

UNIVERSAL PERIODIC REVIEW – UNITED STATES OF AMERICA (4TH CYCLE) STAKEHOLDER SUBMISSION

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THE UNITED STATES' MISUSE OF EMERGENCY POWERS AND NON-COMPLIANCE WITH ARTICLE 4 OF THE ICCPR

I. Pattern of Prolonged and Extraterritorial Emergencies

The United States has developed and maintained a system of national emergency declarations that are not only prolonged far beyond the scope of any immediate threat but are also increasingly used in extraterritorial contexts, undermining the core protective framework of the ICCPR.

As of 2025, more than 70 national emergencies have been declared since the enactment of the National Emergencies Act (NEA) of 1976 and the International Emergency Economic Powers Act (IEEPA) of 1977. Of these, at least 48 remain active, many of which have been continuously extended on an annual basis without substantive review, judicial oversight, or justification under Article 4 of the ICCPR¹.

Among the most blatant examples of prolonged emergency declarations are:

- The 1979 declaration targeting Iran, renewed annually for over 45 years²
- The 1995 emergency related to Iran sanctions, still in effect and expanded over time³
- The 1995 declaration targeting Sudan, modified but never terminated⁴
- The 2004 and 2011 declarations on Syria, both still in force⁵
- The 1996 Cuba-related emergency, extended through the Helms-Burton Act⁶
- The 2014 Ukraine/Russia-related emergency, now greatly expanded⁷

None of these emergency declarations have been accompanied by formal Article 4 notifications to the UN Secretary-General, as required by Article 4(3) ICCPR. Nor have the resulting measures been shown to meet the test of necessity and proportionality. Instead, these declarations function as normalized

¹ Korff, D., Examination of the 5th Report and Country Situation of USA, p. 6.

² U.S. National Archives, Emergency re: Iran, originally declared by EO 12170 (1979), renewed annually.

³ EO 12957 (March 1995); EO 12959 (May 1995); EO 13059 (1997).

⁴ EO 13067 (1997) and subsequent modifications.

⁵ EO 13660 (March 2014), EO 13661, EO 13662; updated under EO 14024 (2021).

⁶ EO 12854 (1993) and the Cuban Liberty and Democratic Solidarity (Libertad) Act, 1996.

⁷ EO 13660 (March 2014), EO 13661, EO 13662; updated under EO 14024 (2021).

tools of coercive foreign policy, detached from any direct threat to the life of the U.S. nation.

These declarations often rely on vague and politically broad terms, such as “malicious cyber-enabled activities” or “foreign interference in elections.” Many of the targeted individuals or entities are non-U.S. persons, residing outside U.S. jurisdiction, and have no opportunity to challenge the restrictions imposed on them.

The Global Magnitsky Act and Executive Order 13818, for instance, authorize sanctions based on opaque determinations of “serious human rights abuse or corruption.”⁸ While judicial review of sanctions designations is legally available, affected individuals face significant procedural barriers, and courts typically defer to executive authority in national security contexts.

Such emergency declarations, implemented through IEEPA, enable extraterritorial sanctions with significant human rights consequences—particularly in relation to due process, property rights, and freedom of movement.

The prolonged, unreviewed, and rights-restrictive nature of these measures constitutes a de facto system of permanent derogation, in violation of the obligations and principles enshrined in Article 4 ICCPR, General Comment No. 29, and relevant international jurisprudence.

In addition, while the NEA grants Congress the legal authority to terminate a national emergency by joint resolution, this power is effectively constrained by the President’s veto authority, which has made Congressional oversight largely symbolic in practice. Notably, in both 2019 and 2020, Congress voted to revoke President Trump’s emergency declaration regarding the southern border, but the resolutions were vetoed and not overridden.⁹

These systemic issues must be addressed in the upcoming UPR cycle to bring the United States into compliance with its international obligations under the ICCPR.

II. Violations of Article 4 of the ICCPR

The United States has systematically failed to comply with its obligations under Article 4 of the ICCPR. Although the United States ratified the ICCPR in 1992, it did so with significant reservations, including a declaration that the Covenant is not self-executing. As a result, its provisions—such as the procedural and substantive safeguards required under Article 4—have not been fully incorporated into domestic law and remain effectively unenforceable in U.S. courts without enabling legislation.

Article 4(1) of the ICCPR permits States Parties to derogate from certain obligations only in times of a public emergency that threatens “the life of the nation,” and only where such an emergency is “officially proclaimed.” However, despite maintaining dozens of active national emergency declarations under the NEA and the IEEPA, the United States has never made a corresponding official proclamation

⁸ Executive Order 13818, Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption, December 2017.

⁹ National Emergencies Act, 50 U.S.C. §§ 1601–1651; Congressional Research Service, “The National Emergencies Act: Background and Recent Developments,” 2023; H.J.Res.46 (2019) and S.J.Res.54 (2019)

under Article 4 of the ICCPR¹⁰. The declarations made under domestic law are instead based on the far lower standard of an “unusual and extraordinary threat,” which does not meet the threshold of severity articulated by the Covenant.

This non-compliance is compounded by the United States’ failure to fulfill its obligation under Article 4(3) to notify the UN Secretary-General of any derogations, the reasons for them, and the measures taken. Since its ratification of the ICCPR in 1992, the U.S. has not submitted a single notification, despite the widespread use of rights-restrictive emergency powers.¹¹ This constitutes an ongoing procedural breach of the Covenant.

In addition to the absence of formal proclamations and notifications, the United States has failed to implement essential safeguards concerning the duration and oversight of emergency measures. While the NEA nominally requires annual renewal and Congressional reporting, in practice, emergency declarations are perpetually extended without meaningful scrutiny. No U.S. national emergency has ever been terminated by Congressional vote, and the courts play no active role in reviewing the necessity or legality of the emergency measures.¹² This absence of judicial or legislative oversight is incompatible with the Human Rights Committee’s guidance in General Comment No. 29, which requires regular and effective review to prevent abuse.

Substantively, the measures taken under emergency declarations also exceed the limits imposed by international law. Article 4 permits derogations only to the extent “strictly required by the exigencies of the situation.” Yet, many U.S. emergency actions—particularly those carried out under the Global Magnitsky Act and Executive Order 13818—are applied in situations where no domestic emergency exists, and frequently target foreign individuals or entities with no territorial nexus to the United States. These measures often involve severe consequences, including the freezing of assets, bans on financial transactions, and restrictions on travel, all executed without due process guarantees, notice, or opportunity for redress.¹³

Moreover, there are credible concerns that certain emergency actions may violate non-derogable rights under Article 4(2), including the right to recognition before the law, the freedom of thought and religion, and protection from discrimination. Targeted individuals and groups, including political activists and religious institutions, have been subjected to executive sanctions based on vague criteria and secret evidence. The discriminatory or politicized use of emergency powers has further entrenched systemic violations and undermined the legitimacy of the legal framework.

Taken together, these practices constitute a structural violation of Article 4 of the ICCPR. The United States has failed to:

- Proclaim a valid emergency in compliance with Article 4(1);
- Submit notifications as required under Article 4(3);
- Ensure time-bound, proportionate, and reviewable emergency measures;
- Protect non-derogable rights and avoid discriminatory application of powers.

¹⁰ Korff, D. Examination of the 5th Report and Country Situation of USA, pp. 6–10.

¹¹ OHCHR, General Comment No. 29, para. 17; U.S. has made zero Article 4(3) notifications to the UN.

¹² U.S. Congressional Research Service, Declarations Under the National Emergencies Act, Jan. 2023.

¹³ EO 13818 on global sanctions authority.

The cumulative effect of these omissions is the creation of a parallel legal regime in which derogations from human rights protections occur without transparency, accountability, or legal constraint. This undermines the integrity of the ICCPR and represents a persistent challenge to the international human rights framework.

III. Human Rights Consequences of the U.S. Emergency Powers Regime

The continued and unregulated use of emergency powers by the United States has resulted in a wide array of human rights violations, many of which stem directly from the structural failures outlined above. These consequences are neither theoretical nor isolated. Rather, they represent a systemic erosion of civil and political rights, affecting both individuals within U.S. jurisdiction and those abroad who are subject to U.S. extraterritorial enforcement.

First and foremost, the emergency powers exercised under the IEEPA and related Executive Orders routinely result in sanctions against individuals and entities without due process, in violation of Article 14 of the ICCPR. Designations made under the Global Magnitsky Act and Executive Order 13818, for example, are often based on secret evidence, lack publicly disclosed criteria, and offer no effective remedy or appeal. Affected individuals and organizations—many of whom reside outside the United States—may face asset freezes, exclusion from global financial systems, and reputational damage, all without formal charges, judicial review, or meaningful notice.

While IEEPA is primarily used to impose economic sanctions on foreign actors, it has also been applied domestically to restrict transactions involving U.S. businesses and technology platforms, including in high-profile actions targeting Chinese telecommunications firms and data services.¹⁴ The breadth and opacity of these designations further intensify the risk of arbitrary interference with rights protected under the Covenant.

These practices violate not only the principle of the presumption of innocence, but also the right to a fair and public hearing by a competent, independent, and impartial tribunal, as guaranteed under the Covenant. The U.S. has offered no judicial or quasi-judicial review mechanisms for challenging such designations. This is particularly concerning given that many affected individuals reside outside the United States and have no practical access to its legal system.

In addition, these emergency measures have had significant implications for the right to freedom of expression and association (Articles 19 and 22 ICCPR). Civil society actors, human rights defenders, and advocacy groups—especially those operating in politically sensitive contexts—have found themselves restricted by U.S. sanctions. In some cases, the designation of individuals or entities as “threats” or “corrupt actors” has created a chilling effect on political expression, cross-border collaboration, and the financing of advocacy efforts.¹⁵ These consequences are magnified by the broad and vague language used in many Executive Orders, which provide no clear thresholds for inclusion.

¹⁴ Executive Order 13873 (May 15, 2019), “Securing the Information and Communications Technology and Services Supply Chain”; also, CRS Report R45618, *The International Emergency Economic Powers Act: Origins, Evolution, and Use*, updated 2023.

¹⁵ Examination of the 5th Report and Country Situation of USA, pp. 11–13.

The right to privacy (Article 17 ICCPR) is also routinely infringed upon through the U.S. emergency powers regime. Sanctioned individuals are subjected to extensive financial surveillance and data sharing with law enforcement and intelligence agencies.¹⁶ The designation process itself often relies on classified intelligence or undisclosed digital monitoring, with no transparency or accountability mechanisms to assess the legality of such intrusions.

The human rights impacts extend further to the right to property, which, although not explicitly protected under the ICCPR, is closely tied to the rights to privacy, due process, and effective remedy. The freezing of bank accounts, blocking of transactions, and seizure of assets under emergency authorities has profound consequences for individuals' ability to maintain livelihoods, support families, and access legal representation.

Moreover, the extraterritorial application of U.S. sanctions powers creates legal uncertainty and human rights exposure across borders. Individuals and entities in third countries have been sanctioned for actions with no direct link to U.S. territory, and often with no clear notification or access to legal redress. This further amplifies the reach and impunity of the U.S. emergency regime, while violating the principle of jurisdictional control under international law.¹⁷

Finally, the discretionary and opaque nature of U.S. emergency powers has fostered an environment in which discrimination—particularly on the basis of political belief, nationality, or perceived ideological affiliation—can occur unchecked. Sanctions regimes targeting individuals from specific countries (such as Iran, Cuba, Syria, and Russia) raise serious concerns regarding discriminatory impact, especially when applied collectively or without individualized assessment.

Taken together, the cumulative effect of these emergency powers is the normalization of arbitrary executive action, resulting in persistent, serious, and often invisible human rights harms. The absence of judicial oversight, procedural guarantees, and effective remedy mechanisms has contributed to the erosion of core protections under the International Covenant on Civil and Political Rights (ICCPR), both within the United States and in its extraterritorial applications.

Moreover, the United States has failed to ensure access to an effective remedy, in breach of Article 2(3) ICCPR. Designated individuals and entities lack access to any independent tribunal or appeals process through which to challenge sanctions or asset freezes, depriving them of fundamental procedural protections and the ability to seek redress.

IV. Recommendations

The following recommendations build upon several key recommendations made to the United States during its third Universal Periodic Review (2019), which remain either unimplemented or only partially addressed, regardless of their formal status as “supported” or “noted.”

- Recommendation 228.145 (Uruguay), which the United States supported, called for the protection of due process and fair trial guarantees in national security contexts. Nevertheless, individuals

¹⁶ U.S. Department of the Treasury, FAQs on OFAC Designations, 2023

¹⁷ ICJ, Wall Advisory Opinion (2004), para. 111; Human Rights Committee, General Comment No. 31, para. 10.

continue to be sanctioned under emergency powers without notice, legal reasoning, or access to an effective remedy.

- Recommendations 228.147 (Chile) and 228.148 (Peru), both of which were noted by the United States, urged it to ensure that counterterrorism and emergency legislation comply with international human rights law. Despite this, national emergencies have been prolonged indefinitely, without any of the safeguards required under Article 4 of the ICCPR, including the obligation to notify the UN Secretary-General.

Recommendation 228.159 (Algeria) and 228.162 (Pakistan) were also noted, but they highlighted essential reforms needed to align national security frameworks with ICCPR standards. These reforms remain unaddressed. On the contrary, emergency powers have been expanded without meaningful legislative or judicial oversight.

Regardless of formal position taken during the third cycle, the United States remains legally bound by the ICCPR, and its ongoing practices represent a pattern of non-compliance. In light of this, Justice pour Tous Internationale (JPTi) respectfully urges the United States to adopt the following recommendations during the fourth cycle of the Universal Periodic Review:

1. Amend the National Emergencies Act (NEA) and the International Emergency Economic Powers Act (IEEPA)

Revise domestic legislation governing emergency powers to ensure consistency with Article 4 of the ICCPR, including by limiting declarations to emergencies that genuinely threaten the life of the nation, requiring formal proclamations, and mandating that any derogating measures be subject to strict necessity, proportionality, and time limits.

2. Submit formal Article 4(3) notifications to the UN Secretary-General

Ensure that any future derogations from ICCPR obligations during public emergencies are officially notified to the UN Secretary-General in accordance with Article 4(3), including the legal basis, duration, scope, and justification of the measures adopted.

3. Establish independent judicial and legislative oversight mechanisms

Introduce procedures to ensure that all emergency declarations and associated executive actions are subject to periodic, substantive review by Congress and judicial bodies, including the possibility of termination or modification where measures are no longer justified.

4. Guarantee due process rights in all sanctions and designations

Ensure that any designation or restriction imposed under emergency powers—including those based on Executive Orders or the Global Magnitsky Act—complies with due process guarantees under Article 14 ICCPR, including the right to be informed, heard, and to access an effective remedy.

5. Refrain from applying emergency measures extraterritorially without jurisdictional justification

Limit the application of emergency sanctions and related measures to persons and entities under U.S. jurisdiction, and ensure that any extraterritorial effects comply with the principles of international law and the ICCPR's jurisdictional requirements.

6. Ensure emergency powers are not applied in a discriminatory or politically selective manner

Adopt safeguards to prevent the arbitrary or disproportionate targeting of individuals based on nationality, political affiliation, religion, or other protected grounds, including in the context of sanctions regimes linked to specific countries or ideological profiles.

7. Acknowledge the ICCPR as binding domestically and repeal its "non-self-executing" interpretation

Affirm that the Covenant has domestic legal effect and undertake a legislative or executive clarification to reverse the position that the ICCPR is non-self-executing, thereby enabling individuals to invoke its protections before domestic courts.

8. Enhance transparency and public accountability for emergency measures and designations

Publish comprehensive data on all active emergency declarations, designated entities, and justification summaries, and establish a public reporting mechanism to ensure transparency and oversight.