

Yes, America is Still in an Official State of Emergency

By [Washington's Blog](#)

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Theme: [Police State & Civil Rights, Terrorism](#)

A reader asked whether the U.S. is still in an official state of emergency, and if so, what that means.

The answer is yes, we are still in a state of emergency.

[Specifically:](#)

On September 11, 2001, the government declared a state of emergency. That declared state of emergency was formally [put in writing](#) on 9/14/2001:

“A national emergency exists by reason of the terrorist attacks at the World Trade Center, New York, New York, and the Pentagon, and the continuing and immediate threat of further attacks on the United States.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me as President by the Constitution and the laws of the United States, I hereby declare that the national emergency has existed since September 11, 2001”

That declared state of emergency has continued in full force and effect from 9/11 [throughout the Bush administration] to the present.

On September 10 2009, President Obama [continued the state of emergency](#):

The terrorist threat that led to the declaration on September 14, 2001, of a national emergency continues. For this reason, I have determined that it is necessary to continue in effect after September 14, 2009, the national emergency with respect to the terrorist threat.

Does a State of Emergency Really Mean Anything?

Does a state of emergency really mean anything?

Yes, [it does](#):

The Washington Times [wrote](#) on September 18, 2001:

“Simply by proclaiming a national emergency on Friday, President Bush activated some 500 dormant legal provisions, including those allowing him to impose censorship and martial law.”

Is the Times correct? Well, it is clear that pre-9/11 declarations of national emergency have authorized martial law. For example, as [summarized](#) by a former fellow for the Hoover Institution and the National Science Foundation, and the recipient of numerous awards, including the Gary Schlarbaum Award for Lifetime Defense of Liberty, Thomas Szasz Award for Outstanding Contributions to the Cause of Civil Liberties, Lysander Spooner Award for Advancing the Literature of Liberty and Templeton Honor Rolls Award on Education in a Free Society:

In 1973, the Senate created a Special Committee on the Termination of the National Emergency (subsequently redesignated the Special Committee on National Emergencies and Delegated Emergency Powers) to investigate the matter and to propose reforms. Ascertaining the continued existence of four presidential declarations of national emergency, the Special Committee (U.S. Senate 1973, p. iii) reported:

“These proclamations give force to 470 provisions of Federal law. . . . taken together, [they] confer enough authority to rule the country without reference to normal constitutional processes. Under the powers delegated by these statutes, the President may: seize property; organize and control the means of production; seize commodities; assign military forces abroad; institute martial law; seize and control all transportation and communications; regulate the operation of private enterprise; restrict travel; and, in a plethora of particular ways, control the lives of all American citizens.”

(Most or all of the emergency powers referred to by the above-quoted 1973 Senate report were revoked in the late 1970’s by [50 U.S.C. Section 1601](#). However, presidents have made numerous declarations of emergency since then, and the declarations made by President Bush in September 2001 are still in effect).

It is also clear that the White House has kept substantial information concerning its presidential proclamations and directives hidden from Congress. For example, according to Steven Aftergood of the Federation of American Scientists Project on Government Secrecy:

[“Of the 54 National Security Presidential Directives issued by the \[George W.\] Bush Administration to date, the titles of only about half have been publicly identified. There is descriptive material or actual text in the public domain for only about a third. In other words, there are dozens of undisclosed Presidential directives that define U.S. national security policy and task government agencies, but whose substance is unknown either to the public or, as a rule, to Congress.”](#)

As former United States congressman Dan Hamburg [wrote](#) in October:

While ... Congress and the judiciary, as well as public opinion, “can restrain the executive regarding emergency powers,” nothing of the sort has occurred.

Under the 1976 National Emergencies Act (50 U.S.C. 1601-1651), Congress is required to review presidentially declared emergencies. Specifically, “not later than six months after a national emergency is declared, and not later than the end of each six-month period thereafter that such emergency continues, each House of Congress shall meet to consider a vote on a joint resolution to determine whether that emergency shall be terminated.” Over the past eight years, Congress has failed to obey its own law, a fact that casts doubt on the legality of the state of emergency.

As far as public opinion is concerned, how many Americans are even aware that a state of emergency even exists. For that matter, how many members of Congress know? ...

The Obama administration is essentially arguing that the United States is currently in a state of resisting foreign invasion a full eight years after the attacks of 9/11!

This is ludicrous. [Dr. Harold C. Relyea, a specialist in national government with the Congressional Research Service (CRS) of the Library of Congress] argues that Congress and the judiciary, as “co-equal branches of constitutional government,” serve as a check on the executive power. As we have seen, Congress has either been shut out of this process, or, as in so many cases, it has capitulated. Dr. Relyea then offers that public opinion can restrain the executive. But the public doesn’t even know they’re living under a state of emergency. The media doesn’t report it, and the government is certainly not in the business of providing information that might raise the hackles of real Americans.

It’s time for the American people to rise to this challenge. Write your member of Congress, and your senators. Tell them to obey their own laws. Tell them to end this phony and treacherous state of emergency that imperils the freedom of us all.

Hamburg’s must-read article also discusses the suspension of Posse Comitatus, the operation of Northcom inside the U.S., and the refusal of the Department of Homeland Security to provide information on the state of emergency to Congress or even to Congress members on the Homeland Security committee with the highest security clearances.

The Effect of a State of Emergency on the Economy and Business

The continuous state of emergency in effect from September 2001 to the present may have had a substantial affect on the economy and business.

For example, as Reuters [noted](#) last week:

U.S. securities regulators originally treated the New York Federal Reserve’s bid to keep secret many of the details of the American International Group bailout like a request to protect matters of national security, according to emails obtained by Reuters.

The national security claim may seem outlandish, but it is nothing new.

As Business Week [wrote](#) on May 23, 2006:

President George W. Bush has bestowed on his intelligence czar, John Negroponte, broad authority, in the name of national security, to excuse publicly traded companies from their usual accounting and securities-disclosure obligations.

In other words, national security has been discussed for years as a basis of keeping normal accounting and securities-related disclosures secret. While “national security” and a state of “national emergency” may not be exactly the same, they are variations of a single theme – an existential threat to our nation – which has dominated American since September 11.

Similarly, Congressman Brad Sherman, Congressman Paul Kanjorski and Senator James Inhofe all [say](#) that the government warned of martial law if Tarp wasn’t passed.

Last year:

- Senator Leahy [said](#) “If we learned anything from 9/11, the biggest mistake is to pass anything they ask for just because it’s an emergency”
- The New York Times [wrote](#):

“The rescue is being sold as a must-have emergency measure by an administration with a controversial record when it comes to asking Congress for special authority in time of duress.”

Mr. Paulson has argued that the powers he seeks are necessary to chase away the wolf howling at the door: a potentially swift shredding of the American financial system. That would be catastrophic for everyone, he argues, not only banks, but also ordinary Americans who depend on their finances to buy homes and cars, and to pay for college.

Some are suspicious of Mr. Paulson’s characterizations, finding in his warnings and demands for extraordinary powers a parallel with the way the Bush administration gained authority for the war in Iraq. Then, the White House suggested that mushroom clouds could accompany Congress’s failure to act. This time, it is financial Armageddon supposedly on the doorstep.

“This is scare tactics to try to do something that’s in the private but not the public interest,” said Allan Meltzer, a former economic adviser to President Reagan, and an expert on monetary policy at the Carnegie Mellon Tepper School of Business. “It’s terrible.”

Most of the Fed and Treasury’s looting of America to funnel trillions in bailouts, loans, guarantees, and other favors to the too big to fails was done under the justification of an “emergency”.

I don’t know whether the official declaration of a “state of emergency” in effect from September 2001 to today was directly used for financial looting. But again, the fear of an existential threat to our country was used to justify the looting.

Congress Has the Power to Revoke the State of Emergency

A note to Congressional staffers: Congressman Hamburg is right. Congress does have the power to revoke the state of emergency.

Specifically, the National Emergencies Act, 50 U.S.C. Sections 1601-1651 (passed in 1976), gives Congress the power to [countermand](#) a presidential declaration of national emergency. Indeed, in 1976, Congress [rescinded](#) all of the declarations of national emergency made since World War II, as many of them had been on the books for years and were giving the executive unrestricted powers which were undermining the Constitution.

In 1983, the Supreme Court [struck down](#) a portion of Congress' power to countermand a declaration of national emergency. But Congress got around that ruling by amending the National Emergencies Act in 1985 to confirm Congress' power to countermand - through a joint resolution between the House and Senate - a declaration of emergency by the president (see [this](#)).

Moreover, in 2007, the Bush Administration tried to ignore the National Emergencies Act by issuing [National Security and Homeland Security Presidential Directive 51](#). But that dog won't hunt. The Constitution does not allow the president to unilaterally cut Congress out of the picture

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