



## A CRITICAL REVIEW OF GHANA'S COVID-19 RESPONSE MEASURES

*Kwadwo Appiagyei-Atua\**

### **Abstract**

Both national and international laws lay down certain safeguards for the State to meet during periods of emergency in order to prevent tyrannical rule and rights violations in the name of a crisis. Ghana's 1992 Constitution has such a provision in articles 31 and 32 thereof, in addition to the Emergency Powers Act 472 of 1994 and the Public Health Act 851 of 2012, as well as international laws, in particular the International Covenant on Civil and Political Rights. However, in responding to the public health emergency occasioned by COVID-19, the State decided to bypass the existing national laws which are to be employed in such situations. Instead, Ghana enacted the Imposition of Restrictions Act 1012 of 2020, among other policy measures, to tackle the pandemic. The paper examines ways in which this emergency route violates Ghana's local laws as well as its international legal obligations and how, in practice, the application of the law has resulted, and could result, in governmental overreach. The paper further analyses how the government could have applied the existing laws of the land to deal with the pandemic and achieve the same or better results which would ensure greater respect for human rights. Finally, the work questions the motive of the State in coming up with the Imposition of Restrictions Act (IRA) which does not specifically mention its purpose as dealing with COVID-19. Furthermore, the IRA does not have a sunset clause.

\* Associate Professor of Law, University of Ghana and DCL holder from McGill University, Montreal, Canada. A full paper of this article has been published as 'Emergency without a state of emergency: A critical review of the Legality of the Imposition of Restrictions Act, 2020 (Act 1012) in dealing with COVID-19 in Ghana' (2020-2021) 31 *University of Ghana Law Journal* 55, which has granted permission to the author to publish a partly revised form of the paper as a contribution to this publication.

## 1 Introduction

The work begins with a review of what constitutes a state of emergency under Ghana's laws. This is followed by a review of the difference between a limitation and derogation of rights; and what constitutes derogable and non-derogable rights. The paper proceeds to examine instructively, the state of emergency in Ghana under articles 31 and 32 of the 1992 Constitution; and the procedural requirements on the application of state of emergency. The paper follows up with a discussion on whether COVID-19 triggers a state of emergency in Ghana and, if so, why the existing provisions on the exercise of emergency powers were not invoked. Overall, the paper reviews the Imposition of Restrictions Act 1012 of 2020 (IRA) and its accompanying Executive Instruments (EIs).

The next section of the work examines the ways in which these novel laws are not in harmony with the existing emergency laws in the country, and therefore, illegal. To support this claim, the paper proceeds to appraise how the Public Health Act 851 of 2012 could have been used to make the necessary emergency measures to deal with the pandemic. In this section, the work provides examples in which implementation by the security sector of the IRA occasioned some human rights violations and how it is more difficult to rely on the IRA to institute legal action against the violators, compared to the Emergency Powers Act 472 of 1994 and the Public Health Act. Additionally, the paper questions the motive of the State for going the route of the IRA and not linking it directly or specifically to COVID-19 as well as not putting in a sunset clause.

## 2 Definition of emergency under Ghanaian law

In the case of Ghana, article 31(9) of the Fourth Republican Constitution defines the scope and breath of an emergency:

The circumstances under which a state of emergency may be declared under this article *include* a natural disaster and any situation in which any action is taken or is immediately threatened to be taken by any person or body of persons which -

- (a) is calculated or likely to deprive the community of the essentials of life; or
- (b) renders necessary the taking of measures which are required for securing the public safety, the defence of Ghana and the maintenance of public order and of supplies and services essential to the life of the community [Emphasis added].

The use of 'include' before 'a natural disaster' creates the impression that article 31(9) does not provide an exhaustive list of what could qualify as an emergency.<sup>1</sup> Thus, examples of state of emergency could also cover COVID-19 public health emergencies, as, for example, expressed in the 1974 Stafford Act in the United States of America.<sup>2</sup>

### 3 Limitation and derogation of rights

Rights are not absolute. Apart from a few such as the right to self-determination<sup>3</sup> (decolonisation) and the right not to be tortured<sup>4</sup> or subjected to slavery,<sup>5</sup> all other rights are subject to restriction (limitation) or suspension through derogations (during a period of emergency).

#### 3.1 Limitations

A limitation clause enables the enjoyment of rights exercise to be qualified 'to a specified extent and for certain limited and democratically justifiable purposes'.<sup>6</sup> Generally, limitations are placed on rights which are to be exercised and enjoyed under normal circumstances. They are already defined and embedded in the particular right or freedom and are permanent in nature. The introduction of a limitation clause in a human right is meant to prohibit restrictions that may be placed by the State on the enjoyment of a particular right which may be over-stretched and become harmful to democracy by reason of their purpose, nature or extent.<sup>7</sup>

Limitations are captured as 'duties' that the rights-holder owes all other rights-holders and duty-bearers in the enjoyment and exercise of a particular right or rights. Thus, the justification for limiting rights

1 See *Republic v Yebbi & Avalifo* [2000] SCGLR 149.

2 Robert T Stafford Disaster Relief and Emergency Assistance Act, PL 100-707, signed into law November 23, 1988; amended the Disaster Relief Act of 1974, PL 93-288. The Act constitutes the statutory authority for most Federal disaster response activities especially as they pertain to FEMA and FEMA programmes. The Stafford Act allows the federal government the power to prevent disease transmission across states and territories depending on the severity and magnitude of a disaster.

3 Refer to common art 1 of the UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol 999, p 171 (ICCPR) and UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol 993, p 3 (ICESCR).

4 Article 7 of the ICCPR.

5 Article 8(1) of the ICCPR.

6 International IDEA 'Limitation clauses' [http://constitutionnet.org/sites/default/files/limitations\\_clauses.pdf](http://constitutionnet.org/sites/default/files/limitations_clauses.pdf) (accessed 23 September 2023).

7 As above.

enjoyment is to ensure that a rights-holder's right to do or not to do something does not infringe on another's enjoyment of the same or other rights.

In this connection, one can refer to the basis of Hobbes' social contract theory which postulates the enjoyment of 'the right of nature' or the right of each to all things. The scope of the enjoyment of this right is limitless and, therefore, invites serious conflict, especially if there is competition for limited resources.<sup>8</sup> This view is based on the contention that Hobbes' notion of rights is limited to liberty rights that are not correlated with any duties or obligations on the part of others nor do they provide a ground for such duties or obligations.<sup>9</sup> Therefore, to avoid a 'state of nature', where there is 'continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short', Hobbes proposed that the enjoyment of rights needs to be limited by granting all such rights to a Leviathan ('the sovereign' or 'authority figure') to control.<sup>10</sup>

However, Locke and others opposed this theory of granting rights through denial of rights by contending that

nobody can transfer to another more power than he has in himself, and nobody has an absolute arbitrary power over himself, or over any other, to destroy his own life, or take away the life or property of another.<sup>11</sup>

Liberty rights, therefore, had to give way to a claim right which, according to Hohfeld, has a correlative duty attached to the right, within which is the idea of limitation to the enjoyment of rights. Thus, in the words of Hohfeld:

A claim right is a right that is correlated with the duties of another or others. These duties consist in either refraining from actions that would impede the rightholder in her exercise of the right or, sometimes, of performing actions

8 SA Lloyd & S Sreedhar 'Hobbes's moral and political philosophy' EN Zalta (ed) *The Stanford encyclopedia of philosophy* (2019) <https://plato.stanford.edu/archives/spr2019/entries/hobbes-moral/> (accessed 23 September 2023).

9 SL Darwall 'Book review: *Hobbes and the social contract tradition* by Jean Hampton' (1989) 98 *The Philosophical Review* 401.

10 EM Hafner-Burton et al 'Emergency and escape: Explaining derogations from human rights treaties' (2011) 65 *International Organization* 673 at 674.

11 J Locke edited and with an Introduction by JW Gough *The second treatise of civil government* (Oxford: Basil Blackwell, 1946) [https://www.norton.com/college/history/archive/resources/documents/ch04\\_03.htm](https://www.norton.com/college/history/archive/resources/documents/ch04_03.htm) (accessed 23 September 2023).

that will give the rightholder the thing she has a right to or help her to have or do the thing she has a right.<sup>12</sup>

In the case of Ghana's 1992 Constitution, general and specific limitations are stipulated. General limitations apply to all the rights and freedoms found in a human rights document, particularly a constitution. An example is found in article 12(2) of the Constitution which provides:

Every person in Ghana, whatever his race, place of origin, political opinion, colour, religion, creed or gender shall be entitled to the fundamental human rights and freedoms of the individual contained in this Chapter but *subject to respect for the rights and freedoms of others and for the public interest* [Emphasis added].

Specific limitations are embedded in each right and the nature of the limitations may differ from one right or freedom to another. An example is found in article 18(2) of the Constitution where it is stated thus:

No person shall be subjected to interference with the privacy of his home, property, correspondence or communication *except in accordance with law and as may be necessary in a free and democratic society for public safety or the economic well-being of the country, for the protection of health or morals, for the prevention of disorder or crime or for the protection of the rights or freedoms of others* [Emphasis added].

The italicised words constitute the limitation to the enjoyment of that right.

In sum, limitation clauses are to enable the State to promote orderliness, peace and security in the country while people enjoy and exercise their rights.

### 3.2 Derogation

During emergency periods, it is unavoidable that individual interests and the greater good of the community will coincide, which situations are often exploited by governments to abrogate its human rights obligations to enhance their powers, dismantle democratic institutions, and repress political opponents. To balance these competing interests, human rights treaties introduce 'an escape clause' in the form of derogations. A derogation, therefore, is a power a State is compelled to exercise

12 However, see E Curran 'Hobbes's theory of rights: A modern interest theory' (2002) 6 *The Journal of Ethics* 63.

through suspension of a right or an aspect of a right (either completely or partially) due to the presence of an emergency in the country, subject to the strictures of international law. Its exercise is subjected to the test of necessity, proportionality, legality and legitimacy, among others.

Thus, article 4(1) of the ICCPR, provides that:

In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

Yet, as provided under article 4(2) of the ICCPR, not all rights can be derogated from, irrespective of the enormity or gravity of the emergency situation. These are the right to life (article 6); the right to protection against torture, cruel, inhuman and degrading treatment or punishment (article 7); the right to protection against slavery or the slave trade (article 8, paras 1 and 2); prohibition of imprisonment merely on the ground of inability to fulfil a contractual obligation (article 11); non-retroactivity of laws (article 15); recognition everywhere as a person before the law (article 16); and, the right to freedom of thought, conscience and religion (article 18).

#### **4 State of emergency in Ghana**

A review of the emergency laws provided in the constitutions of a number of African States indicates that most of them have emergency provisions which are linked to international law. The examples of Kenya and South Africa are instructive. Article 58(6) of the Constitution of Kenya, 2010, for instance, stipulates that:

Any legislation enacted in consequence of a declaration of a state of emergency – (a) may limit a right or fundamental freedom in the Bill of Rights only to the extent that – (i) the limitation is strictly required by the emergency; and (ii) the legislation is consistent with the Republic's obligations under international law applicable to a state of emergency.

Ghana's 1992 Constitution, by contrast, does not directly subject its emergency provisions to the dictates of international law in all respects. For example, under article 31(10), the Constitution allows for all rights to be derogated from during periods of emergency:

(10) Nothing in, or done under the authority of, an Act of Parliament shall be held to be inconsistent with, or in contravention of, articles 12 to 30 of this Constitution to the period when a state of emergency is in force, of measures that are reasonably justifiable for the purposes of dealing with the situation that exists during that period.

This means that the State has arrogated to itself the power to derogate from all the rights provided in articles 12 to 30 of the Constitution. On the other hand, articles 12-30 include the right to life (article 13), protection against torture (article 15), protection against slavery (article 16), non-discrimination and equality (article 17), which are all non-derogable clauses, according to article 4 of the ICCPR. Therefore, that provision of the Constitution of Ghana is in violation of its obligations under the ICCPR.

## **5 Procedural requirements under articles 31 and 32 of the 1992 Constitution of Ghana**

As noted above, the 1992 Constitution of Ghana allows for derogation under articles 31 and 32 during times of emergency. These are subject to procedures prescribed in the Constitution which a government is required to follow when a declaration of a state of emergency is declared.

First, the President can only declare a state of emergency acting on the advice of the Council of State through a proclamation in the Gazette to declare that a state of emergency exists in Ghana or in any part of Ghana for the purposes of the provisions of this Constitution.<sup>13</sup> The phrase ‘on the advice of’ is commonly understood to mean that without that advice the state of emergency cannot be declared.<sup>14</sup>

Second, immediately after making such a proclamation, the President shall go before Parliament with the facts and circumstances leading to the declaration of the state of emergency to seek justification and confirmation for the imposition of the state of emergency. Parliament will then have 72 hours to decide whether the proclamation should remain in force or be revoked. Should Parliament disapprove of the proclamation the President shall have no choice but to comply with the decision of Parliament.<sup>15</sup>

13 As above.

14 Prof Justice Date-Bah ‘Emergency powers in emerging democracies: The case of Ghana’ <https://www.commonwealthlawyers.com/wp-content/uploads/2019/09/B10-Samuel-Date-Bah.pdf> (accessed 23 September 2023).

15 Article 31(2)-(7) of the 1992 Constitution.

Coming back to article 31(10) of the Constitution, the provision means that any derogation from Chapter 5 on the fundamental rights and freedoms has to be done by way of legislation. One such legislation is the Emergency Powers Act. This Act sets out the consequential powers of the President (under section 5 of the Act) after declaring a state of emergency and which entitles him to make the following orders, among others:

- (i) the detention of persons or the restriction of the movement of persons;
- (ii) the deportation and expulsion from Ghana of a person who is not a citizen;
- (iii) taking, possession or control of a property on behalf of the Republic;
- (iv) the acquisition of property;
- (v) the searching of premises without a warrant;
- (vi) the payment of compensation to a person affected by an action taken under the emergency;
- (vii) the arrest, trial and punishment of a person for breach of an instrument, order or a declaration related to the state of emergency;
- (viii) the suspension of operation of a law; and
- (ix) the removal of a person from the emergency area, where the emergency relates only to a part of the Republic.

There is also the Public Health Act to deal with public health emergencies,<sup>16</sup> subject to articles 31 and 32 of the Constitution.

## **6 The Imposition of Restrictions Act**

Notwithstanding the above provisions, when the public health emergency was declared to deal with the COVID-19 public health emergency, the government did not go directly to the key provisions in the existing legal framework to deal with emergencies (articles 31 and 32 of the Constitution, the Emergency Powers Act and the Public Health Act). Rather the government came up with a new law, the IRA for that purpose.

The President initiated this move in his speech on 15 March 2020 when he noted that he had ‘directed the Attorney General to submit immediately to Parliament emergency legislation in accordance with Article 21(4)(c) and (d) of the Constitution of the Republic to embody these measures’.

16 The coming into force of the Public Health Act repealed the following enactments: the Infectious Diseases Act, 1908 (Cap 78); Mosquitoes Act, 1911 (Cap 75); Quarantine Act, 1915 (Cap 77); The Food and Drugs Act, 1992 (PNDCL 305B); secs 285-288 of the Criminal Offences Act, 1960 (Act 29); sec 175 of the Public Health Act, 2012.



The resultant legislation was the IRA which was passed and assented to on 21 March 2020 under a certificate of emergency that was opposed to by the Minority in Parliament. The object of the IRA is ‘to provide for powers to impose restrictions on persons, to give effect to paragraphs (c), (d) and (e) of clause (4) of article 21 of the Constitution, and for related matters’.<sup>17</sup>

## 7 Problems with the Imposition of Restrictions Act

This law, though indicating in section 3(2) thereof that ‘[t]he imposition of the restriction under subsection (1) shall be reasonably justifiable in accordance with the spirit of the Constitution’, violates the Constitution and international law in a number of critical ways, which are mentioned below.

First, the government purportedly resorted to enacting a new law on the basis that the definition of emergency under article 31(9) did not cover a public health emergency. This view is supported by reference to section 1 of the Act, which is

to provide for powers to impose restrictions on persons, to give effect to paragraphs (c), (d) and (e) of clause (4) of article 21 of the Constitution in the event or imminence of an emergency, disaster or similar circumstance to ensure public safety, public health and protection.

However, as indicated above, a purposive interpretation of article 31(9), relying on ‘include’ will cover a COVID-19 situation because the grounds for recognition of an emergency situation is not exhaustive. Further, the IRA’s definition of ‘disaster’ is jumbled:

‘[D]isaster’ includes an occurrence by which there is serious disruption of general safety endangering the life and health of many people or large material interests which require co-ordinated action by services of different disciplines and flood, earthquake, drought, rainstorm, war, civil strife or industrial accident.

First, disruption of safety affecting life and health is only one instance of a disaster. Second, who is affected – ‘many people’ – is vague. Also what is meant by ‘large material interests’? Third, a disaster will only qualify as a disaster if it requires ‘coordinated action by services of different disciplines’ is even more vague and unclear. Fourth, where does ‘flood, earthquake ...’

<sup>17</sup> Section 1 of the IRA.

fit in the definition? Does it mean a disruption that requires coordinated action by services of disciplines in addition to flood, earthquake? These and many other flaws that attend the definition of disaster in the IRA.

One may compare the definition of disaster in South Africa's Disaster Management Act 57 of 2002 to see the gaps in Ghana's definition:

'[D]isaster' means a progressive or sudden, widespread or localised. natural or human-caused occurrence which- (a) causes or threatens to cause- (i) death, injury or disease; 35 (ii) damage to property, infrastructure or the environment; or (iii) disruption of the life of a community; and is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using only their own resources.

Further, if article 31(9) does not directly cover a COVID-19 situation, the State should have resorted to the Public Health Act which has elaborate provisions on WHO guidelines to declare such emergencies.<sup>18</sup> The same PHA also provides under section 169 that 'The Minister shall declare a public health emergency by Executive Instrument where there is a situation that poses an immediate risk to health, life property or the environment'.

Second, despite the genesis of this Act in the COVID-19 pandemic, there is no direct or specific reference to COVID-19 in the IRA. The memorandum to the Bill simply states that 'the purpose of the Bill is to provide for powers to impose restrictions on persons in the event of a disaster, emergency or similar circumstance, to ensure public safety and protection'. Moreover, the Act was extended to cover article 21(4)(e) which is also completely unconnected to a pandemic.

Third, the resort to article 21(4)(c)-(e) to enact an emergency law is unconstitutional because those refer to limitations, not derogations. When limitations are allowed to be used in place of derogations during periods of emergency, it means that the State is unwilling to introduce new restrictions on, or suspension of, existing rights. However, in the case of Ghana, the limitations are used as basis to restrict and or suspend the enjoyment of other rights which are wholly unrelated to those limitations. This approach is novel and unsupported by the Constitution of Ghana and international law.

Yet, more interestingly, the rights and freedoms found under article 21(1)(a)-(g) – apart from (1)(f) as highlighted in the text below – do not contain limitation clauses. Article 21(1)(a)-(g) provides as follows:

18 See Schedule 7 of the Act on WHO Regulations.

- (1) All persons shall have the right to –
  - (a) freedom of speech and expression, which shall include freedom of the press and other media;
  - (b) freedom of thought, conscience and belief, which shall include academic freedom;
  - (c) freedom to practice any religion and to manifest such practice;
  - (d) freedom of assembly including freedom to take part in processions and demonstrations;
  - (e) freedom of association, which shall include freedom to form or join trade unions or other associations, national or international, for the protection of their interest.
  - (f) information, *subject to such qualifications and laws as are necessary in a democratic society.* [Emphasis added]
  - (g) freedom of movement which means the right to move freely in Ghana, the right to leave and to enter Ghana and immunity from expulsion from Ghana.

However, under article 21(4)(a)-(d), elaborate limitations are imposed on the enjoyment of the right to freedom of movement as follows:

Nothing in, or done under the authority of, a law shall be held to be inconsistent with, or in contravention of, *this article* to the extent that the law in question makes provision –

- (a) for the imposition of restrictions by order of a court, that are required in the interest of defence, public safety or public order, on the movement or residence within Ghana of any person; or
- (b) for the imposition of restrictions, by order of a court, on the movement or residence within Ghana of any person either as a result of his having been found guilty of a criminal offence under the laws of Ghana or for the purposes of ensuring that he appears before a court at a later date for trial for a criminal offence or for proceedings relating to his extradition or lawful removal from Ghana; or
- (c) for the imposition of restrictions that are reasonably required in the interest of defence, public safety, public health or the running of essential services, on the movement or residence within Ghana of any person or persons generally, or any class of persons; or
- (d) for the imposition of restrictions on the freedom of entry into Ghana, or of movement in Ghana, if a person who is not a citizen of Ghana.

This leaves the other rights and freedoms recognised in article 21(1) (a)-(e) – freedom of speech and expression, including press and other media; (b) freedom of thought, conscience and belief, including academic

freedom; (c) freedom of religion; (d) freedom of assembly; (e) freedom of association – to be enjoyed without any limitations.

Haphazardly, article 21(4)(e) is added as a limitation, though it does not relate to the freedom of movement or any of the rights and freedoms in article 21, except a remote connection to freedom of expression. The provision is stipulated as follows:

Nothing in, or done under the authority of, a law shall be held to be inconsistent with, or in contravention of, this article to the extent that the law in question makes provision which is reasonably required for the purpose of safeguarding the people of Ghana against the teaching or encourages disrespect for the nationhood of Ghana, the national symbols and emblems, or incites hatred against other members of the community except so far as that provision or, as the case may be, the thing done under the authority of that law is shown not to be reasonably justifiable in terms of the spirit of this Constitution.

While the IRA is said to focus on freedom of movement, one finds it odd that this limitation should be included, also when it was not included in the presidential directive of 15 March 2020 to the Attorney-General. This provision, in addition to the fact that the IRA does not make specific reference to COVID-19 and has not a sunset clause (a measure within a state that provides that a law will cease to have effect after a specific date), creates the impression that the government has other motives for enacting that legislation.

Another point worthy of note and concern is that the areas of limitations or restrictions in article 21(4)(c)-(d) cover limitations to the enjoyment of freedom of movement only. Yet, the state of emergency for health situations is catered for in section 5(1) and (2) of the Emergency Powers Act:

- (1) On the declaration of a state of emergency the President may take the measures which the President considers are reasonably justifiable for the purpose of dealing with the situation that exists during the period that the state of emergency is in force.
- (2) Without prejudice to subsection (1), the President may,
  - (b) during an emergency affecting the whole or a part of the Republic, order
    - (i) the detention of persons or the restriction of the movement of persons;
    - (ii) the deportation and expulsion from the Republic of a person who is not a citizen.

Therefore, as already argued, a law already existed, which therefore makes the IRA irrelevant. Equally importantly, the IRA (though enacted to restrict freedom of movement), has been used as a basis to enact other EIs which have imposed restrictions over other rights, both civil and political and economic, social and cultural. These are the right to education (closure of schools), freedom of religion (suspension of services in churches and mosques have been suspended for the next four weeks), cultural rights (funerals – private burials limited to 25 people), freedom of association (suspension of conferences, workshops), political rights and freedom of expression (suspension of political rallies), leisure (sporting events), and movement (travel advisory).<sup>19</sup>

Also, there was imposition of a lockdown, under EI 65, which among others, placed restrictions on movement outside the place of abode of persons resident in Greater Accra, Kasoa, Tema and Greater Kumasi, except to obtain food, medicine and water; undertake banking transactions; use public toilet facilities; or to pay for utility services, among other measures.

## 7.1 Side-stepping the role of the Council of State

Under section 2(1) of the IRA, it is provided that the ‘President may rely on the advice of relevant person or body, by Executive Instrument’, to impose restrictions specified in paragraphs (c), (d) and (e) of clause (4) of article 21 of the Constitution.

This provision side-steps the role of the Council of State as provided under article 31(1) of the Constitution and section 1(1) of the Emergency Powers Act, where the President is required to consult the Council of State before issuing a declaration of state of emergency and having it proclaimed in a gazette. The provision also means that the President can make the decision by himself without consulting any person or body.

By throwing out the existing laws on the exercise of emergency powers, the executive also ended up bypassing parliamentary oversight<sup>20</sup> to make emergency laws without providing any justification for the broad and intrusive powers it allocated unto itself.

19 Section 1 of EI 64 (Imposition of Restrictions (Coronavirus Disease (COVID-19) Pandemic) Instrument, 2020).

20 As required under art 31 of the 1992 Constitution.

## **7.2 The President usurping the power of parliament**

Section 4(1) of the IRA provides that '[a] restriction imposed under subsection (1) of section 2 shall be for a period of not more than three months'. This is also contrary to the provisions of the Constitution (article 31(3)), which gives Parliament the power to revoke the declaration of state of emergency within 72 hours after being so notified by the President, and the latter shall act in accordance with the decision of Parliament. This time frame can be extended to seven days, under article 31(4) of the Constitution. The declaration can continue for a period of three months beginning with the date of its being so approved or until such earlier date as many be specified in the resolution.<sup>21</sup>

Again, the Constitution provides that it is Parliament that has the power, by resolution passed by a majority of all members of Parliament, to extend its approval of the declaration for periods of not more than one month at a time. And Parliament has the power to revoke a declaration of a state of emergency. However, under section 4(2) of IRA, Parliament's function is also usurped by the President as provided thus:

Despite subsection (1), the President may, by an Executive Instrument, where the exigencies of the circumstances require (a) shorten the duration of the restriction; or (b) extend the duration of the restriction for not more than one month at a time but in any event for not more than three months.

## **7.3 Sanctions regime for violating the Act**

According to section 6 of the IRA, a person found guilty of violating any of the restrictions imposed could go to jail for between four to ten years or a fine of not less than 1 000 penalty units and not more than 5 000 penalty units or to both.

Concern is expressed by the severity of the punishment to be imposed by the courts. Contrast that to the provision under article 32 of the Constitution and section 7 of the Emergency Power Act, which is designed to ensure some substantive and procedural safeguards for a person detained during a period of emergency. These include the requirement to inform the detained person and his family in writing of the grounds of his detention within 24 hours after his detention. His family is also guaranteed access to the person at the earliest practicable opportunity. Further, not more than ten days after the commencement of his restriction or detention, a notification shall be published in the

21 Article 31(5).

Gazette and in the media stating about his detention or restriction and the grounds of his detention. The detention is also subject to periodic review by three Justices of the Superior Court of Judicature appointed by the Chief Justice whose review could lead to his release and his entitlement to adequate compensation where necessary. Additionally, a Minister of State authorised by the President shall make a report to Parliament of the number of persons restricted or detained by virtue of such a law. Finally, the person detained shall be released immediately after the emergency comes to an end. Also, the courts have no special powers to adjudicate individual complaints of right abuses during such suspensions. As a result, the individual is left to resort to the regular, ordinary and time-consuming court procedures in such extraordinary emergency times.

## **8 Executive instruments**

The Electronic Communications Act 775 of 2008 entered into force on 6 January 2009 and is expressed to be an Act to provide for the regulation of electronic communications, broadcasting, as well as the use of the electromagnetic spectrum and for related matters. Interestingly, section 99 of this Act deals with communications during a state of emergency as stipulated in the 1992 Constitution and the Emergency Powers Act. It provides:

Where a state of emergency is declared under Article 31 of the Constitution or another law, an operator of communications or mass communications systems shall give priority to requests and orders for the transmission of voice or data that the President considers necessary in the interest of national security and defence.

By far the most controversial provision of this Act gives wide powers to the President and does not require there to be an emergency first. Section 100 of the Act provides:

The President may by executive instrument make written requests and issue orders to operators or providers of electronic communications networks or services requiring them to intercept communications, provide any user information or otherwise in aid of law enforcement or national security.

It is this provision that the Government of Ghana has relied upon in the wake of the COVID-19 pandemic ostensibly for the purposes of contact tracing. The Establishment of Emergency Communications System Instrument, 2020 (EI 63) thereby derives its authority from section 100 of the Electronic Communications Act. Network operators and communication service providers are thus by virtue of EI 63 to put their services at the disposal of the State for mass dissemination of information

to the public in the case of emergency including a public health emergency. They are also to make available all caller and called numbers, merchant codes, roaming files and location log files to the National Communications Authority (NCA). The problem with this approach is that – although it might be necessary to fight the spread of COVID-19 – these broad powers may very well be deployed as mass surveillance tools that could be used to violate the privacy of individuals and groups in the future.

EI 63<sup>22</sup> came into force deriving its authority from section 100 of the Electronic Communications Act which grants the President wide powers, including the power to

make written requests and issue orders to operators or providers of electronic communications networks or services requiring them to intercept communications, provide any user information or otherwise in aid of law enforcement or national security.

Based on that, the EI places, under section 1, an obligation on telecommunications companies to put the services of the network provider at the disposal of the state for mass dissemination of information to the public in the case of an emergency, including a public health emergency. They are also obligated to make available all caller and called numbers, merchant codes, roaming files and location log files to the National Communications Authority.

These obligations have the potential to normalise the deployment of mass surveillance tools which may help to deal with contact tracing but could also be used to violate privacy laws tomorrow. It is interesting to note that the government would prefer to use existing laws which are more draconian but not those which are more human rights-compliant.

## **9 Essential services**

EI 65<sup>23</sup> provides that categories of services and those who provide such services are exempt from the restrictions and the lockdown. The list of essential services is provided under section 7 of EI 64. An expanded list is provided under EI 65. Yet, legal services or lawyers were not included as essential service under EI 65 though, interestingly, judicial service and members of the judiciary, including judicial staff, were exempted.<sup>24</sup> This development prompted the Chief Justice to issue a circular on 30 March

22 Establishment of Emergency Communications System Instrument, 2020.

23 EI 65 Gazetted 30 March 2020.

24 Second Schedule (Paragraph 4 (1)) Part A.



2020 affirming that position and directing court registrars to adjourn all cases listed during the lockdown period. However, he indicated the setting up of special courts to deal with critical cases which may arise from the restriction orders and other criminal matters. This was a serious omission, considering that emergencies do not do away with rights relating to fair trial and lawyers are needed to protect rights and promote access to justice.

## 10 Retroactivity of laws

The President gave his speech in which he issued his first directives that introduced the restrictions on the exercise of rights and freedom guaranteed under the Constitution on 15 March 2020. These directives took effect immediately after they were issued. Yet, it took six more days for the IRA to become law on 21 March 2020. It took two more days for the first Executive Instrument (EI) to be issued to give retrospective effect to the directives given by the President. Thus, these directives were not backed by law between the time they were issued on 15 March 2020 until they became law through the IRA and the EI. The directives could not be saved or justified by any law, not even under the emergency provisions of the Constitution. Yet, the police made at least two arrests during this period.<sup>25</sup>

This is in clear violation of article 107(b) of the Constitution which prohibits Parliament from passing any law

which operates retrospectively to impose any limitations on, or to adversely affect the personal rights and liberties of any person or to impose a burden, obligation or liability on any person except in the case of a law enacted under articles 178 or 182 of this Constitution.

This provision is backed by article 15(1) of the ICCPR, which provides that:

No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed.

25 KA Darko 'Pastor arrested in Kumasi for defying ban on public gatherings' (18 March 2020) <https://www.myjoyonline.com/news/national/pastor-arrested-in-kumasi-for-defying-ban-on-public-gatherings/> (accessed 18 March 2020).

## **11 The irrelevance of the Imposition of Restrictions Act in the face of the Public Health Act**

Further, contrary to the President's speech of March 2020, the proposed use of the Bill 'to provide generally for expeditious interventions by the Government in the event of unforeseeable emergencies' is not supported by the presence of other legislation and regulations which are already in place to deal with such emergencies. Almost all the laws that the government could have used to deal with the COVID-19 pandemic already exist in our laws, especially the Public Health Act.

It is interesting that, apart from the directive to the Attorney-General, the President

further directed the Minister for Health to exercise his powers, under section 169 of the Public Health Act, 2012 (Act 851) by the immediate issuance of an Executive Instrument to govern the relevant measures.

This is probably all that the President needed to do, by reference to section 169 of the Public Health Act.

The basis or the definition of public health emergency is provided in the same section 169 of the Public Health Act, which states:

- (2) To meet the criteria for a public health emergency, the incident should
  - (a) immediately threaten life, health, property or the environment;
  - (b) have already caused loss of life, health detriments, property damage or environmental damage; or
  - (c) have a high probability of escalating to cause immediate danger to life, health, property and the environment.

This definition of a public health emergency is in consonance with the WHO definition noted above.

The same law, under section 38 thereof, authorises the Minister, by way of a legislative instrument, to

make Regulations for the purpose of preventing the introduction of a disease into the country from an infected place, or for the purpose of preventing the transmission of a disease from the country into any other country or from one part of the country to another.

One could also say that had the government been proactive enough and listened to the call of the opposition and civil society actors, there would not have been the need for a resort to section 38.

The Public Health Act also gives the Minister the power, by way of EI, to declare that a disease is communicable, infectious or contagious in nature.<sup>26</sup> The Minister also has the power to declare a clearly defined area in which a communicable disease has occurred as an infected area and, on that basis, order the evacuation of the whole or a part of the infected area.<sup>27</sup> The punishment regime is also not draconian.<sup>28</sup>

The Public Health Act, under section 11(1) thereof, further calls for disinfection of facilities to contain a communicable disease<sup>29</sup> while a medical officer is permitted to isolate contacts:

A medical officer may order a person living in the same house or compound, or a person who has come into contact with another person suffering or suspected to be suffering from a communicable disease, whether in an infected area or not, to be isolated in a designated place provided by the Government until that person is considered safe to be discharged.

Additionally, there is a compensation board which shall be set up to provide compensation for people who may suffer from any hardships occasioned through the prohibitions on their economic activities, for example.

These laws – the relevant provisions of the 1992 Constitution, the Emergency Powers Act and the Public Health Act – lay the foundation for use by the government to trigger the application of emergency rule in Ghana as the country seeks to battle the pandemic. In addition to violating the laws of the country, the implementation of the new law and measures to deal with COVID-19 occasioned many human rights violations some of which are difficult to bring action against.

26 Section 1(1) of Public Health Act.

27 Section 2(1) of the Public Health Act.

28 Unlike the IRA, if the punishment for violation of the directives is for first-time offenders, a fine of not more than 50 penalty units or to a term of imprisonment of not more than three months, or to both; and (b) for a second or subsequent offence, to a term of imprisonment of not more than six months, or to both the fine and the imprisonment.

29 Section 7 of the Public Health Act.

## 12 Implication of the Imposition of Restrictions Act on human rights in Ghana

The restrictions noted above as reflected in the IRA and other EIs issued, constitute serious intrusions into the rights regime of Ghana which can only be justified through the imposition of a state of emergency properly so-called as required by article 31(1) of the Constitution and section 1(1) of Emergency Powers Act.

Apart from the law itself being problematic, the implementation of the law has also been occasioned by some human rights abuses. Among others, there were reported attacks on journalists<sup>30</sup> as well as ordinary citizens who were going about their normal businesses by the police and military personnel<sup>31</sup> in their eagerness to aggressively enforce the government's COVID-19 lockdown measures. A few people lost their lives as a result.<sup>32</sup> In one incident, the Inspector-General of Police, James Oppong-Boanuh, had to issue a probe into the case of an elderly woman alleged to have been assaulted by a policeman.<sup>33</sup>

The Accra Metropolitan Authority (AMA) also embarked on evictions affecting people, including internally displaced persons living in informal settlements at Agbogbloshie in Accra. In the course of the evictions, women and children were displaced and rendered homeless.<sup>34</sup>

These infractions were serious enough to attract the attention of the Commission on Human Rights and Administrative Justice (CHRAJ) which issued a press statement to advise security officials to act 'proportionately in conformity with international and regional human rights standards' as they seek to enforce Act 1012 so as to protect all persons from

30 'In Ghana, soldiers enforcing COVID-19 restrictions attack 2 journalists' *CPJ* 16 April 2020 <https://cpj.org/2020/04/in-ghana-soldiers-enforcing-covid-19-restrictions/> (accessed 23 September 2023).

31 As above.

32 B Masilela 'Man shot dead after trying to wrestle gun from soldier policing lockdown in Accra' *IOL News* 6 April 2020 <https://www.iol.co.za/news/africa/man-shot-dead-after-trying-to-wrestle-gun-from-soldier-policing-lockdown-in-accra-46349156> (accessed 23 September 2023).

33 'IGP orders search for caning policeman and victim' 2 April 2020: <https://www.graphic.com.gh/news/general-news/igp-orders-search-for-caning-policeman-and-victim.html> (accessed 7 November 2023).

34 See the announcement at JT Mordy 'Akufo-Addo announces 3 months' free electricity amid coronavirus lockdown' *My Joy Online* 9 April 2020 <https://www.myjoyonline.com/news/national/akufo-addo-announces-3-months-free-electricity-amid-coronavirus-lockdown/> (accessed 23 September 2023).

arbitrary arrests, use of force that may degenerate into torture and the need for the State and its agents not to derogate from fundamental rights (e.g. dignity of the individual, eschew acts of torture, degrading treatment or punishment, etc.) even under a state of emergency.<sup>35</sup>

The resultant human rights violations incurred in implementing the emergency measures, therefore, provide no clear-cut avenues for redress. It is in this vein that the government has enacted the IRA, which could have current and future implications for the enjoyment of rights in the country as it constitutes a slippery slope likely to lead to a situation where an illegality will be justified and normalised. What is even more worrying is the fact that the Act has no sunshine clause in it but is rather made a permanent Act.

To some extent, in the case of South Africa, the courts have successfully intervened to declare that some of the measures implemented were ‘unconstitutional and invalid’ because they did not meet the ‘rationality test in [South African] public law’.<sup>36</sup>

### 13 The fear of temporary laws becoming permanent

The emergency laws in particularly fledgling democracies and developing economies have the tendency to become permanent laws and to jeopardise the existing state of democracy in such countries. Even in advanced democracies, such has been the norm, especially with reference to anti-terrorism legislation. Scheppele notes that:

From once-again-powerful Russia to tiny Vanuatu, from constitutionalist Britain to anti-constitutionalist Vietnam, countries around the world have been changing their laws and practices since September 11 to fight terrorism, using

35 Response to Joint Questionnaire of Special Procedures by The Commission On Human Rights And Administrative Justice, Ghana at 1 <https://www.ohchr.org/Documents/Issues/Children/Submissions/COVID19/NHRIs/NHRI-Ghana.pdf> (accessed 23 September 2023); also, DA Anyorigya ‘Violators of COVID-19 lockdown must be treated with dignity – CHRAJ to Security officials’ *Citi Newsroom* 2 April 2020 <https://citinewsroom.com/2020/04/violators-of-covid-19-lockdown-must-be-treated-with-dignity-chraj-to-security-officials/> (accessed 23 September 2023); Also, ‘CHRAJ reacts to excesses of COVID-19 Security Task Force’ *Ghana News Agency* 3 April 2020 <https://newsghana.com.gh/chraj-reacts-to-excesses-of-covid-19-security-task-force> (accessed 23 September 2023); ‘CHRAJ urges police, military to exercise restraint while enforcing lockdown directive’ *My Joy Online* 2 April 2020 <https://www.myjoyonline.com/news/national/chraj-urges-police-military-to-exercise-restraint-while-enforcing-coronavirus-lockdown/> (accessed 23 September 2023).

36 *De Beer v Minister of Cooperative Governance and Traditional Affairs* 2020 (11) BCLR 1349 (GP) <http://www.saflii.org/za/cases/ZAGPPHC/2020/184.pdf> (accessed 23 September 2023).

a template that has been internationally forged, transnationally transmitted through international and regional associations, and locally adjusted to produce results that challenge basic constitutionalist principles at home.<sup>37</sup>

These laws are wide in scope, vague and cast an undue burden on individual rights. The enactment of such legislation is not the only area of concern. However, any time terrorism occurs, new laws, executive orders and new counter-terror tactics are initiated.<sup>38</sup> Anti-terrorism laws have moved into a state of permanent emergency and abandoning the rule of law in the process. As Leo Panitch writes, concerning Canada's new antiterrorism laws that what Canadians have 'is not emergency legislation but . . . an emergency law masquerading as an ordinary statute'.<sup>39</sup>

## 14 Conclusion and recommendations

A number of procedural *faux pas* have been committed by the government, by way of legislation to control the COVID-19 pandemic. In particular, attempts to enact the Imposition of Restrictions Act, 2020 is *ultra vires* the Constitution.

By reference to articles 30-32 of the 1992 Constitution of the Republic of Ghana, the Emergency Powers Act and the Public Health Act, the paper asserts that Ghana was, in large measure, human rights-prepared to deal with the emergency.

To avoid such a situation in the future, it is recommended that the government takes steps to review and harmonise all existing legislation dealing with disasters and emergencies in the country. The government is also advised to be more proactive and put in place the necessary measures when dealing with such emergencies, especially in this case when it became obvious, several weeks before, that the arrival of the disease in the country was imminent.

37 After the terrorist events of 11 September 2001, the United Nations Security Council, acting under Chapter VII of the United Nations Charter, unanimously passed Resolution 1373. The Resolution directed that the UN Member States introduce a separate crime of terrorism into their national laws, work together to suppress terrorist financing, share intelligence on terrorism, monitor geographic borders and implement the relevant international conventions and protocols to combat terrorism.

38 SB Adarkwah 'Counter-terrorism framework and individual liberties in Ghana' (2020) 28 *African Journal of International and Comparative Law* 50.

39 L Panitch 'Violence as a Tool of Order and Change: The War on Terrorism and the Anti-Globalization Movement' (2002) *Options Politiques* 40 at 42.

As a public health emergency, COVID-19 threatens the life of a nation. Therefore, the Constitution demands that the government goes by the Emergency Powers Act to limit the exercise and enjoyment of some rights. However, the government rather decided to enact a new law which bypassed the requirements to declare a state of emergency.

While flexibility is important to deal with emergencies, it does not justify in anyway the steps taken by the government to deal with the COVID-19 emergency. It is important to stress the point that governments generally have an uncanny desire to exploit novel situations or emergencies to gain political advantage. Sometimes, they even go their own way to 'create' or imagine such a situation and exaggerate it as posing an existential threat to the well-being of the State in order to justify the implementation of emergency rules.

Also, as a legacy from the 'war against terror', states have questioned the limitations incorporated into the human rights architecture to impose some duties on rights-holders to observe, claiming it weighs in favour of the latter. For that matter, the 'war against terror' introduced some changes to the rules to tip the balance in their favour, even in so-called advanced liberal democracies. As a result, many governments have converted emergency rules, which are supposed to be temporary, into permanent laws. The danger with the IRA is that it lends itself to be abused as it can be applied in a variety of situations that the government can imagine or create.

According to a recent Afrobarometer survey, the findings indicated that 75 per cent of the people polled said they were ready to trade off their rights to enjoy better security from their governments. Yet, the point is that this is not an 'either, or' situation. Asking citizens to choose between rights/freedoms and health is a false choice because we can and should enjoy both, as noted by Yuval Noah Harari.<sup>40</sup> For example, powers to break up and limit gatherings are aimed at stopping people from spreading the virus. However, they could also potentially be applied to violate rights to freedom of assembly, freedom of movement, freedom of association, among others. The same could be the case with the EI on communications.

In conclusion, it is worth quoting Fionnuala Ní Aoláin, the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,

40 YN Harari 'The world after coronavirus' *The Financial Times* 20 March 2020 <https://www.ft.com/content/19d90308-6858-11ea-a3c9-1fe6fedcca75> (accessed 23 September 2023).

who has observed that, 'States and security sector institutions will find emergency powers attractive because they offer shortcuts'. As a result, they tend to 'persist and become permanent'. Therefore, '[e]mergency or not, States must reach the same threshold of legality, legitimacy, necessity and proportionality for each measure taken'.

Finally, Harari contends that instead of seeking to protect our health and stop the coronavirus epidemic by instituting totalitarian surveillance regimes, we should rather focus on empowering citizens. An empowered citizenry is well-informed and self-motivated, trusts the State and is ready to propose new social contractual terms with the State to deal with an emergency. This comes about where the State is transparent, accountable and also trusts the citizenry.



## References

### Books

- International IDEA 'Limitation clauses' [http://constitutionnet.org/sites/default/files/limitations\\_clauses.pdf](http://constitutionnet.org/sites/default/files/limitations_clauses.pdf) (accessed 23 September 2023)
- Lloyd, SA & Sreedhar, S 'Hobbes's moral and political philosophy' EN Zalta (ed) *The Stanford encyclopedia of philosophy* (2019) <https://plato.stanford.edu/archives/spr2019/entries/hobbes-moral/> (accessed 23 September 2023)
- Locke, J edited and with an Introduction by Gough, JW *The second treatise of civil government* (Oxford: Basil Blackwell, 1946) [https://www.norton.com/college/history/archive/resources/documents/ch04\\_03.htm](https://www.norton.com/college/history/archive/resources/documents/ch04_03.htm) (accessed 23 September 2023)
- Prof Justice Date-Bah 'Emergency powers in emerging democracies: The case of Ghana' <https://www.commonwealthlawyers.com/wp-content/uploads/2019/09/B10-Samuel-Date-Bah.pdf> (accessed 23 September 2023)

### Journal articles

- Adarkwah, SB 'Counter-terrorism framework and individual liberties in Ghana' (2020) 28 *African Journal of International and Comparative Law* 50
- Appiagyei-Atua, K et al 'State security, securitisation and human security in Africa: The tensions, contradictions and hopes for reconciliation' (2017) 1 *Global Campus Human Rights Journal* 326
- Curran, E 'Hobbes's theory of rights: A modern interest theory' (2002) 6 *The Journal of Ethics* 63
- Darwall, SL 'Book review: *Hobbes and the social contract tradition* by Jean Hampton' (1989) 98 *The Philosophical Review* 401
- McGoldrick, D 'The interface between public emergency powers and international law' (2004) 2 *I.CON* 380
- Panitch L 'Violence as a tool of order and change: The war on terrorism and the anti-globalization movement' (2002) *Options Politiques* 40 at 42

### Case law

- Amnesty International v Sudan* (1999) Comm 48/90, 50/91, 52/91, 89/93
- Commission Nationale des Droits de l'Homme et des Libertés v Chad* (2000) AHRLR 66 (ACHPR 1995)
- De Beer v Minister of Cooperative Governance and Traditional Affairs* 2020 (11) BCLR 1349 (GP)
- <http://www.saflii.org/za/cases/ZAGPPHC/2020/184.pdf> (accessed 23 September 2023)
- Free Legal Assistance Group v Zaire* (2000) AHRLR 74 (ACHPR 1995)
- Republic v Yebbi & Avalifo* [2000] SCGLR 149

## Statutes

EI 64 (Imposition of Restrictions (Coronavirus Disease (COVID-19) Pandemic) Instrument, 2020)

Establishment of Emergency Communications System Instrument, 2020

EI 65 (Imposition of Restrictions (Coronavirus Disease (COVID-19) Pandemic (No. 2)) Instrument, 2020) Gazetted 30 March 2020

Imposition of Restrictions Act (IRA)

Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100-707, amended by the Disaster Relief Act of 1974, Public Law 93-288

The Act on WHO Regulations

The Emergency Powers Act, 1994 (Act 472)

The Public Health Act, 2012 (Act 851)

The 1992 Constitution of the Republic of Ghana

## Legal texts

United Nations General Assembly, International Covenant on Civil and Political Rights, 16 December 1966

United Nations, Treaty Series, vol 999, p 171 (ICCPR)

United Nations General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol 993, p 3 (ICESCR)

United Nations General Assembly, Rome Statute of the International Criminal Court (last amended 2010), 17 July 1998, ISBN No. 92-9227-227-6 (1998)

United Nations Human Rights Committee (HRC), CCPR General Comment 29: Article 4: Derogations during a State of Emergency, 31 August 2001, CCPR/C/21/Rev.1/Add.11 (2001)

United Nations Security Council Resolution 1373

## News articles

Anyorigya DA 'Violators of COVID-19 lockdown must be treated with dignity – CHRAJ to Security officials' *Citi Newsroom* 2 April 2020 <https://citinewsroom.com/2020/04/violators-of-covid-19-lockdown-must-be-treated-with-dignity-chraj-to-security-officials/> (accessed 23 September 2023)

'CHRAJ reacts to excesses of COVID-19 Security Task Force' *Ghana News Agency* 3 April 2020 <https://newsghana.com.gh/chraj-reacts-to-excesses-of-covid-19-security-task-force> (accessed 23 September 2023)

'CHRAJ urges police, military to exercise restraint while enforcing lockdown directive' *My Joy Online* 2 April 2020 <https://www.myjoyonline.com/news/national/chraj-urges-police-military-to-exercise-restraint-while-enforcing-coronavirus-lockdown/> (accessed 23 September 2023)

Darko KA 'Pastor arrested in Kumasi for defying ban on public gatherings' (18 March 2020) <https://www.myjoyonline.com/news/national/pastor->

arrested-in-kumasi-for-defying-ban-on-public-gatherings/ (accessed 18 March 2020)

Harari YN 'The world after coronavirus' *The Financial Times* 20 March 2020 <https://www.ft.com/content/19d90308-6858-11ea-a3c9-1fe6fedcca75> (accessed 23 September 2023)

'IGP orders search for caning policeman and victim' April 2, 2020: <https://www.graphic.com.gh/news/general-news/igp-orders-search-for-caning-policeman-and-victim.html> (accessed 7 November 2023)

In Ghana, soldiers enforcing COVID-19 restrictions attack 2 journalists' *CPJ* 16 April 2020 <https://cpj.org/2020/04/in-ghana-soldiers-enforcing-covid-19-restrictions/> (accessed 23 September 2023)

Masilela B 'Man shot dead after trying to wrestle gun from soldier policing lockdown in Accra' *IOL News* 6 April

2020 <https://www.iol.co.za/news/africa/man-shot-dead-after-trying-to-wrestle-gun-from-soldier-policing-lockdown-in-accra-46349156> (accessed 23 September 2023)

Mordy JT 'Akufo-Addo announces 3 months' free electricity amid coronavirus lockdown' *My Joy Online* 9 April 2020 <https://www.myjoyonline.com/news/national/akufo-addo-announces-3-months-free-electricity-amid-coronavirus-lockdown/> (accessed 23 September 2023)

Response to Joint Questionnaire of Special Procedures by The Commission On Human Rights And Administrative Justice, Ghana at 1 <https://www.ohchr.org/Documents/Issues/Children/Submissions/COVID19/NHRIs/NHRI-Ghana.pdf> (accessed 23 September 2023)