1.3 Rights and Civil Liberties in the UK: Protection and Tensions: 30-minute Pack

EDEXCEL 9PL0 · about 30 minutes

Total Marks

Name: _____ Date: ____ / ____ / _____

Answer ALL questions. For levels-marked questions write well-structured, developed responses in full sentences, using accurate political knowledge and named examples where appropriate. Spend around 30 minutes in total.

1 Explain how certain EU-derived rights were retained in UK law after Brexit and give one example of an area where retained EU-derived rights still affect rights protection.

(Total for Question 1 is 4 marks)

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2 Evaluate the view that rights are well protected in the UK.

(Total for Question 2 is 30 marks)

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Mark scheme · 1.3 Rights and Civil Liberties in the UK: Protection and Tensions: 30-minute Pack

Question 1

identifies that the European Union (Withdrawal) Act 2018 preserved EU-derived domestic law as retained EU law at the point of exit	**B1**
identifies that retained EU law can continue to protect rights where it was part of domestic law before exit	**B1**
gives one accurate example area, e.g. employment rights, data protection frameworks reflected in UK law, or environmental protections	**B1**
brief development, e.g. noting Parliament can amend or repeal retained EU law over time	**B1**

Answer: The European Union (Withdrawal) Act 2018 converted EU-derived domestic law into retained EU law at the moment of exit, so many protections formerly sourced in EU law continued to operate in UK domestic law after Brexit. Examples include aspects of employment law and data protection rules that were preserved, though Parliament can amend or repeal retained EU law over time.

Question 2

Level 0 No relevant content.	**0**
Level 1 Basic, limited knowledge of UK rights protections with little or no developed evaluation. Claims are asserted without supporting evidence or clear reasoning.	**1-6**
Level 2 Clear, accurate knowledge of rights protections and some evaluation. Argument may be one-sided or rely on general examples rather than detailed analysis.	**7-12**
Level 3 Detailed knowledge of multiple mechanisms protecting rights (HRA, courts, common law, parliamentary processes, oversight bodies) with sustained analysis and evaluation, including consideration of tensions and limits.	**13-18**
Level 4 A well-argued, balanced evaluation using precise legal and political examples, assessing strengths and weaknesses of UK protections and their practical effectiveness, and offering a reasoned judgement.	**19-24**
Level 5 Sophisticated, wide-ranging argument that integrates constitutional, legal and political evidence, anticipates counter-arguments, weighs competing values and reaches a nuanced, well-substantiated final judgement on the extent to which rights are well protected in the UK.	**25-30**

Indicative content:

- Arguments that rights are well protected: the Human Rights Act 1998 enables domestic rights litigation and keeps Convention rights in domestic courts; an independent judiciary and judicial review enforce legality and procedural fairness; common law rights and judges have developed protections where Parliament is silent; retained EU-derived rights continue to protect areas such as employment and data for now; oversight bodies and parliamentary scrutiny provide additional checks.
- Use of concrete examples: the Supreme Court decisions in R (Miller) 2017 and Miller/Cherry 2019 show courts can constrain executive overreach; declarations of incompatibility under the HRA have prompted parliamentary action or ministerial responses; independent investigatory bodies and commissioners (e.g. Information Commissioner) play a role in enforcing rights like data protection.
- Arguments that protections are limited or under strain: the HRA allows courts only to declare incompatibility rather than strike down Acts, so Parliamentary sovereignty can limit remedies; government legislation such as the Investigatory Powers Act 2016 grants broad surveillance powers raising Article 8 concerns; retained EU law can be amended or repealed by Parliament, reducing long-term protections; political pressure and majorities can weaken oversight.
- Practical limits and democratic arguments: Parliamentary majorities may override judicial or NGO criticism; security and counter-terrorism imperatives often provide a justification for restricting rights; resource constraints and limited access to justice can prevent effective rights enforcement for some individuals.
- Comparative and normative points: compared with some jurisdictions the UK has robust institutional checks, but lacking a codified written constitution means protections rely on conventions and political will; judges have been willing to protect rights but cannot force Parliament to change primary legislation.
- Evaluation and judgement: a balanced conclusion might argue rights enjoy substantial legal and institutional protection in the UK, especially through the courts and HRA mechanisms, but these protections are qualified by parliamentary sovereignty, national security pressures and recent legislative trends, so rights are well protected in principle and in many cases in practice, yet remain vulnerable in some areas without stronger statutory guarantees or firmer safeguards.

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