physical integrity of individuals. Executive power is necessary for government, but its immediacy and coercive capacity create a particular need for legal accountability. Public freedoms can be meaningfully protected only where administrative authorities remain subject to law and where individuals possess access to procedures through which abuses can be challenged (Metwally, 1977). The balance of powers consequently requires that executive decisions affecting fundamental rights remain reviewable by institutions possessing sufficient independence to provide effective remedies.

The judiciary therefore occupies a central position in the constitutional architecture of rights protection. Judicial institutions provide the forum in which individuals can challenge governmental action, require authorities to justify interferences with rights, and obtain remedies when violations occur. The right to an independent and impartial tribunal is itself a substantive human right, but judicial independence also functions instrumentally by supporting the enforcement of other rights. Regional systems of human rights protection have depended heavily on judicial and quasi-judicial mechanisms because legal guarantees become significantly stronger when individuals can invoke them before bodies capable of issuing authoritative determinations (Al-Barai, 1985). A judiciary subordinated to the executive cannot perform this function because it cannot reliably assess whether governmental conduct violates legal standards.

Judicial independence must therefore be understood in both institutional and individual terms. Institutionally, courts must be protected from structures that allow political authorities to dictate outcomes or threaten judges because of their decisions.

Individually, judges must possess sufficient guarantees of tenure, impartiality, and professional security to decide cases according to law. The European Court of Human Rights has contributed to the development of standards concerning independent tribunals precisely because the fairness of judicial proceedings depends on more than formal designation. The European human rights system treats judicial independence as an integral element of the broader protection of rights and constitutional legality (Jaffal, 2016). The protection of courts from political interference therefore strengthens the balance among public authorities and reduces the risk that legal institutions will become instruments of executive or legislative dominance.

The Convention's constitutional significance is also reflected in the relationship between rights and democracy. Democratic legitimacy cannot be reduced to majority rule because political majorities may adopt measures that disproportionately burden minorities, dissenters, unpopular groups, or individuals lacking effective political influence. Human rights establish substantive boundaries within which democratic decision-making must operate. The Convention's conception of democratic society accordingly combines representative government with respect for individual rights, pluralism, and legal accountability (Marks, 1996). The balance of powers supports this conception by ensuring that legislative majorities do not possess unlimited authority and that individuals may challenge rights-restrictive measures before independent courts.

The protection of minorities provides a particularly important illustration of the relationship between constitutional balance and human rights. Minority groups may be vulnerable when rights depend exclusively on electoral majorities because the political process does not always provide sufficient protection against discrimination or exclusion. International law concerning minorities therefore emphasizes the need for legal standards capable of constraining governmental action even where restrictive measures enjoy domestic political support (Pentassuglia, 2002). The Convention system strengthens such protection by allowing claims concerning discrimination, expression, religion, privacy, and related rights to be reviewed according to European standards. This does not eliminate the role of democratic institutions, but it ensures that democratic authority remains compatible with the rights of individuals and minority communities.

The development of European rights protection has also contributed to a form of multilevel constitutionalism in which domestic constitutions and European legal standards interact. The Convention does not formally replace national constitutions, but its principles increasingly influence the interpretation of domestic rights and the design of national remedies. Broader European legal developments have reinforced the idea that fundamental rights form part of a legal order extending beyond the nation-state (Sacerdoti, 2002). Although the Convention and European Union legal systems must be distinguished, both reflect the wider transformation through which the protection of the individual has become a central limitation on public authority at multiple levels of governance.

This multilevel structure creates both opportunities and tensions. On one hand, European supervision provides an additional safeguard when domestic institutions fail to protect rights. On the other hand, excessive centralization could weaken national democratic responsibility and create perceptions that rights standards are imposed without adequate sensitivity to local conditions. The Convention responds to this problem through doctrines that preserve national responsibility while maintaining European supervision. The diversity of European human rights jurisprudence reflects the continuing effort to reconcile common standards with legitimate constitutional variation (Ní Aoláin, 1995). The balance of powers therefore operates not only horizontally among branches of government but also vertically between domestic and European institutions.

The constitutional foundation of the Convention system is further reinforced by the principle that rights are practical and effective rather than merely theoretical. This understanding requires states to create institutional conditions that make rights genuinely enforceable. A fair trial cannot be protected where courts are politically controlled. Liberty cannot be secured where detention is immune from judicial scrutiny. Freedom of expression cannot be meaningful where authorities may impose arbitrary restrictions without having to demonstrate a legitimate and proportionate justification. Privacy cannot be protected where surveillance powers lack legal safeguards. Human rights law therefore depends upon the quality of domestic institutions, not merely the wording of constitutional provisions. The promotion and protection of human rights consequently require institutional commitments capable of translating legal guarantees into effective practice (Saudi, 2018).

The principle of proportionality is particularly important in connecting institutional balance with substantive rights. Many disputes under the Convention arise not because governments deny the existence of a right but because they claim that interference is necessary to achieve a legitimate public objective. Proportionality provides a method through which courts can

examine whether the relationship between governmental means and public objectives is justified. The process of balancing fundamental rights requires consideration of competing interests rather than an automatic preference for either individual liberty or state authority (Rosas, 2014). Although Rosas discusses the broader European legal context, the logic of balancing is directly relevant to the Convention because the European Court frequently evaluates whether governmental restrictions impose an excessive burden on individuals.

The proportionality analysis also protects democratic decision-making by avoiding the assumption that every restriction of a right is automatically unlawful. Governments must retain the capacity to regulate social life, protect public safety, respond to emergencies, and reconcile competing rights. The constitutional issue is therefore not whether the state may act, but whether the action remains within legally permissible limits. The concept of fair balance helps structure this inquiry by examining whether the individual has been required to bear an excessive burden in relation to the public objective pursued (Christoffersen, 2009). This approach recognizes both the legitimacy of state functions and the need to protect individuals from disproportionate interference.

The constitutional protection of rights is consequently inseparable from a network of institutional and doctrinal safeguards. Separation of powers limits concentration, the rule of law subjects authority to legal standards, judicial independence provides effective review, democratic principles protect pluralism, and proportionality constrains excessive interference. The Convention integrates these elements without imposing a single constitutional model on all contracting states. Its contribution lies in establishing common standards within which national systems may retain their own institutional characteristics. Such an arrangement makes the balance of powers a functional principle rather than a rigid constitutional formula. What ultimately matters is whether the institutional structure of the state provides effective protection against arbitrariness and whether individuals possess realistic opportunities to challenge violations of their rights.

### **3. Judicial Control and the European Court of Human Rights as Guarantees of Institutional Balance**

Judicial control represents the principal mechanism through which the abstract limitation of governmental power becomes legally enforceable. Constitutional systems may proclaim the supremacy of law and the protection of fundamental rights, but such principles remain vulnerable when there is no independent institution capable of determining whether public authorities have respected them. Courts therefore occupy a distinctive role within the balance of powers because they do not merely resolve disputes between private parties; they also provide institutional supervision over the exercise of legislative and executive authority. Within the European Convention system, this function is performed at two interconnected levels. National courts bear the primary responsibility for interpreting domestic law consistently with Convention obligations and providing remedies for violations, while the European Court of Human Rights exercises subsidiary supervision when domestic mechanisms fail to secure Convention rights. This dual structure transforms judicial independence from a purely national constitutional principle into a requirement reinforced through European legal oversight (Al-Hawari, 2009).

The independence of national judiciaries is essential because the European system relies on domestic courts as the first line of protection. If national judges are unable to review executive decisions or legislative measures impartially, the principle of subsidiarity loses much of its practical meaning. The Convention cannot operate effectively if domestic remedies exist only formally while courts remain subject to political influence. Human rights law therefore requires judicial institutions capable of resisting interference from governments, political parties, administrative authorities, or other powerful actors. The relationship between judicial independence and human rights protection is central to regional mechanisms because courts provide the legal environment in which individuals can transform rights claims into enforceable remedies (Jaffal, 2016). Judicial independence is consequently both a structural condition of constitutional balance and a substantive guarantee for persons whose rights are threatened.

The European Court of Human Rights reinforces this structure by examining whether state conduct complies with the obligations accepted under the Convention. Its supervisory role is particularly significant because violations may result not only from isolated administrative misconduct but also from legislation, judicial practices, or institutional arrangements that systematically undermine rights. The Court's judgments can therefore reveal structural problems within national legal systems and require states to adopt measures capable of preventing similar violations. The European system of human rights protection was developed precisely to ensure that rights would not depend exclusively on the willingness of domestic authorities to police

themselves (Al-Midani, 2009). External judicial supervision creates an additional layer of accountability where internal political or judicial controls prove insufficient.

Individual applications are among the most important features of this supervisory system. They allow persons who claim to be victims of Convention violations to bring their complaints before the European Court after satisfying the relevant procedural conditions. The availability of individual recourse changes the traditional structure of international law by granting individuals a direct role in the enforcement of obligations owed by states. International human rights law increasingly treats the individual as a legal subject entitled to protection beyond the boundaries of national constitutional arrangements (Khalifa, 2009). In practical terms, this mechanism means that legislative or executive measures affecting liberty, fair trial rights, privacy, expression, or other protected interests can ultimately be examined from the perspective of European standards.

The Court's supervisory authority over legislative action is indirect but constitutionally significant. The European Court does not annul national legislation in the same manner as a domestic constitutional court, yet it can find that the application or existence of national legal provisions has produced a violation of the Convention. Such findings may require the state to amend legislation, alter judicial interpretation, or adopt other general measures to prevent recurrence. In this way, legislative sovereignty is limited by the state's prior commitment to Convention rights. Human rights instruments impose legal constraints on the power of states to enact measures inconsistent with internationally protected standards (Bassiouni & Mohieddin, 2007). The practical effect is to require legislatures to consider whether laws restricting rights can withstand European judicial scrutiny.

The supervisory role of the Court is equally important in relation to executive power. Administrative authorities possess extensive powers affecting individuals directly, particularly in matters of detention, policing, immigration, security, prison administration, and surveillance. These areas involve a heightened risk of abuse because executive action may occur rapidly and may be justified by appeals to public order or national interest. The Convention provides a framework in which such governmental claims can be tested against legal standards rather than accepted automatically. General accounts of human rights protection emphasize that governmental power must remain subject to procedural and substantive safeguards if individual freedom is to be meaningfully preserved (Al-Rashidi, 2005). European judicial supervision therefore strengthens national checks and balances by requiring executive authorities to justify interferences with rights in legally cognizable terms.

The right to liberty provides a clear example of the relationship between judicial control and constitutional balance. Detention represents one of the most serious forms of state interference because it directly removes the individual's physical freedom. A system in which the executive could detain persons without independent judicial supervision would permit a concentration of coercive authority incompatible with the rule of law. The protection of public freedoms has historically depended on procedures capable of challenging unlawful restraints on liberty (Al-Harf, 1980). Under the Convention framework, judicial scrutiny of detention ensures that executive claims of necessity remain subject to legal standards and that individuals are not deprived of liberty solely on the basis of administrative preference.

The right to a fair trial is similarly connected to the institutional balance among public authorities. Article 6 of the Convention requires adjudication by an independent and impartial tribunal established by law. This guarantee limits the ability of governments or legislatures to manipulate judicial institutions for political purposes. If the executive can determine judicial outcomes, appoint decision-makers without adequate safeguards, or remove judges because of unfavorable rulings, the judiciary ceases to function as an independent branch and rights become dependent on political discretion. Regional systems of human rights protection therefore attach particular importance to judicial guarantees because they provide the institutional foundation for all other forms of legal protection (Al-Barai, 1985).

Judicial impartiality must also be preserved against subtler forms of political control. Direct orders to judges are not the only threat to independence. Institutional design, appointment systems, disciplinary procedures, tenure arrangements, remuneration, and administrative control can all affect judicial autonomy. The European human rights framework therefore evaluates independence according to the real conditions under which courts operate rather than accepting formal labels. This reflects the broader principle that human rights protection must be practical and effective. The protection and promotion of rights cannot be reduced to the existence of nominal institutions if those institutions lack the capacity to act independently (Saudi, 2018).

The European Court's role as a supervisory institution also strengthens judicial independence by establishing standards that national authorities must respect. Where domestic legal reforms weaken courts or create excessive political influence over

adjudication, Convention scrutiny can identify incompatibilities with fair trial guarantees. This creates a form of external constitutional restraint capable of supporting domestic judges when national political structures place judicial independence under pressure. Such supervision is particularly important during rule-of-law crises because institutional deterioration may occur through formally enacted legislation rather than through openly unlawful conduct. The rule of law requires more than adherence to procedural legality; it also requires that legal institutions remain capable of limiting government ([Asfour, 1961](#)).

The doctrine of proportionality further develops the Court's supervisory role by providing a method for reviewing governmental restrictions without transforming the Court into a general policymaking body. Many Convention rights permit limitations when governments pursue legitimate objectives, but those limitations must satisfy the requirement of necessity in a democratic society. Proportionality enables the Court to assess whether the means chosen by the state are excessive in relation to the objective pursued. The fair-balance approach requires attention to the competing interests of the individual and the community, preventing public interest from becoming a blanket justification for rights restrictions ([Christoffersen, 2009](#)). Judicial control thereby restrains government while leaving room for legitimate policy choices.

Freedom of expression illustrates the practical operation of this method. States may regulate expression for purposes such as protecting national security, public order, reputation, or the rights of others, but such regulation must not destroy the substance of the freedom itself. An independent judiciary must therefore examine whether restrictions are supported by relevant and sufficient reasons and whether less intrusive means could achieve the legitimate objective. Human rights law places freedom of expression among the essential public liberties requiring protection from disproportionate state interference ([Bashir, 2007](#)). Judicial review prevents the executive or legislature from deciding conclusively for itself whether censorship, criminal penalties, or other restrictions are necessary.

Privacy raises similar issues, particularly because technological development has expanded the state's capacity to collect, store, and analyze personal information. Interferences with private life may be justified in certain circumstances, but the existence of powerful surveillance techniques increases the importance of legal safeguards and independent control. The balancing of privacy with competing public interests has become an increasingly complex aspect of modern fundamental rights law ([Docksey, 2016](#)). The constitutional relevance of judicial supervision lies in ensuring that security or administrative efficiency does not automatically prevail over the individual's right to private life.

The Court's supervisory function is nevertheless restrained by the recognition that national authorities frequently possess greater familiarity with local conditions. This consideration supports the margin of appreciation, which grants states a degree of discretion in implementing Convention obligations. The doctrine acknowledges that national institutions may be better positioned to evaluate particular social, moral, or cultural circumstances. However, European supervision remains necessary because otherwise the margin could become indistinguishable from unrestricted sovereignty. Christoffersen's analysis of fair balance emphasizes the relationship between national responsibility and European control within the Convention system ([Christoffersen, 2009](#)). The Court therefore does not eliminate national judgment; it examines whether that judgment remains within the permissible boundaries of Convention rights.

The scope of the margin may vary according to the nature of the right, the degree of European consensus, and the seriousness of the interference. This flexibility reflects the diversity of European legal systems and the need to avoid imposing uniform solutions where legitimate differences exist. Human rights jurisprudence has long confronted the challenge of reconciling common standards with national and cultural diversity ([Ní Aoláin, 1995](#)). The margin of appreciation can therefore contribute to constitutional balance when it preserves domestic democratic space without allowing states to reduce Convention protection below its essential minimum.

Another important dimension of judicial supervision concerns the interpretation of the Convention as a living instrument. Rights must be interpreted in light of contemporary conditions rather than frozen according to the social assumptions prevailing when the Convention was drafted. This interpretive approach permits the Court to respond to changing technologies, social relationships, and forms of governmental power. At the same time, evolutionary interpretation must remain connected to the legal framework of the Convention and cannot become unlimited judicial discretion. The legitimacy of European supervision depends on maintaining a balance between effective rights protection and respect for the institutional roles of national authorities. The Convention's democratic character supports an interpretation capable of preserving rights in changing social contexts ([Marks, 1996](#)).

The implementation of European Court judgments is equally important because judicial supervision would lose much of its effectiveness if states could disregard adverse rulings. Binding judgments create obligations requiring states to address the consequences of violations and, where necessary, adopt measures to prevent recurrence. The supervision of execution within the Council of Europe framework therefore forms part of the broader system of accountability. International and regional human rights instruments require not merely formal acceptance but practical compliance with obligations undertaken by states (Bassiouni & Mohieddin, 2007). Implementation strengthens the balance of powers by ensuring that executive or legislative authorities cannot simply ignore judicial determinations when those determinations require institutional reform.

The relationship between the European Court and national institutions should nevertheless be understood as cooperative rather than purely hierarchical. Domestic courts often incorporate Convention principles into national law, legislatures amend statutes in response to judgments, and executive authorities adopt administrative changes designed to prevent repetition of violations. Through this interaction, European standards influence national constitutional practice while national legal developments also contribute to the evolution of Convention jurisprudence. The European system thus functions as a dialogue among legal institutions rather than as a simple transfer of authority from domestic bodies to an external court. This dialogic structure allows judicial supervision to reinforce national constitutionalism rather than replace it.

The most important contribution of the European Court to the balance of powers is therefore its capacity to provide an external legal reference point against which the exercise of public authority can be assessed. National institutions remain responsible for governing, legislating, and adjudicating, but they operate within a framework in which rights violations may be subjected to independent European review. Judicial supervision does not abolish political discretion; it requires that discretion remain legally justified. It does not eliminate national constitutional diversity; it ensures that diversity does not become a justification for arbitrary power. By reinforcing judicial independence, reviewing governmental interferences, and requiring compliance with minimum human rights standards, the Convention system transforms the balance of powers from a purely domestic constitutional arrangement into part of a broader European structure of legal accountability.

#### **4. Balancing National Authority and European Human Rights Protection**

The European Convention on Human Rights operates within a constitutional environment characterized by the coexistence of national sovereignty and common European standards. Contracting states retain their own constitutions, legislative institutions, executive structures, judicial systems, and political traditions, yet they have accepted legally binding obligations concerning the treatment of individuals within their jurisdiction. The resulting legal relationship cannot be understood through a model of unrestricted sovereignty because state authority is subject to Convention guarantees. At the same time, it cannot be understood as complete European centralization because national authorities remain primarily responsible for the protection and implementation of rights. The Convention therefore relies on a carefully constructed balance in which domestic institutions exercise substantial autonomy while remaining subject to European supervision where national protection proves inadequate. The principle of subsidiarity is fundamental to this arrangement because it identifies national authorities as the primary protectors of Convention rights and treats European judicial intervention as complementary rather than substitutive (Christoffersen, 2009).

Subsidiarity reflects the practical reality that rights are most frequently protected or violated at the domestic level. National legislatures determine the legal framework governing public institutions, executive bodies apply those laws in everyday administration, and domestic courts provide the first opportunity for individuals to challenge alleged violations. Effective national protection therefore reduces the need for European intervention and strengthens the legitimacy of the Convention system. The European structure for human rights protection was never intended to relieve states of their own responsibilities; rather, it was designed to ensure that domestic authorities fulfill obligations that they have voluntarily accepted (Al-Hawari, 2009). The primary burden of implementation accordingly remains with the state.

The requirement that applicants generally exhaust domestic remedies before bringing a case to the European Court expresses this principle institutionally. Domestic authorities must first be given an opportunity to address the alleged violation. This requirement encourages national courts to interpret and apply Convention standards and gives states the possibility of correcting problems within their own legal systems. It also preserves the subsidiary character of the European Court by preventing it from functioning as a routine court of first instance for every rights dispute. The regional protection of human rights is most effective

when international mechanisms reinforce rather than displace domestic remedies (Al-Barai, 1985). Subsidiarity therefore promotes both efficiency and constitutional responsibility.

The exhaustion requirement, however, is justified only where domestic remedies are effective in practice. If courts lack independence, procedures are excessively delayed, or available remedies cannot realistically address the alleged violation, formal reliance on domestic processes may fail to provide meaningful protection. Subsidiarity must therefore be understood as a doctrine of responsible national primacy rather than a mechanism for shielding states from European scrutiny. The European system assumes that national institutions are willing and able to protect rights. Where this assumption fails, European supervision becomes more important. The promotion and protection of human rights require remedies capable of producing real legal consequences rather than merely satisfying formal procedural requirements (Saudi, 2018).

The principle of subsidiarity also contributes to the balance of powers within national systems because it encourages domestic courts, legislatures, and executive authorities to internalize Convention standards. Where national institutions understand that European intervention is secondary, they have greater responsibility to prevent violations before they reach the Strasbourg system. This encourages legislatures to assess the human rights implications of proposed laws, executive authorities to develop rights-compatible administrative practices, and courts to provide effective judicial review. International human rights law is most sustainable when rights protection becomes part of ordinary domestic governance rather than an obligation considered only after an international judgment has been delivered (Abu Al-Wafa, 2008).

The margin of appreciation complements subsidiarity by recognizing that national authorities may need a degree of discretion in applying Convention rights. European societies differ in their legal traditions, social structures, religious arrangements, political histories, and approaches to contested moral questions. A rigidly uniform interpretation of every Convention obligation could ignore legitimate national diversity and weaken democratic ownership of human rights. The margin of appreciation therefore permits states to make certain choices within the boundaries of the Convention. Differences in European human rights jurisprudence illustrate the continuing tension between uniformity and diversity in the interpretation of fundamental rights (Ní Aoláin, 1995). The margin provides one method of managing that tension.

Nevertheless, national discretion cannot be unlimited because unrestricted discretion would undermine the very purpose of European supervision. The European Court retains authority to determine whether a state has remained within the permissible margin. This creates a relationship in which national authorities exercise primary judgment while the Court determines whether the resulting restriction is compatible with Convention standards. The idea of fair balance is central to this process because it requires consideration of both the state's legitimate objectives and the burden imposed upon the individual (Christoffersen, 2009). The margin of appreciation is therefore not a waiver of rights but a controlled space for national decision-making.

Proportionality provides the principal analytical framework for examining whether national authorities have exceeded this space. When a state restricts a qualified right, it must demonstrate that the interference pursues a legitimate aim and remains necessary in a democratic society. The proportionality inquiry examines whether the restriction corresponds to a genuine social need, whether the reasons offered by the state are sufficient, and whether the interference imposes an excessive burden relative to the objective pursued. The balancing of fundamental rights has become a defining feature of European rights adjudication because constitutional disputes often involve competing interests rather than a simple confrontation between legality and illegality (Rosas, 2014). Proportionality allows courts to assess these conflicts without automatically invalidating governmental policy.

The right to private life provides a particularly useful example. Governments may claim legitimate interests in crime prevention, national security, public safety, or administrative regulation, while individuals retain a strong interest in privacy, family life, personal autonomy, and protection of personal information. Modern technology has intensified these conflicts by expanding governmental capacity for surveillance and data processing. The balancing of privacy with other fundamental interests requires careful analysis because interference may be difficult for individuals to detect and may have long-term consequences for autonomy and expression (Docksey, 2016). European supervision is important in this context because national security arguments can otherwise create broad zones of executive discretion insulated from meaningful judicial control.

Freedom of expression similarly illustrates the relationship between national authority and European standards. States possess legitimate interests in regulating certain forms of expression, including speech connected to violence, serious threats, defamation, or other protected interests. Yet freedom of expression is essential to democratic society because it enables political

participation, criticism of government, public debate, and pluralism. Excessive restrictions can therefore undermine both individual rights and the institutional conditions of democracy. Public freedoms require safeguards against governmental limitations that exceed what is necessary for legitimate public purposes (Bashir, 2007). The European Court's supervisory role ensures that national authorities cannot rely solely on domestic political preferences when restricting expression.

The right to a fair trial presents a somewhat different form of balance because judicial independence is both a national institutional responsibility and a Convention requirement. States retain authority to design their judicial systems, determine court structures, and establish procedures, but such arrangements must preserve independence, impartiality, and fairness. National constitutional autonomy therefore does not permit institutional arrangements that deprive individuals of an effective tribunal. The European system of human rights protection treats access to independent judicial processes as essential to the enforcement of other rights (Jaffal, 2016). European supervision is especially important where political authorities adopt reforms affecting judicial appointments, tenure, disciplinary mechanisms, or the allocation of cases in ways that threaten judicial autonomy.

The right to liberty and security further demonstrates why national sovereignty must remain subject to common standards. The state possesses a legitimate authority to arrest and detain individuals in circumstances authorized by law, but deprivation of liberty must be carefully controlled because of its seriousness. Domestic legal systems differ in criminal procedure and administrative detention practices, yet Convention standards establish minimum safeguards against arbitrariness. International human rights law consistently treats personal liberty as a core right requiring legal justification and procedural protection (Al-Fatlawi, 2007). European judicial supervision ensures that states cannot invoke national security, immigration control, or public order as unrestricted grounds for detention.

The protection of religious freedom and minority interests likewise requires a balance between national traditions and European guarantees. European states have different constitutional relationships between religion and government, and the Convention does not require a single institutional model. Nevertheless, national arrangements must remain compatible with protected rights and must not produce unjustified discrimination or disproportionate restrictions. International law concerning minorities recognizes the importance of preserving diversity while establishing legal safeguards against exclusion and unequal treatment (Pentassuglia, 2002). The margin of appreciation may therefore be relevant in determining the degree of national flexibility, but European supervision remains necessary to prevent majoritarian preferences from eliminating the substance of protected freedoms.

The idea of the Convention as a living instrument further influences this balance because rights must remain capable of responding to changing social conditions. A strictly historical interpretation could leave new forms of governmental interference outside effective legal protection. Digital surveillance, large-scale data processing, contemporary migration systems, new forms of media, and changing understandings of personal autonomy present challenges that were not fully foreseeable when the Convention was adopted. Human rights protection must therefore remain adaptable if it is to preserve its practical significance. The European system's constitutional character is strengthened by its ability to interpret rights dynamically while remaining rooted in the text and purposes of the Convention (Marks, 1996).

Dynamic interpretation, however, creates questions about the proper limits of European judicial authority. If the Court interprets rights too expansively without sufficient connection to the Convention or to developments within contracting states, critics may argue that it has displaced national democratic decision-making. Conversely, excessive deference to national authorities may weaken common standards and allow serious violations to persist. The Convention system must therefore maintain a balance between effective interpretation and judicial restraint. The diversity of European legal traditions demonstrates why rights jurisprudence must remain sensitive to national variation while protecting minimum common principles (Ní Aoláin, 1995). The legitimacy of the system depends on its ability to combine these objectives.

The relationship between proportionality and subsidiarity is especially significant in this respect. Subsidiarity gives national authorities the first opportunity to assess rights questions, while proportionality provides the substantive framework through which their decisions can be evaluated. Where national courts undertake serious rights analysis, consider relevant Convention principles, and provide reasoned assessments of competing interests, there may be stronger grounds for European deference. Where domestic institutions fail to engage meaningfully with protected rights, the justification for European intervention becomes stronger. Christoffersen's account of subsidiarity and primacy emphasizes precisely this allocation of responsibility

within the Convention structure ([Christoffersen, 2009](#)). National responsibility and European oversight are therefore mutually reinforcing rather than mutually exclusive.

The balance between economic or regulatory interests and fundamental rights also illustrates the broader European commitment to proportionality. Although the Convention and European Union legal orders are institutionally distinct, European jurisprudence more generally demonstrates the importance of balancing protected rights against competing public or economic objectives ([De Vries, 2013](#)). This comparative perspective reinforces the principle that neither governmental policy nor economic freedom automatically overrides fundamental rights. Public objectives must be legally justified and implemented in a manner consistent with the protection owed to individuals.

Similarly, the development of fundamental rights within broader European legal structures shows that citizenship and individual rights increasingly transcend purely national conceptions of constitutional protection ([Sacerdoti, 2002](#)). Individuals remain citizens of states with distinct constitutional systems, but they are also beneficiaries of European legal guarantees that limit national authority. This multilevel structure does not abolish state sovereignty; instead, it transforms sovereignty into authority exercised within a network of legal commitments. States retain political autonomy, but they are accountable for complying with rights standards accepted through international agreement.

Effective implementation of European judgments is crucial to preserving this balance. Where states respond to judgments by amending legislation, improving administrative procedures, strengthening judicial safeguards, or providing remedies to victims, European supervision contributes to domestic constitutional development. Where states resist implementation, the tension between sovereignty and common protection becomes more pronounced. Human rights obligations require good-faith compliance because legal protection becomes ineffective if adverse judicial decisions can be ignored without consequence ([Bassiouni & Mohieddin, 2007](#)). The execution process therefore connects judicial adjudication with institutional reform.

The balance between national authority and European protection should ultimately be understood as a dynamic constitutional relationship. National institutions retain the principal responsibility for protecting rights, European supervision ensures that minimum standards are respected, subsidiarity allocates primary responsibility, the margin of appreciation preserves legitimate diversity, and proportionality constrains excessive interference. None of these principles operates independently. Together, they create a system in which constitutional autonomy and human rights accountability coexist. The Convention's effectiveness depends on preserving both sides of this relationship. Excessive centralization could weaken national responsibility, while excessive deference could reduce European guarantees to symbolic commitments. The strength of the Convention system lies in its attempt to maintain a legal equilibrium in which states remain capable of governing according to their constitutional traditions while individuals retain access to common European standards when national power exceeds permissible limits.

## 5. Conclusion

The protection of citizens' constitutional rights under the European Convention on Human Rights is inseparable from the institutional distribution and legal control of public power. The Convention demonstrates that rights cannot be effectively safeguarded by textual guarantees alone. Their practical protection depends on the existence of institutions capable of preventing the concentration of authority, reviewing governmental action, and providing remedies where public power has been exercised unlawfully or disproportionately. The balance of powers therefore functions as a substantive guarantee of constitutional rights rather than merely as a structural principle concerning the organization of government.

The analysis shows that the separation of legislative, executive, and judicial functions remains central to the prevention of arbitrary government. Legislatures must possess the authority necessary to establish general legal rules, but their democratic legitimacy does not give them unrestricted power to interfere with fundamental rights. Executive institutions require sufficient authority to administer public affairs, maintain security, and implement legitimate policy, yet their coercive powers must remain subject to legal limitations and independent review. Courts must be capable of interpreting and enforcing legal standards without political interference. Where these institutional relationships are properly maintained, the distribution of power contributes directly to the protection of liberty, privacy, expression, fair trial guarantees, and other constitutional interests.

The rule of law provides the legal foundation of this institutional balance. Public authorities cannot be permitted to exercise power solely on the basis of political preference or administrative convenience. Governmental interferences with rights must possess a legal basis, pursue legitimate purposes, and remain subject to procedures capable of evaluating their necessity. Legal

certainty, accessibility of law, judicial review, and effective remedies are therefore essential components of meaningful rights protection. The rule of law prevents the constitutional structure from becoming a purely formal arrangement by requiring that every branch of government remain legally accountable.

Judicial independence emerges as one of the most important safeguards within this framework. An independent judiciary provides the institutional mechanism through which individuals can challenge governmental action and require public authorities to justify interferences with protected rights. Judicial independence must therefore be protected not only against direct political instructions but also against institutional arrangements capable of producing indirect dependence. Appointment procedures, tenure, disciplinary mechanisms, administrative control, and the broader political environment can all affect the ability of judges to decide cases impartially. A constitutional system that weakens judicial independence simultaneously weakens the protection of every right that depends on effective judicial review.

The European Court of Human Rights strengthens this national structure by providing an additional level of supervision. Its importance lies not in replacing domestic institutions but in ensuring that domestic authority remains compatible with the minimum standards established by the Convention. Through individual applications and binding judgments, the European system enables persons to challenge violations that national institutions have failed to remedy. This external judicial mechanism is particularly significant where deficiencies are structural, where political institutions have weakened domestic checks and balances, or where national courts are unable to provide adequate protection.

The supervisory role of the European Court also demonstrates that modern constitutionalism increasingly extends beyond the boundaries of the state. National constitutions remain fundamental sources of legal authority, but states participating in the Convention system have accepted that the treatment of individuals is not exclusively an internal matter. This development modifies the traditional understanding of sovereignty. Sovereignty continues to include national legislative and executive autonomy, yet its exercise is legally constrained by obligations undertaken for the protection of fundamental rights. The Convention therefore creates a multilevel system of accountability in which domestic constitutional institutions and European supervisory mechanisms operate together.

The principle of subsidiarity is essential to maintaining the legitimacy and effectiveness of this system. The primary responsibility for protecting Convention rights belongs to national authorities. Legislatures should adopt rights-compatible laws, executive institutions should administer those laws consistently with human rights standards, and domestic courts should provide effective remedies. European intervention becomes necessary when these national mechanisms fail. Subsidiarity therefore preserves national constitutional responsibility while ensuring that the existence of national sovereignty does not prevent external scrutiny where serious violations remain unresolved.

The margin of appreciation performs a complementary function by recognizing that contracting states differ in their social conditions, legal traditions, constitutional structures, and approaches to contested public questions. A European human rights system encompassing diverse states cannot function effectively if every legitimate national difference is treated as incompatible with the Convention. National institutions therefore require a degree of discretion when implementing certain Convention rights. However, that discretion cannot become an unlimited power to define the content of rights according to domestic political preference. European supervision remains necessary to ensure that national choices do not undermine the essential substance of protected rights.

Proportionality provides the central legal technique through which this balance is maintained. The legitimacy of many governmental restrictions cannot be determined simply by asking whether the state possesses some public interest in regulation. The more important question is whether the means chosen are necessary and whether the burden placed on the individual is excessive in relation to the legitimate objective pursued. Proportionality thus allows courts to distinguish between legitimate governance and unjustified interference. It protects individuals without denying the state the capacity to respond to public needs.

The protection of specific constitutional rights illustrates the practical value of this approach. Deprivation of liberty requires especially strong judicial safeguards because detention places the individual under direct state control. Fair trial rights require independent and impartial courts because political influence over adjudication destroys the credibility of judicial protection. Freedom of expression requires careful scrutiny because restrictions on speech can weaken both individual autonomy and democratic participation. Privacy requires increasingly sophisticated safeguards because technological development has

expanded the capacity of governments to collect, analyze, and retain personal information. In each of these areas, the balance of powers is not an abstract constitutional concern; it directly affects the degree of protection enjoyed by individuals.

The analysis also demonstrates that democratic legitimacy cannot be equated with unrestricted majority rule. Democratic government requires political participation and representative institutions, but it also requires limits protecting individuals and minorities from excessive exercises of public power. A parliamentary majority may possess electoral legitimacy while nevertheless adopting measures incompatible with fundamental rights. The judiciary therefore does not necessarily undermine democracy when it reviews such measures. Properly understood, judicial review contributes to democratic constitutionalism by ensuring that political authority remains exercised within a framework of rights and law.

The European Convention further contributes to constitutional protection through its capacity to respond to changing social circumstances. Rights must remain applicable to new forms of governmental power, technological development, social change, and emerging threats to personal autonomy. A purely historical interpretation would risk making the Convention progressively less effective as the conditions of public life change. At the same time, evolutionary interpretation must remain legally disciplined. The legitimacy of the system depends on ensuring that adaptation strengthens the protection of existing Convention principles rather than creating an unrestricted judicial authority disconnected from the legal framework accepted by the contracting states.

The relationship between national courts and the European Court should therefore be conceived as one of structured cooperation. Domestic institutions are not merely subjects of European control. They are essential participants in the development and application of Convention standards. National courts can incorporate European human rights principles into domestic law, legislatures can adopt preventive reforms, and executive institutions can design administrative procedures that reduce the likelihood of violations. European supervision becomes most effective when it encourages stronger national institutions rather than creating dependence on external intervention.

A major implication of this analysis is that the long-term effectiveness of the Convention depends on domestic implementation. European judgments can identify violations and establish authoritative standards, but sustainable protection requires changes within national legal systems. States must ensure that judgments are executed promptly and that structural causes of violations are addressed. Repetitive cases arising from the same institutional problems indicate that formal compliance is insufficient. Genuine implementation may require legislative amendment, administrative reform, judicial training, institutional restructuring, or the creation of more effective remedies.

Another implication concerns contemporary rule-of-law crises. The gradual concentration of political power can occur through formally enacted legislation and may therefore be more difficult to confront than openly unlawful government action. Changes affecting judicial appointments, disciplinary procedures, prosecutorial independence, media regulation, administrative detention, or oversight institutions can weaken rights while preserving the appearance of legality. The Convention system is especially valuable in such circumstances because it provides standards against which the substantive consequences of institutional reform can be assessed.

The most important conclusion is that constitutional rights and institutional balance are mutually dependent. Rights require institutions capable of enforcing them, while the legitimacy of institutional power depends on respect for rights. The balance of powers protects citizens by preventing legislative, executive, or judicial authority from becoming absolute. The rule of law gives this balance legal content. Judicial independence makes legal accountability possible. Subsidiarity preserves national responsibility. The margin of appreciation protects legitimate constitutional diversity. Proportionality prevents public interests from being used as unlimited justifications for restricting liberty. European judicial supervision ensures that national discretion remains consistent with the common minimum standards of the Convention.

Accordingly, the European Convention on Human Rights should be understood not only as a catalogue of individual rights but also as part of a broader constitutional system of limited government. Its effectiveness arises from the interaction between substantive guarantees and institutional mechanisms. The Convention does not seek to create a uniform European state or eliminate national constitutional autonomy. Instead, it establishes legal boundaries within which public authority must operate and provides an external safeguard when domestic institutions fail to respect those boundaries.

Future strengthening of the Convention system should therefore focus on reinforcing national judicial independence, improving the effectiveness of domestic remedies, ensuring timely execution of European Court judgments, and encouraging national authorities to integrate Convention standards into ordinary legislative and administrative decision-making. The

European level should remain a powerful safeguard, but sustainable rights protection ultimately requires domestic institutions capable of preventing violations before external intervention becomes necessary. A system in which national and European institutions share responsibility for rights protection offers the strongest prospect of maintaining both democratic autonomy and meaningful constitutional restraint.

The balance of powers thus serves as the institutional expression of a deeper constitutional principle: public authority exists within law and must remain accountable to the persons whose rights it affects. The European Convention gives this principle practical form by combining national responsibility with European supervision. Its continuing value lies in preserving an equilibrium in which governments retain the capacity to govern, courts retain the independence necessary to review public action, and individuals retain enforceable rights against abuses of power. In this sense, safeguarding constitutional rights through the balance of powers is not a secondary consequence of the Convention system but one of the conditions upon which its entire protective function depends.

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All procedures performed in this study were under the ethical standards.

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