

Equality and Human Rights Commission

Following Grenfell:

the right to

life

This briefing focuses on the right to life, covering its meaning, jurisprudence and its relevance to Grenfell. It forms part of a series explaining human rights issues raised by the Grenfell Tower fire: the right to life, adequate and safe housing, access to justice, inhuman or degrading treatment, equality and non-discrimination, and children's rights.

What is the right to life and what is its source in international law?

The right to life is one of the fundamental guarantees in international human rights law. In many respects it is a prerequisite to, and closely linked with, the enjoyment of all other rights.

The right to life is protected under international and European human rights treaties, including Article 6 of the International Covenant on Civil and Political Rights (ICCPR) and Article 2 of the European Convention on Human Rights (ECHR). The UK Government has signed up to these treaties and has to abide by them at all times.

Article 2 of the ECHR is particularly important in the UK as it has been incorporated into domestic law by the Human Rights Act 1998. This means that all UK governments and public bodies – central, local and devolved – including all public officials, have to take appropriate measures to safeguard life by making laws to protect people and, in some circumstances, by taking active steps to protect people if their lives are at risk. If they don't do this, they can be taken to court.

The right to life applies equally to everyone. It is often referred to as an 'absolute right' that cannot be interfered with. However, there are strictly defined situations when the use of force is absolutely necessary and the right to life does not apply.

The right to life is of direct relevance to the Grenfell Tower fire and the work of the Grenfell inquiry. Various aspects of the right to life that may have been compromised by the fire are highlighted on pages 6 and 7.

What does the 'right to life' mean in practice?

The right to life imposes a **negative duty** and a **positive duty** on the state.

The **negative** duty requires the state (that is, all public bodies) **not to interfere** with the right to life. This means that the state cannot kill people, unless it is strictly necessary and in accordance with the law (for example, for self-defence).

The **positive** duty requires the state to take **proactive steps** to enable people to enjoy their right to life, and create conditions conducive to this. If individuals or groups of individuals are at risk of having their right to life violated – for example, as a result of an eviction, the refusal of vital medical treatment, the lack of escape routes at a large event, or deportation to a place where there is a known risk of danger to life – the state must take steps to ensure those risks do not occur. This means that the UK Government must protect life by enforcing criminal laws, regulating the delivery of public services (even if delivered by private providers, for example, social housing providers) in line with international human rights standards, protecting life under immediate threat, and taking steps to avoid accidental deaths. Even if a public service (for example, housing or water) is privatised, the UK Government ultimately remains responsible for the protection of human rights.

To comply with the positive duty to protect the right to life, international human rights law requires the Government to do the following:

1. Put in place a **legal framework** to protect everyone's right to life. For example, the UK Government must introduce laws which criminalise all forms of unlawful killing, including homicide, and acts of violence that are likely to result in a deprivation of life. It must also pass laws to ensure that private corporations do not put their employees or customers at risk of harm to their lives.
2. Adopt **preventative measures** to protect life from all foreseeable threats, including threats from private individuals, businesses and organisations. For example, the UK Government must take steps, such as having an effective police force, in order to protect individuals from being murdered.
3. Provide avenues for **redress**, that is, make sure victims and their relatives can resort to legal action where preventative measures fail.
4. **Investigate** potential violations of the right to life. For example, the state must investigate any death that occurs in prison or immigration detention, or where private actors such as corporations have not abided by laws aimed at protecting people's right to life. The duty to hold an effective investigation aims to ensure accountability. It is based on the right to truth and the idea that both the victims and their families, and the general public, have a right to know what happened.

The positive duty to protect life is important because it means that the state may infringe the right to life not only because of what the state has done but also what it has failed to do. This duty also means that a state may violate the right to life even where the failure to act has not actually resulted in a loss of life.

Investigations

An investigation must have a number of essential features:

- It must be effective, in that it is capable of determining whether or not there has been a violation of the right to life.
- It must be independent and conducted promptly.
- The next of kin must always be involved and there must be a sufficient element of public scrutiny.
- The investigation must not only focus on the deaths in question but also the surrounding circumstances. It must also cover matters such as training, policies and practices, and failures of supervision or inspection, and address lessons to be learned for the future.

The purposes of the investigation are to ensure that:

- the full facts are brought to light
- those responsible are brought to justice
- dangerous practices and procedure are fixed, with a view to avoiding repeated violations
- those who have lost a family member know that lessons have been learned, which could save the lives of others in the future, and
- accountability is secured in practice as well as in theory.

In the event that a violation is found, legal remedies must be available to those affected, including, where appropriate, compensation and rehabilitation. The state is required to take steps to prevent similar violations occurring in the future.

The right to enjoy a life with dignity

The right to life includes the right to enjoy a life with dignity. The United Nations Human Rights Committee, which monitors the protection of the rights included in the ICCPR, has stated that the right to life must not be interpreted narrowly: 'The duty to protect life also implies that states should take appropriate measures to address the general conditions in society that may eventually give rise to direct threats to life or

prevent individuals from enjoying their right to life with dignity'.¹ An example of such a measure is providing adequate shelter and housing. As the UN Special Rapporteur on housing has recently explained, '[l]ived experience illustrates that the right to life cannot be separated from the right to a secure place to live, and the right to a secure place to live only has meaning in the context of a right to live in dignity and security, free of violence.'²

Special protection for disadvantaged people

The state's obligation to protect life includes, as a matter of priority, the protection of people whose lives have been placed at particular risk because of specific threats, or are living in particular circumstances. This would include, for example, victims of domestic violence, children living on the street, homeless people, refugees, or lesbian, gay, bisexual and trans (LGBT) people. Disabled people are entitled to special measures of protection, to ensure that they can enjoy the right to life on an equal basis with others.

The right to life in action

There is important case law on the right to life, which demonstrates how it applies to different groups and circumstances. A few examples are provided below.

In 2005, the **European Court of Human Rights** held that Turkey had violated the right to life, after 39 people had died as a result of an explosion and subsequent fire in a municipal rubbish tip, which was located close to slum dwellings where the victims lived. Prior to the explosion, the state had been told that the tip contravened relevant regulations and posed a major health risk. The court confirmed that the state must do everything within its power to protect individuals from immediate and known risks to which they were exposed (see *Öneryildiz v Turkey*).

¹ UN Human Rights Committee (2018), General Comment No. 36 on the right to life [DRAFT], available at: https://www.ohchr.org/Documents/HRBodies/CCPR/GCArticle6/GCArticle6_EN.pdf [accessed 14 August 2018].

² UN Special Rapporteur on adequate housing (2016), 'Adequate housing as a component of the right to an adequate standard of living', A/71/310, available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/71/310 [accessed: 14 August 2018].

In 2012, the **Inter-American Court of Human Rights** held that Honduras had violated the right to life, after 107 prisoners lost their lives in a fire. This was because the prison's electrical system represented a latent risk of fire, and the prison lacked adequate mechanisms to prevent and deal with fires (see *Pacheco Teruel v Honduras*).

In 2012, the **UK Supreme Court** held that doctors, police and social workers must take active steps to protect life, including against a risk of suicide (see *Rabone v Pennine Care NHS Foundation Trust*).

How is the right to life relevant to Grenfell and the work of the Grenfell inquiry?³

Adequacy of the building regulations, and the system of monitoring and supervising compliance with the regulations

A key issue in the Grenfell inquiry will be whether the building regulations banned the use of polyethylene-based cladding in high-rise residential blocks, due to the risk of fire associated with it. If the building regulations did ban its use, questions will be asked about the adequacy of the systems for monitoring and supervising compliance with those regulations, including in council buildings, to ensure that cladding was installed safely. Both scenarios raise questions about whether the UK has met its duty to protect life. Additional issues arise concerning fire safety regulations, including the installation of fire sprinklers in high-rise buildings.

The extent to which the UK Government was aware of the dangers posed by the cladding system

The more information that responsible bodies had about the risks of harm to life, the greater the obligation to take action to prevent those risks from occurring. A key issue will be the extent to which warnings have been raised in the past, and the steps that were taken in response to those warnings.

³ The scope of the inquiry is set out in the terms of reference and list of issues, both of which are available online at: <https://www.grenfelltowerinquiry.org.uk/key-documents> [accessed: 14 August 2018].

Adequacy of information and advice given to residents on fire safety

The adequacy of the information and advice given to residents on fire safety raises potential issues relating to the positive duty to protect life, that is, whether residents were aware of potential threats to their lives and what to do in an emergency situation.

Availability of complaints mechanisms for residents

The question of whether residents had access to a complaints mechanism, were able to take legal action to raise concerns about fire safety effectively, and whether their complaints were acted upon will be relevant to the positive duty to protect life.

The adequacy of the preventative measures adopted by the UK Government to prevent a further tragedy

There are almost 300 social housing residential buildings across England which are fitted with cladding material that is likely to present a fire hazard.⁴ There are an unknown number of private blocks, hotels, hospitals and schools. A number of preventative measures have been introduced in some affected blocks, but there are questions about whether the steps taken to date are sufficient.

The UK Government's duty to investigate

The Grenfell inquiry will be largely responsible for discharging the state's obligation to investigate potential violations of the right to life in light of the fire at Grenfell Tower. However, in order to fulfil that duty, we think that the inquiry must also consider broader systemic issues, which may raise questions relating to state responsibility. These include:

- the adequacy of the building regulations in place, and of their supervision
- whether relevant public bodies provided sufficient information and advice about fire safety to the residents
- whether residents were able to access the legal system to raise concerns about fire safety effectively
- whether responsible public bodies have fulfilled their duty to enable everyone to enjoy a life in dignity, including in the aftermath of the tragedy

⁴ Inside Housing (2018), 'The Paper Trail: the Failure of Building Regulations', available online at: <https://social.shorthand.com/insidehousing/3CWytp9tQj/the-failure-of-building-regulations-the-paper-trail> [accessed: 14 August 2018].

- whether special measures were put in place to address the needs of disadvantaged people and groups, including those sharing protected characteristics,⁵ such as children and disabled people, and
- whether responsible bodies have taken enough action to tackle entrenched structural factors, such as discrimination on the ground of socio-economic disadvantage, race or migration status.

A critical aspect of an investigation into a potential violation of the right to life is the proper and effective participation of the survivors, bereaved and former residents of Grenfell Tower and surrounding blocks. This is necessary to ensure that all relevant evidence is heard, as well as to ensure the legitimacy of the process.

Further information on our work following the Grenfell inquiry is available on our website at: <https://www.equalityhumanrights.com/en/following-grenfell>.

If you have any queries on human rights in relation to the Grenfell Tower fire, please contact grenfell@equalityhumanrights.com.

⁵ See Equality Act 2010, Section 4: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

Contacts

This publication and related equality and human rights resources are available from the Commission's [website](#).

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