STATE OF EMERGENCY; PROTECTION OF HUMAN RIGHTS IN THE UNITED KINGDOM.

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1.0 INTRODUCTION

States of emergency are today one of the most serious challenges to the implementation of international human rights law (IHRL). They have become common practice and are associated with severe human rights violations. The international jurisprudence on states of emergency is inconsistent and divergent, and what now constitutes a public emergency is now everywhere. This trend is underpinned by excessive judicial deference and abdication of the legal review of states' often dubious claims of a state of emergency. The legal regime, as positively expressed in international human right treaties, does not adequately reflect the underlying theory and politics of emergency situations. The beginning of IHRL as an effective constraint and regulator of states of emergency requires the articulation of a more holistic understanding and a new approach to the legal doctrine .

Serious violations of human rights often accompany emergency situations, which are variously known as "states of emergency," "states of exception," "states of siege," and "martial law."' The central international human rights treaties envisage a regime of derogation allowing states parties to temporarily adjust their obligations under the treaties in exceptional circumstances. The two legal questions that constitute the heart of the derogation regimes are first, whether a situation constitutes a "public emergency which threatens the life of the nation," and second, whether the measures are "strictly required by the exigencies of the situation." A third question or requirement is that the state derogating must notify the treaty depositary and therefore in practice
the other state parties of its public emergency and measures of derogation. This paper looks at state of emergency, human right which cannot be derogated from, derogatory power/rights during state of emergency, state of emergency in the United Kingdom and protection of human right in the United Kingdom

2.0 STATEMENT OF THE PROBLEM

Human rights are based on the principle of respect for the individual their fundamental assumption is that each person is moral and rational being who deserves to be treated with dignity. They are called human rights because they are universal. However Serious violations of human rights often accompany emergency situations, which are variously known as "states of emergency," "states of exception," "states of siege," and "martial law

3.0 OBJECTIVE

The objectives of this paper is to identify state of emergency in with respect to human right and see how how human right are being protected in United Kingdom.

4.0 METHODOLOGY

This paper utilizes data from Human rights Act, International covenant on civil and political rights, Articles, Court Pronouncements, journals, books and internet resources.

5.0 WHAT IS A STATE OF EMERGENCY?

A state of emergency derives from a governmental declaration made in response to an extraordinary situation posing a fundamental threat to the country. The declaration may suspend certain normal functions of government, may alert citizens to alter their normal behavior, or may authorize government agencies to implement emergency preparedness plans as well as to limit or suspend civil liberties and human rights. The need to declare a state of emergency may arise from situations as diverse as an armed action against the state by internal or external elements, a natural disaster, civil unrest, an epidemic, a financial or economic crisis or a general strike. States of emergency are not uncommon occurrences, particularly in dictatorial regimes where the state of emergency may endure as long as the regime lasts. In some situations, martial law is also declared, allowing the military greater authority to act. Other terms for referring to emergency situations are state of exception, state of alarm and state of siege.[1]

States of emergency have two components:

- A legal framework consisting of the constitutional and legislative bases for the state of emergency, and
- An operational framework involving the organizational structure and strategic plans for dealing with the state of emergency.

The implementation of emergency law invariably leads to restrictions on normal economic, civil or political activity and rights in order to address the extraordinary circumstances that have given

[1] www.dcaf.ch/publications/backgrounders/stateofemergency accessed on 24th August 2019

rise to the emergency situation. Certain restrictions may be fully justified. At the same time, there is a danger that a government will take advantage of a state of emergency to introduce unwarranted restrictions on human rights and civil liberties, to neutralize political opponents, to postpone elections, or for other self-serving purposes that would be more difficult to pursue under normal circumstances. In some countries, there has been a tendency to maintain states of emergency for years or even decades, long after the original reason for its proclamation has disappeared. The danger that a "constitutional dictatorship" can arise out of a state of emergency should not be under-Stated.[2]

A country's constitution or legislation normally describes the circumstances that can give rise to a state of emergency, identifies the procedures to be followed, and specifies limits on the emergency powers that may be invoked or the rights that can be suspended. While each country will want to define its own practices, international norms have developed that can provide useful guidance. For example, important international treaties such as the European Convention of Human Rights and Fundamental Freedoms (ECHR) and the International Covenant on Civil and Political Rights (ICCPR) stipulate that states are to observe the following principles.

1. Temporality: this refers to the exceptional nature of the declaration of a state of emergency
2. Exceptional threat: the crisis must present a real, current or at least an imminent danger to the community
3. Declaration: the state of emergency must be announced publicly; this informs citizens of the legal situation and reduces the possibility of a de facto state of emergency, that is, a situation whereby the state restricts human rights without officially proclaiming a state of emergency .
4. Communication: notification of the measures taken must be made to other states and relevant treaty-monitoring bodies; for example, if a state is to derogate from its obligations under the ECHR or ICCPR then it must inform the Secretary General of respectively the Council of Europe or the UN of its derogation, the measures it has taken and the reasons therefore, as well as the termination of the derogation.

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5. Proportionality: the measures taken to counter the crisis must be proportional to the gravity of the emergency situation; this applies to the area of application, their material content and their duration.
6. Legality: human rights and fundamental freedoms during a state of emergency must respect the limits provided for by the relevant instruments of international and national law; furthermore, a state of emergency does not imply a temporary suspension of the rule of law, nor does it authorize those in power to act in disregard of the principle of legality, by which they are bound at all times.
7. Intangibility: this concerns the fundamental rights from which there can be no derogation, even during times of emergency.[3]

6.0 HUMAN RIGHTS WHICH CANNOT BE LIMITED EVEN IN THE EVENT OF A STATE OF EMERGENCY

Certain human rights are non-derogable under any circumstances. The ECHR and the ICCPR identify these rights as follows:

a) The right to life
b) Prohibition of torture
c) Freedom from slavery
d) Freedom from post facto legislation and other judicial guarantees
e) The right to recognition before the law
f) Freedom of thought, conscience and religion.

The UN Human Rights Committee has recognized that, in addition to the non-derogable rights listed above, there are several other humanitarian provisions that must remain inviolable.

a) The humane treatment of all persons deprived of their liberty
b) Prohibitions against hostage-taking and unacknowledged incarceration
c) Protection of the rights of persons belonging to minorities
d) The prohibition of propaganda advocating war or national, racial, or religious hatred
e) Procedural guarantees and safeguards designed to ensure the integrity of the judicial system

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7.0 SPECIAL POWERS CAN BE PROCLAIMED IN A STATE OR EMERGENCY

Special emergency powers are granted to the government by virtue of the constitution or statutory laws. Examples of emergency measures or powers range widely, for example:

a) The restriction of press freedom and the prohibition of public meetings
b) Domestic deployment of the armed forces
c) Evacuation of people from their homes and places of work
d) Searches of homes and other private places without a warrant; arrests without charges
e) Confiscation of private property (with or without compensation) and/or its destruction
f) Regulation of the operations of private enterprise; interference with financial transactions and export regulations
g) Special legislation to punish non-compliance with emergency regulations.[4]

8.0 DEROGATION IN TIMES OF PUBLIC EMERGENCY

In extreme circumstances, "in time of public emergency which threatens the life of the nation" (article 4(1) ICCPR), States may take measures to derogate from the Covenant, i.e. to temporarily suspend or adjust their obligations under the treaty, provided a number of conditions are met. The importance of adhering to these criteria has been emphasized by inter alia the United Nations General Assembly (e.g. United Nations General Assembly, (2005), Para. 3). At the regional level, article 15 European Court on Human Right(ECHR) and article 27 Inter-American Convention on Human Rights contain similar provisions. Their overarching principles and approaches are largely the same, though some regional variations exist.

Similarly, in articulating the threshold to be crossed, the European Court of Human Rights (ECHR) has determined that three conditions are necessary: there must exist an exceptional situation of crisis or emergency; which affects the whole population; and which constitutes a threat to the organized life of the community. As with the approach of the Inter-American Court, the ECHR permits States some discretion - a "margin of appreciation" in their assessment of perceived security threats and responses to them. Both Courts require that a formal state of emergency be

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declared before any suspension of rights is made .States must also report which rights have been suspended as a result of this declaration.

A number of rights are 'non-derogable', meaning that they may not be suspended even in times of the most serious public emergency. It should be noted too that non-derogable rights exist not only under the ICCPR, but also under customary international law which bind all States including those which are non-State Parties to the Covenant

9.0 NON-DEROGABLE RIGHTS IN THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS 1966

Article 4(2) specifies those rights which are non-derogable:[5]

- Article 6 (right to life);
- Article 7 (prohibition on torture, cruel, inhuman or degrading treatment);
- Article 8, paragraphs 1 and 2 (prohibition of slavery, slave-trade and servitude);
- Article 11 (prohibition on imprisonment on the basis of inability to pay a contractual obligation);
- Article 15 (principle of legality in the field of criminal law);
- Article 16 (right to recognition as a person before the law); and
- Article 18 (freedom of thought, conscience and religion)

According to the Human Rights Committee (General Comment No. 29, paragraphs 13-16), there are elements in some of the rights not listed in article 4(2) which cannot be lawfully derogated from. Of particular relevance to human rights while countering terrorism, these include:

- All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person (article 10
- Prohibition against taking of hostages, abductions and unacknowledged detention; and
- The fundamental requirements of a fair trial.

[5] ICCPR 1966

Certain other rights are also considered to be non-derogable under general international law and/or in practice too despite not being provided for expressly under article 4(2). These include the right to a fair trial (article 14) and elements of the principle of non-discrimination e.g. to the extent that this protects non-derogable rights.[6]

The application of emergency measures derogating from human rights obligations is subject to strict requirements and principles in an attempt to prevent their abuse. On the one hand, it allows for a State party unilaterally to derogate temporarily from a part of its obligations under the Covenant. On the other hand, article 4 subjects both this very measure of derogation, as well as its material consequences, to a specific regime of safeguards. 'The restoration of a state of normalcy where full respect for the Covenant can again be secured must be the predominant objective of a State party derogating from the Covenant.

Significantly, not every disturbance or catastrophe qualifies as a public emergency which threatens the life of the nation thereby permitting derogations to be made. This applies equally to terrorist acts which need to be assessed on a case by case basis to see if the criteria are fully met before any state of emergency may be declared, essentially whether they threaten the very independence and integrity of the nation.

Regarding situations of armed conflict, article 4(1)[7] requires that no measure derogating from the provisions of the Covenant may be inconsistent with the State Party's other obligations under international law. This extends to international humanitarian law which governs any reliance upon emergency powers, including preventing their being abused by States. Even in this context, derogations may only be permitted to the extent that the situation poses a threat to the life of the nation. The practice of derogations in the context of an armed conflict is not common. For example, though several Contracting Parties to the ECHR have been involved since 2001 in extra-territorial armed conflicts, no derogations have been made in relation to them. Consequently, the ECHR has not had the occasion to consider whether any interpretative differences exist between "war" and "other public emergency" in relation to article 15 of the European Convention. In

[6] United Nations, Human Rights Committee (2001). General Comment No. 29: Article 4: Derogations during a State of Emergency . 31 August. CCPR/C/21/Rev.1/Add.11. paras. 7-8.
[7] ICCPR

situations of armed conflict, the Court has though determined that the starting point is the established jurisprudence of the International Court of Justice (ICJ) that "the protection offered by human rights conventions does not cease in cases of armed conflict, save through the effect of provisions for derogation"

9.1 REQUIREMENTS FOR PERMISSIBLE DEROGATION UNDER THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

SUBSTANTIVE REQUIREMENTS AND PRINCIPLES

1. Existence of a public emergency: there must be a "public emergency which threatens the life of the nation", such as armed conflict, civil and violent unrest, a terrorist emergency, or a severe natural disaster, such as a major flood or earthquake.
2. Principle of conformity with international obligations: Derogations should not be inconsistent with other obligations under international law. In no circumstances can the right to derogate from human rights obligations be invoked to justify a violation of international humanitarian law or of a peremptory norm of international law For instance, while derogations from article 14 (right to a fair trial) may
3. be permissible to the extent strictly required by the emergency situation created by an armed conflict, they are not permissible in relation to the fair trial rights of prisoners of war under the Third Geneva Convention relative to the treatment of prisoners of war which already are minimum standards reflecting the exigencies of armed conflict.
4. Principle of proportionality*:* Permissible derogation measures must limit the derogated rights only to the extent strictly required by the exigencies of the situation (see article 4(1)). In determining whether a derogation is proportionate, the question to be asked is whether there are other means, less restrictive of the rights in question, which would provide a similarly effective means of responding to the exigencies of the situation.
5. General Comment No. 29 of the Human Rights Committee makes clear that the requirement of strict necessity relates to the duration, geographical coverage and material scope of the derogation. In particular, in relation to the duration of a derogation, the Human Rights Committee states that "measures derogating from the provisions of the Covenant must be of an exceptional and temporary nature".

6. Principle 54 of the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (which have been endorsed by the United Nations Economic and Social Council) states that "[t]he principle of strict necessity shall be applied in an objective manner. Each measure shall be directed to an actual, clear, present, or imminent danger and may not be imposed merely because of an apprehension of potential danger".
7. Principle of non-discrimination: Derogation must be applied in a non-discriminatory manner, without a distinction solely founded on grounds of race, colour, sex, language, religion or social origin.[8]

9.2 PROCEDURAL REQUIREMENTS

1. Official proclamation*:* Derogation measures are only permissible in respect of public emergencies which are "officially proclaimed". When proclaiming a public emergency, States must abide by their constitutional and other provisions of law which govern such a proclamation. As the Human Rights Committee stated in General Comment No. 29, this "requirement is essential for the maintenance of the principles of legality and rule of law at times when they are most needed".
2. International notification*:* article 4(3)[9] requires States seeking to declare a public emergency and to derogate from the requirements of the Covenant to inform the United Nations Secretary General of this position

10.0 REQUIREMENTS FOR PERMISSIBLE DEROGATION UNDER THE EUROPEAN CONVENTION ON HUMAN RIGHTS

SUBSTANTIVE REQUIREMENTS AND PRINCIPLES

1. Existence of a war or other public emergency threatening the life of the nation: there must be a "public emergency which threatens the life of the nation".

[8] https://www.unodc.org/e4j/en/terrorism accessed on 24th August 2023.
[9] ICCPR 1966

2. Principle of conformity with international obligations: Derogations should not be inconsistent with the State's other obligations under international law.
3. Principle of proportionality*:* only derogating from Convention obligations "to the extent strictly required by the exigencies of the situation".
4. Certain Convention rights do not allow for any derogation.

10.01 PROCEDURAL REQUIREMENTS

The State availing itself of this right of derogation must keep the Secretary General of the Council of Europe fully informed

11.0 CONSTITUTIONAL SAFEGUARDS

In some States, there are additional constitutional safeguards to prevent the abuse of emergency power.

12.0 STATE OF EMERGENCY IN UNITED KINGDOM

In some countries (e.g., the UK), special judicial bodies may be set up during the emergency situation, whereas in other countries (e.g., Germany), extraordinary judicial bodies are Forbidden. In a state of emergency, responsibility for government must remain with civilian authorities on the national and local level. Security forces assist the civilian authorities in a subsidiary role.

Human Rights Watch acknowledges that where a public emergency threatening the life of the nation is shown to exist, governments may lawfully derogate from some human rights protections, provided that the measures taken are strictly required by the situation. In this case, however, it is far from clear that the threat to the United Kingdom since September 11, 2001, has met the high threshold for a public emergency required under article 15 of the ECHR. The government did not base its decision to derogate on the existence of a specific threat. In a statement to parliament on October 15, 2001, the Home Secretary said that "there is no immediate intelligence pointing to a specific threat to the United Kingdom.[10] Nor has the government convincingly demonstrated why ordinary criminal law measures and existing counter-terrorism legislation—described by the Joint Human Rights Committee as the most "rigorous" in Europe—are insufficient.[11] Unless both

[10] House of Commons Hansard, volume 372, October 15, 2023, Col. 925, [online], http://www.parliament.the-stationery-office.co.uk/pa/cm200102/cmhansrd/vo0110. accessed on 24th August 2023

[11] Joint Human Rights Committee, "Second Report, 2001-02 session," November 16, 2001, para. 30

conditions are satisfied, derogation is not simply inappropriate, but is also contrary to the U.K.'s obligations under human rights law.

The existence of a public emergency that threatens the life of the nation is a precondition for derogation under the ECHR and ICPPR.[12] The U.K. government has repeatedly asserted that a public emergency within the meaning of both treaties exists in the U.K. While the government plainly has access to classified intelligence, several factors point toward the conclusion that no such emergency has existed at any time in the UK since September 2001

First, the threshold for the existence of a public emergency is a high one. According to the European Court of Human Rights, which has generally shown itself willing to grant wide discretion (or in legal terms, a "margin of appreciation") to states in combating terrorism, a public emergency under article 15 is "an exceptional situation of crisis or emergency which affects the whole population and constitutes a threat to the organized life of the community of which the State is composed."[13] Second, as the Joint Committee on Human Rights has observed: "No other State party to the [European] Convention or the International Covenant has made such derogation in the wake of 11 September 2001." The ICCPR has 151 states parties and the ECHR 45 states parties.

Derogation also requires that even where a public emergency exists, any measures taken in breach of suspended human rights obligations must be strictly required by the situation. In particular, the state must establish why it believes that ordinary judicial intervention is not an effective tool for addressing the situation.[14] The U.K. has extensive experience in dealing with terrorism through the courts and has wide-ranging anti-terrorism criminal law provisions, including the Terrorism Act 2000, which allows the police to arrest a person suspected of terrorist activities without a warrant, and permits detention without charge for up to 7 days (compared to a maximum of four days in ordinary criminal cases)[15]

Derogation measures required by war or other public emergency Under Article 15 ECHR it is also possible for the Contracting States to derogate from most of their obligations under the European

[12] ICCPR Article 4(1) "In time of public emergency which threatens the life of the nation…"; ECHR Article 15 also allows derogation in wartime, "In time of war or other public emergency threatening the life of the nation…

[13] *Lawless v. Ireland* (1979-80) 1 EHRR 15, para. 28

[14] European Court of Human Rights, *Aksoy v. Turkey* (1997) 23 EHRR 553, para. 78

[15] The Joint Human Rights Committee has noted that the "United Kingdom's armoury of anti-terrorism measures is already widely regarded as among the most rigorous in Europe." Joint Human Rights Committee, "Second Report, 2001-02 session," November 16, 2001, para. 30

Convention on Human Rights "in time of war or other public emergency threatening the life of the nation". Some rights, however, are declared non-derogable by Article 15. These are the so-called absolute rights: the right to life, the prohibition of torture and inhuman or degrading treatment or punishment, and of slavery.

This is important to emphasize, since State practice shows that these rights may be under severe threat in situations of proclaimed state of emergency.[16] The test of "public emergencythreatening the life of the nation" was set out by the former European Commission of Human Rights in a case where the Greek Government failed to persuade the Commission that a derogation under Article 15 was justified. On that occasion, the Commission set out the following characteristics of a situation that would justify such an emergency:[17]

(1) It must be actual or imminent;

(2) Its effects must involve the whole nation;

(3) The continuance of the organized life of the community must be threatened;

(4) The crisis or danger must be exceptional, in that the normal measures or restrictions, permitted by the Convention for the maintenance of public safety, health and order, are plainly inadequate.[18]

In 1961 the ECHR stressed that there must be a "threat to the organize life of the community"[19] In a recent UK case, the House of Lords applied that test in relation to measures introduced in response to perceived threats from Al-Qaeda after 11 September 2001 of a threat to the 'organized life of the community' to include not merely a threat to the physical safety of the nation, but also to its fundamental values. He said: "The real threat to the life of the nation, in the sense of a people living in accordance with its traditional laws and political values, comes not from terrorism but from laws such as these.

In A v. Secretary of State for the Home Department[20] the majority held that the existence of such an emergency and threat to the life of the nation was largely a matter for the government to

[16] Although the two categories may not be said to fully coincide, the rights and freedoms listed here may be said to be also obligations of an absolute character for States which are not parties to the respective treaties, as jus cogens; see Article 53 of the UN Convention on the Law of Treaties of 23 May 1969 (Vienna Convention.

[17] See Greek case, 12 YB 1, Opinion of the Commission ad paragraph 53

[18] N 13

[19] See ECtHR judgment t of 1 July 1961, Lawless v. Ireland, No.3 / 1961, 1 EHRR 15, paragraph 28.

[20] [2004] UKHL 5

determine. However, in a dissent, Lord Hoffmann focused on the notion . When an emergency situation pertains and a Contracting State wishes to use its power of derogation, it is imperative for the State in question to make a formal derogation under Article 15 ECHR indicating the rights and the territory to which the derogation applies. Moreover, in case of such derogation, the third paragraph of Article 15 requires that the State concerned keep the Secretary General of the Council of Europe fully informed of the measures that it has taken and the reasons therefore, as well as of the moment these measures have ceased to operate

In Ireland v United Kingdom [21]it falls in the first place to each Contracting State, with its responsibility for 'the life of the nation' to determine whether that life is threatened by a 'public emergency' and, if so, how far it is necessary to go in attempting to overcome the emergency. By reason of their direct and continuous contact with the pressing needs of the moment, the national authorities are in principle in a better position than the international judge to decide both the presence of such an emergency and on the nature and scope of derogation necessary to avert it. ... Nevertheless, the Court is empowered to rule on whether the States have gone beyond the 'extent strictly required by the exigencies' of the crisis.

13.0 PROTECTION OF HUMAN RIGHT IN THE UNITED KINGDOM

The Human Rights Act 1998 sets out the fundamental rights and freedoms that everyone in the UK is entitled to. It incorporates the rights set out in the European Convention on Human Rights (ECHR) into domestic British law. The Human Rights Act came into force in the UK in October 2000. The Act sets out your human rights in a series of 'Articles'. Each Article deals with a different right. These are all taken from the ECHR and are commonly known as 'the Convention Rights':[22]

Article 2: Right to life

Article 3: Freedom from torture and inhuman or degrading treatment

Article 4: Freedom from slavery and forced labour

[21] 1978), 17 Int'l Law Rep. 680.

[22] https;//www.eqalityhumanrights.com Human right Act, accessed on 26th August 2019

Article 5: Right to liberty and security

Article 6: Right to a fair trial

Article 7: No punishment without law

Article 8: Respect for your private and family life, home and correspondence

Article 9: Freedom of thought, belief and religion

Article 10: Freedom of expression

Article 11: Freedom of assembly and association

Article 12: Right to marry and start a family

Article 14: Protection from discrimination in respect of these rights and freedoms

Protocol 1, Article 1: Right to peaceful enjoyment of your property

Protocol 1, Article 2: Right to education

Protocol 1, Article 3: Right to participate in free elections

Protocol 13, Article 1: Abolition of the death penalty

The Act has three main effects:

1. You can seek justice in a British court

It incorporates the rights set out in the European Convention on Human Rights (ECHR) into domestic British law. This means that if your human rights have been breached, you can take your case to a British court rather than having to seek justice from the European Court of Human Rights in Strasbourg, France.

2. Public bodies must respect your rights

It requires all public bodies (like courts, police, local authorities, hospitals and publicly funded schools) and other bodies carrying out public functions to respect and protect your human rights.

3. New laws are compatible with Convention rights

In practice it means that Parliament will nearly always make sure that new laws are compatible with the rights set out in the European Convention on Human Rights (although ultimately

Parliament is sovereign and can pass laws which are incompatible). The courts will also, where possible, interpret laws in a way which is compatible with Convention rights

The Human Rights Act may be used by every person resident in the United Kingdom regardless of whether or not they are a British citizen or a foreign national, a child or an adult, a prisoner or a member of the public. It can even be used by companies or organizations, the UK's protection of human rights has always been grounded in real circumstance, rather than simply being a matter of abstract principle..[23]

In addition, the Convention contains a third category of 'qualified' rights, which can be restricted in a range of scenarios. For example, Article 8, the right to respect for private and family life, is qualified with the following: "There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. Indeed, the UK had a great influence on the drafting of the Convention, and was the first nation to ratify it.[24]

For instance:
The current dispute between the Court and the United Kingdom over voting rights for prisoners is one clear example. The issue of the franchise in elections was deliberately excluded from the text of the Convention. The Strasbourg Court has, however, now decided that it falls within the Convention's ambit.

Another clear example of 'mission creep' came in a 2007 ruling by the Court that required the UK Government to allow many more prisoners the right to go through artificial insemination with their partners, in order to uphold their rights under Article 8. This is not what the originators of the Convention had in mind when they framed that article.

[23] Protecting human right in the UK-The conservative party
https;//www.conservatives.commediafileshuman-right accessed on 26th August 2019
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There have also been cases involving foreign nationals who have committed very serious crimes in the United Kingdom, but who have been able to use the qualified rights in the Convention, as interpreted by the rulings of the ECtHR, to justify remaining in the UK. These judgments have apparently overlooked the very clear qualifications in the Convention relevant to the legitimate exercise of such rights.

In 2013 the Strasbourg Court ruled that murderers cannot be sentenced to prison for life, as to do so was contrary to Article 3 of the Convention. This Article is designed to prohibit "torture" and "inhuman or degrading treatment or punishment." For the Strasbourg Court, this entails banning whole life sentences even for the gravest crimes.[25]

The Human Rights Act 1998 does not cover all of your human rights. Others are contained in the international human rights treaties which the United Kingdom has signed and ratified. Those treaty rights are binding on the UK in international law, which means that the UK has agreed to them and the Government must comply with them. However, the method for holding the Government to account for its compliance with treaty rights is different from the enforcement method for the Human Rights Act.

14.0 CONCLUSION

During states of emergency it is perhaps expecting too much of any government to respect fully the human rights of residents, whether they be nationals or aliens. The various international documents on the protection of human rights, tend to recognize this, while providing that certain more basic rights, for example, protection against torture or arbitrary killing, are never to be derogated from. The Geneva Conventions of 1949 together with the Protocols thereto of 1977 seek to ensure that even in time of war, the emergency that most threatens the life of a state, basic human rights are still to be honored.

Some human rights – like the right not to be tortured – are absolute. These 'absolute' rights can never be interfered with in any circumstances. But most human rights are not absolute. Some are described as 'limited' which means they can be restricted in certain circumstances as specified in

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the relevant Article of the European Convention on Human Rights or during state of Emergency. For example, the right to liberty can be limited if a person is convicted and sentenced to prison. Other rights are described as ‘qualified’. Which means they can only be restricted in order to protect the rights of other people or if it’s in the public interest for specific reasons such as the prevention of crime. For example, the Government may restrict the right to freedom of expression if a person is encouraging racial hatred.