


Article

# The Extreme Right as a Defender of Human Rights? Parliamentary Debates on COVID-19 Emergency Legislation in Slovakia

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**Abstract:** During the COVID-19 pandemic, the protection of public health became a political priority worldwide. Slovakia's COVID-19 response was initially praised as a global success. However, major rights restrictions were introduced in spring 2020, with some of these endorsed by the parliament. This article uses Rossiter's and Schmitt's concepts of the exception and Agamben's distinction between life and survival to highlight the risks pertaining to the framing of the protection of public health as contradictory to human rights guarantees. It investigates how human rights were discussed by Slovak parliamentarians in relation to key legislation, that introduced a COVID-19 contact tracing app and allowed repeated prolongation of health emergencies by the executive with parliamentary approval. The findings indicate that democratic parliamentarians prioritized public health considerations framed in terms of security and effectiveness rather than rights, dissociating biological survival from political life. In contrast, extreme political actors became outspoken critics of emergencies, referring to human rights. As such, the deliberations represent a missed opportunity by democratic legislators to justify public health protection via a human rights lens and risk undermining democracy in Slovakia.

**Keywords:** COVID-19; states of emergency; parliamentary discourse; legislation; human rights; extreme right; Slovakia; surveillance; dictatorship (Schmitt/Rossiter); biological survival and political life (Agamben)



**Citation:** Steuer, Max. 2022. The Extreme Right as a Defender of Human Rights? Parliamentary Debates on COVID-19 Emergency Legislation in Slovakia. *Laws* 11: 17. <https://doi.org/10.3390/laws11020017>

Received: 14 January 2022

Accepted: 23 February 2022

Published: 28 February 2022

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## 1. Introduction

Globally, the COVID-19 pandemic has put unprecedented pressure on state institutions. The need for swift measures particularly challenged institutions where decision making is collective and a result of deliberations which benefit from the passing of sufficient time between the introduction of a proposal or petition and the final decision. Parliaments (Cormacain and Bar-Siman-Tov 2020) and courts (OSCE 2020) are central institutions in this regard. The challenges include the shortage of time to decide cases (due to legal constraints, e.g., time limits on reviewing states of emergency, or because of the risk of massive violations of fundamental values being unaddressed without swift action), the practical difficulties of deliberation during lockdown (particularly if the decision makers are less used to digital means of communication) or the new types of situations without a precedent in the institutions' memories. Executives are less disadvantaged in this regard, especially when they consist of a single party or parties with a closely aligned agenda (Bolleyer and Salát 2021). Vigilant parliaments and courts preventing the concentration of power are essential, to mitigate the capacities of states of emergency to undermine democracy (Grogan 2020). One way for them to do so is to demand justifications for the executive actions and scrutinize proposals bolstering executive power. In this process, they have the capacities to particularly consider the diverse impacts of the measures introduced under the pretext of the public health imperative and the protection of the (biological) survival of different constituencies belonging to the 'people' (Seedhouse 2020).

Current evidence is mixed as to whether parliaments and courts can effectively constrain the executive during an emergency. Ginsburg and Versteeg (2021) argue that, on balance, the mode of governance during the pandemic represented a ‘Madisonian’ model of checks and balances rather than a ‘Schmittian’ model of the ‘unbound executive’. However, preliminary results of the investigations carried out by a prominent global project on democratic quality, *Varieties of Democracy*, indicate that when a state of emergency is declared, the threat of the erosion of democracy is magnified (Lührmann and Rooney 2021). This article brings an additional dimension to such assessments by discussing how the *language* used when the introduction of emergency legislation is considered may weaken human rights standards and risk undermining democracy. It offers one of the first English-language analyses of the justifications introduced for the extension of legal restrictions on human rights, as debated in the legislature.<sup>1</sup> The Slovak story is one of interactions between the representatives of the executive advocating for the restrictions and the receptions of these presentations via parliamentary deliberations. The central question addresses how human rights surface and interact with other priorities in Slovak parliamentary deliberations on emergency legislation. The ‘rights talk’ is conceptualized via the recognition of actors in the debates alongside their party affiliations and known value trajectories, as well as the implications of the arguments presented by the parliamentarians for human rights protection.

To capture the dilemmas in the arguments presented by the parliamentarians associated with the concentration of executive power and rights restrictions on the one hand, and the need for swift and effective responses to an actual emergency on the other hand, selected theories of the exception are invoked (see Section 2). The comparison between the concepts of dictatorship by Carl Schmitt and Clinton Rossiter points to the elusiveness of claims that emergency powers can be temporary. Giorgio Agamben’s distinction between biological survival and political life highlights the dangers associated with presenting human rights as contradictory to public health. The Slovak case is relevant, because the country’s early response to the pandemic was internationally acclaimed, despite the serious rights restrictions that had been introduced (see Section 3).

The empirical analysis covers legislation pertaining to the introduction of a ‘smart quarantine’ consisting of a mandatory installation of a surveillance mobile app, and the deliberation on the amendment of the constitutional legislation on the prolongation of the state of emergency due to a pandemic (see Section 4). These two sets of discussions do not exhaust deliberations addressing concerns raised by the pandemic. However, they offer a snapshot of the debate on issues intertwined with the protection of human rights, with a particular focus on civil and political rights. The former set of Slovak parliamentary debates speaks to the right to privacy and personal security, which has been noted to be systematically challenged via mechanisms of ‘techno-surveillance’ introduced under the pretext of the pandemic (Csernatonì 2020). The latter goes to the heart of the (de)prioritization of human rights considerations, as the repeated prolongation of the state of emergency offers considerably more resources to the executive to continue with rights restrictions.

The findings (Section 5) have implications for human rights and legislation during the pandemic and states of emergency in general, particularly in Slovakia. In general, they highlight the dangers of the prioritization of references to security and public welfare by democratic parliamentarians when dealing with emergency situations. By doing so, democratic MPs might create a vacuum which is conveniently filled by extreme political actors, who use the neglect of human rights justifications to appropriate the ‘rights talk’ and

<sup>1</sup> Previous studies considered the invocation of actual or perceived emergencies by speeches and debates in the legislatures, particularly in the context of restricting migrant and refugee rights and securitizing migration processes (Huysmans and Buonfino 2008; Rojo and van Dijk 1997). For a recent article covering a selection of Western European countries, see Louwse et al. (2021). However, the authors’ focus there is on the sentiments of the parliamentary opposition in general in terms of support for the COVID-19-induced measures, rather than the substantive frames that have been invoked.

weave it into their permanent critique of democracy. In neglecting human rights references, moreover, democratic legislators send signals that human rights are less important during emergencies, creating oppositions between individual rights to political life and public health that protects biological survival. For Slovakia in particular, the findings show the need for more well-reasoned interventions by democratic legislators, utilizing relevant comparative, data-driven references and conceptual arguments. This would help avoid the domination of the extreme right in the deliberations, aid the degree of scrutiny exhibited towards proposals restricting human rights and contribute to a reservoir of arguments on how, specifically, the measures are compatible with, and even conducive to, the state's constitutional obligations regarding rights protection. Such arguments could then be used in further public deliberation beyond the (virtual or physical) parliamentary meeting rooms.

## 2. States of Emergency and Human Rights: A Trade-Off between Life and Survival?

This section argues that a distinction between Schmitt's and Rossiter's concepts of dictatorship during emergencies points us to the significance of justifications presented by parliamentarians in the context of introducing emergency measures for the attitude to human rights in the given political community. Such justifications can be approached via Agamben's discussion of biological survival and political life, where those justifications framing the two as dichotomous contribute to the weakening of human rights standards.

During the COVID-19 pandemic, executive rhetoric has often prioritized public health over all other considerations, requiring individuals to accept the restrictions in the interest of the broader community. Non-liberal constitutional theories (see, e.g., Law 2017, pp. 227–30) feed into skepticism about human rights as universal pronouncements that are anything more than 'empty promises' (Hafner-Burton and Tsutsui 2005). Furthermore, they indicate that state sovereignty 'reasserts itself', prioritizing the responsibility to protect the survival of (some of) (Mészáros 2020) the state's citizens over anything else. Contemporary Western non-liberal theories of the exception have been primarily associated with the infamous Carl Schmitt (Weiler 2021) and were later developed by the Italian philosopher Giorgio Agamben.<sup>2</sup> For Schmitt (2006, p. 15), the 'exception [ . . . ] is more interesting than the rule', because of what one can learn about a political community from the way it acts during an emergency. Schmitt (2013) differentiated two forms of dictatorship: 'commissarial' and 'sovereign' dictatorship. 'The former is temporary and aims at the restoration of an existing legal order, whereas the latter brings about a revolutionary transformation of the status quo into a novel alternative political and legal order' (Scheuerman 2019, p. 33). 'Commissarial' dictatorship is therefore an exception, which does not try to overthrow the existing system of rules, and thus may be seen as essential for the preservation of democracy 'amid a serious crisis' (Scheuerman 2019, p. 34).

Yet, commissarial dictatorship is not an innocent method of functioning of constitutional regimes 'amid a serious crisis'. According to Schmitt, historically, '[n]ormalizing the public order required an extraordinary public authority' (Schupmann 2017, p. 158). If, after the emergency, the previous legal state is not restored, a 'new normal' emerges, that can be associated with the sovereign dictator (Schupmann 2017, p. 160). Worryingly, the 'commissar' becomes an equivalent of 'today's state administration and bureaucracy' (Schupmann 2017, p. 158). The problem with associating commissarial dictatorship with constitutional states of emergency in liberal regimes (Kelly 2017, p. 230) is that it creates an illusion of a neat distinction as compared to sovereign dictatorship. During states of emergency, democracy is always less safe than without them, even with stronger procedural safeguards.

Schmitt's theory of dictatorship overlapped with his support of the Nazi regime (Meierhenrich 2018, pp. 140–41). Dictatorship as a 'standard technique of political man-

<sup>2</sup> Theories of the exception are not to be equated with theories of constituent power, focusing on the establishment of new political communities. The two are nevertheless related via the extra-constitutional understandings of both. As indicated by Kalyvas (2009, p. 297), '[t]he extraordinary is a reminder that instituted reality does not exhaust and cannot consume all forms of political action, which often emerge at the edges of the existing statist *nomos*.' Not all actions (especially actions of violence) are political in this sense.

agement' (Kelly 2017, p. 218) is hardly squarable with contemporary democracies.<sup>3</sup> Yet, it is non-negligible for understanding the deficits of democracy during states of emergency. Vinx and Garrett Zeitlin (2021, editorial introduction) highlight that the legal–theoretical inspirations for Carl Schmitt remain in opposition to the idea of the determinacy of law, propounded by formalist approaches to legal theory. While the critiques of formalism have considerable purchase today, and the formalist tradition is rarely an appealing framework for explaining legal change, the 'decisionist' alternative presented by Schmitt leaves little, if any, room for respect towards human rights in emergency situations. In turn, without human rights guarantees, democracy cannot be sustained.

An effort to combine the realities of emergencies with human rights and democracy is represented by Clinton Rossiter's concept of constitutional dictatorship. This concept tries to sustain the 'set of "values for democratic survival" and fix the concept of emergency dictatorship somewhere in the overall scheme of constitutional democracy', whereas such dictatorship needs to be 'effective and responsible while the crisis lasts, and guarantee a return to normal government when the crisis has passed' (Rossiter 1949, p. 398). Levinson and Balkin (2009, pp. 1789, 1793–94) appreciate the restrictions on checks and balances triggered by the emergencies, but ask their wielders to recognize the inherent risks in emergency powers. All instances that prevent 'timely legal checks of [individuals' or institutions'] authority' (Levinson and Balkin 2009, p. 1805) have semblances of dictatorship, if only because any kind of control becomes possible only after the actions triggered by the emergency powers have already occurred. A considerable risk is posed by 'self-fulfilling prophecies', where the declaration of the state of emergency compels the executive to 'frame' the situation as a continuation of the emergency, and hence 'construct a reality' in which the extended competences remain necessary (Levinson and Balkin 2009, p. 1809). Unlike in Schmitt, however, the executive explicitly acknowledges that it exceeds its scope of competences. If the executive of an otherwise democratic country does not acknowledge this excess, it contributes to building a commissarial rather than a constitutional dictatorship, that risks transforming into a sovereign dictatorship. As discussed in the next section, this appears to have been the case in Slovakia after the outbreak of COVID-19.

The above regime-based perspective is less clear about the role of the individual in the process. Giorgio Agamben's (2002) distinction between survival as a continuation of biological existence and life as a realization of the human animal's political character is relevant here.<sup>4</sup> Agamben highlighted how extensive executive powers in emergencies reduce individuals from political actors to biological beings without their own will.<sup>5</sup> 'The state of law' becomes distinguished from 'the force of law', because acts without a legal character attain legal force (Agamben 2005, p. 38). Law remains in place for the regulation of societal affairs (Agamben 2005, p. 11), but without legal quality, and hence should be conceived of as the 'force of law' (Agamben 2005, p. 39).<sup>6</sup> Thus, it is not just that the executive gains the 'power over life' and (at least indirectly) affects who will die as a consequence of the emergency.<sup>7</sup> Life itself becomes reduced to survival, prompting political apathy and lack of accountability for the emergency measures towards the public.

### 3. The Case of Slovakia: No Country for Weepers

Constitutional theories of the exception such as those of Schmitt, Rossiter and Agamben are frequently supplemented by doctrinal efforts to distinguish between various models

<sup>3</sup> For example, the Slovak Constitution, in Art. 1 sec. 1, stipulates that '[t]he Slovak Republic is a sovereign, democratic state governed by the rule of law. It is not bound to any ideology or religion.'

<sup>4</sup> An overview of Agamben's argument is available in Douglas (2009, p. 35).

<sup>5</sup> Agamben's theories are more complicated and presented here only in a concise format. Agamben uses the concept of the 'camp' to denote an environment of complete evaporation of law (Agamben 2003, p. 37). The use of the term 'quarantine camps' by a Slovak democratic politician creates a disturbing conceptual analogy. See Denník N (2020).

<sup>6</sup> In other words, there is an overlap between facticity and legal norms, which results in more difficulties in explaining what law (equated with executive power) actually is (Agamben 2005, p. 29).

<sup>7</sup> For instance, due to the absence of hospital beds or reliable vaccination. See Lachmayer (2021a, p. 52).

of the states of emergency. The way emergencies are enshrined in the state's constitution may constrain the parliament's room for maneuver. Thus, a brief exposition of Slovakia's model is in order.

As a small post-communist country, Slovakia, similarly to Hungary and Poland, carries the legacy of undemocratic regimes, with legal regulations incompatible with democracy.<sup>8</sup> Unlike Hungary and Poland, however (Drinóczi and Bień-Kacała 2020), it is not conventionally seen as undergoing a deterioration of democracy (Bakke and Sitter 2020).<sup>9</sup> Hence, it may serve as an illustration of the 'mundane, standard', if still relatively young, democracies confronted with a challenge of such a magnitude for the first time since their existence, lacking precedents to turn to. As a Central European system, legacies of non-democratic regimes following principles incompatible with democracy nonetheless persist<sup>10</sup> and may serve as a starting point for the explanation of resignation on defending values of democracy and human rights by democratic actors.

The Slovak Constitution mandates the enactment of a constitutional act that specifies the conditions for invoking various states of emergency and the scope of rights restrictions that may be associated with them (Art. 51 sec. 2). This regulation is provided by the Constitutional Act No. 227/2002 Coll.<sup>11</sup> Because of its constitutional status, Slovakia's model resembles the constitutional model of regulation which, as opposed to the legislative model (Ferejohn and Pasquino 2004, pp. 215–20), constrains the leeway for the legislature (and, by extension in Slovakia's parliamentary system, the executive) to act in a flexible manner in an emergency. Caveats lie, firstly, in the flexibility of the Slovak Constitution as such, which allows amendments (thus also changes to the Act No. 227/2002 Coll.) via a three-fifths majority. This opens the possibility for, instead of 'activating' existing states of emergency,<sup>12</sup> initiating amendments to the existing legal framework, as envisioned in the legislative model. Secondly, the state of emergency in the case of a pandemic may be 'activated' by the executive without parliamentary approval.

Review powers of the constitutionality of two of the states of emergency (the state of exception and the state of emergency) and decisions enacted in relation to the declaration of these states of emergency are granted to the Slovak Constitutional Court (Art. 129 sec. 6.). The Court can only review these ex post, which limits its potential to minimize human rights violations that could occur in connection with the declaration of unconstitutional states of emergency. Furthermore, the Constitutional Court, as illustrated below with the case of the amendment to the act on electronic communications, has ex post review powers of legislation (alongside a range of other legal acts) (Art. 125 sec. 1.), and also processes individual complaints on human rights violations by natural and legal persons upon the exhaustion of all domestic effective remedies by the petitioners (Art. 127 sec. 1.).

Shortly after the COVID-19 outbreak, Slovakia introduced some of the most stringent restrictions on rights and freedoms. The measures impacted, among other individuals, citizens returning from abroad (Kováčová 2020; Osvaldová 2020a).<sup>13</sup> Some of the decisions were issued by the crisis council (Berdisová 2020a, p. 2) without any clear authorization (Gehrerová 2020a). The outgoing cabinet in Slovakia declared a range of emergency measures before handing over to its successor as a result of the parliamentary elections in

<sup>8</sup> Dawson and Hanley (2016, p. 22) write on the 'weakly embedded institutions in East-Central European democracies.' Kriesi (2020, pp. 239, 257) opposes conclusions according to which Western democracy is in irreversible crisis, but acknowledges the absent stable institutional basis for democracy in Central and Eastern Europe.

<sup>9</sup> On the illiberal measures adopted in the context of the COVID-19 pandemic, see Hajnal et al. (2021).

<sup>10</sup> For example, the constitutional position of the Communist Party or the subordination of judicial decision making to ideological goals cast a long shadow over the post-communist transformation of the Slovak political system. See Wagnerová (2009, p. 352 et seq.).

<sup>11</sup> Constitutional Act on State Security at the Time of War, State of War, State of Exception, and State of Emergency.

<sup>12</sup> For the situation of a pandemic, the 'state of emergency' is the respective type of emergency that may be invoked (the other three states of emergency being war, state of war and state of exception).

<sup>13</sup> On the violations of human rights of the Roma population see ECRI (2020, pp. 29–30, 33). These major violations have been noted also by the Pandemic Backsliding Index (V-Dem Institute 2021), though only after the first monitoring quarter.

February 2020 (Šteňo 2020).<sup>14</sup> Introducing the restrictions, PM Igor Matovič expressed a ‘dream’ for Slovakia to become ‘a little island of hope for the whole Europe. [ . . . ] There is nothing better we can do in Slovakia’ (Slovak Spectator 2020a). A few weeks later, the dream appeared to have come true, with COVID-19 almost eradicated on Slovak territory and with international reports celebrating Slovakia’s success (Beblavý 2020; Walker and Smith 2020). Moreover, the executive response in the first wave of the pandemic was also assessed as an achievement by academics (e.g., Guasti 2021; Nemeč et al. 2021), though with more cautionary references due to the ‘questionable restrictions of some civil rights’ (Klimovský and Nemeč 2021, p. 2).

The restrictions on human rights in this period, however, were severe. Firstly, to tackle the spread of coronavirus in Roma settlements, the government decided to separate those most affected, locking whole communities (Slovak Spectator 2020c) into spaces without adequate conditions for hygiene. This probably resulted in otherwise preventable infections, in addition to the encouragement of stereotypical views of the Roma. Secondly, the border closure resulted in the separation of family members if some did not possess Slovak citizenship (Plaváková 2020; Slovak Spectator 2020d). The formal legal basis of this measure was missing, and no intention to adjust it was articulated by the governmental representatives. Disheartening stories appeared about individuals not being able to return to care for a dying family member if they did not meet the residence requirements (Gehrerová 2020b). Thirdly, all Slovak citizens returning from abroad were mandated to undertake quarantine in state facilities (Slovak Spectator 2020b). Some of these were not cleaned and poorly equipped, yet every citizen was required to pay a non-negligible sum per day of their stay. Moreover, although the executive decision required individuals to be isolated in separate rooms, every individual who arrived at the facility via the same group transport could be paired with others from that group (Public Health Authority of the Slovak Republic 2020). As a result of this regulation, the state quarantine facilities became one of the likely places to become infected. In addition, the competence of the Public Health Authority to issue these wide-ranging measures, including introducing criminal sanctions for non-compliance, was questionable from a procedural perspective (Gehrerová 2020a).

The above restrictions went internationally largely unnoticed. For instance, the analysis of the Visegrad Four countries’ (Czechia, Hungary, Poland, Slovakia) representation on the Twitter accounts of key EU institutions in the context of the early stages of the pandemic depicts Slovakia with ‘no negative sentiments’ (Urbanovics et al. 2021, p. 653). Domestically, the measures were also generally accepted. In May 2020, over three quarters of respondents labelled citizens returning from abroad as a threat (SITA 2020). Only a few concerns from a human rights perspective were raised regarding the actions in this early stage (Henčeková and Drugda 2020; Steuer 2020). One commentator called such critics ‘the weepers’, who cannot swallow a ‘slight discomfort’ in order to protect the rest of the country (Rumpli 2020). More criticisms arose only as Slovakia began to perform comparatively worse in the later stages of the pandemic, even heading the numbers of COVID-19 incidences per capita globally on several occasions (Klimovský and Nemeč 2021; see also Slovak National Centre for Human Rights 2021).

The decisions of the Slovak executive indicate the state institutions’ lack of preparedness: the state ‘panicked’ and implemented solutions without considering their long-term human rights implications (Steuer 2020; see also Buščíková and Baboš 2020). A Slovak constitutional scholar, writing in a newspaper in November 2021, labelled the ‘claim, that the state did everything that it could’ as ‘cowardly’, arguing that a ‘comprehensive, foreseeable and substantively justified norm creation, based on the current state of scientific knowledge and translating that state into the justification of individual measures’ did not exist at the time of writing (Procházka 2020). These observations coincide with the results

<sup>14</sup> From 21 March 2020 a new cabinet of Igor Matovič stepped in, replacing the cabinet of Peter Pellegrini after the elections on 29 February 2020. From 1 April 2021, after the reconstruction of the cabinet due to the resignation of PM Matovič in response to the lack of capability to address the rise of cases during the pandemic, a new cabinet of PM Eduard Heger was sworn in, with Matovič continuing as the minister of finance.

of existing research on elite discourse in several European countries including Slovakia, which identified the construction of vulnerable populations via scientific and security narratives. Both perceive individuals as objects who can be threatened by, or be a threat to, the community, rather than subjects who are authorized to participate in decision making in the context of the pandemic (Mad'arová et al. 2020).

In such circumstances, parliaments and courts can be at the forefront of raising the human rights perspective in their interventions, by using their competences.<sup>15</sup> The challenge for the courts is timing; it takes some time for them to deliver a verdict, particularly in cases of individual complaints on human rights violations (Lachmayer 2021b). Nevertheless, their significance cannot be diminished, as was manifested in Slovakia by the Slovak Constitutional Court reviewing several dozen cases that had emerged due to the executive's handling of the pandemic (TASR 2021). An analysis of the Court's case law cannot be provided within this article. It should, however, be noted that the Court has an ambivalent record on the support of the COVID-19 restrictions introduced by the executive. The constitutional judges blocked the implementation of the restrictions on the right to privacy that were discussed in some of the parliamentary deliberations (see Section 5 below), and they invalidated the mandatory quarantine in the state facilities regime (PL. ÚS 4/2021). At the same time, they allowed the prolongation of the state of emergency on both the occasions they reviewed the executive's decision (PL. ÚS 22/2020, PL. ÚS 2/2021), and in December 2021, they upheld the constitutionality of the amendment to the act on the protection of public health which introduced (with effect in the past as well) accelerated publication of the decrees issued by the Slovak Public Health Authority in the Executive Gazette (PL. ÚS 8/2021).<sup>16</sup>

With courts being in a difficult position to provide reviews in a very short period of time, parliaments occupied center stage in the short-term generation of responses to the pandemic. Parliaments are essential for any statutory amendments that might be needed to enable as well as legitimize the preferred measures of the executive (see, e.g., Sajó and Uitz 2017, pp. 427–31 and the discussion therein).<sup>17</sup> Concerns have been raised over parliaments' capacity to tackle the pandemic, both for reasons that apply to other institutions and those tied specifically to the nature of parliaments (Bar-Siman-Tov 2020). With respect to the former, there is a tendency to overemphasize risk when faced with a novel threat that parliamentarians are also exposed to (Bar-Siman-Tov 2020, pp. 20–23). More specifically, 'legislatures' very operation is based on the assembly of many people together' (Bar-Siman-Tov 2020, p. 14), which becomes difficult during the pandemic and may lead to pressures to cut deliberations short, particularly if they continue to take place in person (as was the case in Slovakia) instead of switching to a remote format. Yet, in Slovakia, the parliament remained operational during the pandemic, and in the course of 2020 it deliberated several legislative changes affecting human rights. Thus, this article examines the justifications presented in several Slovak parliamentary debates where human rights restrictions were at stake.

#### 4. Methodology: Analyzing Parliamentary Discourse on Emergency Bills

While parliaments are a key forum for decision making on emergency powers in democracies, it is less clear that the *process* by which they arrive at decisions matters. Schmitt and Rossiter do not seem to have been explicitly concerned with the role of parliamentary discourse that presents the justifications of, and positions towards, the issues to be decided by the legislators. Yet, Rossiter's emphasis on the need for acknowledgement by the decision makers that emergency powers, even if temporary, exceed the legitimate scope

<sup>15</sup> For the role of parliaments in human rights protection, see Webber et al. (2018); for the role of courts, see, for example, Baer (2020).

<sup>16</sup> There were three dissenting opinions in the 13-member Court. However, Slovak Constitutional Court judges may vote against the motion and not attach a dissenting opinion, so it is impossible to say with certainty that all ten other judges agreed with the motion.

<sup>17</sup> For the importance of parliaments deciding on security issues, see Neal (2019, p. 286ff.).

of competences in a democracy, points to the significance of the justifications invoked when debating rights restrictions. Do the legislators justify the restrictions via a language supportive of human rights or do they turn away from human rights during emergencies? To contribute to addressing this question, a socio-legal approach is required, which by nature prompts an interdisciplinary inquiry (see [Menkel-Meadow 2019](#), p. 35 and the references therein). The social scientific method of parliamentary discourse analysis is informed by the legal framework in place for rights restrictions and states of emergency, as well as by the implications of states of emergency for human rights standards that have been addressed in constitutional and political theory. This combination of insights, conventionally associated with separate disciplines, helps uncover the meaning of particular references invoked by parliamentarians in the constitutional milieu.

Parliamentary discourse brings together very diverse expressions ([Bayley 2004](#)) going beyond partisan and individual positions towards symbolic emphasis on some phenomena, problems and solutions at the expense of others. Earlier studies used it to elucidate the framing of legal rules and their changes (see [Gianfreda 2018](#); [Onursal and Kirkpatrick 2021](#)). This article employs the ‘discursive approach’ to parliamentary discourse which, unlike the ‘strategic and partisan rhetorical approach’ or the ‘deliberative approach’ allows the identification of the degree of (in)sensitivity of the MPs vis-à-vis rights restrictions as well as the demand (or lack thereof) for the justification of these measures ([Bächtiger 2016](#), pp. 147–62).<sup>18</sup>

The analysis covers debates on four measures introduced after the outbreak of the pandemic up to the end of 2020 (one of them proposed repeatedly due to a presidential veto of the first proposal). The first three measures pertain to amendments referring to the collection of personal data for the purposes of tracking infections (Act No. 351/2011 Coll. on electronic communications as amended). The last measure pertains to the amendment of the Constitutional Act on State Security (Act No. 227/2002 Coll.) that allows the indefinite prolongation of the state of emergency in instances of a pandemic, with the ex post endorsement of such prolongation by the National Council and the reviewability of the prolongation by the Constitutional Court. Table 1 indicates the number of contributions to the debates and Table 2 specifies the party affiliations of the speakers and contributors.

**Table 1.** Appearances in the analyzed parliamentary debates.<sup>20</sup> (Source: author according to the database and minutes of the National Council).

| Date of the Debate       | Minister Introducing the Agenda Point   | Number of MP Speeches | Number of MP Short Interventions ( <i>faktické poznámky</i> ) |
|--------------------------|---|-----------------------|---|
| 24–25 March 2020         | Kolářková (minister of justice)   | 10                    | 79  |
| 14–15 May 2020           | Krajčí (minister of health)   | 2                     | 13  |
| 14–15 July 2020          | Doležal (minister of transport and construction)                              | 5                     | 18  |
| 2 September 2020         | <sup>21</sup>   | 2                     | 1   |
| 8–9 December 2020        | Holý (vice chairperson of the cabinet for legislation and strategic planning) | 11                    | 60  |
| Total: 201 contributions |   | 30                    | 171   |

<sup>18</sup> A recent analysis (in Czech) covered the contributions by one of the Czech political parties (ANO) in the lower chamber (Chamber of Deputies) of the Czech parliament, arguing that, contrary to the public presentation of the party as a populist one, it did not employ populist rhetoric, because, as a coalition party, it was seen as responsible for the management of the pandemic ([Kovanič and Šebíková 2021](#)). In focusing on how a single party managed to assert its positions and preferences, that contribution stands closer to a partisan–rhetorical than a deliberative approach. Lucia [Berdisová \(2020b\)](#) highlighted the insensitivity of the parliamentarians via illustrating the verbal disrespect towards the 2019 annual report submitted to the National Council by the Slovak ombudswoman.

<sup>20</sup> The speeches of parliamentary rapporteurs were not counted.

<sup>21</sup> As this was a deliberation on a piece of legislation previously vetoed by the president, no minister introduced it.



**Table 2.** Representation of political parties in the analyzed parliamentary debates. (Source: author according to the database and minutes of the National Council).

| Date of the Debate | Political Party of the Speakers<br>(Number of Speeches)   | Number of MP Short Interventions ( <i>faktické poznámky</i> ) |         |            |            |     |         |                           | Hlas <sup>22</sup> | Total (of Which Speeches) |
|--------------------|---|---|---------|------------|------------|-----|---------|---------------------------|--------------------|---------------------------|
|                    |   | OLaNO   | Smer-SD | Sme Rodina | Kotlebovci | SaS | Za ľudí | Independent <sup>23</sup> |                    |                           |
| 24–25 March 2020   | Smer-SD (4), Kotlebovci (3), SaS (3)  | 13  | 28      | -          | 20         | 17  | 1       | -                         | /                  | 89 (10)                   |
| 14–15 May 2020     | Smer-SD (1), Independent (1)  | 2   | 1       | 3          | 2          | 4   | 1       | -                         | /                  | 15 (2)                    |
| 14–15 July 2020    | OLaNO (1), Smer-SD (3), SaS (1)   | 5   | 1       | 5          | 1          | 4   | -       | 2                         | -                  | 23 (5)                    |
| 2 September 2020   | Smer-SD (1), Kotlebovci (1)   | 1   | -       | -          | -          | -   | -       | -                         | -                  | 3 (2)                     |
| 8–9 December 2020  | Smer-SD (1), Kotlebovci (3), Hlas (1),<br>Sme Rodina (1), Independent (2),<br>OLaNO (2), SaS (1)  | 5   | 14      | 1          | 23         | 5   | 1       | 8                         | 3                  | 71 (11)                   |
| Total              | Smer-SD (10), Kotlebovci (7),<br>Hlas (1), Sme Rodina (1),<br>Independent (3), OLaNO (3), SaS (5) | 26  | 44      | 9          | 46         | 30  | 3       | 10                        | 3                  | 201 (30)                  |

The chronologically first and last debates indicate significant higher interest in presenting positions on the proposed legislation than the remaining three debates. This can partially be explained by the connections between the subject matter of the first debate and the second, third and fourth debates, with the discussion ‘exhausting itself’ in the process. Moreover, the novelty of the pandemic conditions and the rise of cases towards the end of 2020 after a relatively peaceful summer of 2020 coincide with the fluctuating interest in scrutinizing the proposed measures. In terms of the coalition-opposition dynamics, opposition contributions dominate with the MPs from the extreme right, with Kotlebovci–People’s Party Our Slovakia alone delivering seven out of the 30 speeches and 46 out of the 171 short interventions. The opposition party Smer-SD, which was the strongest governing party between 2012 and 2020 and had a single-party majority between 2012 and 2016, has approximately the same number of interventions (ten out of the 30 speeches and 44 out of the 171 short interventions), although it has more MPs than Kotlebovci.<sup>19</sup> The next section presents a qualitative overview of the results, focusing on the issues identified as priorities by the MPs belonging to individual political parties, with particular emphasis on the utilization (or lack thereof) of human rights language and the readiness to embrace solutions introducing restrictions on several human rights.

### 5. Results: The Extreme Right as a Champion of Human Rights Language?

Before reviewing the references to human rights in selected Slovak parliamentary debates, a brief elucidation of the debates under scrutiny is in order. Slovak MPs were faced with a series of changes proposed by the executive. Among them was the introduction of the competence for the Public Health Authority (an executive agency) to collect, process and store personal data, and to administer the mechanism of ‘smart quarantine’. The core of this mechanism consisted of mandatory installation of a location-tracing app on the cell phones of citizens returning from abroad. The explanatory report is brief and indicates inspiration from other, both democratic (Taiwan and South Korea) and illiberal (Singapore) jurisdictions ([National Council of the Slovak Republic 2020b](#), p. 6). However, while this amendment was approved, its effectiveness was suspended by the Constitutional Court in May 2020, as the judges were concerned that ‘the pace of the realization of changes in this period’ may lead to ‘an unintended erosion of the rule of law’ (PL. ÚS 13/2020, § 71).<sup>24</sup> Unlike the Constitutional Court, MPs of democratic political parties largely supported the amendment. The second debate tackled the revised amendment reacting to the Constitutional Court’s verdict. This revision still exhibits distrust towards citizens, and its original intention remains unchanged.

Following the reopening of the borders in June 2020 and the increase in the number of cases, a new amendment of the act on electronic communications was tabled. This time, the intention was to allow the Public Health Authority to demand location data from cell-phone operators, to ascertain whether some individuals had returned from countries vis-à-vis which more stringent restrictions had been introduced ([National Council of the Slovak Republic 2020e](#), p. 1). The ‘irresponsible citizens’ who did not report to the Public Health Authority could have been discovered this way—at least in theory. The amendment passed, but was vetoed by the President due to concerns associated with the right to privacy and the

<sup>22</sup> Hlas was created via a split from Smer-SD, the sole (2012–2016) and main coalition (2016–2020) governing party in Slovakia.

<sup>23</sup> In Slovakia, MPs can only be elected from a party list. However, these MPs have severed the relationship with the political party on the list of which they were elected, after assuming office. Both coalition and opposition parties lost a few MPs who distanced themselves from the parties or joined another party. The party affiliation of the speaker was determined as valid at the time of the debate, hence the same speaker could become independent in a later debate, despite having spoken as an affiliate of one of the parliamentary parties during an earlier debate.

<sup>19</sup> For the results of the Slovak parliamentary elections in 2020, see [Láštík \(2021\)](#), p. 351).

<sup>24</sup> The Court also presented itself as the protector of the individual from the ‘collection and abuse of personal data [ . . . ] with the aim to ensure a truly free development of the individual’s personality’ (PL. ÚS 13/2020, § 69).

practical implementation (President of the Slovak Republic 2020). After the fourth debate covered in this analysis, the coalition overrode the veto by 84 votes (National Council of the Slovak Republic 2020a).

The last debate analyzed here pertains to the constitutional act that regulates the states of emergency (Act No. 227/2002 Coll.). Adopted in December 2020 at a special parliamentary sitting, the amendment (Act No. 414/2020 Coll.) introduces a subtype of the state of emergency, known as ‘pandemic state of emergency’. This subtype allows the state of emergency to be extended after the initial maximum period of 90 days for indefinite forty-day intervals, with the consent of the National Council (Art. 5 sec. 2 of the Act No. 227/2002 Coll. as amended). Parliamentary consent is required even if the state of emergency is reintroduced after an initial period (maximum 90 days) and a period without any state of emergency, but for the same reason of a pandemic. The parliamentary consent must be provided a maximum of 20 days after the executive decision on the prolongation; in the absence of consent, the state of emergency ends (Act No. 414/2020 Coll., Art. 1 sec. 3(2)). The amendment introduces an additional restriction: in the ‘pandemic state of emergency’, it is not permissible to restrict all rights that may be restricted in a ‘standard’ state of emergency.<sup>25</sup> Thus, the amendment was presented as a compromise between the needs stemming from the COVID-19 reality and the effort to reduce the risk of indefinite extensions of the state of emergency without proper oversight (see explanatory report in National Council of the Slovak Republic 2020d, pp. 5–6).

Importantly, all these proposals were deliberated in an accelerated legislative procedure, which is overused in the Slovak constitutional system (Balog 2021). As illustrated by one of the explanatory statements, even the official grounds for this procedure were much more economic and logistical than human-rights-based. For example, the ‘smart quarantine’ via a mobile application was presented as a solution to the problem of overcrowding of state quarantine facilities (National Council of the Slovak Republic 2020c, p. 1). The need to interfere with individuals’ privacy rights is not even questioned in the explanatory statements, as if it was self-evident that individuals could not be trusted to voluntarily obey the regulations for quarantine or self-isolation. In addition, while this explanatory report does refer to human rights instruments (such as the European Union Charter of Fundamental Rights or the General Data Protection Regulation (National Council of the Slovak Republic 2020c, pp. 2–4)), it operates with a peculiar conception of ‘voluntariness’. The mobile application is presented as a voluntary alternative to the state quarantine, yet ‘in some cases (about which the users of the mobile application will be in a position to decide), the use of the mobile application *will in some way be mandatory*’ (National Council of the Slovak Republic 2020c, p. 5, author’s italics). Hence, individuals may only choose whether their privacy rights are restricted via state quarantine or the mobile application.

In the following, three core findings are discussed in relation to the parliamentary debates under scrutiny: the general absence of references to human rights, the positioning of the extreme right as a ‘defender’ of rights, and the embracing of novel forms of restrictions on rights, including via private actors.

### 5.1. Safety above Rights, Survival above Life?

The five debates under scrutiny embraced a rhetoric of safety and public interest over references to human rights. The discussions made limited references to human rights and were more geared towards the need to ensure that the potential carriers of the virus were isolated and separated from the rest of the population. Thus, the debates broadly aligned with the tendency to see those beyond the borders or those infected as ‘the others’, or potential enemies, as observed by Ivan Krastev (2020, chp. 2). For example, a coalition MP (Čekovský) claimed that ‘the proposal [for amending the act of electronic communications]

<sup>25</sup> The rights that may be restricted are the inviolability of property and privacy, the prohibition of forced labour, the freedom of movement and residence, the freedom of assembly and the freedom of media (mandatory government access to broadcast services to disseminate relevant information to the citizens) (Act No. 414/2020 Coll., Art. 8.).

is in line with the democratic principles of a normal country, which uses the digital age, standard means to ensure the security of persons.’ Another example comes from the introduction by the responsible cabinet representative (health minister Krajčí) in the May 2020 debate, where he presented those citizens returning to Slovakia from abroad during the pandemic as utilitarians interested merely in returning to a ‘safer’ environment from the perspective of the risk of getting infected (as cases in Slovakia were fewer at that time than in many other countries). There was no reference to the right of all citizens to enter the country at any time (Slovak Constitution, Article 23 sec. 4) or to the fact that there were many other possible reasons citizens might have to come back to their homeland.

Some portions of the debates were more technical, tied to the details of the proposal on the table. For example, in the debate on the amendment of the Constitutional Act on State Security, the coalition’s proposal entailed *ex post* parliamentary approval, while some opposition actors (mainly from Smer-SD and Hlas) requested prior approval, constitutional majority for the approval or even an endorsement by the head of state. The rapporteur for the bill (MP Dostál) acknowledged that the nuances of the models were subject to legitimate discussion but stated that the coalition had agreed on *ex post* approval, as a prior approval would appear to be too strong a constraint on the capacity for the executive to react to the pandemic (even though he himself would have supported this position). Dostál reacted somewhat cynically to the request to involve the head of state, referring to the fact that parliamentary involvement was already an innovation (but so was the possibility of repeated prolongation of the state of emergency). These exchanges took place between segments of both the coalition (mainly represented by MP Dostál) and the opposition (represented by a few MPs from Smer-SD and Hlas). One of the coalition MP’s interventions (Katarína Hatráková), referring to practices in other countries, highlighted that parliaments can legitimately receive ‘regular and detailed information on the use of borrowed power. The principle of rule of law and democracy in these countries directly requires the parliaments to be on guard.’ This call for more specialized debate and regular interactions was hailed by both coalition and opposition speakers who followed. Yet, it did not yield any concrete proposals for moving forward and its generality seems to have allowed both coalition and opposition speakers to use it to defend opposing positions. The primary takeaway remains, however, in what was *not* systematically discussed: the human rights implications of the measures under parliamentary scrutiny.

### 5.2. Rights Talk and the Extreme Right

In addition to the absence of a systematic discussion on the human rights implications in the five debates of the National Council, where references to human rights did occur, they came overwhelmingly from the opposition and particularly extreme-right MPs. The latter were also the most vocal opponents to the amendments. As demonstrated by the statistics in Table 2 above, this was combined with the frequency of their appearances.

For example, extreme-right MP Milan Mazurek criticized both the adoption of the legislation in an accelerated procedure and its substance. His claims were based in a mixture of denialism towards the pandemic as such and opposition to the executive. However, both were framed in human rights language. For example, he highlighted how restrictions that were allowed to be continued indefinitely (apparently, not considering the parliamentary scrutiny as satisfactory in this case) were, historically, the ‘pathway to power for dictators’ and how the proposal enabled ‘the government to restrict people’s human rights and freedoms’. Here, particular criticism was directed towards the adoption of a constitutional amendment deliberated by the legislature in late 2020, which focused on judicial reform in Slovakia and entailed a constitutional removal of the competence of the Slovak Constitutional Court to review constitutional amendments. This amendment, however, is unrelated to the amendments of the Constitutional Act on State Security, which enhance the Court’s review powers, enabling it to be statutorily authorized to review the prolongation of the state of pandemic emergency as well.

Another extreme-right MP (Schlosár) claimed that the amendment is retroactive. Even if the parliament rejects the prolongation of the state of emergency, individuals might be sanctioned based on an illegal state of emergency in the meantime. Instead of presenting this in a constructive fashion, however, he interpreted this risk (admitted also by rapporteur Dostál) as an example of the executive further devaluing ‘checks and balances’, which in his view do not work when the executive has a comfortable majority. Other extreme-right voices entailed references to ‘a burial of democracy’ with the new lockdown measures the amendment could allow (MP Kočíš) or to ‘legal nihilism’ (MP Sulanová).

The debate also featured an example of the extreme right utilizing references to existing legal materials. MP Kočíš referred to the Venice Commission as an authority discouraging the adoption of constitutional changes during the pandemic or crisis management acts ([European Commission for Democracy through Law \(Venice Commission\) 2020](#)). Even though the present debate did not entail a constitutional amendment, and the two were unrelated, the MP invoked a reference to a regional international body in a way that coalition MPs or the sponsors of the bills have generally not done in their interventions. This underscores the capacity of the extreme-right MPs to cloak their opposition to democracy not only in principled language but also with selective references to respected international legal authorities.

The majority of the opposition consisting of Smer-SD (governing party until a few weeks after the outbreak of the pandemic in Slovakia) and later of Hlas, while rejecting several of the coalition measures, adopted a milder language and at times even indicated support for even more rights restrictions. For example, one of the deputies of Smer-SD at the beginning of the deliberations in March proposed to mandate ‘the executive so that it can temporarily enact some measures [ . . . ] let us not deliberate over 10–15 bills, let us mandate the executive, so that it can adjust some laws so that there is a crisis regime in relation to the coronavirus. That way we resolve the situation in 15 min and have no more problems. We do not need to [ . . . ] engage in difficult deliberations.’ Some of the coalition MPs (Dostál, Osuský) noticed that such proposals imply more radical concentration of power in the executive than in the coalition’s proposals.

There are a few exceptions to the opposition being the sole contributor to references to human rights. For example, in the first debate in March 2020, the minister of justice expressed the executive’s commitment to be ‘sensitive towards democracy and we have very thoroughly and sensitively evaluated the necessity [of the measures]. [ . . . ] We want to restrict [personal data protection] in order to protect you, to protect your life, your health, and to protect your kin.’ Thus, even here, the human rights perspective (represented by the right to privacy) is put into opposition with the protection of health and (in the parlance of this article) survival. These interventions show the extreme right, and to a lesser extent the opposition as a whole, appropriating human rights language that was left without a direct response by the coalition MPs or the sponsors of the measures in question.

On the whole, the coalition was unable to justify the amendments with human rights considerations and left this argumentative space especially to the extreme right, which has with a questionable-to-outright-oppositional mission regarding democracy ([Gál and Malová 2021](#); [Gál and Szomolányi 2016](#)). The arguments presented by the extreme right do not represent their genuine commitment to democracy. Had they been governing, they would likely have turned to even more drastic curtailments of human rights to cement their position. Nevertheless, the absence of a human rights language used by democratic actors<sup>26</sup> represents a missed opportunity to generate societal consensus over the need for some extraordinary measures, at the same time carefully calibrating these to respect constitutional rights.

<sup>26</sup> Paraphrasing another exchange in the July 2020 debate, one could say that the overwhelming belief in the process was that there are ‘evil people’ who want to evade the regulations, and so the rights of *all* belonging to a certain category (e.g., returning from abroad) need to be restricted in order to tackle the malice of these few evaders of the regulations.

### 5.3. 'Outsourcing' Rights Restrictions?

The distinct coalition–opposition dynamics whereby the opposition, and in particular the extreme right, appropriated human rights justifications that had not been invoked by the sponsors of the restrictions does not exhaust the range of actors relevant to the implementation of the emergency measures. In addition to state institutions (such as the Constitutional Court), private companies were also recognized as playing a role by some deputies when discussing technological solutions in relation to contact- and location-tracing measures. This became apparent particularly in relation to 'smart quarantine' plans of a location-tracing cell-phone application, the legal regulation for which was deliberated repeatedly over four out of the five debates under scrutiny, given the intervention by the Constitutional Court that suspended the effectiveness of the provisions adopted in March 2020 (PL. ÚS 13/2020). During the deliberation in March 2020, Smer-SD deputies raised no substantial objections to restricting the right to privacy, and occasionally advocated solutions that may have been even more invasive.<sup>27</sup> There was a virtually unanimous sentiment of distrust towards individual responsibility, which did not pay off during the later stages of the pandemic when some of the stringent measures became economically and politically infeasible.

However, it was again only extreme-right MPs who indicated some discontent with the role of private companies in the process. In the debate in May 2020, Marian Kotleba argued, with reference to George Orwell's novel 1984, that '[obliging] someone who does not want to go into quarantine [to] report to some kind of a screen [amounts to] blackmailing'.<sup>28</sup> There was also a considerable overlap between the Slovak extreme right and rejections of all kinds of protective measures; for example, the requirement to wear masks was put into the same category as the restrictions on privacy caused by location tracking by one of the extreme-right MPs (MP Mizík). As a result, the only (if rudimentary) references to increasing international concerns with the powers of private companies to *de facto* restrict fundamental rights (e.g., Zuboff 2019) originate from the same actors who engage in conspiracies and demagoguery, and oppose evidence-based solutions such as wearing masks or vaccinations.

## 6. Discussion and Conclusions

In Rossiter's constitutional dictatorship, political institutions acknowledge the dangers and undesirability of the concentration of power during emergencies. In Slovakia, executives went even further and left important decisions to administrative bodies, notably the Public Health Authority. Such an approach arguably represents an element of 'commissarial dictatorship' in the Slovak political regime. The majority of the justifications presented in support of the restrictions by the Slovak parliamentarians deciding on the executives' proposals can be read in the context of Agamben's discussion of political life and biological survival: the latter was presented and prioritized as if it was opposed to the former.<sup>29</sup> Executive communication also failed to justify key measures, including those introducing various forms of surveillance of those suspected to be infected by the virus (Calvo et al. 2020; Steuer 2021).

Building on the significance of justifications presented for human rights restrictions highlighted by Rossiter's 'constitutional dictatorship' as opposed to Schmitt's 'commissarial dictatorship', and on the risks accompanying the dissociation between political life

<sup>27</sup> For instance, MP Muňko advocated the introduction of 'monitoring bracelets' instead of location tracing via mobile phones.

<sup>28</sup> Here, the MP engages in convenient 'doublespeak', when he does not specify that the reference to 'quarantine' in his statement only encompasses the quarantine in state facilities, rather than home quarantine. Thus, the statement also appeals to COVID-19 denialists who reject all kinds of quarantine measures.

<sup>29</sup> Agamben's framework might be used to critically scrutinize the concepts of 'executive underreach' and 'executive overreach' representing a deliberative failure or overreaction of the executive when solving a problem that it is able to address. See Pozen and Scheppele (2020). The Slovak executive response appears to be neither a case of underreach, nor of overreach. Instead, it aligns with resignation to provide justifications and communicate the necessity of the measures.

and biological survival highlighted by Agamben, this article provided evidence for the feeble voice of the Slovak legislature in scrutinizing rights restrictions during the pandemic. In particular, it uncovered the danger of the extreme right taking ‘ownership’ of human rights justifications in its rhetoric and combining these with hoaxes and COVID-19 denialism, thus reducing the perception of the inherent connectedness of human rights to democratic institutions. By allowing extreme political actors to appropriate human rights language, democratic parliamentarians give up on the generation of argumentative reservoirs for well-justified emergency measures that signal the state’s commitment to protecting human rights, even in emergency situations. Methodologically, the article points to the need to consider, alongside the coalition–opposition dynamic in general (Louwerse et al. 2021, pp. 1045–47), the discursive patterns of parliamentarians committed to constitutional democracy and those that are hostile to it. Further research is needed, particularly into the ‘fact-finding and non-deliberative mechanisms’ (Griglio 2020) that the Slovak and other parliaments have utilized in the context of the pandemic. While comparative research needs to be mindful of the potential differences in competences, as well as the styles of debate, it could shed light on, among other questions, whether the reactions presented by extreme-right parliamentary actors to emergency legislation in Slovakia are also observable elsewhere. More broadly, it could help identify practices to follow and practices to avoid in invoking human rights arguments during a time of emergency. At a regional level, a comparison with the three other Visegrad Four countries (Czechia, Hungary and Poland) could contribute to understanding the dynamics of parliamentary discourse in regimes that, in 2020–2021, conventionally passed the threshold of democracy (Czechia, Slovakia) and those that did not (Hungary, Poland).

There is no doubt that the management of the pandemic places enormous pressure on decision makers and may require swift action. However, the disappearance from sight of the individual as a political being encourages policies that neglect the centrality of human rights protection, placing political life into opposition with biological survival. Such a strategy may backfire in practical terms, as the failure to minimize casualties during the later stages of the pandemic in Slovakia illustrates. Despite the fact that arguments appealing to individual responsibility were introduced by key decision makers after summer 2020<sup>30</sup>, they could no longer convince, due to the preceding discourse denying public institutions’ trust in individual responsibility. In late 2021, Slovakia was one of the countries faring worst globally in terms of the number of COVID-19 cases per capita. A posteriori decisions by the Constitutional Court as well as broader public reflections on these developments might encourage a more careful realization of the value of both survival and (political) life and improve Slovakia’s emergency preparedness and institutional capacities. However, unless it is so, the parliamentary debates pertaining to human rights protection during the COVID-19 pandemic suggest bleak prospects for democracy in Slovakia.

**Funding:** This research was supported by the Slovak Research and Development Agency under the contract No. APVV-16-0389.

**Institutional Review Board Statement:** Not applicable.

**Informed Consent Statement:** Not applicable.

**Data Availability Statement:** This article utilizes primary data from the transcripts of parliamentary debates of the National Council of the Slovak Republic, which are publicly available. These can be found at the website of the National Council at <https://www.nrsr.sk/web/default.aspx?sid=schodze/rozprava> (accessed on 17 February 2022). Minutes from the respective meeting days are also available from the digital library of the National Council at <https://www.nrsr.sk/dl/Browser/Default?legId=13&termNr=8> (accessed on 17 February 2022). Developments until December 2021 were considered. The reviews and review responses for this manuscript are accessible online at: [https://www.mdpi.com/2075-471X/11/2/17/review\\_report](https://www.mdpi.com/2075-471X/11/2/17/review_report) (accessed on 17 February 2022).

<sup>30</sup> For example, Igor Matovič: ‘From the position of restrictions, we are proceeding towards the responsibility of the peoples’ (Osvaldová 2020b).

**Acknowledgments:** A Slovak version utilising selected data and segments from this manuscript with the focus on the restrictions on the right to privacy is published as “Život alebo prežitie na prvom mieste? Analýza slovenského parlamentného diskurzu o sledovaní polohy mobilných telefónov v reakcii na pandémie COVID-19.” In *Fenómén sledovania v súčasných demokratických spoločnostiach*, edited by Erik Láštík and Martin Kovanič, 47–65. Bratislava: Univerzita Komenského. <https://static1.squarespace.com/static/55fd17f3e4b08422c88865c9/t/61f8f7cfe69a1861b1506b9c/1643884619746/podatakniha.pdf> (accessed on 17 February 2022). The comments of Erik Láštík, Martin Kovanič, the anonymous reviewers and the participants of the IPSA Research Committee 26 international symposium on ‘How Have Years 20–21 Changed the World’ (December 2021) to earlier versions of the text are gratefully acknowledged. Thanks go also to Aman Mehta for assistance with proofreading. The responsibility for any errors remains the author’s.

**Conflicts of Interest:** The author declares no conflict of interest. The funder had no role in the design of the study; in the collection, analyses, or interpretation of data; in the writing of the manuscript, or in the decision to publish the results.

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