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Topics in Writing Theory

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President Trump's National State of Emergency:

An analysis of the unparalleled and unethical declaration

In the wake of the highly contested debate regarding building a wall at the United States-Mexico border -- which broadly spanned the life of the Trump political campaign and his presidency to date, and consumed political discourse since the end of 2018 -- President Trump has made a move that has stirred the foundations of national sentiment. The outcomes of this debate have been weighted, resulting in the longest government shutdown in US history, countless American workers being uncompensated for their labor, and a spotlight on the changing landscape of political discourse, but the conversation has reached new and controversial heights. On Friday, February 15th, President Trump, citing his executive powers, declared a national emergency over what he claimed was the invasion of illegal immigrants over the US-Mexico border, resulting in drugs and crime “pouring” into the United States. This political move sent shock waves throughout the nation, standing as an unprecedented action that calls into question the extent, legality and ethicality of the nature of executive powers. These untested and debatably unconstitutional grounds for a declaration of national emergency, rooted in President Trump employing his executive powers, is argued by some to be abuse of power: A national state of emergency has never been put into effect to benefit a pet project by a U.S. president. This work serves as an examination of the legality and ethicality of President Trump’s

decision to declare a national state of emergency in order to fulfill a campaign promise to build a wall at the southern border.

DEFINING A NATIONAL EMERGENCY AND THE LEGAL COMPONENTS

The National Emergency Act (NEA) grants a sitting U.S. president the right to call for a national emergency. This open-ended definition is listed under executive powers and is dependent upon the needs of the time as stated by the president when they declare a national emergency. Furthermore, the national emergency allows for funds that have been appropriated elsewhere to be re-allocated accordingly, as explicated under other federal statutes to remedy the emergency. The national emergency is open-ended for a reason: to address the needs of the time accordingly but not to be abused for the loose scope of the terminology. The national emergency can be called off if stated by the president or if Congress passes a joint resolution.

AN EXAMINATION OF PAST PRECEDENT AND HOW IT DIFFERS FROM CURRENT ACTION

When addressing the merit of a legal action, it is important to compare the measures to past precedent. President Trump's decision to declare a national state of emergency is quite different from previously declared national emergencies. According to Emily Moon in her article for the Pacific Standard entitled, *The United States' States of Emergencies*, she cites, "Since that first order in 1979, American presidents have declared 58 national emergencies." (Moon, 2019) Moreover, Moon states that around 31 of the national emergencies are still in effect today. Examples that highlight the uses of the NEA are President Jimmy Carter in 1979, addressing the Iran hostage crisis, holding Iranian assets in the United States; President Ronald Reagan declaring six national emergencies between the years 1983 and 1989 to address control and

regulations over exports and trade between the United States and other nations; President George W. Bush calling for a series of national emergencies as a reaction to the September 11th terrorist attacks; and a host of others, under President Obama, President Clinton, and President H.W. Bush. (Serges, 2019) In these instances, the national emergencies were well received at the time of their declaration and stand similar to one another in nature, as a need of the time that served independent of political agenda. This last point is essential to why and how these historic national emergencies are distinct from the most recent declaration under the Trump administration: None of the past national emergencies were used as a political tool contesting the decisions of Congress. However President Trump's National Emergency is doing just this: Trump issued the emergency on the heels of Congress denying his request for \$5.7 billion for wall funding and therefore is seeking a way around appropriations. President Trump's national emergency furthers his political agenda, a campaign promise, and fuels a war with Congress; it is unprecedented when observed through the scope of past national emergencies.

THE REACTION TO PRESIDENT TRUMP'S DECLARATION OF A NATIONAL EMERGENCY

Following the initial declaration of the national emergency by President Trump, there was swift backlash. Just days after President Trump's initial statement, 16 states, following the lead of California, filed a lawsuit against the declaration. (Alvarez, 2019) This challenge stands among a slew of other legal efforts to stop the national emergency, including from the Center for Biological Diversity, Border Network for Human Rights, and the American Civil Liberties Union. The legal grounds on both sides of the debate are untested and unclear because of the open-ended legal language of the NEA. Standing at the fore of the opposition to President

Trump's declaration is California Attorney General Xavier Becerra. He states, "We're going to try to halt the President from violating the Constitution, the separation of powers, from stealing money from Americans and states that has been allocated by Congress, lawfully." (Alvarez, 2019) More steadfast challengers were swift in their responses as well: "The Constitution assigns Congress the power of the purse, and no prior president has ever tried to use emergency powers to fund a chosen project -- particularly a permanent, large-scale domestic project such as this -- against congressional will. This is obviously improper," said Dror Ladin, an attorney for the ACLU. The stances of these lawyers are clear and are aligned with the thesis of this work; this national emergency is unlike previous declarations, is unconstitutional, and is an abuse of power, inherently fueling President Trump's political agenda and disrespecting Congressional authority because it attempts to divert funds from federal projects that Congress did not authorize.

THIS NATIONAL EMERGENCY IS A PROBLEM:

WHAT SHOULD YOU DO ABOUT IT?

The national emergency declared by President Trump has proven to be a grave and unethical injustice. It promotes unconstitutional and anti-democratic sentiment, furthering policies and political agendas that have proven to serve against American ideals. The issues highlighted within the problem and under this administration are severe and daunting; they call Congress and American citizens to action to preserve the values of our nation and the integrity of our democratic system. Firstly, Congress is empowered to stop the declaration by voting it down and overriding the presidential veto that may come next. Citizens can write their U.S. senators and representative and encourage them to block the emergency; they want to know that their constituents stand behind them in censuring this proposition. Other organizations standing in the

legal fight against President Trump's declaration also need assistance. Volunteering for their causes, donating and supporting their work is needed now more than ever. Finally, the national state of emergency is a clear indicator that a change in executive power is needed. President Trump violating the separation of powers and abusing his granted executive authority cannot be condoned or ignored. This intolerable action should inspire everyone engaged to vote! We must uphold the principles of our democratic system by voting and making our voices heard with our elected officials. The political decision to declare a national state of emergency is unprecedented and serves as a clear call to action and change.

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