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**The Integration of Muslims in Britain:
An account and analysis of
the legal and non-legal equality and security initiatives
during the New Labour years of 1997-2010,
British Muslim engagement with them
and their impact on
Muslim integration in British society**

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Thesis submitted for the degree of PhD/MPhil

2018

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Dedication

To my mother, sisters and niece, Suraiya – for their love;
to my children, Ihsan, Iman and Adil – for the hope they give me;
to a very special friend – who walked by my side
as I struggled through some of the most difficult moments in my life
as I worked on this PhD;
and to all my colleagues at the Aziz Foundation – for all their support.

Abstract

There is a significant body of literature already on British Muslim integration. This study delves deeper into the integration impact of New Labour (1997-2010) on British Muslims. The study selects a range of legal and non-legal initiatives from the equality and security policy domains; situates them in their policy contexts; critically traces their development; examines Muslim engagement with them; and considers their impact on Muslim integration vis-à-vis three core principles in liberal democracies – liberty, equality and fraternity. The study employs a three-part methodology: an investigation of the relevant open-source literature; an examination of several important archives; and 16 semi-structured interviews of prominent Muslims during New Labour’s years in government.

This study finds that British Muslim engagement took place in a myriad of ways. On legal provisions to promote religious equality, Muslims often led the initiatives and mostly achieved what they sought. Regarding non-legal equality measures, Muslim leadership was engaged with some initiatives and less with others, though individual Muslims at various levels significantly shaped them to Muslim needs. On the legal provisions to promote security, Muslims learnt with time to challenge the provisions – and, working with others, achieved some key successes. With non-legal security measures, there was considerable Muslim engagement, but often delivering very different motives and results than intended by government. The overall conclusion of this study is that whilst New Labour’s equality initiatives had immense potential to integrate British Muslims, they took too long to come and remained unknown and inaccessible to most. On the other hand, the security initiatives were more forthcoming, and the strong narratives around them resulted in great alienation of Muslims – in terms of their perceptions of the liberty, equality and fraternity afforded to them. There is much learning in this study for equality and security work to improve the integration of Muslims and others.

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Chapter 1: Introduction

Aim and objectives of research

This PhD research study is one of several studies funded by the Nohoudh Trust at SOAS ‘for the study of the integration of Muslims in Britain’. The Trust perceived that British Muslims were not integrating with wider British society as well as they might be expected. It provided no particular definition of ‘integration’, but expressed an interest in studies that explored the history of integration of Muslims in Britain; the current state of British Muslim integration; the impediments to and incentives and opportunities for integration – theological, political, legal, social, cultural, educational and economic; and the role of various actors and sectors that may either be helping or hindering the process of British Muslim integration – for example, the government, the media, the wider civil society, but also the Muslim community itself in all its diversity. The Trust was keen for studies to examine the factors both internal and external to British Muslim communities so that learning could be derived for all relevant actors and agencies in this area for action now and in the near future to improve the integration of Muslims in Britain.¹

The main aim of this particular study is to examine and understand the impact of New Labour on British Muslim integration. The key objectives towards meeting or achieving this aim are: firstly, to critically trace and assess the genesis, development and substance of a wide range of New Labour policy initiatives and provisions of particular significance to British Muslims; secondly, to examine British Muslim engagement with the development of these initiatives and provisions – how they influenced or responded to and thereby shaped or reshaped them; and thirdly, to consider the integration impact of these initiatives and provisions on British Muslim communities. This introductory chapter seeks to further define and elaborate the scope of this research and some key terms used throughout this study, as well as the main aim (or core research question) and the key objectives (or subsidiary research questions) that help us to achieve the main aim (and answer the core question) of this study. It also addresses the conceptual and theoretical

¹ There is very little information publicly available on the Nohoudh Trust and its scholarship programme. This summary is based on the scholarship application pack (available at: <http://scholarship-positions.com/nohoudh-phd-scholarships-at-soas-university-of-london-in-uk-2013/2013/01/01/>) and two meetings with a Trustee of the Nohoudh Trust, Dr Fahd al-Zumaei, in the early years of the scholarship programme in 2013-14.

frameworks and tools to be employed in this research, and the methodological approach chosen and the issues arising from this approach. Finally, it will also provide an overview sketch of the structure and content of this study.

Scope and definition of terms

Definitions of terms are always contested and shifting. However, in taking this study forward, at least three terms need further defining from the start: New Labour, British Muslims and integration. New Labour refers to a period of the Labour Party from the mid-1990s until 2010. The term was coined by Tony Blair MP for his first Labour Party Conference speech in October 1994 as the Leader of the Party,² and was later used in a draft manifesto published in 1996.³ Its purpose was to signal that the Labour Party had departed from some of its traditional policies – for example, the commitment to nationalisation – and adopted market economics and a modernisation agenda based on a unified domestic policy approach. The Party's new political philosophy was influenced by its development of Anthony Giddens' 'third way', which attempted to provide a synthesis between and an alternative platform 'beyond capitalism and socialism'.⁴ For the purposes of this study, the focus will be on the period from New Labour's election victory on 2 May 1997 to its election defeat on 11 May 2010.

This period of New Labour in government was chosen for several reasons. First, it provides a definitive period for study, where some key government policies had a singularly profound impact on Muslim communities in a way not experienced previously, and perhaps not since – for example, the emphasis on social justice through equality of opportunity (including on grounds of religion and belief) for the most disadvantaged, which had a significant positive impact on Muslims; and the emphasis on extensive counter-terrorism legislation, which had a significant negative impact on Muslims. Secondly, it was a period where British Muslims had gained a consciousness on grounds of their religious identity,⁵ triggered by the Rushdie Affair and culminating in a seminal

² K. Morgan, *The Historical Roots of New Labour*, *History Today*, Vol.48(10), 1 October 1998.

³ T. Blair, *New Labour, New Life for Britain*, *Draft Manifesto*, Labour Party, 1996.

⁴ P. Kramp, *The British Labour Party and the 'Third Way': Analysing the Ideological Change and Its Reasons Under the Leadership of Tony Blair*, GRIN Verlag, 2010, p.4.

⁵ N. Meer, *Citizenship, Identity and the Politics of Multiculturalism – The Rise of Muslim Consciousness*, Basingstoke: Palgrave Macmillan, 2010.

report on Islamophobia by the Runnymede Trust in 1997;⁶ organised themselves as representative and/or advocacy bodies able to articulate their needs and concerns in a language meaningful to policy-makers – for example, through the launch of organisations like the Muslim Council of Britain (MCB) in 1997 and the Forum Against Islamophobia and Racism (FAIR) in 2000; and were willing to engage with the government, and the state more generally, believing that they would receive a fair hearing.⁷ Thirdly, it was a period when the Government on the whole saw the need to speak to Muslim communities, partly to deliver aspects of its policy agenda, partly because of Muslim identity politics and increasing assertiveness, but perhaps also due to a recognition that whilst Labour came into power with a landslide majority in the House of Commons, many of its MPs (including some of its senior cabinet ministers, eg, Frank Dobson MP and Jack Straw MP) came from constituencies with a significant Muslim population, where the Muslim vote was critical to winning those seats – and even if this was a very reductive analysis of the dynamics in these communities, the Muslim voice, its concerns and demands, was therefore not to be ignored.

The 2001 Census found that there were just under 1.6m British Muslims living in Britain, approximately 2.8% of the total British population.⁸ The 2011 Census found that the British Muslim population had risen to 2.7m or 5% of the total population just in England and Wales.⁹ Many studies have shown that these Muslims are not one homogenous group. A briefing paper for government ministers suggested that there were approximately 40 theological sub-groups in British Islam, ranging from Secular-Islamists to Sufi-Jihadists, with just as many primary shades of Muslim commitment to their identity and beliefs and practices, ranging from completely detached to ultra-orthodox.¹⁰ This diversity is all the

⁶ Commission on British Muslims and Islamophobia, *Islamophobia – A challenge for us all*, London: Runnymede Trust, 1997.

⁷ In an interview for this study with Sir Iqbal Sacranie, the first Secretary-General of the MCB, he stated that this was certainly the belief in the first two terms of New Labour, but was lost in its third term in government.

⁸ Office for National Statistics, *Focus on Religion*, London: HMSO, 2004.

⁹ Office for National Statistics, *What does the Census tell us about religion in 2011?* London: HMSO, 2013.

¹⁰ Briefing found in the FaithWise archive – and included as Appendix 1. The briefing does not include some minorities in the British Muslim community – eg, Ahmadis and Ismailis. Muslim umbrella organisations like the MCB, and Muslim communities generally, exclude these groups from their fold on theological grounds. However, the author sees them very much as Muslims, and important literature produced by them has been included in this study. For the purposes of this study, anyone or group that defines them/itself as Muslim is accepted as Muslim. For more material on British Muslim diversity, see: I. Bowen, *Medina in Birmingham, Najaf in Brent – Inside British Islam*, London: Hurst Publishers, 2014.

wider due to ethnic, class, geographic, age, gender and other differences.¹¹ There is no suggestion, therefore, that New Labour would have impacted uniformly across this diversity in British Muslim communities. However, so far as ‘organised religions’ go, there is a sense of ‘the British Muslim community’, both internal (within the community), and external (outside the community) – even if the boundaries of this community are very blurred; in reality this is only a fraction of the total Muslim population in Britain; and it is ‘a community of communities’. This sense of a community is held together as much by a commonality of specific needs (eg, halal meat) and experiences (eg, Islamophobia) as felt by British Muslims, as regularly articulated by multiple British Muslim civil society organisations and actors, as projections from outside the community, whether that is to target the community for benevolent or malicious reasons, from whichever quarter.¹² It is in this sense that we approach this study of the impact of New Labour on British Muslim integration – as felt by the Muslim-conscious part of the wider Muslim community and as articulated by its leading exponents. However, it is equally recognised here, that even within this context of common or shared policy demands and projections, it may not always be appropriate to treat this group, even the group-conscious part of it, as one homogenous community, and sometimes its group identity may be less relevant, and indeed, strategically side-stepped by Muslims themselves and allowed to be subsumed under other categories, eg, race or gender, as we shall see in Chapter 6. The phrases ‘British Muslims’, ‘the British Muslim community’ and ‘British Muslim communities’, are therefore, to be carefully deployed in this thesis depending on context – to reflect Muslim uniformities, diversities and shared features with other categories as appropriate.

It was mentioned at the start of this chapter that in expressing an interest in and funding the study of the integration of Muslims in British society, the Nohoudh Trust had not provided any particular definition of integration. However, it may be useful to provide a working definition here and a very brief overview of the literature on and around the term. One shorthand definition of integration is that it ‘is the process by which immigrants [or

¹¹ For perhaps the most elaborate and best exposition on the heterogeneity of British Muslims, see: K. H. Ansari, *The Infidel Within: Muslims in Britain since 1800*, London: Hurst Publishers, 2018.

¹² Note that the external attribution of Muslims as a group for policy purposes possibly started with the Honeyford Affair. Ansari suggests that it became a relevant and separate category for policy purposes when Muslims started campaigning for their specific needs, starting with things like halal meat – see: K. H. Ansari, *ibid.*

other minorities] become accepted into society, both as individuals and as groups'.¹³ A more pluralist definition of integration is provided by the EU: 'Integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States'.¹⁴ Between these two definitions, on reviewing the literature in the Anglosphere, Parekh suggested that there were five models of integration – all with their own strengths and weaknesses: the proceduralist model (culturally neutral state), the assimilationist model (state as custodian of culture), the bifurcationist model (civic/public assimilation, but not in private life matters), the pluralist model (acceptance of group diversity in state's political culture) and the millet model (the state as a union of communities).¹⁵ More recently, undertaking a similar exercise, Modood concluded that there are essentially four models of integration: assimilation (one-way integration of minority into majority), civic integration (individual integration into public institutions and life), cosmopolitanism (recognition of social reality of groups but individual choice not to restricted by such recognition) and multiculturalism (recognition of strong attachment to one or more groups).¹⁶ Others have included interculturalism as a separate model¹⁷ – but Modood argues that this is just a variation of multiculturalism.¹⁸ According to Modood, whilst the divergences and nuances between all these different models can be illustrated by how they relate to the core principles in Western political philosophy and liberal democracies: liberty, equality and fraternity, they may all exclude an adequate account of religion and religious identity.¹⁹

Both Parekh and Modood, in developing their typologies, take a more political approach to integration than approaches more inclined to address the sociological or social policy features of integration. Whilst both have addressed the basic barriers to integration for

¹³ R. Penninx, *Integration – The Role of Communities, Institutions and the State*, Brussels: Migration Policy Institute, 2003.

¹⁴ The Common Basic Principles for Immigrant Integration Policy in the EU – as adopted by the Justice and Home Affairs Council on November 2004 and forming the foundations of EU initiatives in the field.

¹⁵ B. Parekh, *Integrating Minorities*, in T. Blackstone et al (eds.), *Race Relations in Britain: A Developing Agenda*, London and New York: Routledge, 1998 – compare with the five models suggested in T. Modood, *Introduction – The Politics of Multiculturalism in the New Europe*, in T. Modood and P. Werbner (eds.), *The Politics of Multiculturalism in the New Europe*, London: Zed Books, 1997.

¹⁶ T. Modood, *Post-Immigration 'Difference' & Integration*, London: British Academy Policy Centre, 2012.

¹⁷ T. Cante, *Interculturalism – The New Era of Cohesion and Diversity*, New York: Palgrave Macmillan, 2012. See also: M. James, *Interculturalism – Theory and Practice*, London: Baring Foundation, 2008; *Interculturalism – Social Policy and Grassroots*, London: Baring Foundation, 2009.

¹⁸ N. Meer et al (eds.), *Multiculturalism and Interculturalism – Debating the Dividing Lines*, Edinburgh: Edinburgh University Press, 2016.

¹⁹ T. Modood, *Post-Immigration 'Difference' and Integration*, op. cit., p.25; and *Multiculturalism – A Civic Idea*, Cambridge: Polity, 2007.

migrant communities and sectoral integration, whether in terms of social, occupational and residential integration, their focus is the incompleteness of integration without the macro-symbolic level – that is, integration in terms of national citizenship and identity. Starting out from them, the thrust of the approach in this thesis is also a political one. However, the thesis is not completely bereft or devoid of sociological or social policy content concerning the British Muslim integration experience – in that it narrates a story, using underused and new sources, of how British Muslims engaged with the development of areas of public policy critical to them and how this engagement and the resulting policies impacted their integration into British society. That said, it should be made clear here that this study is not designed to be able to provide a disaggregation of different layers of Muslim integration into its various dimensions (eg, social, cultural, political, economic, geographical, etc.) – but only an assessment of political integration as measured through the variables of liberty, equality and fraternity. The working definition of integration adopted for this study then is that it is the processes and practices by which Muslims and the wider population mutually recognise, accept and accommodate each other's differences with reference to respect for each other's rights; parity of treatment, opportunities and outcomes in life as equal citizens; and the quality of relationship that is produced between them as a result. There is more elaboration on the definition, conceptions and dimensions of integration at the start of Chapter 6. Perhaps some other terms also need further defining – for example, 'policy initiatives and provisions', 'British Muslim engagement' and 'the integration impact on British Muslim communities'. These particular terms are further defined in the context of conceptual and theoretical frameworks and tools in the next section, and other terms are defined as they arise in the rest of this thesis.

Conceptual, theoretical and analytical frameworks

The aim and objectives of this study lend its core and subsidiary research questions. The core question is, therefore: what was the impact of New Labour on British Muslim integration? The study seeks to answer this main question through three subsidiary research questions. First, what were the key policy initiatives and provisions introduced during the New Labour years in government of particular (or potentially particular) significance to British Muslims? The second, how did British Muslims engage with the

development of these initiatives – how did they influence them, responded to them or shape/reshape these initiatives, ie, what was the nature and quality of their argument and engagement? And thirdly, what has been the impact of these initiatives, and the engagement around them, on the integration of Muslims in British society? The answer to each question will be pursued through a specific conceptual, theoretical and/or analytical framework as elaborated in this section.

Key policy initiatives

New Labour came into power with a promise of a very extensive and heavy policy, legislative and delivery agenda, particularly for modernising Britain – its institutions and how they delivered public engagement, decision-making and public services – and achieving social justice.²⁰ That agenda became heavier with momentous unforeseen domestic and international events – not least the disturbances in some northern cities in England and the atrocities of 11 September in the US in 2001.²¹ These two events in particular ensured that Muslims would remain pronounced in New Labour's policy agenda for the rest of its time in office. The result was many initiatives and provisions that were of particular (or potentially particular) significance to British Muslims. It is not possible to cover all these initiatives and provisions in this study and there is a need to be selective to keep the study manageable. To select and critically trace and assess the genesis, development and substance of the most appropriate initiatives and provisions for the purposes of this study, there is a need first to construct an appropriate conceptual framework.

O'Toole et al state that the available literature suggests that New Labour's initiatives significantly of interest to and/or effecting Muslims were broadly introduced in 'three domains of public policy ... equality and diversity; faith sector engagement; and security and counter-terrorism'.²² It could be argued, however, that whilst the domains of 'equality

²⁰ A. Giddens, *The Rise and Fall of New Labour*, *New Statesman*, 17 May 2010.

²¹ The 'northern cities disturbances' refer to a wave of unrest and disorder, mostly involving Muslim youth, in the Spring of 2001 – see: J. Denham, *Building Cohesive Communities: Report of the Ministerial Group on Public Order and Community Cohesion*, London: Home Office, 2001. For an extensive examination of the atrocities of 11 September in the US in 2001, see: *The 9/11 Commission, Final Report of the National Commission on Terrorist Attacks Upon the United States*, Washington DC: US Government Printing Office, 2004.

²² T. O'Toole et al, *Taking Part – Muslim Participation in Contemporary Governance*, Centre for the Study of Ethnicity and Citizenship, University of Bristol, January 2013.

and diversity’ and ‘security and counter-terrorism’, were more clearly marked out in New Labour’s policy agenda, what O’Toole et al mark out and identify as ‘faith sector engagement’, or variously as faith sector governance, faith-based welfare and urban/regeneration policies, and faith engagement for welfare and service delivery and community cohesion, was not a policy domain in itself, but was either covered under other policy domains or a means of delivering initiatives in various policy areas under New Labour’s wider ‘third way’ strategy and modernisation programme.²³

In terms of equality, this was always central to the Labour Party’s concerns, though, as Lister and others have pointed out, New Labour undertook something of a side-shift as well as a step change in terms of its thinking on equality – from a concern with equality through redistribution of income and wealth, at the core of its thinking on the welfare state, to a focus on equality through social inclusion and equality of opportunity, together with an emphasis on social obligations rather than just social rights.²⁴ However, equality of opportunity for all was at the heart of New Labour’s wider social justice agenda, which was itself a key part of the overall New Labour policy agenda, even if it was to be funded through its new emphasis on market economics and not just higher tax.²⁵ For some, however, this shift represented a departure from a more radical conception of equality, one that took account of the structural sources of social capacities and skills, and hence the structural sources of social disadvantage and inequality, and focused on fairness of distribution rather than just fairness of procedures. This radical conception of equality informed much of the critical and radical class, gender and race theories for change. Muslims were perhaps not centre-stage in this wider, more liberal social justice agenda, and the conception of equality it pursued, at the start of the New Labour years in government, but they were certainly not excluded from it after the northern cities disturbances – and in partaking in it for politically pragmatic reasons, they certainly did not confine themselves narrowly to the liberal conception of equality, or at least not in aspiration. This thesis will recount how, whilst starting out in New Labour’s more liberal conception of equality and aspiring to get to the first base of formal equality of treatment

²³ On the ‘third way strategy’, see A. Giddens, *The Third Way*, Cambridge: Polity, 1998. For brief references to policy areas and initiatives beyond equality and security, see footnote 25 below.

²⁴ R. Lister, *From Equality to Social Inclusion: New Labour and the Welfare State*, *Critical Social Policy*, Vol.55, 1998, pp.215-25 – cf. R. Levitas, *The Inclusive Society? Social Exclusion and New Labour*, Basingstoke: Palgrave Macmillan, 2005.

²⁵ A. Giddens, *The Third Way*, op. cit.

or fairness of procedures, British Muslims then also took a more teleological and salami approach towards achieving more substantive, radical and pluralist conceptions of equality – substantive or radical in terms of a focus on equality of opportunities and equality of outcomes, or fairness of distribution, through tools such as the public sector equality duty and various non-legal equality tools (eg, PSA and procurement targets); and pluralist in terms of giving greater content to such equality tools as indirect discrimination and reasonable accommodation.²⁶ This study starts out within a liberal conception of equality, because that is how New Labour framed it and this thesis is a study of the Muslim experience within that framing – clearly, however, it is not confined to that conception and is much informed by more radical and pluralist conceptions of equality, as will be apparent from its discussions on tools such as the public sector equality duty, a host of non-legal equality tools and provisions on indirect discrimination and reasonable accommodation.

With regards to security and counter-terrorism, the approach was initially more of an inheritance and continuation of the previous Conservative government. The domain was treated as part of the broader crime agenda – where the approach was to be tough on crime but also its causes. Thus, whilst in New Labour’s first term in office, conflict resolution efforts intensified in Northern Ireland, it also saw through the Terrorism Act 2000, an outcome of the Lloyd Review, set up in 1995 to consider the future need for specific counter-terrorism legislation in the UK, and reporting in 1996. Subsequent to the atrocities of 11 September 2001 in the US, however, and particularly after the London bombings on 7 July 2005, the security and counter-terrorism element of New Labour’s policy agenda received great attention and there was a flurry of government initiatives and provisions that particularly impacted British Muslims – to the extent that it was widely commented that the security agenda was the only prism of engagement between New Labour and British Muslim communities.²⁷ This research, therefore, focuses on only

²⁶ For a fuller discussion on liberal, radical and alternative conceptions of equality, see: N. Jewson and D. Mason, The theory and practice of equal opportunities policies: liberal and radical approaches, *The Sociological Review*, May 1986, pp.307-334. For a more detailed discussion on fairness of procedures as compared to fairness of distribution of rewards, see: J. Edwards, What purpose does equality of opportunity serve? *Journal of Ethnic and Migration Studies*, Vol.17(1), 1990, pp.19-35. Note that other language used for this discussion, as here and elsewhere in this thesis, includes formal equality compared to substantive equality and equality of treatment compared to equality of opportunities and equality of outcomes.

²⁷ T. O’Toole et al, *Governing through Prevent? Regulation and Contested Practice in State-Muslim Engagement*, *Sociology*, Vol.50(1), 2016, pp.160-177.

the initiatives and provisions that fall under the two policy domains of equality and security.

In terms of constructing a conceptual framework to select and assess the most appropriate initiatives and provisions for the purposes of this study, however, there is a need to add at least one more dimension to the framework. The point of departure for this study is a focus on the legal provisions introduced by New Labour in the policy domains of equality and security. However, this study will also select and assess an equal number of non-legal measures introduced by New Labour in the same two policy domains. This aspect of the framework has been included for several reasons. First, in dealing with a wide range of initiatives, as in this case, it helps to typologise as much as possible in order to see through the range more clearly rather than get lost in them. Second, by typologizing in this way it helps to locate clusters in their particular context, understand the distinctiveness of each provision or measure and sharpen our focus and analysis of them. Third, by sub-dividing them into legal and non-legal provisions and measures, it helps to see the role, limitations and unexpected implications of law as a policy lever as compared to the other levers available to government. And fourth, this helps to see the relations between the different levers and what might come under them, so that, going forward, in dealing with such complex challenges as promoting integration whilst countering radicalisation and terrorism, there is a suitably nuanced response, not just in terms of the right mix and timing between different domains of legal provisions, also between such provisions and an array of non-legal measures. This will be particularly helpful as we reflect on this research for our learning for the future in the concluding chapter of this thesis.

The conceptual framework employed in this study for discussing the key policy initiatives and provisions is, therefore, relatively simple. This simplicity does raise its own problems: where the initiatives and provisions to be considered are limited to just two policy domains, there are important initiatives and provisions in other policy domains, that British Muslims may have been intensely engaged with, and that may have had an important impact on British Muslim integration, that are not covered well in this research;²⁸ in other cases, some initiatives may have been forcibly and artificially placed

²⁸ Examples in education and health include the funding of Muslim schools and using the month of Ramadan to address health issues in Muslim communities; in local government and urban regeneration, the introduction of the neighbourhood renewal fund for 88 of the most deprived areas in the country – many of

into these two domains that they sit very uneasy where they have been placed; and in yet other cases, the demarcations for equality and security or legal and non-legal may be so broad that there may be overlap between them, such that an initiative may be placed in more than one category. In both the later cases, this obviously makes analysis and drawing conclusions from such analysis more difficult. However, the simplicity does have the merit of keeping this research manageable – thus overriding at least some of these concerns. Using this simple framework then, and the criteria of significance, profile and/or impact, a range of policy initiatives have been identified for this study – these are listed in the last section of this chapter.

British Muslim engagement

It has already been mentioned how, certainly by the end of New Labour's time in government, it was often argued that the Government had effectively securitised the state's engagement with British Muslims, instrumentalising it singularly for the purpose of disciplining and domesticating Muslims as part of its counter-terrorism work.²⁹ O'Toole et al contend that New Labour's engagement with British Muslims is not reducible in this way, that this is only part of the story, and that the engagement between New Labour and Muslim communities actually varied greatly. They argue that there was different 'logics' – or norms and practices – of engagement involved in different policy domains; where there were overlaps in policy domains this resulted in tensions between the logics of engagement involved; and that even within a given policy domain there were differences in how the engagement was conceived in and implemented by the different parts and departments of Whitehall and how it was delivered by different statutory authorities and agencies on the ground.³⁰ This study provides an opportunity to test these conflicting claims on how New Labour engaged with British Muslim communities.

them heavily populated by Muslims; in terms of treasury and financial products, changes in legislation to facilitate Shariah compliant financial products; and with regards to international development, its de-linking from trade and focus on countries with significant, large or mainly Muslim populations.

²⁹ In addition to the footnotes above referencing O'Toole et al, see also D. McGhee, *The End of Multiculturalism? – Terrorism, Integration and Human Rights*, Maidenhead: Open University Press, 2008; P. Thomas, *Failed and Friendless – The UK's Preventing Violent Extremism Programme*, *British Journal of Politics and International Relations*, Vol. 12(3), 2010, pp.442-58; Y. Birt, *Governing Muslims after 9/11*, in S. Sayyid and A. Vakil (eds.), *Thinking Through Islamophobia – Symposium Papers*, Centre for Ethnicity and Racism Studies, University of Leeds, 2008; *Promoting Virulent Envy? The RUSI Journal*, Vol.154(4), 2009, pp.52-58; J. Cesari, *The Securitisation of Islam in Europe*, Brussels: Centre for European Policy Studies, 2009.

³⁰ T. O'Toole et al, *Taking Part – Muslim Participation in Contemporary Governance*, op. cit.

In considering how New Labour engaged with British Muslim communities, the starting point in this research is a conceptual and theoretical framework developed by Dinham and Lowndes. Dinham and Lowndes develop a table, adapted from original research and thinking undertaken for the Home Office, which suggests a continuum of faith actors and roles that the government may engage in the faith sector generally, but also in any particular faith community.³¹ The continuum starts with ‘faith communities’ or ‘faith community’ in a very general sense, seeing value in this as a shorthand for identifying and engaging a group of individual citizens who share (or are perceived to share) certain religious and/or cultural beliefs, values and practices sufficient to bind them into a shared sense of belonging together, even if this is in some ways simplistic homogenising and unhelpful othering. Next on the continuum are faith organisations, including places of worship, religious and cultural organisations, issue-based organisations and federations of such organisations, which may for some faith communities be the most obvious vehicles for encouraging and directing active/participatory citizenship for many of their members. The third significant point on the continuum is occupied by faith networks, a means of converting ‘spiritual capital’, found in faith communities in the form of identity and bonding, moral values and vision, and volunteering for the greater good, into ‘religious capital’, mobilising faith-based citizens for practical contributions to the local and national life.³² Next on the continuum are faith leaders, the gateways to faith communities, focal points in faith organisations and spokespeople for their organisations and communities in faith networks – exchanging information and ideas, arguing and agreeing positions and priorities, and making alliances and doing deals in all of these arenas and at different levels. And the final point on the continuum is given to faith representatives, a position attained by faith leaders or their delegates when they sit around the government’s or its subsidiaries’ consultation or advisory table which impacts on policy-making and delivery, or when they sit at the decision-making table itself, on behalf of their community or communities.

How New Labour engaged with British Muslim communities, however, is still only one half of the story. O’Toole et al stress that in any engagement between government and a

³¹ A. Dinham and V. Lowndes, Religion, Resources and Representation – Three Narratives of Faith Engagement in British Urban Governance, *Urban Affairs Review*, Vol.43(6), 2008, pp.817-845.

³² See V. Lowndes and R. Chapman, Faith, Hope and Clarity – Developing a Model of Faith Group Involvement in Civil Renewal, in T. Brannan et al (eds.), *Re-energising Citizenship – Strategies for Civil Renewal*, Basingstoke: Palgrave, 2006.

faith community it is important to remember that faith participants have agency too, and that government engagement with faith communities is not always a top-down model.³³ Similarly, Dinham and Lowndes, through narratives from three different standpoints (the policy makers, local stakeholders and faith actors), illustrate how each stakeholder in the engagement embodies and expresses a very distinctive reasoning for the engagement – from access to communities to access to resources to a desire to influence change.³⁴ For the purpose of this study then, Dinham and Lowndes’ conceptual and theoretical framework is extended and mirrored with an additional continuum of government actors and roles that British Muslims may have engaged with, and their motivations and rationales for doing so. This extended continuum includes political party officials, politicians (at various levels, eg, cabinet, ministerial, parliamentary and local government levels), civil servants and public officials – including in non-departmental public bodies (NDPBs) and quangos, various consultation and advisory fora established by the government and its organs, and advisors at different levels across this continuum. The motivations and rationales for British Muslim engagement with this continuum could include at least the following: First, the aspirations and achievements of individual Muslims who rose to senior positions in national politics and the Civil Service, including to ministerial positions and the Senior Civil Service as Advisors to Cabinet Ministers. These Muslims had the opportunity to engage Government on their own terms, on issues of interest to them, if they chose to. Second, the activism of Muslim campaigning and lobbying organisations demanding engagement on the recognition of their distinctness and disadvantages, and on their rights, equality and acceptance on the basis of that distinctness – be this through a religion question in the Census, state funding of Muslim faith schools or anti-discrimination and equality legislation on grounds of religion and belief. Third, government initiated engagement with faith communities, and Muslim communities as a part of this, as part of its third way strategy to mobilise the resources of civil society in pursuit of public services delivery, citizen wellbeing and community cohesion. Fourth, government initiated engagement specifically with Muslim communities on the ground that there is a specific problem in the Muslim community – eg, radicalisation, extremism and terrorism. Finally, government or Muslim community initiated engagement around a benefit that might emanate from Muslim communities or

³³ T. O’Toole et al, *Taking Part – Muslim Participation in Contemporary Governance*, op. cit.; T. O’Toole et al, *Governing through Prevent? Regulation and Contested Practice in State-Muslim Engagement*, op. cit.

³⁴ A. Dinham and V. Lowndes, *Religion, Resources and Representation*, op. cit.

the Muslim world – eg, trade from the Muslim world that might pass through the City of London.

How Muslims were engaged by and how they engaged with the Government, of course, also had an important bearing on their integration into British society. This research, therefore, follows the details of Muslim engagement with each of the policy initiatives selected through the legal and non-legal equality and security framework discussed above – and it does this through the extended Dinham and Lowndes framework as described in this section. It is hoped that by doing this we can build up a better picture of exactly how New Labour and Muslim communities engaged with each other and how this impacted on the integration of Muslims in British society over and above the policy initiatives on their own.

Integration impact on British Muslim communities

The starting point in this research for the conceptual or theoretical framework for considering New Labour's integration impact on British Muslim communities is Modood's conclusion that any integration approach should respond to the core principles in Western political philosophy and liberal democracies of liberty, equality and fraternity.³⁵ Appended to the frameworks on key policy initiatives and British Muslim engagement, this framework then allows a consideration of the policy initiatives and the engagement around them, either individually or in groups, vis-à-vis their integration impact on British Muslims on grounds of each of the three core principles of liberty, equality and fraternity. A graphic representation of this framework, alongside the frameworks on key policy initiatives and British Muslim engagement would thus be as follows:

³⁵ T. Modood, Post-Immigration 'Difference' and Integration, op. cit., p.33.

Key Policy Initiatives		British Muslim Engagement		Integration Impact on British Muslims		
		Government-led	Muslim-led	Liberty	Equality	Fraternity
Equality – Legal	Initiative 1					
	Initiative 2					
	Initiative 3					
	Initiative 4					
	Initiative 5					
Equality – Non-Legal	Initiative 1					
	Initiative 2					
	Initiative 3					
	Initiative 4					
	Initiative 5					
Security – Legal	Initiative 1					
	Initiative 2					
	Initiative 3					
	Initiative 4					
	Initiative 5					
Security – Non-Legal	Initiative 1					
	Initiative 2					
	Initiative 3					
	Initiative 4					
	Initiative 5					

In taking this framework forward, however, it should finally be stated in this section how the terms liberty, equality and fraternity are defined for the purposes of this study. Liberty, here, is defined as the free enjoyment of basic human rights – within agreed and judicially developed human rights standards. Of central importance in this context is the Art.9 right to the freedom of thought, conscience and religion, but more widely it is also the free enjoyment of the other civil and political rights, as well as the economic, social and cultural rights, included in the ECHR and other international human rights instruments. Such rights may be enjoyed individually or in groups – for example the right to freedom of religion. This entails the acceptance of other worldviews, values and ways of life, and by implication cultural diversity in society. These freedoms (or provisions of liberty, or ‘liberties’) and the multicultural framework in which they are to be enjoyed should be formally provided in human rights law and practically guaranteed by constitutional safeguards, culture and practice. Equality, in this context, means not to be treated differently in any way on grounds of difference – particularly on grounds of religion or belief (equality of treatment), except where this is genuinely required or necessary to promote equal opportunities for all (equality of opportunity), or it is generally agreed that parity in outcome between certain groups is desirable for society – eg, a more representative Parliament (equality of outcome). Equality is particularly important in terms of socio-economic integration – for example, housing, health, education,

employment and criminal justice.³⁶ Where there is pronounced sectoral inequality in these spheres, for the purposes of integration, it is not enough for the state and the public sector to simply guarantee equality of treatment, but it must also undertake proactive measures to promote equality of opportunities towards greater equality in those sectors. This notion of equality has typically been guaranteed by non-discrimination and equality law, and in more progressive times by encouraging or requiring awareness and non-legal mainstreaming measures.

Both the Commission on Multi-Ethnic Britain and the Quebec Consultation Commission agreed, however, that just the formal and legal guarantees of rights and equality were not sufficient for deeper integration, but what was further required for that was an identification by and with the state and society at a deeper emotional, subjective and symbolic level.³⁷ For the purposes of this study, we have labelled this as fraternity, but it has frequently also been called solidarity and civic unity.³⁸ It requires that the state and society recognises, accepts and celebrates members of minority communities not just as individuals but as distinct groups, and that in return minority individuals and groups feel a sense of belonging, allegiance and loyalty to the state and society – giving rise to hyphenated identifications as the norm, eg, British Muslims. This cannot be achieved by law, but relies heavily on narratives by the state and other important actors in society, including the media and cultural icons and celebrities. In contexts of increasing diversity through globalisation, migration and mass communications, these narratives play a critical role in building the conditions required for ‘new conceptions of solidarity. Whereas liberty and equality may be guaranteed by the ‘Constitution of the country’, fraternity can only be guaranteed by the ‘constitution of society’.³⁹ The purpose of this final element of the framework then is to help assess how New Labour’s legal and non-

³⁶ See: T. Choudhury, *Monitoring Minority Protection in the EU: The Situation of Muslims in the UK*, Budapest: Open Society Institute, 2002; A. Heath and S. Cheung, *Unequal Chances – Ethnic Minorities in Western Labour Markets*, Oxford: Oxford University Press, 2007.

³⁷ Commission on Multi-Ethnic Britain (CMEB), *The Future of Multi-Ethnic Britain: Report of the Commission on Multi-Ethnic Britain*, London: Runnymede Trust, 2000; G. Bouchard and C. Taylor, *Building the future: A time for reconciliation*, Quebec: Consultation Commission on Accommodation Practices Related to Cultural Differences, 2008.

³⁸ B. Parekh, *Integrating Minorities*, op. cit.; T. Modood, *Post-Immigration ‘Difference’ and Integration*, op. cit.; D. Hartman and J. Gerteis, *Dealing with Diversity – Mapping Multiculturalism in Sociological Terms*, *Sociological Theory*, Vol.23(2), 2005, pp.218-40.

³⁹ On this point about the ‘Constitution of the country’ and the ‘constitution of society’ see: M. Aziz, *The Origins, History and Development of Multiculturalism in the UK*, in M. Farr (ed.), *Debating Multiculturalism 1*, London: The Dialogue Society, 2012.

legal equality and security initiatives, and the British Muslim engagement in their introduction, impacted the process by which British Muslims and the wider population related to each other in terms of their differences, with particular reference to their respective rights and liberties, claims to equality and equal opportunity and need to feel a sense of belonging to a national identity and fraternity that represented them – and the outcome of that process.

Research methodology and methodological issues

Having established the key research questions, defined key terms and elaborated the conceptual and analytical frameworks through which these questions are to be pursued, it is appropriate now to turn to the methodological approach to be employed in this study and the issues arising thereof. This study is multifaceted and multidisciplinary – in addition to law, it also ventures into modern history, politics, sociology, public policy and other related disciplines. Thus, whilst the outlines of the conceptual and analytical frameworks to be utilised for this study are clear, the design for the methods to be pursued in their utilisation are more flexible⁴⁰ – for two reasons: first, the aim is to steer a reflective or critical realist course between more thoroughgoing positivist or relativist approaches; and second, the different parts, sections and aspects of the research require different and combined methodological undertakings. There are many benefits to adopting a pragmatic multiple/mixed methods approach evolving out of the critical realism school:⁴¹ First, they help ensure that the methodology serves the research, rather than allow the research to be constrained by the methodology. Second, they allow a more comprehensive examination of a more complex enquiry reflecting real world issues. Thirdly, they provide the flexibility to get into the nooks and crannies of the enquiry using different methods where they are more appropriate. Fourthly, they help to ‘seek elaboration, enhancement, illustration and clarification of the results from one method with the results from another method’.⁴² And finally, they provide for triangulation, reduction of inappropriate

⁴⁰ Flexible or qualitative, as defined by C. Robson, *Real World Research*, Oxford: Blackwell, 2002, p.4 and M. Hammersley, *The Relevance of Qualitative Research*, *Oxford Review of Education*, Vol.26, 2000, pp.393-405 – ie, as opposed to more fixed designs. See also N. Denzin, *The Research Act – A Theoretical Introduction to Sociological Methods*, New Jersey: Prentice-Hall, 1988, on ‘using multiple and different sources’.

⁴¹ For more background on pragmatic multiple/mixed methods approaches evolving out of the critical realism school and their benefits, see: C. Robson, *Real World Research*, op. cit., pp.41-4 and 370-3.

⁴² J. Creswell and V. Clark, *Designing and Conducting Mixed Methods Research*, Los Angeles: Sage Publications, 2011, p.62.

certainties, and validity and certainty – concepts to be addressed later in this section. There are three parts to the methodology for this research: an investigation of the open source literature in areas of interest to this study; an examination of some archives holding some of the key material for this study; and some semi-structured interviews. This section will elaborate on each of these parts in turn and address the principal methodological issues they raise.

Open source literature

The open source literature studied for this research falls primarily into three categories – academic literature (books, journal articles, essays, etc.), parliamentary and policy-related literature (parliamentary proceedings, policy reports and briefings, formal consultations and responses, etc.) and media literature (briefings, press releases and reportage). The key challenge with regards to the open source literature was the asymmetry in the material across the key concerns in this study: research design; background on New Labour’s policy domains of equality and security; the development and delivery of the initiatives in these domains, and the British Muslim engagement with them; and integration theories, models and measurement tools, and New Labour’s impact on British Muslim integration. There is considerable academic literature on research design, and though the design adopted in this research is multifaceted and intricate, it is not unusual for a complex study in the real world. This section, therefore, only describes the research design and undertakings in this study, and references some of the key works for the approach adopted. In the interest of time and space, it does not attempt to review the literature pertaining to this approach or rehearse the well-known discussions therein, except where this is particularly pertinent – as, for example, with regards to subjectivity, reflexivity, quality and credibility, as addressed below.

There is also significant literature on the development of New Labour’s policy thinking and work, starting with the Commission on Social Justice, set up by the then incoming new leader of the Labour Party, the Rt Hon John Smith MP, in December 1992. Established on the fiftieth anniversary of the Beveridge Report and billed as a ‘new Beveridge’, its aim was to provide a comprehensive assessment and re-appraisal of the social condition of the nation, but one that would be radical. The final report of the

Commission retained a focus on addressing Beveridge's five great evils – want, idleness, ignorance, disease and squalor, but also added discrimination. The Commission defined the concept and ideal of social justice or fairness as four rights: the equal worth of all citizens before the law; the right of citizens to be able to meet basic income needs, shelter and other necessities; the right to opportunities and life chances; and, whilst not all inequalities are unjust, the right to see unjust inequalities reduced, and where possible eliminated. The final report of the Commission argued that there was a symbiotic relationship between addressing these rights and achieving economic success, and emphasised this in the four propositions into which its policy suggestions were organised: that the welfare state must be a springboard for economic opportunity; that education and training needed investment to achieve this and were insufficient at the time; that there was a need for a better balance between employment, education and family responsibilities to give better choices to people; and that social institutions from the family to local government needed improvement. The influence of the Commission found its way into New Labour in government in three significant ways: first, having been convened through the IPPR, the Commission's work informed the key think tank influencing New Labour's policy agenda in government from 1997; second, on concluding the Commission, its secretary, David Miliband, became Head of Policy for the Rt Hon Tony Blair MP, the new leader of the Labour Party; and third, at the General Election of 1997, the Commission's deputy chair, Patricia Hewitt, was elected as a Member of Parliament for the Labour Party and quickly rose to the Cabinet, where she championed a social justice agenda. Despite equalities (including religious) representation on the Commission and commissioning an issues paper on racial equality, however, the Commission's final report in 1994 only addressed equal opportunities in the broadest terms – and it was not until the Macpherson Inquiry into the death of a black teenager, Stephen Lawrence, in 1998, that, in policy terms, New Labour's racial equality work started in earnest.⁴³

⁴³ The Commission on Social Justice was chaired by Sir (later Lord) Gordon Borrie. However, the two people who were central to its success were Patricia Hewitt, deputy director at the IPPR at the time and deputy chair of the Commission, and David Miliband, research fellow at the IPPR and secretary of the Commission. The Commission produced two interim reports, *The Justice Gap and Social Justice in a Changing World*, 13 issues papers (including: T. Modood, *Racial Equality – Colour, Culture and Justice*, January 1994), and a final report, *Social Justice – Strategies for National Renewal*, London: IPPR/Vintage, 1994. For an account on and appraisal of the Commission, see: C. Haddon, *Making Policy in Opposition – the Commission on Social Justice 1992-94*, London: Institute for Government, December 2012.

The death of Stephen Lawrence and the Macpherson Inquiry provided renewed impetus for policy focus on racial equality in mainland Britain. The media, policy and academic literature on this is too large to review here and beyond the scope of this study – however, it is possible to make three observations about this literature.⁴⁴ Firstly, it sparked developments on other grounds of discrimination such that when the public sector equality duty on race was introduced through the Race Relations (Amendment) Act 2000, or soon thereafter, there was already notable policy and academic literature on how it should and could also be extended to disability and gender.⁴⁵ It also sparked discussions and developments in new strands of equality in anticipation of developing EU directives on the grounds of religion or belief, sexual orientation and age⁴⁶ – leading to and aided by a plethora of discussion and policy papers from government itself on the various strands and aspects of equalities.⁴⁷ Secondly, this extensive new literature on the different equality grounds encouraged a new phase of cross-strand thinking, and academic and policy literature on the principles of equality across the strands, the most important tools

⁴⁴ Key to this literature, however, is the material that fed into and came out of the Macpherson Inquiry, and separately but alongside it, the Commission on the Future of Multi-Ethnic Britain, and the two groundbreaking reports they produced: W. Macpherson, *The Stephen Lawrence Inquiry Report*, London: Home Office, 1999; B. Parekh, *Report of the Commission on the Future of Multi-Ethnic Britain*, London: Runnymede Trust, 2000.

⁴⁵ See, for example: Disability Rights Task Force, *From Exclusion to Inclusion*, London: Department for Education and Employment, December 1999; DWP, *Towards Inclusion – Civil Rights for Disabled People*, London: DWP, 2001; C. O’Cinneide, *A New Generation of Equality Legislation? – Positive Duties and Disability Rights*, in A. Lawson and C. Gooding (eds.), *Disability Rights in Europe*, Oxford: Hart, 2005, pp.219-48; L. Sayce and N. O’Brien, *The Future of Equality and Human Rights in Britain – Opportunities and Risks for Disabled People*, *Disability and Society*, Vol.19(6), 2004, pp.663-67; C. O’Cinneide, *Positive Duties and Gender Equality*, *International Journal of Discrimination and the Law*, 2005, pp.91-119; *Taking Equal Opportunities Seriously – The Extension of Positive Duties to Promote Equality*, London: EDF/EOC, December 2003.

⁴⁶ See: Commission on British Muslims and Islamophobia (CBMI), *Race Relations (Amendment) Act – What Should Race Equality Schemes and Policies Include?* London: CBMI, 2002; G. Valentine and I. McDonald, *Understanding Prejudice – Attitudes Towards Minorities*, London: Stonewall, November 2004; Age Concern, *Dignity, Security, Opportunity*, London: Age Concern, 2001; S. Spencer and S. Fredman, *Age Equality Comes of Age – Delivering Change for Older People*, London: IPPR, 2003; (eds.), *Age as an Equality Issue*, Oxford: Hart, 2003.

⁴⁷ Home Office, *Race Equality in Public Services – Driving up standards and accounting for progress*, London: Home Office, 2000; *Better Government for Older People, All Our Futures*, London: HMSO, 2000; P. Weller et al, *Religious Discrimination in England and Wales*, London: Home Office, 2001; B. Hepple and T. Choudhury, *Tackling Religious Discrimination – Practical implications for policy-makers and legislators*, London: Home Office, February 2001; DTI, *Civil Partnership – A Framework for the Legal Recognition of Same-Sex Couples*, London: DTI, 2003; HM Government, *Equality & Diversity – Making it Happen*, London: DTI, 2003; *Fairness For All: A New Commission for Equality and Human Rights – Government Response to the Consultation*, London: DTI, 2004; Home Office, *Improving Opportunity, Strengthening Society – The Government’s Strategy to increase Race Equality and Community Cohesion*, London: Home Office, 2005; DCLG, *Discrimination Law Review – A Framework for Fairness, Proposals for a Single Equality Bill for Great Britain*, London: DCLG, 2007.

for achieving such equality and possible enforcement mechanisms.⁴⁸ Thirdly, this literature was collectively thin on religious discrimination – often religion was subsumed under race, where it was given an inadequate account. In Sandra Fredman’s seminal work on discrimination law, for example, each of the established and emerging equalities strands is treated separately, except religion, which is subsumed under race, noting and quoting Tariq Modood on how the race strand had itself failed to provide an adequate account of religious discrimination, especially as experienced by Muslims.⁴⁹ Modood was certainly one of the earliest academics to focus on this gap in the equalities landscape – and close behind him were other academics and activists with an understanding of the British Muslim experience.⁵⁰ However, other than some formative material on experiencing religious discrimination and how it should and could be addressed,⁵¹ open source literature in this area remained relatively thin until around the mid-2000s, when this began to change – initially with more literature on experiences of religious discrimination;⁵² then guidance literature on addressing that discrimination, particularly in the workplace;⁵³ then academic and policy literature suggesting a wider set of equality

⁴⁸ B. Hepple et al, *Equality – A New Framework*, Report of the Independent Review of the Enforcement of UK Anti-Discrimination Legislation, Oxford: Hart Publishing, 2000; S. Fredman, *Discrimination Law*, Oxford: OUP, 2002; *Future of Equality in Britain*, Manchester: EOC, 2002; C. O’Cinneide, *Single Equality Bodies – Lessons from Aboard*, Manchester: EOC, November 2002; C. McCradden, *The New Concept of Equality*, ERA Forum, Vol.4(3), September 2003, pp.9-29; J. McCrudden (ed.), *Anti-Discrimination Law*, Aldershot: Ashgate, 2004; J. Squires, *Equality and New Labour? Soundings – A Journal of Politics and Culture*, Vol.27, 2004, pp.74-85.

⁴⁹ S. Fredman, *Discrimination Law*, op. cit., p.54.

⁵⁰ See, in particular: T. Modood, *Not Easy Being British – Colour, Culture and Citizenship*, Stoke on Trent: Trentham Books, 1992; see also some of the work of the An-Nisa Society – cited later in this study.

⁵¹ For example, Inner Cities Religious Council, *Challenging Religious Discrimination – A Guide for Faith Communities and their Advisers*, London: Department of the Environment, Transport and the Regions, 1996; Commission on British Muslims and Islamophobia, *Islamophobia – A challenge for us all*, London: Runnymede Trust, 1997; P. Edge and G. Harvey (eds.), *Law and Religion in Contemporary Societies – Communities, Individualism and the State*, Aldershot: Ashgate, 2000; P. Weller et al, *Religious Discrimination in England and Wales*, op. cit.; T. Choudhury, *Monitoring Minority Protection in the EU*, op. cit.; B. Hepple and T. Choudhury, *Tackling Religious Discrimination*, op. cit.; R. O’Dair and A. Lewis (eds.), *Law and Religion*, Oxford: Oxford University Press, 2001; N. Ghanea (ed.), *The Challenge of Religious Discrimination at the Dawn of the New Millennium*, Leiden and Boston: Martinus Nijhoff Publishers, 2003; Chartered Institute of Personnel and Development, *Religious Discrimination – An Introduction to the Law, The Change Agenda*, London: CIPD, 2003.

⁵² J. Beckford et al, *Review of the Evidence Base on Faith Communities*, London: Office of the Deputy Prime Minister, 2006; M. Aziz et al, *Perceptions of Discrimination and Islamophobia: Voices from Members of Muslim Communities in the European Union*, Vienna: European Monitoring Centre on Racism and Xenophobia, 2006; C. Field, *Islamophobia in Contemporary Britain – The Evidence of the Opinion Polls, 1988-2006*, *Islam and Christian-Muslim Relations*, Vol.18(4), 2007, pp.447-77; P. Weller, *Religious Discrimination in Britain – A Review of Research Evidence 2000-10*, London: EHRC, 2011.

⁵³ *Dialog*, *The Employment Equality Regulations 2003 – Religion, Belief and Sexual Orientation, A Guide for Local Government Employers*, London: Employers Organisation, 2004; ACAS, *Religion or Belief and the Workplace – A Guide for Employers and Employees*, London: ACAS, 2005; Employers Forum on Belief, *Religious Diversity in the Workplace*, London: EFB, 2009.

legal and non-legal tools to address religious discrimination,⁵⁴ and then, eventually, accounts of the development of religion or belief as a separate equality strand.⁵⁵ This study takes account of this open source literature available on the development of the religion and belief equality strand and its legal and non-legal provisions and measures – however, it also supplements this literature with archive and interview materials, as described below, to provide, in chapters 2 and 3, a fuller and richer account of the backstory to the development of the policy context, and the individual initiatives within that context, in the religion or belief equality domain. Towards that end, this study also uses other open source material that is more specific to the equality legal and non-legal initiatives, and as such, this material is employed as appropriate in the relevant chapters.

In terms of New Labour’s policy thinking and work in the security and counter-terrorism domain, it is clear from the open source literature that the initial focus was very much in relation to Northern Ireland.⁵⁶ This was a continuation of work based on much previous experience of legislation in this area, and many reviews and reports,⁵⁷ and in many ways this continued after the terrorist atrocities of 11 September 2001 (9/11) in the United States. However, in many other ways the approach and thinking also changed, with the change not just in terms of a new perpetrator but also in terms of the perceived nature of this ‘new terrorism’ – distinguished from the old by its greater religious rather than just political underpinnings; its international network rather than hierarchical structures and recruitment drives; and its attitudes towards indiscriminate violence against civilians. The terrorist atrocities of 9/11 fuelled an already growing new plethora of both policy and academic literature which chimed in different ways with the dominant neo-conservative ideological and political mood at the time in Washington DC, particularly in relation to

⁵⁴ T. Modood, *Multicultural Politics – Racism, Ethnicity and Muslims in Britain*, Edinburgh: Edinburgh University Press, 2005; T. Choudhury, *Muslims in the UK – Policies for Engaged Citizens*. Budapest: Open Society Institute, 2005; L. Vickers, *Religious Freedom, Religious Discrimination at the Workplace*, Oxford: Hart Publishing, 2008; L. Woodhead and R. Catto *Religion or Belief – Identifying Issues and Priorities*, Manchester: Equality and Human Rights Commission, 2009.

⁵⁵ M. Malik (ed.) *Patterns of Prejudice – Anti-Muslim Prejudice, Past and Present*, Abingdon: Routledge, 2010; T. Modood, *Still Not Easy Being British – Struggles for a Multicultural Citizenship*, Stoke on Trent: Trentham Books, 2010; N. Meer, *Citizenship, Identity and the Politics of Multiculturalism – The Rise of Muslim Consciousness*, Basingstoke: Palgrave MacMillan, 2010; W. Ahmad and Z. Sardar (eds.), *Muslims in Britain – Making Social and Political Space*, Abingdon: Routledge, 2012.

⁵⁶ See, for example: A. Lloyd, *Inquiry into Legislation Against Terrorism*, London: TSO, October 1996; HMG, *Legislation Against Terrorism – A Consultation Paper*, London: TSO, December 1998; J. Dingley (ed.), *Combating Terrorism in Northern Ireland*, London: Routledge, 2009.

⁵⁷ Note, in particular, the Diplock, Gardiner, Jellicoe, Colville and Lloyd reports, which are cited and discussed at the start of chapter 4.

the world order it was seeking and its approach to international geo-politics and relations to deliver that order. Whilst academics like Giles Kepel, Marc Sageman and Quintan Wiktorowicz became required reading in the corridors of power in Washington DC, and by extension in Whitehall,⁵⁸ two sources had particular influence in terms of the developments in the security and counter-terrorism policy domain here in the UK – the RAND Corporation and the International Centre for the Study of Radicalisation, Kings College, London.⁵⁹ Of course, this distinction between old and new terrorism has since been heavily contested, critiqued and criticised,⁶⁰ as has the ideological ecosystem around it – resulting in a very vigorous debate in this area in academia led by the critical terrorism studies movement.⁶¹ Though the movement and what it had to say was largely ignored by New Labour, this study takes account of both streams of this open source literature on terrorism and counter-terrorism just described, alongside valuable archive and interview materials as described below, to inform its discussions on the background to the development of New Labour’s policy context, and the individual initiatives within that context, with regards to the counter-terrorism domain – as to be found at the start of chapters 4 and 5. As with the equality chapters, this study also benefits from other open source material that is more specific to the counter-terrorism legal and non-legal initiatives, and as such, this material is suitably engaged in the appropriate chapters.

⁵⁸ Note in particular: G. Kepel, *Jihad – The Trail of Political Islam*, London: IB Tauris, 2002; M. Sageman, *Understanding Terror Networks*, Philadelphia: University of Pennsylvania Press, April 2004; and Q. Wiktorowicz, *Radical Islam Rising – Muslim Extremism in the West*, Lanham: Rowman and Littlefield, 2005. Note also: E. Bakker, *Jihadi Terrorists in Europe: their characteristics and the circumstances in which they joined the jihad*, The Hague: Institute of International Relations Clingendael, December 2006; B. Hoffmann, *Inside Terrorism*, New York: Columbia University Press, 2006; G. Weimann, *Terror on the Internet – the new arena and the new challenges*, Washington: US Institute for Peace, 2006; J. Burke, *Al-Qaeda*, London: Penguin Books, 2007.

⁵⁹ Note in particular: I. Lesser et al, *Countering the New Terrorism*, Washington DC: RAND, 1999; and the writings of Peter Neumann, Director of the International Centre for the Study of Radicalisation, culminating in – P. Neumann, *Old and New Terrorism*, Cambridge: Polity, 2009. Note how these two sources in particular influenced the thinking at this time in Whitehall, as manifested in a string of CONTEST and Prevent strategies, guidance and toolkits that followed – that are cited and discussed in chapter 5.

⁶⁰ See, for example, D. Tucker, *What’s New About the New Terrorism and How Dangerous Is It? Terrorism and Political Violence*, Vol.13(3), 2001, pp.1-14; N. Chomsky, *Pirates and Emperors – Old and New*, Cambridge MA: South End Press, 2003; I. Duyvesteyn, *How New is the New Terrorism? Studies in Conflict and Terrorism*, Vol.27(5), 2004, pp.439-54.

⁶¹ See: L. Weinberg et al, *The Challenges of Conceptualizing Terrorism, Terrorism and Political Violence*, Vol.16(4), 2004, pp.777-94; J. Gunning, *A Case for Critical Terrorism Studies? Government and Opposition*, Vol.42(3), 2007, pp.363-93; R. Jackson, *Constructing Enemies – ‘Islamic Terrorism’ in Political and Academic Discourse*, *Government and Opposition*, Vol. 42(3), 2007, pp.394-426; R. Jackson et al (eds.), *Critical Terrorism Studies: A New Research Agenda*, London: Routledge, 2009.

At the start of this study in 2012, the asymmetry in the open source material available on the development and delivery of the individual equality and security legal and non-legal initiatives to be covered in this study, and the Muslim engagement in this development and delivery, was clear. In terms of equality legal and non-legal provisions and measures, there was still no systematic presentation of their historical development and the Muslim engagement on and contribution towards them. As already noted above, some literature had started appearing about the mid-2000s providing accounts of the development of religion or belief as a separate equality strand. This was a mix of guides,⁶² accounts on developments on specific issues – sometimes also collected into edited volumes,⁶³ and textbook style presentations on the current law.⁶⁴ Some of this literature came close to a systematic presentation of the historical development of some of the equality legal and non-legal provisions and measures – however, even they were somewhat incomplete from a Muslim community perspective (often, for example, including the civil law measures but not the criminal law measures that Muslims campaigned so hard for; or including the institutional provisions but not other non-legal provisions), and none of it provided an adequate account of the Muslim engagement on and contribution towards them.⁶⁵ One research project stood out as providing a good account of the Muslim engagement on and contribution towards the equality initiatives – however, this also did not cover the equality legal and non-legal provisions and measures in a systematic and thorough way, as the focus was more on the engagement than on the initiatives.⁶⁶ On the security legal and non-legal provisions and measures, however, amidst a much larger volume of literature (too large to sensibly reference here), there were more systematic presentations on their historical and policy development – perhaps more on the legal than non-legal side.⁶⁷

⁶² See additionally: *Muslims in the Workplace – A Good Practice Guide for Employers and Employees*, London: Muslim Council of Britain, 2005; *Guidance on Equality of ‘Religion or Belief’*, London: British Humanist Association, 2009; A. Donald, *Religion or Belief – Equality and Human Rights in England and Wales*, London: EHRC, 2012; *Applying Equality Law in Practice – Guidance for Catholics and Catholic Organisations*, London: Catholic Bishops Conference in England and Wales, 2014; *Employer’s Guide to Judaism*, London: Board of Deputies of British Jews, 2015.

⁶³ See, for example, N. Spencer (ed.), *Religion and Law*, London: Theos, 2012.

⁶⁴ See, for example, R. Sandberg, *Law and Religion*, Cambridge: Cambridge University Press, 2011; N. Bamforth et al, *Discrimination Law – Theory and Context*, London: Sweet and Maxwell, 2008.

⁶⁵ See, for example: N. Addison, *Religious Discrimination and Hatred Law*, Abingdon: Routledge, 2007; B. Hepple, *Equality – The New Legal Framework*, Oxford: Hart Publishing, 2011; P. Weller et al, *Religion or Belief, Discrimination and Equality – Britain in Global Contexts*, London: Bloomsbury, 2013, chap.4.

⁶⁶ T. O’Toole et al, *Taking Part – Muslim Participation in Contemporary Governance*, op. cit.

⁶⁷ On the legal side, see for example: C. Walker, *Blackstone’s Guide to the Anti-Terrorism Legislation*, Oxford: Oxford University Press, 2009; and *Terrorism and the Law*, Oxford: Oxford University Press, 2011. See also the annual reports of the Independent Reviewer of Terrorism Legislation and the CONTEST strategies during the New Labour years – which are extensively cited in chapter 5. See additionally: HM Government, *Review of Counter-Terrorism and Security Powers – Review Findings and*

However, the balance of the material was quite the opposite in terms of the Muslim engagement in that development: there was little open source material in terms of how Muslims engaged with the legal or Pursue provisions,⁶⁸ but more on the non-legal or Prevent measures.⁶⁹ Much of the open source literature on the individual initiatives is by definition very specific. Also, most of the material on the Muslim engagement with the initiatives has come from the archival work and interviews undertaken for this study. Therefore, most of this literature is introduced and engaged in subsequent chapters.

There is again a very large and rich open source literature on integration, and even, specifically on Muslim integration. A good starting point on this literature, as indicated above, are the helpful summaries of this material by Parekh and Modood. Modood's work in this area is of particular relevance to this research, and together with significant related open and closed source material, is explored in some detail at the start of chapter 6. He makes a novel contribution on the inadequacies of the current integration theories and models with regards to religions and religious identity,⁷⁰ and his seminal work on understanding integration as a two or 'multi' way process of negotiating needs and responses vis-à-vis liberty, equality and fraternity provides a helpful way of typologising the specific integration literature on Muslims in Britain, Europe and the West generally – as attempted at the start of chapter 6. Modood's framework for understanding integration through its three limbs of liberty, equality and fraternity, also helps to make sense of the available open source literature on the integration measurement tools that are currently being used or have been used in the recent past. It makes it clear that whilst most of the European tools measure only one or other of these three different elements of integration and at a fairly superficial level, at least two of the British tools, for migrant and settled

Recommendations, London: The Stationery Office, January 2011; Review of Counter-Terrorism and Security Powers – A Report by Lord Macdonald of River Glaven QC, London: The Stationery Office, January 2011. On the non-legal side, note the Prevent strategies during the New Labour years – again extensively cited in chapter 5, but in particular: Communities and Local Government Select Committee, Preventing Violent Extremism – Sixth Report of Session 2009-10, London: House of Commons, 2010.

⁶⁸ The best material in this respect were the annual reports of the Independent Reviewer of Terrorism Legislation, whose terms require them to engage with all those affected in any way by the legislation, and who in turn reflect the engagement of those effected with the legislation in their reports. These are too many to reference here, but have been referenced in the relevant chapters as appropriate.

⁶⁹ See, for example, Communities and Local Government Select Committee, Preventing Violent Extremism, *op. cit.*; T. O'Toole et al, Taking Part – Muslim Participation in Contemporary Governance, *op. cit.*; P. Thomas, Responding to the Threat of Violent Extremism – Failing to Prevent, London: Bloomsbury, 2012.

⁷⁰ See, in particular: T. Modood, Multiculturalism – A Civic Idea, Cambridge: Polity, 2007; Post-Immigration 'Difference' and Integration, London: British Academy Policy Centre, 2012.

minority communities respectively, have a more comprehensive and deeper approach across the different limbs of integration.⁷¹ In the first tool, however, groups are not disaggregated by religion, and in both cases, the domains and indicators are at such a high level that they do not and cannot sufficiently provide answers to how the development and delivery of specific initiatives in the equality and security policy domains, at different times and engaged in different dynamics, may have impacted the integration of British Muslims. The open source literature on the impact of the key equality and security initiatives on British Muslim integration, therefore, sits mostly outside those measurement projects, and is varied. On the whole, the literature is scarce if at all available on the equality initiatives, but not insignificant on the counter-terrorism initiatives.⁷² For the purposes of this study then, to gauge the integration impact of the equality and security legal and non-legal initiatives included in this research on British Muslims, we must rely again on archive material, but particularly on the semi-structured interviews as described below. There is, however, considerable open source survey and polling material, coming out of and from beyond the measurement tools referred to above, that provide a good overall picture of the status of British Muslim integration. The findings from this research then, as presented in the second part of chapter 6, make way for a comparison with the open source survey and polling material in chapter 7, before moving onto the conclusionary parts of this thesis.

This brief overview and review of the open source literature in the areas of interest to this study has highlighted the asymmetry in the publicly available literature in those areas. It summons four further points. First considerably more open source material is actually used in this final write-up of this thesis than has been mentioned here – much of the material used is very specific to discussions in the specific chapters, and has therefore

⁷¹ See: A. Ager and A. Strang, *Indicators of Integration – Final Report*, London: TSO, 2004; *Understanding Integration – A Conceptual Framework*, *Journal of Refugee Studies*, Vol.21(2), 2008, pp.166-91; EHRC, *Measurement Framework for Equality and Human Rights*, London: EHRC, October 2017 – initially a suite of tools, recently brought together in a single tool.

⁷² D. McGhee, *The End of Multiculturalism? – Terrorism, Integration and Human Rights*, Maidenhead: Open University Press, 2008; M. McGovern, *Countering Terror or Counterproductive? Comparing Irish and British Muslim Experiences of Counter-Insurgency Law and Policy*, Lancashire: Edge Hill University, 2010; M. Hickman et al, ‘Suspect Communities’? *Counter-Terrorism Policy, the Press, and the Impact on Irish and Muslim Communities in Britain*, Institute for the Study of European Transformations, London Metropolitan University, July 2011; T. Choudhury and H. Fenwick, *The Impact of Counter-Terrorism Measures on Muslims in Britain*, London: Equality and Human Rights Commission, 2011; T. O’Toole et al, *Taking Part – Muslim Participation in Contemporary Governance*, op. cit.; C. Husband and Y. Alam, *Social Cohesion and Counter-Terrorism – A Policy Contradiction?* Bristol: The Policy Press, 2011. S Warsi, *The Enemy Within – A Tale of Muslim Britain*, London: Allen Lane, 2017.

been introduced and discussed in those chapters. Second, though the emphasis here has been on academic and policy literature, the thesis has also benefited from significant media literature (briefings, press releases and reportage) – particularly where there are gaps not filled by other sources. However, drawing on material from across the open source categories of literature did not remove all the unevenness in the material available, and even together, still provided only one part of the picture – and hence the designing in into the methodology the archival and semi-structured interviews work discussed below. Finally, there was no systematic way of combing through this open source material – instead, a snowballing approach was employed, starting with the key research questions and identifying and studying some key literature coming out of basic library searches and supervisor and peer recommendations, and then picking up on further references from there. Where there was significantly more material than digestible, the approach was to be selective (with the advice of academics and experts in the field) in the material considered, but to read until satisfied that the material had been covered sufficiently. Where there was a paucity of material, the approach was to study what could be found and to bear this in mind for the archives and semi-structured interviews work.

Archive materials

The second part of the methodology was an examination of several archives. The purpose of the archival work was twofold: first, to verify or clarify wherever possible information in the public arena that did not seem accurate, but second, and perhaps more importantly, to fill gaps in what is currently available in the open source literature, and perhaps also to bring through information not presently known to be missing from the public space. The primary archive for this study was my own – which includes materials from when I was an activist in the Muslim community holding senior roles in organisations like the Association of Muslim Lawyers (1998-2001), the Forum Against Islamophobia & Racism (2000-2) and the British Muslim Research Centre (2002-4); an activist in wider civil society holding governance and management positions in UK Race & Europe Network (2003-10), Equality & Diversity Forum (2002-7 and 2010-4), Liberty (2004-8) and European Network Against Racism (2004-10); a Commissioner at the Commission for Racial Equality (2004-7), the Equal Opportunities Commission (2005-7) and the TUC's Commission on Vulnerable Employment (2006-8); sitting on a plethora of

consultative, advisory, steering and review bodies in Whitehall and the wider statutory sector; and finally, for eight years, as Director of FaithWise, an advisor to government, initially at the DTI on equality and diversity issues, and then at the Home Office and DCLG, advising senior civil servants and cabinet ministers on race, religion and community cohesion/integration. The hard and soft archives I have from this work over a 20-year period is very large and rich. It is also an archive that until now has been largely untapped.

Beyond my own archive, this research has also benefitted from two other extensive archives. First, that of the Muslim Council of Britain (MCB). The MCB is the final outcome of the UK Action Committee on Islamic Affairs (UKACIA), a body set up during the Rushdie Affair to co-ordinate the British Muslim voice on the Satanic Verses and other issues arising for them at the time. It was primarily through the UKACIA that about fifty community organisations and associations came together in April 1994 to form the National Interim Committee for Muslim Unity (NICMU), which was tasked to conduct a consultation exercise within the community on the need for an umbrella body and to seek views on its structure and priorities. The result was the MCB, launched in November 1997 (just months after New Labour took office), as a Muslim umbrella body for national, regional and local organisations, mosques and schools, specialist organisations and institutions from different ethnic and denominational backgrounds within the British Muslim community.⁷³ Its stated purpose was to improve state and public literacy of Islam and Muslims and to ‘work for the eradication of disadvantages and forms of discrimination faced by Muslims’.⁷⁴ Its committees structured to reflect as much as possible the different departments in Whitehall, it soon became representative of over 500 affiliates, the go-to Muslim organisation for New Labour and was claimed to be the ‘best known and most powerful’ of the many organisations founded at the turn of the century to represent Britain’s Muslims.⁷⁵ The MCB archive is by far the richest of any Muslim organisation in terms of the areas of interest to this research. The second archive, perhaps the only one richer than the MCB’s, is that of Sir Iqbal Sacranie OBE. Sir Iqbal

⁷³ See: <http://www.mcb.org.uk/about-mcb/faqs/>.

⁷⁴ The Constitution of the Muslim Council of Britain – <http://archive.mcb.org.uk/constitutions/>.

⁷⁵ P. Morey and A. Yaqin, *Framing Muslims*, Cambridge MA: Harvard University Press, 2011, p.82. Note, however, that from 2006 the MCB started to fall from favour with the government, who instead sought other Muslim partners, more amenable to its views.

See: <http://www.economist.com/news/britain/21625867-muslim-group-falls-favour-no-one-talk>.

was not only intimately involved with all the Muslim organisations above, but also many preceding them, for example, the Union of Muslim Organisations (UMO). In tandem, he also sat on many civil society, statutory sector and Government bodies. His archive is particularly rich because, for every organisation and fora he has been involved in, he has meticulously filed all the papers and materials that came his way.

There are many challenges with this type of archival work. My own archive was in many different places – both in terms of hard and soft filing – and needed some organising. The MCB archive available to this research was restricted to paper files, as was Sir Iqbal’s – accessing their computer files felt excessively intrusive and was not sought, except for what is already available on the MCB website. The MCB filing system was also far less systematically organised and more difficult to navigate than Sir Iqbal’s. Finding some higher-level order and making sense between the three archives was more intuitive than scientific and took some time to fathom, and keeping this order and sense in mind throughout the research was difficult. In similar research, Taylor suggests the possibility of employing various well developed and productive ways of examining archive documents such as those available to this research – in particular, discourse analysis, semiotics and documentary analysis.⁷⁶ She defines these methods respectively as analysing language-in-context (the context being the undisclosed power struggles that give rise to certain usages,⁷⁷ or ‘texts and talk in action’,⁷⁸ as opposed to just cognition); analysing the words as ‘signs’ of structures encoded in the text itself; and understanding what the document is, ie, who wrote it, for what purpose, and what impact it sought and achieved. Whilst Macdonald and Tipton argue that there are limits to the understanding that can be developed using only the texts, and Punch and Jupp separately argue that meanings vary according to the circumstances of their use,⁷⁹ unfortunately, for the purposes of this research much greater reliance had had to be placed on the third method alone – ie, documentary analysis. Even whilst only focusing on formal responses on the key policy provisions, related correspondence and notes for or from relevant meetings,

⁷⁶ J. Taylor, *After Secularism – Inner-City Governance and the New Religious Discourse*, London: School of Oriental and African Studies, 2002.

⁷⁷ For more on this, see V. Jupp, *Documents and Critical Research*, in R. Sapsford and V. Jupp (eds.), *Data Collection and Analysis*, London: Sage & Open University, 1996, p.305.

⁷⁸ For more on this, see J. Potter, *Representing Reality – Discourse, Rhetoric and Social Construction*, London: Sage, 1996, p.15.

⁷⁹ K. Macdonald and C. Tipton, *Using Documents*, in N. Gilbert (ed.), *Researching Social Life*, London: Sage, 1993; K. Punch, *Introduction to Social Research – Quantitative and Qualitative Approaches*, London: Sage, 1998, p.231; V. Jupp, *op. cit.*

the archival material at hand was simply too large for thorough discourse analysis and semiotics. However, the discourse analysis method was not completely discarded. Context can be of two kinds – long term and immediate. In this study, ahead of each set of policy initiatives, great effort has been spent to understand the background context of those initiatives – and the archive material was examined in that long-term context even if not in the immediate context of each document. It is also argued that any loss here from a greater reliance on one method is mitigated by the multiple/mixed methods research approach taken in this study as a whole.

The main challenge in using archive material of this type, however, is confidentiality. Some of the material in my archive from my work as a senior advisor in government was straplined as confidential. Others in all three archives felt of a confidential nature. The use of such materials obviously raises certain ethical issues, particularly where documents have thus far been specifically restricted from the public domain. Various approaches have been used (eg, direct seeking of permission and alternative sources) to be able to use most of this material in this research. However, inevitably some of this material has been left undisclosed. In all cases the SOAS ethical code for researchers has been respected.⁸⁰

Semi-structured interviews

The final part of the research methodology involved some semi-structured interviews. These interviews were another attempt to fill gaps and bring out new information, but more importantly, they were the main instrument for making an assessment of the perceived impact of the initiatives, and the New Labour-British Muslim engagement around them, on the integration of Muslims in British society. Although some consider that the optimal sampling method in this form of research is random sampling, there are many situations where random sampling is not achievable or even the best option.⁸¹ For the purposes of this research, it was felt that a non-probability sample was the right one for a richer, deeper and more nuanced or ‘thicker’ set of findings. Towards this end, 15 semi-structured individual interviews (of between 1.5-2 hours) were undertaken with some of the key actors in Muslim communities at the time the initiatives were introduced

⁸⁰ See: <https://www.soas.ac.uk/researchoffice/ethics/>.

⁸¹ W. Vogt et al, *When to Use What Research Design*, New York: Guilford Press, 2012.

– many of them directly involved in championing or responding to the initiatives. The interviewees selected were a range of actors from both the national and local levels – from community activists, advisors and leaders to specialist campaigners and lobbyists to senior professionals working in relevant fields to engaged academics. Great care was taken to also ensure age, gender, ethnic, denominational and geographic diversity amongst the interviewees.⁸² The sampling thus took a purposive but also a quota and dimensional approach.⁸³ The interviews took place over a period of 2 years, with the last one in June 2017 – and again, in conformity with the SOAS ethical code for researchers and the five ethical concerns that apply to qualitative research: informed consent, no deception, debriefing, right to withdraw, and confidentiality.⁸⁴

Qualitative research methods are widely extolled in the social sciences disciplines, but perhaps some of their benefits are most eloquently captured in the following:

“We also conduct qualitative research because we need a complex, detailed understanding of the issue. This detail can only be established by talking directly with people, going to their homes or places of work, and allowing them to tell the stories unencumbered by what we expect to find or what we have read in the literature. We conduct qualitative research when we want to empower individuals to share their stories, hear their voices, and minimize the power relationships that often exist between a researcher and the participants in a study... We conduct qualitative research because we want to understand the contexts or settings in which participants in a study address a problem or issue... We use qualitative research to follow up quantitative research and help explain the mechanisms or linkages in causal theories or models. These theories provide a general picture of trends, associations, and relationships, but they do not tell us about why people responded as they did, the context in which they responded, and their deeper thoughts and behaviors that governed their responses”.⁸⁵

⁸² See Appendix 2 for more information on the interviewees.

⁸³ For more explanation on these approaches, see: C. Robson, *Real World Research*, op. cit., p.264-5.

⁸⁴ C. Willig, *Introducing Qualitative Research in Psychology – Adventures in Theory and Method*, Philadelphia PA: Open University Press, 2001.

⁸⁵ J. Creswell, *Qualitative Inquiry and Research Design: Choosing among Five Approaches*, Thousand Oaks: Sage Publications, 2007, p.4.

However, qualitative research methods also have their weaknesses despite their strengths. To address their primary weakness – the subjectivity in what is heard, selected and reflected in the research,⁸⁶ the approach here is to ensure analytical rigour through methodically collecting, streaming and analysing the data through the grid included above, setting the key legal and non-legal equality and security initiatives against British Muslim engagement with them and their perceived impact on the three key elements of British Muslim integration – liberty, equality and fraternity, thus effectively capturing and providing a very thorough analysis of all the data. Subjectivity may still be a particular concern with this research in light of my role as both a participant in ‘the action’ and a researcher on that action – particularly when the overall research design also places significant reliance on my personal intuition in working through the open source literature and the archive material, rather than a more methodical way of working through them. However, three points may be made in defence of this research in this regard. First, subjectivity is not altogether a liability in all cases – and research, however designed, always includes choices and interpretations, which are always subjective at some level.⁸⁷ Second, at every stage of this research great effort has been made to be very consciously reflexive – self-aware and introspectively critical in examining all possible biases using two opposing normative frames that may be said to be currently being used to study British Muslim communities: the neo-conservative frame, used by politicians, journalists and social commentators like Michael Gove, Melanie Phillips and Douglas Murry, which on the whole promotes ‘a victimhood of the majority and sees Muslims as ‘the perpetrators’, and what we might call the Foucauldian frame, used by academics like Arun Kundnani and Mary Hickman, which on the whole sees Muslims as ‘the victims’ and ‘the oppressed’.⁸⁸ Thus, in the end, I have perhaps been more objective in this thesis than a researcher not as invested in the action.⁸⁹ And third, the three parts to the methodology in this research provide a good system of checks and balance in the study as a whole.

Whatever research design one chooses, and how ever it is undertaken, ultimately it must stand up to scrutiny in terms of quality and credibility. Trochim suggests a four-part

⁸⁶ See: A. Bryman, *Social Research Methods*, Oxford: Oxford University Press, 2012, Ch.3 & 7.

⁸⁷ N. King and C. Horrocks, *Interviews in Qualitative Research*, Los Angeles: SAGE, 2010.

⁸⁸ For a critical reflection on these frames, see: T. O’Toole et al, *Governing Through Prevent? Regulation and Contested Practice in State-Muslim Engagement*, *Sociology*, Vol.50(1), February 2015, pp.160-177.

⁸⁹ M. Patton, *Qualitative Research and Evaluation Methods*, Thousand Oaks CA: Sage Publications, 2002, p.299; C. Willig, *op. cit.*, p.189; C. Ellis and M. Flaherty (eds.), *Investigating Subjectivity – Research on Lived Experience*, London: Sage, 1992.

criterion for judging the quality of qualitative research: credibility, transferability, dependability and confirmability.⁹⁰ The element of credibility is ensured by having the participants themselves evaluate the findings. This research sought to do this by seeking approval from the interviewees that their interview was captured adequately and accurately on the grid above. Then, as already mentioned, this research used a non-probability sample – and therefore, the results cannot be considered to be transferable. However, if (as according to Trochim) transferability in qualitative research is the equivalent to external validity in quantitative research, then that validity is provided by the mix and standing of the interviewees in this research – and their standing also addresses the dependability or reliability point. The final element of confirmability is addressed by evaluating the data for examples that appear to contradict the main findings from the diversity of the interviewees, highlighted by the checks and balance provided by the three-part methodology and are profiled in the active engagement in the process of reflexivity – and adjusting the conclusions accordingly. Patton also discusses enhancing the quality of qualitative research, but focussing on credibility.⁹¹ Patton lists three criteria for evaluating the credibility of qualitative research: employing rigorous methods, credibility of the researcher, and the philosophical belief in the utility of qualitative research. It is averred that this research fulfils all three of these criteria. But perhaps the strongest part of this research is its triangulation approach through the three parts of its methodology – the main basis of its quality and credibility.

The structure and contents of this thesis

This final section of this chapter provides an overview sketch of the structure and content of the rest of this study. The next four chapters (Chapters 2-5) are devoted to critically tracing and assessing the genesis, development and substance of the key New Labour legal and non-legal equality and security policy initiatives of particular significance to British Muslims and examining British Muslim engagement with them – how they influenced or responded to and thereby shaped or reshaped them. Each chapter will begin with a background section to situate the initiatives to be discussed in that chapter within the relevant historical developments and current context in the relevant policy domain or

⁹⁰ W. Trochim, *Research Methods: The Concise Knowledge Base*, Cincinnati, OH: Atomic Dog Pub., 2005.

⁹¹ M. Patton, *op. cit.*

part thereof; it will then proceed to a discussion of the individual initiatives and the British Muslim engagement with them; and will conclude with a section on the impact of that engagement on the initiatives. Selected on the basis of significance, profile and/or impact, the initiatives to be covered in each chapter are as below.

Chapter 2: The legal provisions to promote non-discrimination and equality. This chapter will consider the hate crimes, anti-discrimination and equality provisions. In particular, it will consider the provisions on aggravated offences in the Anti-Terrorism, Crime & Security Act 2001; incitement to hatred in the Racial and Religious Hatred Act 2006; discrimination in employment and training in the Employment Equality (Religion or Belief) Regulations 2003; discrimination in the delivery of goods, facilities and services in the Equality Act 2006; and the public-sector equality duty in the Equality Act 2010.

Chapter 3: The non-legal measures to promote non-discrimination and equality. This chapter will consider some of the non-legal measures sought (or might have been sought) for the ground of religion or belief. In particular, it will consider the idea of a faith communities unit in Government; a non-departmental public body (or a commission) for religion and belief; public sector agreement targets on grounds of religion or belief; work on public procurement on grounds of religion or belief; and a system of rewards and interventions for equalities work on grounds of religion or belief as advocated (or that might have been advocated) by British Muslim communities.

Chapter 4: The legal provisions to promote security and counter terrorism. This chapter will consider some of the key legal provisions introduced by New Labour to prevent terrorism and promote security. In particular, it will consider the widening of the definition of terrorism, the enhancing of police powers in relation to terrorism and the provisions on proscription in the Terrorism Act 2000; the provisions on indefinite detention and freezing of assets in the Anti-Terrorism, Crime & Security Act 2001; control orders in the Prevention of Terrorism Act 2005; pre-charge detention and incitement/glorification of terrorism in the Terrorism Act 2006; and fingerprints and DNA samples in the Counter-Terrorism Act 2008.

Chapter 5: The non-legal measures to promote security and counter terrorism. This chapter will consider the measures under Prevent. In particular, it will consider some of the community intelligence, research and communications initiatives – eg, the Joint Terrorism Analysis Centre (JTAC) and the Research, Information and Communications Unit (RICU); the community engagement and leadership initiatives – eg, Preventing Extremism Together (PET), the Mosques & Imams National Advisory Board (MINAB), the Muslim Women’s Advisory Group (MWAG) and the Young Muslims Advisory Group (YMAG); the theological initiatives – eg, the Muslim Faith Leadership Training Review, the Cambridge-Azhar Imam Training Programme and the Contextualising Islam in Britain (CIB) project; the educational, awareness and de-radicalisation initiatives – eg, the Islam & Citizenship Education (ICE), Young, Muslim & Citizen (YMC), Radical Middle Way (RMW) and Channel projects; the local work – eg, in developing local partners and projects; and the specific sites of radicalisation initiatives – eg, at universities, prisons and on the internet.

Having considered the key initiatives in their historical and policy contexts, and British Muslim engagement with them, in Chapter 6, the study then moves onto a discussion on integration – its different paradigms, theories and models currently identifiable with regards to historical, ethnic and other minorities in Western liberal democratic contexts, and their adequacy in accounting for religion and religious identities, particularly with regards to Islam and Muslims, specifically in relation to their claims to some core principles in Western political philosophy and liberal democracies, ie, liberty, equality and fraternity. This chapter also considers the tools currently available for measuring integration and their inadequacies for the purposes of this study. It concludes with a discussion on the findings from 16 semi-structured interviews on the perceived impact of the key New Labour legal and non-legal equality and security initiatives on British Muslim integration. The interviews were with relevant Muslim actors heavily involved in Muslim public life throughout the New Labour years.

The final and concluding chapter of this thesis reflects on the key missing elements and findings of this study. In particular, it highlights a dichotomy between the perception of Muslim leaders and polling data on the integration of Muslims in British society and offers some explanations for this. The chapter concludes with some thoughts on further

areas of work and new lines of enquiry in order to assist greater understanding and enhancing of British Muslim integration.

Chapter 2: The legal provisions to promote non-discrimination and equality

Introduction

This chapter will consist of several sections. First, it will provide some general background information on the development of the religion or belief non-discrimination and equality work in the context of wider equality work. Second, it will critically trace and assess the genesis, development and substance of the key New Labour criminal and civil law provisions to promote non-discrimination and equality on grounds of religion and belief. Alongside this, it will examine British Muslim engagement with the development of these provisions – how British Muslims influenced or responded to and thereby shaped or reshaped them. Selected on the basis of significance, profile and/or impact, the initiatives to be covered in this chapter include the provisions on: aggravated offences in the Anti-Terrorism, Crime & Security Act 2001; incitement to hatred in the Racial and Religious Hatred Act 2006; discrimination in employment and training in the Employment Equality (Religion or Belief) Regulations 2003; discrimination in the delivery of goods, facilities and services in the Equality Act 2006; and the public-sector equality duty in the Equality Act 2010. The chapter will conclude with a section on the impact of the British Muslim engagement on these initiatives and the equality agenda as a whole.

The Background

In the world of non-discrimination and equality in Britain, legal provisions on grounds of religion or belief are relative newcomers. The key advocates for this legislation have in the main been British Muslim communities. The seeds of the British Muslim campaign for such provisions go back to the aftermath of the publication of the Satanic Verses by Salman Rushdie.⁹² In the very high profiled case of *Choudhury*, the prosecution argued

⁹² For more on the Rushdie Affair and the catalysing effect it had on British Muslims, see: T. Modood, British Asian Muslims and the Rushdie Affair, *The Political Quarterly*, Vol.61, April 1990, pp.143-160. For more on the overall Muslim response to the Satanic Verses, see M. Ahsan and A. Kidwai (eds.), *Sacrilege versus Civility: Muslim Perspective on the Satanic Verses Affair*, Leicester, Islamic Foundation, 1993.

that Muslims in Britain should be given equal protection under the blasphemy laws as that for adherents of the Church of England. Though the case went to the Court of Appeal, the courts at each stage of judgement kept to a very narrow definition and application of the blasphemy laws – and held that the common law offences of blasphemy did not extend to Islam, or indeed any other faith other than Christianity.⁹³ However, the Rushdie Affair was followed by two separate streams of developments with longer term consequences for non-discrimination and equality provisions on grounds of religion or belief – one at the national level and the other at the European level. Both shifting the focus from protecting Islam to protecting Muslims.

The development at the national level was an ‘unprecedented’ opening and opportunity of engagement between the then Home Secretary, the Rt Hon John Patten MP, and a number of ‘influential British Muslims’.⁹⁴ One such influential British Muslim was Iqbal Sacranie, a Joint Convenor and Secretary of the UK Action Committee on Islamic Affairs (UKACIA). In its initial exchange with the Home Secretary, UKACIA – like most grassroots Muslim organisations at the time – pushed for parity of protection under the existing blasphemy laws. However, this soon changed, not just in terms of language, but also in terms of focus. By the time of the Second Review of the Race Relations Act 1976 in 1993, UKACIA was heading up a full-fledged British Muslim campaign, where the focus was on much more than a simple extension of the blasphemy laws – extending also to incitement to religious hatred and discrimination on grounds of religion, particularly in the areas of education and employment.⁹⁵ By far the most powerful articulation of this shift from blasphemy to discrimination at this time, however, was provided in a

⁹³ *R v Chief Metropolitan Stipendiary Magistrate, ex parte Choudhury* [1991] 1 QB 429; [1991] 1 All ER 313. The legal case for blasphemy laws was actually quite poorly argued by the prosecution – cf. S. Lee, *The Cost of Free Speech*, London: Faber & Faber, 1990; and A. Bhatia, House of Lords Select Committee on Religious Offences – Contribution 1 (unpublished), London: British Muslim Research Centre (BMRC) Files, 2003. Note also the persuasive case made for vilification legislation by T. Modood in ‘Muslims, Incitement to Hatred and the Law’ in J. Horton (ed.), *Liberalism, Multiculturalism and Toleration*, Basingstoke: Macmillan, 1993; and S. Poulter, *Ethnicity, Law and Human Rights*, Oxford: Oxford University Press, 1998. For a more general read on blasphemy in Britain, see R. Webster, *A Brief History of Blasphemy: Liberalism, Censorship and ‘The Satanic Verses’*, Southwold: Orwell Press, 1990.

⁹⁴ Phrases used by John Patten MP in his 4 July 1989 letter, as reproduced in UKACIA, *Muslims and the Law in Multi-Faith Britain – Need for Reform*, Memorandum submitted to the Home Secretary, London: UKACIA, 1993.

⁹⁵ The language and focus of the Muslim demand appears to have changed from blasphemy (offence against God) to vilification (of the religion and its people) to incitement of hatred (an offence against people). Note, for example, how this change occurs in the UKACIA publication cited above – shadowing the CRE Review submission to a new Home Secretary, the Rt Hon Michael Howard, QC, MP, the issue of blasphemy or ‘sacrilege’ is demoted to third place after discrimination in education and employment (pp.4-9).

submission by a consortium of Muslim organisations led by the An-Nisa Society. In cataloguing the failures of a race focus at the expense of religion, the submission focused almost entirely on religious discrimination with only one paragraph on incitement and one line on blasphemy.⁹⁶ The An-Nisa submission was a game-changer in how Muslims presented their concerns and demands to government.

The starting point at the European level was slightly different in that race and religion were not seen as such completely distinct categories from the beginning as they were in Britain.⁹⁷ This is evident in the two major inquiries into racism and xenophobia conducted by the European Parliament. The first, commissioned in 1984, into the rise of fascism and racism in Europe, concluded that xenophobia was rising in some member states with ‘alarming intensity’.⁹⁸ It also expressed concern about a lower intensive but more widespread xenophobia across Europe, noting that ‘It has a distressing effect on the immigrant communities which are daily subject to displays of distrust and hostility, to continuous discrimination which legislative measures have failed to prevent...These minorities have little confidence in the institutions on which they should be able to call to uphold their rights and to offer them protection’. The report recommended a wide range of measures which could be adopted to combat this trend, and concluded that measures taken at the national level should be supplemented by European-level action. One specific recommendation of the committee was ‘to define more broadly Community powers and responsibilities in the area of race relations by applying a teleological interpretation of the treaties...and, if necessary, by revision of the Treaties’. However, in the end, all that resulted was a Joint Declaration, signed by the Commission, Council and the European Parliament, in June 1986, that expressed ‘the need to ensure that all acts or forms of discrimination are prevented or curbed’ – but made no mention of binding legislation.⁹⁹

⁹⁶ The submission is reproduced in the UKACIA publication at pp.41-50.

⁹⁷ Note, for example, how the European Commission against Racism and Intolerance (ECRI) had from the start defined religion into its understanding of race in the European context – see, for example, its General Policy Recommendation N°1: Combating racism, xenophobia, antisemitism and intolerance, adopted on 4 Oct 1996.

⁹⁸ D. Evrigenis (rapporteur), Committee of Inquiry into the Rise of Fascism and Racism in Europe: Report on the findings of the inquiry, Luxembourg: European Parliament, 1985, at p.67.

⁹⁹ European Parliament, Council and Commission, Declaration against racism and xenophobia, Official Journal of the European Communities, C.158/1, 25 June 1986, pp.1-3. In retrospect, the Declaration turned out to be something of a false dawn in policy making and legal action on racial discrimination – the determination signified was soon lost amidst wrangling over the legal competence of the Community.

The second inquiry, commissioned in 1990, re-examined the issue of racism and xenophobia in greater depth. This produced the Ford Report, which again highlighted the need for action, given evidence of rising racism, particularly Islamophobia, a new form of racism against Europe's Muslims, and the electoral advances for the extreme right-wing.¹⁰⁰ The Ford Report produced a total of 77 recommendations, several focused on the contribution that European legislation could make to combating racism. However, the proposals were again not pursued, despite undeterred pressure from the European Parliament,¹⁰¹ dovetailed by an increasingly well-organised NGO lobby on racism through the creation, in 1991, of the Starting Line Group (SLG). The Commission again, as it had done in the aftermath of the Joint Declaration, stressed that it was powerless in the face of the opposition in the Council, and that, in its opinion, the Community lacked the necessary legal competence to intervene in this area. The Ford Report itself had acknowledged the difficulty of the Commission's position: 'the Commission has, in fact, been putting forward proposals and taking initiatives to combat racism and xenophobia ... [but these] initiatives are either subject to long delays in the Council of Ministers or they are watered down, if not completely abandoned, by the Commission on the grounds of political necessities, believing that unanimous approval will [otherwise] not be obtained'.¹⁰²

A new push for change, due to significant changes in the UK and European landscapes, started in the mid-90s that renewed the hope and campaign for better provisions on grounds of religion or belief. At the European level, there was a discernible shift in the approach of the Council of the European Union and a new readiness to consider substantive policy commitments at the EU level. The origins of this change in attitude lie in the 1994 decision at the Corfu European Council to establish a Consultative Commission on Racism and Xenophobia 'to formulate recommendations, geared to national and local circumstances, on co-operation between governments and the various social players to promote tolerance, understanding and harmony in relations with

¹⁰⁰ G. Ford (rapporteur), Report of the Committee of Inquiry on Racism and Xenophobia, Luxembourg: European Parliament, 1991.

¹⁰¹ Through, for example, an annual Parliamentary debate on racism, instituted to ensure ongoing attention to this issue and to stress the need for *legislative* action at the European level in order to add substance to the numerous declarations of good intent.

¹⁰² G. Ford, op. cit., p.99.

foreigners'.¹⁰³ The findings of the Kahn Commission (named after its chair, Jean Kahn) were unequivocal about the need to adopt binding legislation combating racial discrimination at the European level: 'The Community has already shown how effective it can be in combating discrimination on the basis of sex; it is appropriate that it should be given a similar mandate, and that it should adopt similar measures, to combating [sic] discrimination on grounds of race, religion or ethnic or national origin'.¹⁰⁴ The Commission also concluded that an essential prerequisite to effective action by the Community was the amendment of the Treaty to insert a specific reference to combating racial discrimination – and as such started working closely with the SLG to make this happen at the 1996 Intergovernmental Conference.¹⁰⁵

What is significant here is that both the Kahn Commission and the SLG proposals recognised and included religious discrimination along with racial discrimination,¹⁰⁶ and that by working together, they achieved their desired result of an anti-discrimination clause, which was agreed at the 1996 Intergovernmental Conference, and adopted in the Amsterdam Treaty signed in June 1997. However, in order to achieve this treaty amendment, significant compromises on the proposals of those campaigning for legislation on racial and religious discrimination had to be made. The result was the new Article 13: 'Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation'. Thus, whilst giving competency to the

¹⁰³ European Parliament, *European Union Anti-Discrimination Policy: From Equal Opportunities Between Women and Men to Combating Racism*, Directorate-General for Research, 1997 – the Commission that followed consisted of a representative from each member state; two MEPs – Glyn Ford (Socialist, UK) and Arie Oostlander (EPP, Netherlands); a representative from the Commission and an observer from the Council of Europe.

¹⁰⁴ European Council Consultative Commission on Racism and Xenophobia Final Report, Ref. 6906/1/95 Rev 1 Limite RAXEN 24, Brussels: General Secretariat of the Council of the European Union, 1995, at p.59.

¹⁰⁵ The SLG was based on an initiative from the Commission for Racial Equality, the Dutch National Bureau against Racism and the Churches Committee on Migrants in Europe, where a group of legal experts from across the Member States were organised to prepare a draft directive for the elimination of racial discrimination. Published in 1993, this quickly received the endorsement of more than 200 NGOs and the European Parliament, and was rapidly followed by a proposal for an amendment of the EU Treaty to allow it to enact the draft directive.

¹⁰⁶ The SLG had not included religious discrimination in its original work, thinking at that point that Art.235 would not support it – but, with a proposal to amend the Treaty itself, felt it necessary to include religion as racial discrimination alone would not address the whole problem in all member states, eg, Islamophobia in the UK.

European Union to act on issues of racial and religious discrimination, the Article fell short of the expectations of those campaigning for this competency in significant ways. First, it was not exclusively on the issue of racial and religious discrimination; joined with other grounds, it was forced down towards a lower common denominator. More importantly, however, it did not have direct effect, which meant that individuals in Member States could not rely on it in national courts until it was implemented in domestic law. In addition, the measures to be adopted under it required unanimity instead of a qualified majority. This made it much harder to get measures passed under this Article. It also meant that any measures passed would be a product of such compromise that they may bear little resemblance to what the campaigners had first envisaged.

The adoption of Article 13 was, nevertheless, a new beginning in the fight against racial and religious discrimination. At the end of the European Year against Racism, in December 1997, the EU Commissioner responsible for Social Affairs announced that the Commission would use Article 13 to present a new directive to fight racism and xenophobia before the summer of 1999. The SLG thus began working on a new proposed directive to be adopted under Article 13. The SLG proposal, 'The New Starting Line', was to remain exclusively on the issue of racial and religious discrimination, and was drafted to prohibit direct and indirect racial and religious discrimination in the workplace and in the provision of goods and services. It included sanctions for any such discrimination, as well as for incitement or pressure to discriminate on the grounds of race or religion by any individual or organisation – and placed an additional responsibility on educators and persons in mass media to combat such discrimination. However, as the work on the draft directive on racism and xenophobia developed it met with a lot of opposition from church groups on the inclusion of religious discrimination. Some of these concerns were met by ensuring that an exception to religious discrimination in the workplace was included. This was necessary in situations where the work, by its very nature, had to be carried out by someone of a particular faith, eg, a clergyman. The inclusion of this exception did not, however, allay all opposition. Initially, the SLG felt that despite this opposition it was necessary to retain race and religious discrimination in the same draft directive, but, unfortunately, the proposals eventually put forward by the European Commission split race and religion into two separate directives. Religious discrimination was included in a more general directive on discrimination in employment

and training; and the separate directive, dealing specifically with racial discrimination, contained no reference to religious discrimination at all.¹⁰⁷ Thus, efforts to enact substantive legislation dealing with religious discrimination had been somewhat thwarted at a time when the problem of Islamophobia was turning rife across Europe.¹⁰⁸ However, with Jorg Haider, from the far right, just elected into power in Austria, the two Commission proposals were quickly accepted by all sides and adopted as Directives in June 2000,¹⁰⁹ resulting in a new push for legislation against religious discrimination in all EU national contexts – albeit only in the area of employment and training.

At the national level, the General Elections of 1997 brought in a new Labour government. Whilst this new government had a landslide majority in the House of Commons, it was nevertheless aware that many of its MPs (including some of its senior cabinet ministers, eg, Jack Straw MP and Frank Dobson MP) came from constituencies with a significant Muslim population, where the Muslim vote was critical to winning those seats – and even if this was a very reductive analysis of the dynamics in these communities, the Muslim voice, its concerns and demands, was therefore not to be ignored. From very early on in government, therefore, New Labour struck a strategic relationship with the newly formed Muslim Council of Britain (MCB), modelled on the Board of Deputies of British Jews, and emerging as the most representative Muslim umbrella organisation in Britain.¹¹⁰ Whilst this in no way meant that British Muslims now had an open door to legislative changes at the domestic level, it did provide a level of access to politics not experienced by British Muslims before and more likely to bring those legislative changes if the Muslim leadership was able to employ this astutely. The leadership took some time learning to do this effectively, but did on the whole – eventually – manage to convert this

¹⁰⁷ See speech by Padraig Flynn, European Commissioner with responsibility for Employment and Social Affairs, Anti-Discrimination: the way forward, European Conference on Anti-Discrimination, Vienna, 4 December 1998.

¹⁰⁸ J. Niessen and I. Chopin (eds.), *The Development of Legal Instruments to Combat Racism in a Diverse Europe*, Leiden, Martinus Nijhoff Publishers, 2004.

¹⁰⁹ The EU Race Equality Directive (2000/43/EC) and the EU Employment Equality Directive (2000/78/EC). For a more extensive account of these EU directives and their impact, see: L. Dickens, *The Road is Long – Thirty Years of Equality Legislation in Britain*, *British Journal of Industrial Relations*, Vol.45(3), September 2007, pp.463-494.

¹¹⁰ For an insightful study of the MCB and its relations with the UK government, see: E. Braginskais, *The Muslim Council of Britain and its engagement with the British Establishment*, in T. Peace (ed.), *Muslims and Political Participation in Britain*, London: Routledge, 2015, pp.195-214; and J. Birt, *Lobbying and Marching – British Muslims and the State*, in T. Abbas (ed.), *Muslim Britain: Communities Under Pressure*, London: Zed Books, 2005.

access, and the significance of the Muslim vote, to some concrete legislative gains for British Muslims, as illustrated below.

Alongside the change in the political landscape in 1997, there was also another important development – the wider articulation of the British Muslim demand in a language that policy and law makers could engage with, as first presented by the An-Nisa submission in 1992. This was most notably captured by a landmark report in 1997 by the Commission on British Muslims and Islamophobia, convened a year earlier by the Runnymede Trust.¹¹¹ The intention of the Commission was twofold: to counter Islamophobic assumptions that Islam is a single monolithic system, without internal development, diversity and dialogue; and to draw attention to the principal dangers which Islamophobia creates or exacerbates for Muslim communities, and therefore, for the well-being of society as a whole. The report also presented in clear English the evidence it had gathered on the British Muslim experience of Islamophobia and concluded with sixty recommendations. Some of its key observations, explorations and recommendations included: examining the role of the media in reinforcing Islamophobia and discussing the responsibilities of journalists; noting the vulnerability of Muslims to physical violence and harassment – the essential point being that whatever the motivations of racist attackers, the consequence of this kind of violence for Muslims was that they were unable to play a full part in mainstream society;¹¹² and considering the twin themes of social inclusion and cultural pluralism within the education system.¹¹³ Most importantly, for the purposes of this study, however, the need for legal changes was clearly identified throughout the report – which, it argued, was critical to drive the changes in public opinion required to challenge Islamophobia in British society. The articulation of and evidence on the British Muslim experience of Islamophobia, as presented in the Runnymede Trust report, was subsequently bolstered by a string of other research and

¹¹¹ Commission on British Muslims and Islamophobia, *Islamophobia – A challenge for us all*, London: Runnymede Trust, 1997. For a recent reflection on that report, see: C. Allen, *Still a challenge for us all? The Runnymede Trust, Islamophobia and policy, Religion, Equalities, and Inequalities*, London: Routledge, 2016, pp.113-24.

¹¹² Thus, a key recommendation of the report was that religion must be explicitly recognised in hate crimes legislation – ie, the term ‘racial violence’ should be replaced with ‘religious and racial violence’.

¹¹³ The report noted that Muslim pupils were usually at a severe disadvantage compared with national norms. The Commission recommended that issues of social inclusion and cultural pluralism should be included centrally in citizenship education, formal policies and guidance should be developed on meeting the pastoral, religious and cultural needs of Muslim pupils in mainstream schools, and that there should be state funding for Muslim schools.

publications, and the picture was made all the clearer after the 2001 Census question on religion. The additional research and Census findings suggested that in real and comparative terms British Muslim communities suffered enormous disadvantages as compared to any other racial or religious group.¹¹⁴ This created a new momentum urging the need for greater protection – albeit further shifting the focus from protecting Islam to protecting Muslims.

On the eve of the new millennium, however, British Muslims were still facing many legal anomalies in terms of protection from religious discrimination. Whilst, as already mentioned, only the Church of England enjoyed protection from the law of blasphemy, some other religious groups in the UK enjoyed protection from the law in other significant areas. The Race Relations Act 1976 (RRA 76), provided protection against discrimination on the grounds of the statutory definition of ‘racial group’.¹¹⁵ ‘Racial group’ was defined by markers including race, colour, nationality and national or ethnic origin, but not religion or belief. The definition of ‘racial group’ was, however, extended in the early 80s to include mono-ethnic religious groups, like Sikhs and Jews,¹¹⁶ but not multi-ethnic religious groups like Muslims and Christians.¹¹⁷ This definition of ‘racial group’, developed in civil anti-discrimination legislation, was adopted wholesale in the criminal law when the Public Order Act 1986 incorporated the criminal offence of incitement to racial hatred.¹¹⁸ The same definition was subsequently also adopted for the aggravated offences of harassment, violence and criminal damage motivated by racial hatred, as

¹¹⁴ For a snapshot of this disadvantage, see Office for National Statistics, *Focus on Religion*, London: HMSO, 2004. For a more detailed account, see: T. Modood et al., *Ethnic Minorities in Britain – Diversity and Disadvantage*, London: Policy Studies Institute, 1997, and T. Choudhury, *Monitoring Minority Protection in the EU – The Situation of Muslims in the UK*, Budapest: Open Society Institute, 2002. For perceptions of religious discrimination, see: P. Weller et al, *Religious Discrimination in England and Wales*, London: Home Office, 2001. For experiences of anti-Muslim hate and Islamophobia, see: C. Allen and J. S. Nielson, *Summary Report on Islamophobia in the EU after 11 September 2001*, Vienna: European Monitoring Centre on Racism and Xenophobia, May 2002. For more sectoral disadvantage, see: D. Owen et al, *Patterns of labour market participation in ethnic minority groups*, *Labour Market Trends*, Vol.108, 2000, pp.505-10, and S. Saggat, *Ethnic Minorities and the Labour Market*, London: Cabinet Office, 2003, A. Clancy et al, *Crime, Policing and Justice – The Experience of Ethnic Minorities*, Findings from the 2000 British Crime Survey (BCS), London: Home Office, 2001, S. Denman, *The Denman Report – Race Discrimination in the CPS*, London: Crown Prosecution Service, 2001, B. Spalek (ed.) *Islam, Crime & Criminal Justice*, Devon: Willan Publishing, 2002, and C. Allen, *Fair Justice – The Bradford Disturbances, the Sentencing and the Impact*, London: Forum Against Islamophobia and Racism, 2003.

¹¹⁵ This is provided in s.3(1), Race Relations Act 1976.

¹¹⁶ See *Mandla v Dowell Lee* [1982] UKHL 7, and *Seid v Gillette Industries Ltd* [1980] IRLR 427.

¹¹⁷ See *Tariq v Young*, EOR, *Discrimination Case Law Digest No. 2*; *Crown Supplies v Dawkins* [1993] ICR 517; and *Lovell-Badge v Norwich City College* (Case No. 12506/95/LS Dec 1999).

¹¹⁸ See s.17, Public Order Act 1986.

introduced by the Crime & Disorder Act 1998,¹¹⁹ and for the purposes of the Race Relations (Amendment) Act 2000. The result was an iniquitous anomaly in the law producing a hierarchy of protected faith communities: mono-ethnic faith communities, like the Sikh and Jewish communities, were protected from discrimination, benefited from a positive duty on public authorities to promote equality, and protected from the aggravated offences of harassment, violence and criminal damage motivated by racial hatred, as well as the incitement of such hatred; multi-ethnic minority religious groups, like Muslims, did not on the whole benefit from any such protection or provisions, unless it could be shown that the treatment, behaviour or circumstance was indirectly racial; and finally, the multi-ethnic majority religious group, the Christians, were not covered at all, but uniquely protected from blasphemy – we shall refer to this set of anomalies hereon as the ‘mono/multi-ethnic faith communities anomalies’.¹²⁰

At this stage in the development of research on and articulation of the Muslim case, those focused in the policy area of equalities, whether Muslim or non-Muslim, were relatively open to how Muslims should be protected. There were three main options:¹²¹ first, to include religion within the definition of ‘racial group’ in the Race Relations Act 1976 – the ‘define-in’ approach as favoured by ECRI and the Council of Europe;¹²² second, to ‘add/bolt on’ religion or provide ‘parallel provisions’ to provisions on race wherever this was felt appropriate – the early British approach particularly in the area of criminal law;¹²³ and third, to develop religion and belief as a ‘separate strand’ of anti-discrimination and equalities work – the EU approach.¹²⁴ Muslim organisations and leaders, whilst open to the different possibilities, at this stage clearly preferred and advocated for the define-in approach¹²⁵ – on the grounds that whilst Muslims constituted only 3% of the British

¹¹⁹ See ss.28-32, Crime & Disorder Act 1998.

¹²⁰ S. Fredman, *Equality – A New Generation?* *Industrial Law Journal*, Vol.30(2), June 2001, pp.145-188.

¹²¹ This was very succinctly articulated in an internal briefing document to a MCB Legal Affairs Committee meeting in early 2004 and later also in a letter to Trevor Phillips, then Chair of the CRE, dated 15 June 2004 by the British Muslim Research Centre (BMRC). Briefing and letter available in BMRC Files.

¹²² European Commission against Racism and Intolerance (ECRI) General Policy Recommendation No.7 – National legislation to combat racism and racial discrimination, Strasbourg: Council of Europe, 2002.

¹²³ This approach was suggested during the Crime & Disorder Bill 1998 and adopted in the Anti-Terrorism, Crime and Security Act 2001 – a similar model was adopted for sexual orientation in the Civil Partnership Act 2004. Note that this was also proposed by Lord Ahmed in his Private Members Bill – see: *Race Relations (Religious Discrimination) Bill 2000*.

¹²⁴ Under pressure from the European Churches, this was ultimately the approach adopted by the EU, as illustrated by their separation into the Race and Employment Directives respectively in 2000.

¹²⁵ See, for example, the UKACIA publication cited above; Response to the Home Secretary’s Statement in the House of Commons on Monday 15 October 2001 (Home Office Press Notice No.250/2001 issued on 15 October 2001), London: FAIR, 2001; *Towards Equality & Diversity – Implementing the Employment*

population, 99% of British Muslims were from an ethnic minority background, constituting approximately 37% of all ethnic minorities in Britain. Also, to many it seemed that religious discrimination was simply a pretext or surrogate for racial discrimination: it was where there was a lacunae in the race relations laws and hence where bigots focussed their bigotry, but in essence it was the same old European problem as colour racism or anti-Semitism – we shall refer to this hereon as the ‘pretext lacunae’ or ‘surrogate lacunae’.¹²⁶ Furthermore, the define-in option had many practical advantages: it was simple to achieve – it only required the single amendment of adding ‘religion’ as an additional marker in the definition of ‘racial group’ under s3(1) of the Race Relations Act 1976; and it was not so much a development of the law, a whole new strand on religion or belief, as it was a clarification of race relations laws developed by the courts that had resulted in an iniquitous anomaly – the mono/multi-ethnic faith communities anomaly.¹²⁷ The define-in approach also redressed the then position of standing in breach of Article 9 read with Article 14 of the ECHR, as highlighted by the House of Lords in its Select Committee report on Religious Offences.¹²⁸ The key attraction of the define-in approach was that once this single amendment was in place, it could then automatically be read across to all legislation on race without the need to amend each and every mention of race in the law. Also, the amendment did not need to raise any concerns around ‘wider implications’, as the possibilities of any such implications had already been observed for over 20 years around at least two religions in Britain and all religions in Northern Ireland without raising any due concerns. However, if concerns could be foreseen, then they could be addressed in additional limitation

and Race Directives, Response from FAIR, London: FAIR, 2002; The Religious Offences Bill 2002 – A Response, London: FAIR, 2002; Strength in Diversity – Towards a Community Cohesion and Race Equality Strategy, A Response from the MCB, London: MCB, 2004. See, in particular, Fairness for All – a new CEHR, A Response from the MCB, London: MCB, 2004, for MCB’s unequivocal support of the ‘define-in’ approach. The position was also supported by many non-Muslim organisations – see, for example, the CRE’s Second Review of the Race Relations Act 1976 in 1992–3 and the Runnymede Trust Report on Islamophobia, as cited above. Note, however, that this was not always the Muslim leaderships preferred option – feeling left out and left behind by ‘the anti-racism movement/industry’, the leadership often oscillated between this and the EU approach of separate race and religion equality provisions, as can be seen in some of the MCB and An-Nisa Society literature, as well as in the pages of Q-News, at this time.

¹²⁶ L. Fekete, Racism – the hidden cost of September 11, London: Institute of Race Relations, 2002.

¹²⁷ Note that religion had already been discussed as a possible ground for racial discrimination, along with colour, race, nationality and national/ethnic origin, at the Bill stage of the Race Relations Act 1976, but was ultimately not included because it was seen as not a distinct ground in its own right and raising too many new problems at the time – see Hansard recording of Standing Committee A of the Race Relations Bill, House of Commons, 29 April and 4 May 1976. The obvious remedy was, therefore, to go back and address the problem at source.

¹²⁸ House of Lords, Report of the Select Committee on Religious Offences, London: The Stationery Office, 2003.

clauses. This simple amendment would thus address an urgent need to provide greater protection for British Muslims without unduly disadvantaging members of any other religion or belief.

However, the define-in option did not receive the support required for it to be adopted from the CRE when this was needed. Whilst the CRE supported this option in the Second Review of the RRA 76 in 1992–3, and whilst there was a counsel opinion that this was actually the default legal position in any case,¹²⁹ a powerful alliance from the key protected groups (of Indian, Caribbean and Jewish Commissioners and staff at the CRE) first sought a counter opinion,¹³⁰ and then rejected the option altogether – on the ground, though not explicitly stated, that it would displace the current priorities of the race agenda, away from Black and Asian to Muslim communities.¹³¹ This was essentially a crude competition for resources argument, which took precedence despite a vocal minority of voices amongst the Commissioners warning of the long term risks and dangers of such a course.¹³² The define-in option was also not favoured by the churches, as it appeared to them to ethnicise the category of religion and not protect them, or by Government, which was still unsure that religion should be given (even if through the back door) the same level of protection as race.¹³³ Many in Government felt it would be too far reaching in one go, and as it was not required by EU law, there should be more reflection before taking on an option that may result in certain undesirable unforeseen consequences – for example, on free speech through the extension of the harassment provisions to religion.¹³⁴ After a period of pushing for the define-in approach, frustrated with the CRE and the response to their demands from other ethnic minority communities, and without any support for the define-in option from the Government, Muslim leaders and campaigners

¹²⁹ See legal opinion provided by Karen Monaghan, of Matrix Chambers, dated 29 January 2004.

¹³⁰ The counter-opinion was provided by Michael Beloff QC, of Blackstone Chambers, headed at the time by Lord Anthony Lester QC, on 28 May 2004. Lord Lester's own opposition to various religious equality provisions are well-documented and will be covered later in this chapter.

¹³¹ This was at a Commissioners meeting in mid-2004 attended by this author, then a Commissioner at the CRE.

¹³² These concerns and warnings were expressed both in person and in correspondence, as, for example, in the letter already mentioned, sent to the CRE Chair, Trevor Phillips, dated 15 June 2004.

¹³³ These positions of the Churches and the government were very well articulated by John Brynmor MP, Home Office Minister at the time of the Race Relations Bill 1976 – see: Hansard recording of Standing Committee A of the Race Relations Bill, House of Commons, 4 May 1976. The sentiments and arguments seemed to have remained the same almost 30 years later.

¹³⁴ Much of this is unwritten, but came through in discussions (both official and private) between Muslim campaigners and Ministers and/or the relevant civil servants – as stated by Sir Interviewee 1 in his interview for this study on 23 May 2016.

sought out a separate journey for legal provisions on religious discrimination – in the form of a separate strand of non-discrimination and equality. Eventually, when the separate provisions came, however, they came in several pieces of legislation, as considered in the next section.

The legal provisions to promote non-discrimination and equality

The Anti-Terrorism, Crime and Security Act 2001

One of the earliest concrete efforts towards translating the momentum for change into tangible law was during the Crime and Disorder Bill of 1998.¹³⁵ The essence of the effort was captured in a leaflet produced by a consortium of organisations led by the 1990 Trust.¹³⁶ The leaflet argued that the Government was rightly, through the Crime and Disorder Bill, making the fight against racism stronger, but it was missing the opportunity of making the fight broader as well – without which certain forms of racially aggravated crimes (those centred on multi-ethnic religions, often using these religions as a surrogate for race) would not be treated with sufficient rigour, and many injustices and anomalies would arise as a result. The leaflet cited some graphic examples that would bring the law into disrepute, and even ridicule, and suggested that the problems could be avoided if a small but significant amendment was made to the Bill – if the words ‘or religious’ were added after the word ‘racial’ in ss.22(1)(a) and 22(1)(b) of the Bill. However, in order to be seen as leading the campaign, the Muslim Council of Britain, with its new strategic partnership with and access to government, decided to run with this point separately to the group behind the leaflet,¹³⁷ but in the end, the concession achieved by the MCB through the Rt Hon Jack Straw MP, the Home Secretary,¹³⁸ not only undermined the

¹³⁵ There was an earlier effort, a Private Members Bill by John Austin MP, the Religious Discrimination and Remedies Bill 1998. However, the focus of that Bill was on religious discrimination, with a provision on incitement as a bolt on. Like most Private Members Bill, it died an early death because of insufficient time in Parliament.

¹³⁶ The leaflet was entitled: The fight against racism must be broad as well as strong – proposed amendment to the Crime and Disorder Bill, and the arguments in the leaflet were further elaborated in an article: R. Richardson, Potential Nonsense – Reservations about an aspect of the Crime and Disorder Bill, Newsletter of the Association of Muslim Lawyers, Vol.3(1), 1998, p.1.

¹³⁷ The group included the Legal Studies Unit at the Islamic Foundation, 1990 Trust, Association of Black Lawyers, Association of Muslim Lawyers, Bandung Parliamentary Institute and An-Nisa Society.

¹³⁸ See MCB Press Releases: Muslims Lobby for Amendment to Crime and Disorder Bill, 21 May 1998: <http://www.mcb.org.uk/muslims-lobby-for-amendment-to-crime-and-disorder-bill/>; MCB Delegation meets Home Secretary, 17 June 1998: <http://www.mcb.org.uk/mcb-delegation-meets-home-secretary-2/>;

group and its expert understanding of legal drafting, but was also of little actual worth – not extending the provision to cover religion in a way that would assist Muslims as Muslims.¹³⁹

What was denied in the 1998 Act (CDA 1998), however, was freely offered in the Anti-Terrorism, Crime & Security Bill 2001 (ATCSB 2001). At s39 of the Bill, it read:

39 Religiously aggravated offences

(1) Part 2 of the Crime and Disorder Act 1998 (c. 37) is amended as set out in subsections (2) to (6).

(2) In the cross-heading preceding section 28 for “Racially-aggravated” substitute “Racially or religiously aggravated”.

It did not escape the Muslim community at this point, however, that the offer was a carrot or sweetener in what was otherwise a draconian piece of legislation – see Chapter 4. Thus, whilst three years earlier it was enthusiastically campaigned for, when it was offered in the ATCSB, it was received with far more caution and deliberation. In a briefing paper to Muslim community organisations and leaders, the Forum Against Islamophobia and Racism (FAIR) spelt out the positives and negatives of the offer.¹⁴⁰ In favour of the legislation, it pointed out that there was no principled distinction between race and religion in this instance and that if there existed aggravated offences on grounds of race then this should be extended to religion. The brief suggested that this would remove some of the inequalities in the law arising out of the mono/multi-ethnic faith communities anomaly as introduced by *Mandla v Dowell Lee*,¹⁴¹ and discussed above. It conceded, however, that this approach may not satisfy all religious minorities, some of them arguing on occasions that religions should not be ethnicised, but allowed to stand on their own. Nonetheless, the briefing paper further suggested that, if nothing else, the legislation would be of symbolic importance and would serve a deterrence effect, and that concerns

Jack Straw Table’s Amendment to Crime and Disorder Bill, 20 June 1998: <http://www.mcb.org.uk/jack-straw-tables-amendment-to-crime-and-disorder-bill/>.

¹³⁹ See L. Maroof and M. Bamiah, Jack’s ‘Straw’ Amendment – More Words that Mean Little, Newsletter of the Association of Muslim Lawyers, Vol.3(2), 1998, p.1, which describes how the Home Secretary had misled the MCB into believing they had attained a change in the law that was not actually the case.

¹⁴⁰ FAIR, Briefing Paper on Extending the Racially Aggravated Offences in the Crime and Disorder Act 1998 to Religion, 2001 – available in FAIR Files.

¹⁴¹ *Mandla v Dowell Lee* [1983] 2 AC 548, [1983] 1 All ER 1062.

about the exercise of discretion by law enforcement agencies and officers could be addressed through education of those involved in the criminal justice systems – ie, through police, CPS and judicial codes of practice and training.¹⁴² Against the legislation, FAIR highlighted the ‘exercise of discretion’ concerns as expressed by practitioners who argued that such provisions in the criminal law vested too much subjectivity in criminal justice institutions which had a record of ‘institutional racism’ – eg, the police and the CPS. The legislation could be used against the very minority communities it was to protect. Some of the arguments against the legislation were in favour of returning to the position before the CDA 1998 – ie, following *R v Ribbans*,¹⁴³ the position that it is sufficient to leave this matter to the sentencing discretion of judges. The briefing further pointed towards concerns about ‘specific and asymmetrical risks’ to the Muslim community, arguing that, with clear evidence of deep disadvantages in Muslim communities (as already discussed above), it was more likely not to benefit from this legislation, but to fall foul of it.¹⁴⁴ Finally, the briefing also mentioned the possibility of a backlash of grievance and/or resentment if the legislation was seen as particularly for Muslims.¹⁴⁵

After considerable discussion in the Muslim communities on the proposal from the Home Office, a submission from a consortium of Muslim organisations in 2001 acknowledged that Muslims had previously campaigned for the introduction of aggravated offences on grounds of religious hate – ie, through an extension of s.22(1) of the Crime & Disorder Bill 1998 to include multi-ethnic religious minorities. This was on the ground that if effectively enforced this type of legislative change had the potential to contribute towards reducing and deterring anti-Muslim violence. Based on analysis of the 2000 British Crime

¹⁴² Indeed, there was some evidence that the Government was already putting these into place at this time – eg, the Lord Chancellor’s Department was developing a scheme for judicial education/guidance specifically around this issue. The APA and other police associations were also putting together guidance on the definition of racial incident and best practice in the training of police officers.

¹⁴³ *R v Ribbans* [1996] 2 Crim App R (S) 336.

¹⁴⁴ The fuller argument here was that whilst the Muslim community was more likely to suffer from aggravated offences, it was also more likely to suffer from any legislation as proposed – as provoked members of the community would be less able to navigate language or symbols which fall outside the definitions or requirements of aggravation on grounds of religious bias/motivation/animus, whereas the more organised far right groups by contrast would successfully avoid using language which gives rise to prosecution by expressing the same views in ways which fall just short of the threshold requirement for aggravated offences.

¹⁴⁵ All these arguments are explored in more detail in M. Malik, *Racist Crime*, *Modern Law Review*, Vol.62, 1999, pp.409-24.

Survey,¹⁴⁶ Muslims were concerned at the time that they and their religious buildings and spaces faced a higher risk of crime, and that this was a distinct and deeper form of harm as it specifically targeted Muslims because of their membership of a religious group. They were also concerned that in addition to the harm of crimes such as harassment or assault to individuals, they also caused additional and distinct harms to the whole Muslim community, because the crime was seen as an attack on the whole religious group – and further, these types of crimes had the potential to undermine the State interest in dealing with the social exclusion and isolation of Muslims and their interest in good community relations. The consortium stressed that it continued to recognise that sentence enhancement for racially and religiously aggravated offences can make a substantial contribution to dealing with the increasing risks of physical and verbal abuse of Muslims in the post-9/11 world – not least by sending out a clear and unequivocal message that those who commit acts of violence and harassment of Muslims out of deliberate and conscious hatred of their membership of their religious group will receive a higher penalty under the criminal law.

However, whilst recognising all of this, the consortium stressed that it nonetheless had significant reservations about including the extension ‘at this time’ in a piece of counter-terrorism legislation. The consortium concluded that, given prevailing attitudes towards Muslims, especially in the post 11 September period, there was a substantial risk that Muslims would disproportionately become the victims rather than beneficiaries of this extension in the criminal law. The consortium, therefore, stressed that if the Government was to proceed with this legislation despite the objections of the Muslim community (through the consortium), it must provide certain safeguards to ensure that the discretion of law enforcement agencies is not abused to target Muslims.¹⁴⁷ The consortium was concerned that institutional discrimination within law enforcement agencies, as

¹⁴⁶ See Clancy et al, *op. cit.*, p.41.

¹⁴⁷ It should be noted, however, that this objection was not as unequivocal as that of organisations like Liberty – see the Liberty Press Release: Home Secretary’s Anti-Terrorism Bill, 13 November 2001. It is clear that most of the Muslim leaders at the time felt that, the national and political mood being what it was in the aftermath of 9/11, most of the provisions of the ATCSB would go through anyway. The question for them then was whether they could get any silver lining out of the situation for their communities. However, they took the position they did mainly because they felt that by accepting the carrot they would be legitimising the rest of the draconian provisions of the ATCSB.

highlighted in the Macpherson and Denham Reports,¹⁴⁸ was likely to intensify against Muslims after 11 September. They believed that this may in turn exacerbate existing tensions between law enforcement agencies and Muslim communities developed by the northern cities disturbances. They argued that giving the police additional powers at this time, when Muslims were likely to be more heavily policed, was unwise. The consortium highlighted evidence indicating existing low levels of satisfaction amongst ethnic minorities (including Muslim ethnic minorities – eg, Pakistanis/Bangladeshis) with the police in relation to racially motivated crimes¹⁴⁹ and advised that it would be in the interests of the State, as well as the Muslim community, to minimise the risk of further conflict between them.

The consortium suggested that the risks could be managed by ensuring that: (a) the exercise of discretion by law enforcement agencies was monitored and accountable; and (b) there was appropriate training of law enforcement officers about policing issues arising out of ‘religious’ hate crimes. It further suggested that the law enforcement agencies should be supervised, monitored and held accountable by an independent body, which included, *inter alia*, Muslims with knowledge of criminal law, the criminal justice system and civil liberties issues, and individuals and organisations from Muslim and other faith communities. More specifically, it recommended that the Lawrence Steering Committee (still in operation at the time) should be given jurisdiction over key issues relating to the monitoring and implementation of existing racially (and any new religiously) aggravated offences.¹⁵⁰ However, once again, at the very last minute, the MCB broke away from the rest of the consortium, and in subsequent discussions with a junior minister at the Home Office, Angela Eagle MP, agreed to support the Government’s proposal without full sight first of the legal drafting of the safeguards as

¹⁴⁸ W. Macpherson, *The Stephen Lawrence Inquiry Report*, London: Home Office, 1999; J. Denham, *Building Cohesive Communities: Report of the Ministerial Group on Public Order and Community Cohesion*, London: Home Office, 2001.

¹⁴⁹ See Clancy et al, *op. cit.*, p.53.

¹⁵⁰ The scope of the Lawrence Steering Committee did not at the time cover multi-ethnic religious minorities, such as Muslims. The consortium argued that the scope could be extended to ‘religiously’ aggravated offences, and thus, its work could include oversight of, *inter alia*: a Code of Practice on reporting and recording religious incidents; recording of stop and search of specific multi-ethnic religious minorities, eg, Muslims; inclusion of religion issues within Community Race Relations (CRR) issues; regular HMIC inspections to examine CRR issues; research and training by the Lord Chancellor’s Department and the CPS, which should include issues relating to multi-ethnic religious minorities, eg, Muslims; s95 data on race, which should also include specific information about multi-ethnic religious minorities who do not fall under categories of race or ethnicity; and recruitment of ethnic minority police officers, which should include targets for Muslims.

sought by the consortium, but only a verbal assurance that the same safeguards and reporting arrangements that apply to the prosecution of cases of racial violence will apply to the new offences.¹⁵¹ The discussion on the other/additional safeguards thus slipped out of sight, and with the MCB's support, the aggravated offences on grounds of religion and belief were thus included in the ATCSA 2001. Whilst this was very annoying and frustrating for the other Muslim campaigners involved at the time, it did, however, concretise for the first time the possibilities of extending existing race relations legislation to religious discrimination.

The Racial & Religious Hatred Act 2006

The ATCSB 2001 had initially offered not just aggravated offences but also a provision to extend the offence of incitement to hatred on grounds of religion or belief. The response from the Muslim community to this was similar to its response to aggravated offences, and was contained in the same set of documents.¹⁵² However, there appeared to be significantly more opposition to this provision in Parliament, and the Government conceded it in order to push through the rest of the Bill. The proposal was, however, revived in Parliament within weeks of falling out of the ATCSA 2001. In January 2002, Lord Avebury introduced the Religious Offences Bill, a Private Members Bill, in the House of Lords. The Bill sought to abolish several existing religious offences, most notably the offence of blasphemy, and to create a new offence of incitement to religious hatred as proposed in the ATCSB 2001. The Religious Offences Bill quickly passed to committee stage – where, as the House of Lords Select Committee on Religious Offence, it sought extensive evidence from all interested parties, including many faith groups. The key concerns and gaps in the law the Bill, and now the Select Committee, sought to address were neatly summarised in a table produced by FAIR:

¹⁵¹ See MCB Press Release: MCB Supports Legislation on Incitement to Religious Hatred, 27 November 2001 – <http://www.mcb.org.uk/mcb-supports-legislation-on-incitement-to-religious-hatred/>.

¹⁵² This was the case, even though the proposed incitement legislation was supported by organisations like the Discrimination Law Association (DLA) – see: Make religious hatred a criminal offence, *The Law Society Gazette*, 8 October 2001.

Law	Type of Offence	Group(s) Protected	Sentence	Remarks
Criminal Libel Act 1819	Blasphemy —the publication of contemptuous, reviling, scurrilous or ludicrous matter relating to God as defined by the Christian religion, Jesus, the Bible or the Book of Common Prayer, intending to wound the feelings of Christians or to excite contempt and hatred against the Church of England or to promote immorality.	The Anglican Church—and its adherents, but only so far as wounding of feelings is concerned. The protection is focused more on the religion rather than the individual follower of the religion.	Possible prison sentence if found guilty.	Blasphemy laws do not protect the non-Anglican Christian denominations or any of the other faiths communities in Britain. Nor do they protect against incitement of religious hatred directed at individuals (including Anglicans) or against harassment, violence and/or criminal damage to property resulting from such incitement.
Public Order Act 1986	Incitement of Racial Hatred —to behave in such manner or to use or publish insulting or abusive words with the intent to stir up racial hatred or, in the circumstances, racial hatred is likely to be stirred up as a result of the action.	‘Racial groups’ as defined by reference to colour, race, nationality or ethnic or national origin (Race Relations Act 1976). The definition of ‘racial group’ is extended by case law to include mono-ethnic religious communities, like Jews and Sikhs.	Maximum of seven years imprisonment.	Although Jews and Sikhs rightly enjoy protection from this offence, the protection is not extended to multi-ethnic religious communities. Thus, Christians, Muslims and most other faith communities in Britain remain unprotected from this offence.
Crime & Disorder Act 1998	Racially Aggravated Offences — harassment, violence and/or criminal damage to property motivated by racial hatred or where there is any aggravating evidence of racial hostility in connection with the offence.	‘Racial groups’ as defined by reference to colour, race, nationality or ethnic or national origin (Race Relations Act 1976). The definition of ‘racial group’ is extended by case law to include mono-ethnic religious communities, like Jews and Sikhs.	Courts may give higher penalties for main offence to reflect the racial aspect to the crime.	Although Jews and Sikhs enjoy protection from this offence, the protection is not extended to multi-ethnic religious communities. Thus, Christians, Muslims and most other faith communities in Britain remain unprotected from this offence.
Anti-Terrorism, Crime & Security Act 2001	Religiously Aggravated Offences — harassment, violence and/or criminal damage to property motivated by religious hatred or where there is any aggravating evidence of religious hostility in connection with the offence.	The protection extends to adherents of all ‘religious groups’. ‘Religious group’ has not been defined, but left to the Courts to define should the occasion arise for such a definition.	Courts may give higher penalties for main offence to reflect the religious aspect to the crime.	The Act extends the provisions entailed in the Crime & Disorder Act 1998 to multi-ethnic religious communities, and thereby closes a lacuna in the law creating a hierarchy of protection for different faith groups.
Lord Avebury’s Religious Offences Bill 2002	<u>Incitement of Religious Hatred</u> —to behave in such manner or to use or publish insulting or abusive words with the intent to stir up religious hatred or, in the circumstances, religious hatred is likely to be stirred up as a result of the action.	The protection will extend to the adherents of all ‘religious groups’. ‘Religious group’ may be left to the Courts to define should there arise a need for such a definition.	Maximum of seven years imprisonment.	The Avebury Bill seeks to extend the provisions of the Public Disorder Act 1986 to ALL faith communities, including Anglicans, other Christians, Muslims and other faiths in Britain presently not protected from incitement of hatred against them.

The maturity achieved in the Muslim community over the previous decade, in terms of articulating its demands, was evident in how it dealt with the proposals in the Avebury Bill. On the issue of blasphemy, the community had not quite given up, but its approach was more politically mature. It judged that the mood in public discourse overall was against blasphemy laws, and even laws on vilification – but neither did it see any need to alienate its Christian alliances. The prevalent position in the Muslim community, was therefore, not to advocate for its extension or abolishment, but simply to say that Muslims do not object to the current blasphemy laws as they stand and the protection they provide uniquely to the Anglican Church. They conceded that Muslims had on numerous occasions in the past highlighted that such protection should more fairly be extended to other faith communities, but were now ready to accept that where that was not possible for practical reasons, it did not necessarily follow that blasphemy laws be abolished altogether. From a Muslim perspective, it was argued, it is better for the law to protect at least one religious denomination from blasphemy – on historical grounds, the Anglican Church – than no religion at all. Muslims share many beliefs with Christians, and along with people of other faiths, respect for sacred literature, the feelings of believers, and common values of morality and ethics. If standards in these respects could be maintained in society through the protection of the Anglican faith from blasphemy, then this was better from the Muslim perspective than no protection of these standards at all.¹⁵³

On the issue of incitement, away from the context of the anti-terrorism legislation, there appeared to be a different tone and approach to the proposed provisions.¹⁵⁴ The briefing from FAIR on this occasion positively advocated the need to support such legislation.¹⁵⁵ It suggested that the incitement part of the legislation was particularly important for Muslims for several reasons. First, as a result of international events and the ‘war on terror’, Muslims in Britain had become fair game to various sections of British society

¹⁵³ For a fuller articulation of this Muslim position, see FAIR’s response to the Avebury Bill: The Religious Offences Bill 2002 – A Response, London: FAIR, October 2002, pp.3 and 9.

¹⁵⁴ This was explained in FAIR’s response to the Avebury Bill, op. cit.: ‘It ought to be pointed out that there was some considerable opposition to such legislation recently from the Muslim community. However, it ought also to be clarified that the opposition was not in relation to the idea of a criminal offence of incitement to religious hatred *per se* ... The opposition was rather centred around the context in which the legislation was proposed and the perceived purpose of such legislation. ...’ It should be noted, however, that some Muslim groups, like the Islamic Human Rights Commission, retained their opposition to the incitement legislation, and do so to this day.

¹⁵⁵ FAIR, Protection against Religious Offences, A Briefing on the Avebury Bill, January 2002 – available in FAIR Files.

with impunity. This occasionally resulted in outbursts of irrational and unfounded Islamophobic attacks against the whole Muslim community, which in turn incited others to abuse, harass and assault Muslims. In this sequence, although there was by this time protection in the law against the second perpetrator (the one that abuses, harasses and/or assaults), the acts of the first perpetrator (the one inciting the second perpetrator), the real cause of the arising hatred towards Muslims, was still going unchecked. As a result, publications by the British National Party (BNP), for example, that sought to incite hatred against Muslims, could not be challenged by the Police or the Courts as there was no law to deal with this kind of incitement. The Avebury Bill sought to curb at source the ability of the first perpetrator to create such mischief. Secondly, the rise of the far right across Europe was of particular concern to the Muslim community, as it was mobilising its support on a specifically Islamophobic agenda. The BNP had rallied support at the previous local government elections across British towns and cities with slogans such as ‘No New Mosques’, ‘Save Christian Britain – No to an Islamic State’ and ‘Boycott Muslim Businesses’.¹⁵⁶ The campaign was sustained with full vigour on the BNP website even after the elections. Grass-roots support for the ideas proffered by the BNP had caused much agitation in some British localities, and had in some cases even led to localised disturbances – eg, in Oldham, Burnley and Bradford. The Avebury Bill, the FAIR briefing argued, if successfully passed into law, could prove invaluable to curb the ability of the BNP and other right-wing and neo-Nazi organisations to create such mischief in the future. And thirdly, there was at the time an EU draft Framework Decision on Combating Racism and Xenophobia under consideration and development by the Council of the European Union. The Framework Decision was to be instrumental in outlawing incitement to religious hatred and stemming the Islamophobic activities of the far right across the EU. However, if attempts to legislate on the issue repeatedly failed in the British context, then the UK Government would not be so keen to support this piece of legislation in a way that it might benefit Muslims across Europe. This would be a real loss to all European Muslims. FAIR thus concluded that it was ‘very important that British Muslims, and indeed all faith communities, and those that represent the needs and concerns of these communities, seek to support Lord Avebury’s Bill in every way possible’.

¹⁵⁶ For more discussion on this, see: C. Allen, Fear and Loathing – The political discourse in relation to Muslims and Islam in the British Contemporary Setting, *Politics and Religion Journal*, Vol.4(2), 2017, pp.221-36.

In due course, FAIR and several other key Muslim organisations submitted their written evidence to the Religious Offences Select Committee, and this was subsequently reinforced and augmented by further oral evidence.¹⁵⁷ The evidence provided by the Muslim organisations was decidedly assertive: it advocated for the proposed legislation very strongly – building on the arguments in favour of the legislation as articulated in FAIR’s briefing paper (particularly around legal anomalies, lacunas and loopholes, and the resulting ‘shifting focus of bigotry’); addressing head on the key arguments against the legislation (particularly in relation to free speech, the difficulties involved in defining religion and belief, religion as choice and therefore needing to be open to criticism, and the possible misuse of the legislation); providing copious references to literature from the far right documenting their incitement of Islamophobia to demonstrate what mischief the legislation would address on the ground;¹⁵⁸ and exploring the safeguards that would be required to ensure against its misuse. The evidence was eloquently amplified within the House of Lords Select Committee on Religious Offences by one of its members, Lord Amir Bhatia OBE, who was also the chair of the British Muslim Research Centre and working very closely with the other Muslim organisations.¹⁵⁹

The Select Committee published its report in June 2003. The report provided an analysis of the arguments for and the merits of each of the legislative options available on each of its areas of interest (blasphemy against religious beliefs, practices and symbols; indecent behaviour at or defilement of religious places of worship; and incitement to hatred of religious communities or members of religious communities). The report did not make any specific recommendations. However, it made some very important observations – most notably that: there was indeed great inequality in the law in how it protected different faith and belief communities from different offences; there were significant gaps in the law, particularly with regards to incitement to hatred on grounds of religion or belief,

¹⁵⁷For the written evidence from FAIR, see: *The Religious Offences Bill – A Response*, London: FAIR, 2002 – as available at: <http://www.fairuk.org/docs/rof2002.pdf>. The oral evidence on behalf of FAIR was presented by Sadiq Khan, Christopher Allen, Dilwar Hussain and Mohammed Abdul Aziz – as available at: <https://publications.parliament.uk/pa/ld200203/ldselect/ldrel/of95/2101701.htm>. This webpage also includes links to the written and oral evidence provided by the other key Muslim organisations, notably the Muslim Council of Britain and the Association of Muslim Lawyers.

¹⁵⁸ On closely examining this literature, FAIR concluded: ‘It is clear from the publications and activities of far right and neo-Nazi organisations, like the BNP and the NF, that their campaigns against Islam and Muslims is deliberate and pre-meditated; campaigns that have been devised to sit [just] within existing laws’

¹⁵⁹ A full set of contributions by Lord Bhatia in the Committee and in the House are available in the BMRC Files.

where there was a call from many quarters for this gap to be filled – for example, from the Police, CPS, Attorney-General and Home Office, as well as international human rights organs like the United Nation’s Human Rights Committee and Committee on the Elimination of Racial Discrimination, the Council of Europe’s European Commission against Racism and Intolerance and Advisory Committee on the Framework Convention on the Protection of National Minorities, and our own parliamentary Joint Committee on Human Rights; civil and criminal law should afford the same protection to people of all faiths and none; and, most importantly, that the UK stood in breach of its obligations under the European Convention of Human Rights, particularly Art.14 taken with Art.9 of the Convention.¹⁶⁰

On incitement, the report summarised the case for status quo as follows: historically incitement offences have always been used for dubious political ends; there are essential differences between race and religion affecting the degree to which freedom of expression can legitimately and proportionately be restricted for each – religion is based on choice of beliefs, values and practices, and must remain open to trenchant and even hostile criticism in a democratic society where the right to freedom of expression is guaranteed by Art.10; because of the need to balance incitement with freedom of expression, the threshold for the offence would be too high to meet, providing room for avoidance tactics by smart offenders; cases of incitement to religious hatred could be covered under existing common law on incitement and statutory public order legislation; the Attorney-General’s fiat could be politically abused, particularly as it cannot be judicially reviewed; there was no reason to single out incitement to religious hatred from incitement towards other groups, and all such incitement could be dealt with through sentencing guidelines; and incitement on the web would be very difficult to prosecute. On the other hand, the case for extension was summarised as follows: there was a real gap or loophole in the law which was being exploited by the far right to create tensions between communities; members of faith communities have an Art.9 right to be protected from incitement of religious hatred; there was an anomaly in the law in that some faith communities were protected from incitement to religious hatred whilst others were not, which was a breach of Art.9 read with Art.14; there was a demand on the UK to provide legislation against incitement to religious hatred from the highest international authorities on Human Rights;

¹⁶⁰ House of Lords, Report of the Select Committee on Religious Offences, op. cit.

there was a body of established literature of the highest standing asserting that such legislation was a completely acceptable restriction on freedom of expression, including literature from the UN, Council of Europe, and Joint Human Right Committee; the EU's Justice & Home Affairs Council was debating a draft Council Framework Decision on Racism & Xenophobia which was likely to include incitement to religious hatred as an optional provision; distinctions between race and religion in reality were not always so pronounced, and such distinctions as they effect the balance between incitement and freedom of expression could be adequately catered for through an Attorney-General's fiat; it was quite possible to make a distinction between hostile criticism and incitement to hatred; extension would send out a powerful message on acceptable behaviour in society; and the law enforcement agencies were almost unanimous that such legislation would be helpful.¹⁶¹ Whilst, crucially, the report did not make any specific recommendations, the arguments for extension in the report were so strong and well-articulated that the MCB was able to use it as a basis to galvanise a strong alliance of leaders from across faith communities to put out a strong public statement in support of new legislation on incitement on grounds of religion – thus sustaining the campaign for such legislation.¹⁶²

As mentioned earlier, provisions to extend the offence of incitement to racial hatred to religious hatred had been included in the ATCSB 2001, and only dropped after the Third Reading in the House of Lords, after it was widely claimed that the Bill was an inappropriate vehicle for this. However, the Government remained committed to such an extension of the law. In a Declaration in December 2002, appended to the European Framework Decision on Combating Racism & Xenophobia, the Government stated: 'The UK stresses the importance of preventing violence, hatred and intimidation due to hostility towards a person's religious convictions. The UK Government has stated that it supports in principle a proposal to make incitement to religious hatred an offence...'.¹⁶³ In an interview with the Muslim News, on 28 March 2003, the Home Secretary, the Rt Hon David Blunkett MP, stated: 'I can't be anything else but sympathetic to [an offence

¹⁶¹ Note that most of these arguments were taken straight from evidence provided by Muslim organisations and as articulated by Lord Bhatia in the Select Committee.

¹⁶² Joint Statement by Leaders of Faith Communities, April 2004 – led by the MCB, with the support of the Inter Faith Network for the UK. Statement and related correspondence available in MCB Files.

¹⁶³ The Framework Decision and the Declaration are available at:
<https://db.eurocrim.org/db/en/doc/75.pdf>.

of incitement to religious hatred] because it was my idea'.¹⁶⁴ In November 2003, the Home Office issued its detailed response to the Select Committee report, in essence agreeing to the key observations in the report, and particularly those suggesting a need to introduce appropriate new legislation against incitement to religion or belief hatred.¹⁶⁵ The Home Office, however, gave no indication of any commitment to a timeframe for such legislation – stating only that it will seek to bring legislation if and when there is an opportunity in the future. In reality, the government was stuck between two difficult positions. On the one hand, it was still unsure as to whether there would be sufficient support for the legislation in Parliament, and on the other, the strong Muslim demand for this in the face of an upcoming election.

The British Muslim Research Centre (BMRC), chaired by Lord Bhatia, had in the meantime, started working with the British Humanist Association (BHA) and Justice, amongst others, to develop a briefing paper for the upcoming House of Lords debate on the report of the Religious Offences Select Committee.¹⁶⁶ The briefing paper rehearsed the strong arguments on the gap in the law and the need for this to be addressed; how effectiveness of the legislation was to be measured; the compatibility of such legislation with the right to free speech as advocated by international, European and domestic human rights monitoring and enforcement bodies; the possible models for such legislation; and the possible safeguards against its abuse. Its primary recommendation was that the Government should enact legislation against incitement to religion or belief hatred as soon as possible – preferably based on a model proposed by the BHA, with suitable modifications to overcome its current deficiencies. The recommendation was based on the following grounds: that numerous international, European and national human rights bodies had demanded such legislation – which in itself was strong proof that such legislation did not conflict with free-speech; that all UK law enforcement agencies favoured such legislation on the ground that it would assist to tackle public disorder and safety issues, and therefore, help in the long term to enhance community cohesion; that there was a real need for such legislation to protect vulnerable minority faith and belief communities from far right activities, as illustrated by the case of BNP activities against

¹⁶⁴ The Muslim News, 'Muslim resistance movements are terrorists, occupiers are not', 28 March 2003.

¹⁶⁵ Home Office, Religious Offences – The Government Reply to the Report from the Religious Offences Select Committee, December 2003: <http://www.official-documents.co.uk/document/cm60/6091/6091.pdf>.

¹⁶⁶ BHA, BMRC & Justice, Briefing for the debate on Religious Offences in the House of Lords, April 2004: <http://humanism.org.uk/wp-content/uploads/Briefing-on-Lords-debate-on-religious-offences.pdf>.

British Muslims; that the longer it takes for Government to bring such legislation, the longer these vulnerable communities are exposed to harm and the greater the risk of community tensions; and that if the Government was indeed in breach of its obligations under Art.9 read with Art.14, it needed to rectify this sooner rather than later. The Select Committee's report and the Government's response were debated in the House of Lords on 22 April 2004. In her response to the debate, Baroness Scotland of Asthal, a Minister of State in the Home Office, reconfirmed that the Government intended to bring forward proposals for an offence of incitement to religious hatred that would balance the need to protect religious groups with the protection of freedom of speech.¹⁶⁷ On 7 July 2004, the Home Secretary announced in a speech for the Institute of Public Policy Research his intention to introduce an offence of incitement to religious hatred as soon as a legislative opportunity arises.¹⁶⁸ The Home Office Factsheet that followed this speech was based on the BMRC/BHA/Justice briefing for the House of Lords debate on the Select Committee report – with additional reassuring messages for evangelists and others concerned by the legislation, eg, free speech critics and comedians.¹⁶⁹

The Government's commitment to new legislation materialised in the Serious Organised Crime and Police Bill, as introduced in the House of Commons on 24 November 2004. The proposal was the same as that in the ATCSB 2001 and the Avebury Bill 2002, and was accompanied by a FAQs sheet,¹⁷⁰ regurgitating almost verbatim the Factsheet mentioned above, albeit with some factual updates. The proposal was quickly supported by another alliance of key faith actors brought together by the MCB through a second statement.¹⁷¹ The proposal was further endorsed on 13 January 2005 by the CRE and Justice at a public meeting in Parliament jointly organised with the BHA and MCB. However, whilst the legislation had now gathered significant support, through strenuous effort in the Muslim community, it still attracted significant opposition from various quarters, which consolidated into a powerful counter-alliance – consisting of a range of

¹⁶⁷ See: House of Lords Debate, 22 April 2004, cc.475-476.

¹⁶⁸ D. Blunkett, *New Challenges for Race Equality and Community Cohesion in the 21st Century – A speech by the Home Secretary*, London: Home Office, 7 July 2004, p.12. See also: MCB Press Release, *Law to Outlaw Incitement to Religious Hatred Welcomed*, 7 July 2004.

¹⁶⁹ Home Office, *Incitement to Religious Hatred – Factsheet*, November 2004. Available in BMRC Files.

¹⁷⁰ Home Office, *Incitement to Religious Hatred FAQs*, December 2004. Referenced in House of Commons Research Paper: R. Kelly, *The Racial and Religious Hatred Bill*, 16 June 2005 – and available in BMRC Files.

¹⁷¹ Joint Statement on Incitement to Religious Hatred, 18 January 2005 – full text provided by Ekklesia at: http://www.ekkleisia.co.uk/content/news_syndication/article_050118hatred.shtml.

religious (both Christian and non-Christian) and secular groupings, and broadcasters, literary figures and comedians, all of whom were concerned about the limitations that the provisions would place on their freedom of speech and expression – in terms of both evangelising and proselytising, and criticism and satire.¹⁷² This opposition was led in Parliament by the formidable Lord Anthony Lester QC, regarded by himself and some others as the father of equality provisions in Britain, but utterly opposed to various equality measures on grounds of religion. The MCB sought hard to strike a compromise with Lord Lester, first through a meeting and then through an exchange of letters. However, the MCB found the ‘pretext amendment’, offered by Lord Lester as a compromise, far too narrow for its needs and unacceptable.¹⁷³ The discussions eventually broke down and were misrepresented to the media by the Lester team, which resulted in an acrimonious exchange of articles in the press.¹⁷⁴ Subsequently, the opposition in the Lords, led by Lord Lester, was so formidable that, with the impending dissolution of Parliament, the Government again accepted the loss of the incitement provisions from the Bill to secure its passage – however, this time with an election promise to British Muslims that it will return if New Labour was re-elected.¹⁷⁵

Following the General Election, the Government did indeed re-introduce the incitement provisions, in the same wording as previously, in the Racial and Religious Hatred Bill 2005. But the opposition expressed in response to the previous attempts to secure these provisions was repeated again on the publication of the Bill – and throughout the rest of 2005, there followed an unprecedented campaign against it by secular groups and evangelical Christians that resulted in a sustained opposition to it in both Parliament and

¹⁷² Some of the key actors in this opposition included the Evangelical Alliance, Christian Institute, National Secular Society and Rowan Atkinson, along with other comedians and radical secularists.

¹⁷³ Lord Lester’s view was that the law should avoid dealing directly with incitement on grounds of religion, as this could have undesirable consequences for free speech, but that it could deal with this where religion was being used as a surrogate for incitement to racial hatred – and hence, his offer of the ‘pretext amendment’. However, the MCB argued that the incitement from the far right was against Muslims as Muslims, not just against Muslims as a marker of their race, and therefore that the protection offered by the pretext model was too narrow.

¹⁷⁴ See, for example: Nick Cohen, Labour’s Contemptible Election Trade Off, *New Statesman*, 31 January 2005; and the MCB response at – <http://archive.mcb.org.uk/wp-content/uploads/2016/02/issue56.pdf>, p.16.

¹⁷⁵ Baroness Scotland of Asthal stated in the House of Lords: ‘We cannot see why it is right to retain protection in law for Jews and Sikhs, but wrong not to extend it to Hindus, Muslims, Christians, Buddhists and other faiths. It remains the firm and clear intention of this Government to give the people of all faiths the same protection against incitement to hatred on the basis of their religion’ – see: House of Lords Debate, 5 April 2005, cc.595-596).

the media.¹⁷⁶ This result in the Government suffering extraordinary defeats in the House of Commons over the proposed provisions on 31 January 2006 – in two successive votes MPs backed House of Lords amendments that dramatically narrowed the scope of the law as proposed by the Government. The starting point of the proposed provisions had been as follows:

1. A person who uses threatening, abusive or insulting words or behaviour, or displays any written material which is threatening, abusive or insulting, is guilty of an offence if –
 - a. he intends thereby to stir up racial or religious hatred, or
 - b. having regard to all the circumstances the words, behaviour or material are (or is) likely to be heard or seen by any person in whom they are (or it is) likely to stir up racial or religious hatred.

However, the House of Lords amendments removed the words ‘abusive’ or ‘insulting’ and the ‘likely’ test, so that only ‘threatening’ conduct ‘intended’ to incite religious hatred remained. They also introduced a sweeping free speech defence that protected ‘...discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents, or of any other belief system or the beliefs or practices of its adherents, or proselytising or urging adherents of a different religion or belief system to cease practising their religion or belief system.’¹⁷⁷ The provisions that were finally introduced into law, were therefore, very significantly watered down from what was intended, and have a very high threshold for litigation. The Government had stated in the House of Commons, on 31 January, that if the Lords amendments were passed ‘... it would be virtually impossible to bring a successful prosecution’.¹⁷⁸ Unfortunately, that is exactly what has happened.

The Employment Equality (Religion or Belief) Regulations 2003

The UKACIA campaign in the aftermath of the Rushdie Affair, and then a more articulate campaign by An-Nisa Society, as described above, had already begun the shift away from

¹⁷⁶ See, for example: A. Lester, A steamroller to crack a nut, *The Guardian*, 21 June 2005; and the MCB response to it at – available in the MCB Files.

¹⁷⁷ See: Racial and Religious Hatred Act 2006, s.29J.

¹⁷⁸ See: House of Commons, 31 January 2006, cc.189-190.

just a focus on criminal law protection to civil law protection as well. However, the first legislative attempt at this in Parliament, as mentioned above, did not materialise until 1998, when it came in the form of a Private Members Bill introduced by John Austin MP.¹⁷⁹ Austin observed that when the CRE had recommended changes in the law in respect of discrimination on grounds of religion and incitement to religious hatred, the previous Home Secretary, the Rt Hon Michael Howard, had said: ‘I have yet to be convinced that legislation could be justified. So far, there is little hard evidence of discrimination against individuals on religious rather than racial grounds. But I can assure you that the Home Office remains ready to look at any other evidence’.¹⁸⁰ Austin suggested that this evidence had been clearly set out in the Runnymede Trust’s report on Islamophobia, which was by then a growing phenomenon – ‘*an ugly word for an ugly reality*’.¹⁸¹ Austin felt legislation was needed to convey the important message that religious identities are valued and respected throughout society; to provide consistency throughout the UK where the Fair Employment (Northern Ireland) Act 1976 had created an anomaly by making religious discrimination in employment unlawful there but not in Great Britain; to remove the further anomaly thrown up by the House of Lords decision in *Mandla v Dowell Lee 1983* which had ruled that Sikhs constitute a racial group and are, therefore, entitled to protection under the Race Relations Act, later extended through case law to Jews – but not Muslims and some other religious groups; to remove yet another anomaly thrown up by the Crime and Disorder Act 1998, which addressed racially aggravated behavior, and which in effect suggested that an attack carried out on a Sikh or a Jew because of their religion may be classified as a racially aggravated assault, but an attack on a Muslim may not; to remove a gap in the law which allowed religion to be used as a surrogate for racial discrimination against some racial groups; to recognise that religious discrimination is an inefficient business practice that results in talent being wasted to the detriment of the public at large; to recognise that discrimination also creates frustration and alienation among those who feel that the law does not provide them with redress; to provide protection to converts to minority faiths who are at a further

¹⁷⁹ The Religious Discrimination and Remedies Bill 1998.

¹⁸⁰ See J. Austin, Religious Discrimination: A Case for Legislation, Newsletter of the Association of Muslim Lawyers, 1998, Vol.3(2), p.8.

¹⁸¹ Commission on British Muslims and Islamophobia, Islamophobia – A challenge for us all, London: Runnymede Trust, 1997, p.iii. For a more detailed study on the genealogy of Islamophobia and its definition, see: C. Allen, Islamophobia, London: Ashgate, 2010; and From Race to Religion – the new face of discrimination, in T. Abbas (ed.), Muslim Britain – Communities Under Pressure, London: Zed Books, 2005, pp.49-65.

disadvantage in that they are also not protected from indirect race discrimination; and to redress the inadequacies of indirect discrimination where this is offered to some but not others, where financial compensation is not available unless the discrimination can be shown to be intentional.¹⁸² However, like most private members bills, the Bill was timed out – but it spurred a new generation of Muslim activists to see what might be possible in terms of legal protection against religious discrimination and how this might be achieved.

In early 2002, with the European Employment Directive emerging as the backdrop, and the Government's consultation on how this directive should be incorporated into UK law underway,¹⁸³ and taking inspiration from the Austin Bill as well as a recent resolution in support of this from the Discrimination Law Association,¹⁸⁴ FAIR launched an extensive campaign for comprehensive religious discrimination legislation. The campaign was planned in detail, and included a general briefing and more specific position papers, researched policy responses to government consultations, a grassroots community campaign, a wider society alliance building campaign, a political campaign and a media campaign.¹⁸⁵ The FAIR papers and campaigns noted that the UK was signatory to numerous provisions of international law that affirm the right to religion and belief and protect against discrimination on such grounds – in reality however, its existing anti-discrimination legislation did not provide protection for Muslims. The position in Britain was shown to be in sharp contrast to most EU countries where there was at least theoretical protection in the shape of constitutional or other legal provisions – even if not always implemented.¹⁸⁶ They also noted that the Government was intending to implement the European Employment and Race Directives during the present Parliament but expressed great concern that this was to be done through secondary legislation rather than

¹⁸² For a fuller set of arguments for the Bill, see: J. Austin, *Religious Discrimination*, op. cit., p.1.

¹⁸³ Government Consultation Paper: *Towards Equality and Diversity – Implementing the Employment and Race Directives*, London: Office of the Deputy Prime Minister, December 2001.

¹⁸⁴ Discrimination Law Association, *Resolution – DLA calls for legislation to outlaw religious discrimination*, E-mail News, 1 October 2001.

¹⁸⁵ These briefing/position papers and policy responses, drafted with the assistance of Maleiha Malik, a discrimination law lecturer, Tufyal Choudhury, a human rights law lecturer and Chair of DLA, Makbool Javaid, an employment lawyer and former Chair of Society of Black Lawyers, and Sadiq Khan, a human rights lawyer and Chair of Liberty, are available in the FAIR Files. Note in particular: *Towards Equality and Diversity – Implementing the Employment and Race Directives*, Response from the Forum Against Islamophobia & Racism, London: FAIR, March 2002.

¹⁸⁶ See: FAIR, *Time to Make a Difference – Getting a Fair Deal for British Muslims*, Media Pack, London: FAIR, March 2002.

an Act of Parliament.¹⁸⁷ FAIR argued that making parliamentary time available and having a full debate about the implementation of the Directives would allow Muslims to be part of a national debate with politicians, the media and other British citizens about their status and place in British society. Muslims would be able to lobby their political representatives to communicate their concerns. Most importantly, they would be able to see that mainstream political institutions, such as the House of Commons and House of Lords, are taking their key demands seriously. FAIR argued that this was very important after the northern cities disturbances and 9/11 to promote the identification of Muslims with mainstream British political and legal institutions and that implementing the Directives through secondary legislation would not only lose this, but would also simply reproduce existing anomalies in the law and create new ones. After implementing the Directives, Muslims would be protected from discrimination in employment and training – however, the mono/multi-ethnic faith communities anomalies would otherwise remain intact. For example, unlike Sikhs and Jews, Muslims would still not be protected from discrimination in the provision of goods, facilities and services, which was likely to intensify in the period after 9/11 – but, most importantly, Muslims, unlike Sikhs and Jews, would still not be covered by the Race Relations Amendment Act 2000, which prohibits direct and indirect discrimination by public bodies in the exercise and performance of public functions (e.g. the police) and places an enforceable duty on specified public authorities to take positive steps to eliminate discrimination and to promote equality. FAIR argued that the Government’s proposals denied British Muslims equality of treatment by the Government itself.¹⁸⁸

The researched policy responses covered in great detail the issues raised in the Government’s Consultation Paper, ‘Towards Equality and Diversity’, which set out the details of the Government’s proposals for implementing the European Race and Employment Directives into UK law.¹⁸⁹ The responses suggested that the key to overcoming social exclusion and isolation was Government action not only on reform of

¹⁸⁷ This was indicated in the Government Consultation Paper: Towards Equality and Diversity – Implementing the Employment and Race Directives, *op. cit.*, pp.13-14.

¹⁸⁸ FAIR, Towards Equality and Diversity, Response from FAIR, *op. cit.*, pp.16–17. See also: Response to Barbara Roche MP’s Speech – Equality & Diversity in the 21st Century, IPPR Conference, 15 May 2002. Barbara Roche was Minister of State for Women and Equality at the time. The Response is available in the FAIR Files.

¹⁸⁹ Government Consultation Paper: Towards Equality and Diversity – Implementing the Employment and Race Directives, *op. cit.*

civil anti-discrimination legislation, but also non-legal policy initiatives and institutional changes. There was also a need for supplementary measures, particularly to encourage greater Muslim participation in public life and the public sphere.¹⁹⁰ On legal provisions, the responses argued that as the development of anti-discrimination legislation in the UK had been a piecemeal one resulting in an inconsistent, iniquitous and overly complex area of law, the Government should at the earliest point possible amalgamate all areas of anti-discrimination law into one single Act, save where special circumstances applied. A single Equality Act would show the indivisibility of the principle of equality and encourage strong links between groups facing discrimination. It would place all grounds of discrimination on an equal footing, providing an equal level of protection to all groups that suffer discrimination. More importantly, the amalgamation would rid the area of anti-discrimination law of the confusions, complexities and inconsistencies that existed at the time.¹⁹¹

In terms of the general cross-cutting issues regarding the substance of the legislation, for purposes of consistency and clarity, the responses strongly advocated retaining the current definition of direct discrimination as set out in the RRA 76 when preparing new legislation on grounds of religion or belief. They also recommended that those suffering discrimination as a result of their perceived religion or belief, or their association with persons of a particular religion or belief, be included within the protection of the new legislation. However, the responses suggested that the definition contained in the Directives for indirect discrimination was better than the one contained in the RRA 76, and that this should be adopted across the equality strands to ensure a consistent approach to the problem of discrimination across the board. The responses argued that the adoption of the Directives' definition for harassment would be in breach of the non-regression clause in the Directives (Art.8(2)), which prohibit the reduction in the level of protection afforded under current legislation. They, therefore, suggested the alternative option of adopting a definition across the board based on the level of protection currently afforded by the RRA. They also recommended that, in assessing if the conduct in question amounted to harassment, the 'reasonable person' test is not adopted as this was a very vague construct which would only cause further inconsistencies. The responses supported

¹⁹⁰ These points will be dealt with at greater length in the next chapter.

¹⁹¹ FAIR, *Towards Equality and Diversity*, Response from FAIR, op. cit., p.17.

the idea of adopting a general provision to allow different treatment where the characteristic related to religion or belief is a defining feature of the job. The advantage of a general justification defence is that it allows courts to respond flexibly to situations that may not have been considered when drafting. They also supported the idea that the new provisions on religion and belief should include positive action provisions comparable to the existing provisions in relation to encouraging applications and training permitted under the RRA. Further, they advocated that the burden of proof standards currently applied to sex discrimination cases be extended to all other grounds of discrimination; endorsed the adoption of provisions to protect individuals from victimisation or adverse treatment or consequences for their role in past complaints or proceedings on discrimination; and recommended that the duty that the Directives place on the Government to inform the public of their provisions be fulfilled through the use of awareness campaigns, and the duty that the Directives place on the Government to encourage dialogue with non-governmental organisations which have a legitimate interest in contributing to the fight against discrimination be taken very seriously.¹⁹² In terms of the specific issues related to the Employment Directive, FAIR advocated that the terms ‘religion or belief’ should be left undefined and left to the courts to handle. A single universal definition or a list system for registering those that were deemed to have the relevant status, although would provide some level of certainty, would pose problems of rigidity and might unfairly exclude some religions or beliefs. It further recommended that any interpretation of the terms should be consistent with the approach adopted by the European Court of Human Rights in relation to the Convention. Moreover, it recommended that the definition should include actual as well as perceived belief, and strongly recommended that the exception of genuine, legitimate and justified occupational requirement should not allow discrimination on any other grounds other than religion or belief.¹⁹³

Meanwhile, in the background of the FAIR campaign, another development was brewing. In July 2000, an independent review of UK anti-discrimination legislation, led by Bob Hepple QC, had published its final report.¹⁹⁴ The report presented the findings of a project

¹⁹² FAIR, *Towards Equality and Diversity*, Response from FAIR, op. cit., pp.17-22.

¹⁹³ *Ibid.*, pp.23-24.

¹⁹⁴ B. Hepple et al, *Equality – A New Framework*, Report of the Independent Review of the Enforcement of UK Anti-Discrimination Legislation, Oxford: Hart Publishing, 2000. Note that one of the drafters of this report, Tufyal Choudhury, was also a member of the FAIR campaign advisory group. His advice was

set up to review and evaluate proposals for the reform of UK anti-discrimination legislation. A draft Bill was then drawn up based on the findings in that report and put out to public consultation following a launch meeting in the House of Lords on 30 July 2002. The Bill was subsequently redrafted to reflect such of the comments of the respondents as the promoters of the Bill felt were consistent with its aims and introduced by Lord Lester as a Private Member's Bill in the House of Lords on 14th January 2003.¹⁹⁵ The Bill intended to go beyond the minimum provisions required by the two European Directives – to use them as a springboard to harmonise, modernise and extend the arrangements for tackling discrimination established under a number of different enactments, including the Equal Pay Act 1970; the Sex Discrimination Act 1975; the Race Relations Act 1976; the Disability Discrimination Act 1995 and the Disability Rights Commission Act 1999. The Bill sought to set out a single framework for eliminating discrimination and promoting equality between different people, regardless of their racial or ethnic origin, religion or belief, sex, marital or family status, sexual orientation, gender reassignment, age or disability.¹⁹⁶ It sought to tackle *all* grounds of unfair discrimination in *all* spheres of activity, including employment, education, the provision of goods, facilities and services, the disposal or management of premises and the management of private members' clubs. It extended the positive duty requirements of the Race Relations (Amendment) Act 2000 beyond race to all the grounds. The Bill also sought to abolish the existing equality agencies and establish a single body, the Equality Commission for Great Britain, with a range of statutory powers to oversee the implementation of the Bill and to encourage and enforce observation of its requirements. The Bill was drafted in response to the Government's continuing failure to conduct a widespread review of and address the serious defects of the present fragmented, complex, inconsistent and unsatisfactory system of legislative protection against discrimination and to give effect to the recommendations made by the equality agencies and independent experts for the

instrumental in this report, but also in shaping the FAIR campaign, and ultimately, the shape of the provisions on religion or belief in the 2006 and 2010 Equality Acts, the latter being modelled on the draft bill resulting from this report.

¹⁹⁵ Executive Summary of Responses to the Public Consultation on the Equality Bill, The Odysseus Trust, January 2003; Equality Bill 2003:

<https://publications.parliament.uk/pa/ld200203/ldbills/056/2003056.pdf>.

¹⁹⁶ Note, as an illustration of the importance and impact of this Bill in shaping future equalities legislation, that ultimately these were the protected grounds included in the Equality Act 2010 – rather than the narrower range of grounds in the EU Directives.

reform of the law. The basic aim was to ensure the equal protection of the dignity and worth of every individual through a single coherent legal code.¹⁹⁷

The draft and final Bill, however, still raised many concerns in the Muslim community. The British Muslim Research Centre (BMRC) sought to engage with Lord Lester before the Bill was introduced in the House of Lords – at the drafting, consultation and re-drafting stages. Further to a meeting with the Draft Bill Team in October 2002, in a long letter dated 28 November 2002, it laid out the details of its main concern with the draft Bill – its inadequate understanding of and attention to addressing the mono/multi-ethnic faith communities anomalies. The result, the BMRC argued, was that the draft Bill addressed the issue of extending the provisions on the delivery of goods, facilities and services to cover Muslim communities, but not the public sector equality duty or the employment equity plans as proposed in the Bill. The Draft Bill Team responded by assuring the BMRC that s.72 of the draft Bill would be amended so that the positive duty would extend to religion, and thus, the Muslim community as well - however, it questioned the need to amend s.77 and extend employment equity plans to religion, and thereby, the Muslim community.¹⁹⁸ The Bill was thus introduced in Parliament without extending the provisions for employment equity plans to religion.

In its briefing on the Bill, after it was introduced in the House of Lords, the BMRC picked up the employment equity plans point again. There was no reason, it argued, why religion should have been excluded from the provisions on workforce reviews and employment equity plans. By doing this, the Bill had undermined its key objective: harmonisation across the strands. The approach here should have remained consistent across the grounds; it should have provided generally for all the strands of discrimination (as in s1 of the Bill), and then made exceptions for specific strands where this was deemed necessary (as under s2(1)(b)). In the British context, BMRC argued, s30 (employment equity plans) was of particular importance to some religious communities, for example, Sikhs and Muslims, particularly s30(3)-(4). Giving teeth to provisions on religion was also important as a yard stick by which to measure the implementation and effectiveness

¹⁹⁷ See: Press Release – Public Statement on a Single Equality Bill, The Odysseus Trust, 9 July 2002.

¹⁹⁸ The correspondence between the BMRC and the Odysseus Trust is available in the BMRC Files, and the Trust's resulting new position is reflected in its Executive Summary of Responses to the Public Consultation on the Equality Bill, *op. cit.*

of the equality duties under s26 on the grounds of religion. Further, the BMRC suggested that it was erroneous to argue that what could be achieved through including religion here could be achieved through the inclusion of race. It was precisely because race was insufficient for some religious groups that there was so much emphasis placed on religion as a separate strand, which was recognized in the Bill. BMRC illustrated this point with the following example: X is a Personnel Manager of a large factory in Bradford. The factory workforce consists of mainly Asian workers particularly Muslim Pakistanis and Bangladeshis. X is not particularly fond of Asians, but following 11 September has a particular dislike for Muslims. Wherever he must promote an Asian, X consistently promotes the minority of Hindus from West Bengal, Sikhs from India and Pakistani Christians to management positions at the expense of the majority of Bangladeshi and Pakistani Muslims. The employment equity plans based purely on 'racial groups', the BMRC argued, would find this scenario difficult to address. If the structural discrimination was against Sikhs, however, then it would be far easier to address as they could demand to be designated as an employment equity group on the basis of being a racial group as well as a religious group. This type of scenario was, of course, perfectly possible in many of the northern cities and towns, and Muslims in Britain would, therefore, continue to face the anomalies in law that they already faced. BMRC thus urged very strongly that wherever race (or an equivalent variation) was mentioned in the Bill, religion (or an equivalent variation) should also be mentioned. This formulation was already adopted in the Bill in the heading preceding s.50. In the BMRC view, it ought to have been appropriately repeated throughout the Bill.¹⁹⁹

From the BMRC perspective, whilst it appreciated that there was some general reluctance towards equating religion with race, and on some occasions it even supported that, there was an important point to be heeded that was persistently overlooked – between religion as theology, doctrine, belief and practice, and religion as a basis for group formation, cultural identity and identity politics, which may be completely divorced from being a 'believer' in the religion. In the context of discrimination the latter aspect of religion is perhaps little different to the constructs of race and ethnicity in this context. One may have a Muslim name, take pride in his or her community and history, take part in Muslim community festivities and be identified as a Muslim by others, but not hold the beliefs of

¹⁹⁹ See: A Briefing on the Equality Bill 2003, The British Muslim Research Centre, March 2003.

the Islamic religion with any serious conviction. To be discriminated simply on the basis of one's name and cultural identity in a multi-cultural society is little different from racial discrimination. Indeed, wherever possible, BMRC argued they must be treated on equal footing to ensure consistency and equity between different ethno-religious minority groups – non-religious Muslims, for example, should be treated the same as non-religious Sikhs or Jews. Separate from this case made on the basis of the overlap between race and religion, however, BMRC further argued that one could perhaps also make a case for religion in its own right. Where the right to religion is guaranteed under the Human Rights Act 1998, it would seem only right to ensure that access to this right was not fettered by the possibility of discrimination – whether direct, indirect, institutional or structural. The draft Regulations on Religion and Belief, prepared by the DTI towards the implementation of the European Employment Directive in Britain, would appear to BMRC to do two things: firstly, to reinforce this spirit of discrimination-free access to religion in law, and secondly, to initiate a process of harmonisation of protection from discrimination across the different strands. This, of course, was in resonance with the primary objectives of the single Equality Bill. BMRC, therefore, urged that the Bill treated all the strands of discrimination, including religion, consistently throughout the Bill.²⁰⁰

The BMRC briefing also highlighted a host of other concerns with the Bill and suggested appropriate amendments – including amendments to the provisions on: promoting equality through accommodating difference and treating individuals differently (s.2(1)(b)); taking positive steps to correct conditions of disadvantage arising from discrimination on a particular ground (s.2(1)(c)); indirect discrimination (s.11(1), Cases 1(b) and 2(b)); harassment (s.12(3)); exclusions for places used for the purposes of organized religion (Sch.2, Part 5, Para.33(2)); restricting community sector agencies from bringing action on behalf of individuals who may not have had the confidence to bring action themselves (s.7); determining the allocation of resources for the different strands at the proposed single Equality Commission (s.40(5)); appealing against the Commission's decision not to assist a complainant (s.47); national security (s.53 and Sch.2, Part 8, Para.45); the construct of 'nationality' (s.26(3) and Sch.2, Part 2, Para.6); requirements for avoiding risks to health and safety (Sch.2, Part 8, Para 49(2)); and

²⁰⁰ Ibid., pp.3-4.

positive action for the purposes of selection of candidates for elections (Sch.2, Part 8, Para.52(2)-(3)). A general observation about the Bill was that it only covered religion so far as some of the general principles or provisions applied, but did not go far enough in proposing detailed proactive measures for redressing disadvantage arising from religious discrimination, as it did, for example, in terms of disability. The briefing suggested that this deficit in the Bill needed greater and more expert consideration.²⁰¹

Despite these concerns with the Bill, however, BMRC, took a strategic decision to support the Bill overall.²⁰² It felt that it was important to bear in mind that this Bill had been initiated by the Liberal Democrats and the Government was not supporting the initiative. From that perspective, because the Bill was generally in tune with Muslim demands but unlikely to make the statute books, it was better to allow it to go as far as possible without too many demands that would allow the Government to discredit the Bill, with the excuse that the affected groups themselves were not happy with it, and to derail it prematurely. The thinking was that this would be a useful strategy to show unity with others on the greater cause, to win support for an overall framework, structure and set of general arguments which could be filled with specific detail based on particular needs later; and to build alliances and capital with other equality groups whose assistance could be sought when there was a real possibility of new legislation against religious discrimination. This positioning, however, had also to be balanced with the fact that whatever discussions were taking place at this stage were likely to influence future discussions on religious discrimination. This opportunity was, therefore, not to be missed to nuance the future discussion on religious discrimination, wherever this was possible. The optimal approach was, therefore, to place a few strategic amendments and to promote discussions on the other policy concerns with regards to the Bill through other means. In the end, the chair of the BMRC spoke on the Bill at its second reading, hinted at some of BMRC's concerns but largely gave it every support possible.²⁰³ The Bill went through the Lords, but was dropped in the Commons by the Government not giving it any time.²⁰⁴ However, the Bill outlined an ideal that would be pursued in subsequent legislation.

²⁰¹ Ibid., pp.5-7.

²⁰² Ibid., p.7.

²⁰³ Lord Bhatia's full contribution on the Equality Bill, on 28 February 2003, is available in the BMRC Files, and at Hansard, House of Lords, 28 Feb 2003, cc.568-570.

²⁰⁴ See update on the Bill at: <http://www.odysseustrust.org/equality/index.html>.

Meanwhile, the Government was already on its second round of consultation on the implementation of the European Framework Directives – this time with actual draft Regulations, and therefore, pushing ahead with its determination to implement the Directives through secondary legislation. The response from the Muslim community was a very comprehensive submission in this second round of consultation, co-ordinated by the BMRC.²⁰⁵ The submission underscored again many of the points made in the earlier FAIR briefing papers and consultation responses – and in particular, the impact of the case-law definition of racial group on multi-ethnic faith communities; the surrogacy problem from the far right; and the marginalisation and disadvantage faced by British Muslims. It reiterated that the Regulations would not close all the gaps in the law faced by British Muslims – it was particularly concerned that there was no hint of a movement on the issue of extending the public sector equality duty to religion and belief. In order to address the anomalies and inequities facing British Muslims comprehensively, BMRC urged the Government to develop a common vision and set of objectives to be pursued by modern equality provisions across the different strands of discrimination. It further urged the Government to harmonise and consolidate all anti-discrimination legislation into a single Equality Act.

The BMRC response to the Government consultation also made many specific observations with regards to the draft Regulations. It welcomed the Government's attempt to harmonise legislation, albeit in a very limited way, across the discrimination strands by developing some basic concepts to be consistently applied to each of the strands. However, it expressed concern that the basic concepts developed would not extend to nationality and colour. It agreed that the terms 'religion or belief' should be left undefined and left to the courts to handle, but reiterated that the distinction being drawn between religious/philosophical belief and political belief was not helpful – it suggested that this should similarly be left to the courts to handle, if necessary. It welcomed the fact that the protection given against direct discrimination would crucially also apply to grounds of *assumed* religion or belief and discrimination because of *association* with a person or persons of a particular religion or belief, but expressed concern that the Regulations with respect to indirect discrimination were considerably narrower than the protection intended

²⁰⁵ See: Government Consultation on Equality & Diversity – A Response from the British Muslim Research Centre, March 2003.

by the Directive and that the Regulations provided an easier threshold for justification for indirect discrimination than the Directive. The BMRC complemented the Government on improving the provisions on harassment, and supported the proposal to adopt a general provision to allow different treatment where the characteristic related to racial, ethnic origin, religion or belief is a defining feature of the job – even if pointing out that the wording in the draft Regulations did not specify that the employer’s objective must be legitimate, and suggesting that it ought perhaps to do so. It supported the position that organisations which have an ethos based on religion or belief should be able to pursue employment policies necessary to ensure the preservation of that ethos and the particular characteristics of that religion or belief system, and therefore, expressed a small concern in relation to the Regulations use of the phrase ‘being of’ rather than the phrase ‘the characteristics related to’ as used in the Directive. The BMRC felt that as a result of this change the Regulations would provide rather less protection than intended by the Directive. The BMRC also argued, as it did in response to the Lester Bill, that the draft Regulations provided too sweeping an exception on the ground of national security, far beyond that in the Directive. However, it welcomed the proposal to harmonise the burden of proof approach across the strands, but expressed concern that the provisions on victimisation, requiring a comparator, added extra burden on the victim and was a regression from the Directive. The response also questioned the overall ‘effectiveness, proportionality and dissuasiveness’ of the proposed remedies – suggesting that there should be additional powers to require the discriminator to alter their practice(s) so that discrimination cannot re-occur; the courts and tribunals should be able to order remedies to correct the wrong that has been perpetrated; and the restrictions on compensation for unintentional indirect discrimination should be removed. It also expressed concern that the Regulations were silent on the issues of instructions to discriminate, discriminatory advertisements, information dissemination, social dialogue and dialogue with NGOs.

In the end, however, in restricting itself to secondary legislation, there was no getting away from the fact that the Government had limited itself to legislating narrowly on only what was in the Directive. However, the enormous amount of work put in by FAIR and BMRC, alongside a huge alliance of other organisations mobilised through the setting up

of the new EDF,²⁰⁶ was not wasted. The Regulations, adopted on 26 June 2003, took on board what it could of the feedback from the Muslim community – with private assurances to the BMRC that the rest would be considered in a forthcoming ‘Taskforce’, particularly the issues of harmonisation of equalities legislation and a commission for the new strands. Crucially, in light of the investment of the Muslim community in this work, the religion seat on this Taskforce was to be filled by a Muslim appointed by the Rt Hon Patricia Hewitt, Secretary of State for the Department of Trade and Industry, the Department in Whitehall entrusted to take this work forward.²⁰⁷

The Equality Act 2006

The promised Taskforce was appointed in the autumn of 2003,²⁰⁸ and first met in December of that year with Jacqui Smith MP, then a junior minister at the DTI, as its chair. The Taskforce was then superseded by a much smaller ‘Steering Group’ in September 2004, in which the Muslim member was to retain the seat for religion at the request of the faith communities. From the release of the initial Terms of Reference for, and the course of the early deliberations at, the Taskforce, it soon became clear that although the Government was ready for a piece of primary legislation on equality, it was primarily as a vehicle for a single equality body – not so much as a vehicle for a single equality Act.²⁰⁹ The BMRC/MCB were also coming to the realisation that comprehensive equality legislation was not going to be achieved in one piece of legislation, and therefore, adjusted themselves to a mild form of salami-slice strategy through the Taskforce and the Steering Group: ‘bag the low lying fruits as they come and continue to press for the rest’. The need for institutional support to assist Muslims in their fight against discrimination and quest for equality (discussed in the next chapter) had been a demand right from the beginning of the UKACIA campaign. At this critical juncture, with this now on offer, and with the Beloff opinion trumping the Monaghan opinion at the CRE (as discussed above),

²⁰⁶ FAIR was one of the six founding members of the EDF and played a crucial role in its development. EDF, in turn, proved crucial in shaping Government thinking, policy and legislation in the area of non-discrimination, equality and human rights.

²⁰⁷ The Muslim appointed in this instance was the author of this study.

²⁰⁸ For more information on the Equality and Human Rights Taskforce, see:

<http://www.wired-gov.net/wg/wg-news-1.nsf/54e6de9e0c383719802572b9005141ed/2f6f5b70dda74a33802572ab004b8c6e?OpenDocument>.

²⁰⁹ The more sceptical argued that the legislation was intended to be just a cost saving measure – to reduce the number of equality commissions into one super-quango, as the Government was doing elsewhere. See, for example: L. Jasper, *Equalities on the Cheap*, London: National Black Alliance, 3 April 2003.

the MCB gave the single equality body proposal its full support, but also took the opportunity to restate its case on extending the equality legislation on religion or belief discrimination.²¹⁰

The MCB response to the governments consultation on a single equality body noted that in the process of the implementation of the EU Directives, it had particularly welcomed the following: the Government's recognition that unfair discrimination has a damaging effect far beyond any immediate discriminatory practices, whatever the basis on which people make assumptions about others – and that this is no less true of religion or belief; that basic requirements in law are necessary to curtail such negative and damaging impact on people's lives; the Government's intention to undertake the most significant review of equality provisions in over a quarter of a century, with the objective of making Britain a better and fairer place to live and work and building a society in which everyone has an opportunity to reach their full potential; the Government's commitment to harmonise provisions across the different strands of discrimination through the usage of a basic set of concepts and a consistent approach in order to make equality legislation more coherent, so that rights and obligations are easier for individuals and employers to understand and use, whilst still accommodating different ways in which discrimination affects particular groups; the Government's vision of a move towards a more general change in culture in promoting equality – complementing the earlier focus first on tackling discrimination and then on positive action, but now moving towards promoting equality in the round through an integrated approach that permeates throughout British society; the Government's understanding that there may be circumstances when it is legitimate to treat people differently because they have a particular characteristic – and that this includes positive action to compensate for disadvantages which particular groups have experienced, but also, allowing some flexibility in the law, if it is to work, to take account of the specific needs of particular groups.²¹¹ The response stressed, however, that as much as the MCB supported the proposed new Commission, in itself it was insufficient to address the stark reality of discrimination against Muslims in Britain and fell far short of the sentiments expressed by Government. It expressed concern that there were many shortfalls and gaps

²¹⁰ Government White Paper – Fairness for All, A New Commission for Equality and Human Rights, A Response from the Muslim Council of Britain, August 2004.

²¹¹ For more details on the Government's understanding of, and aims and objectives for, equality and human rights, see: Government Consultation Paper: Towards Equality and Diversity, op. cit.

between the Government's proclaimed intentions with regards to the vision for equality and human rights and the objectives that were to be achieved for British Muslims and other faith communities by the proposed body through the duties and powers it was to possess.²¹²

Foremost amongst the MCB's concerns were issues relating to integration, coherence and simplicity. It suggested that to achieve this proclaimed vision it is essential to equip the single Commission with a single Equality Act from the start. It expressed deep concern with regards to the possibility of a single equality body which had no statutory powers in relation to goods and services and positive duty to promote equality for three of its strands: religion or belief, sexual orientation and age. It argued that the different levels of statutory powers for the different strands would have a significant impact on the functions performed by the new body with regards to each strand and the priorities of the organisation as a whole. It expressed concern that a body built on and required to provide a hierarchy of equality provisions would foster divisions between the strands rather than the trust and cross-working that would be vital to the organisation's success, and that this could seriously undermine the organisation's credibility amongst those that may need it most. It also suggested that a single Equality Act would help to reduce the complexities and inconsistencies that currently exist and make equality legislation easier to understand and implement, more effective, and thus, of greater benefit to employers and service providers, advice givers and members of the public. However, it recommended that if the new body must proceed on the basis of the then equality legislation, then one of its earliest tasks must be to bring coherence and simplicity to such legislation.²¹³ The MCB response also highlighted a further particular concern – which was that there was still little provision with regards to discrimination in law enforcement, regulatory and control functions. In the MCB view, this had fast become a very critical area of concern for the British Muslim community on two different fronts. Firstly, in view of the threat from international terrorist networks, whilst British Muslims agreed that all that needed to be done had to be done, they were equally concerned that, due to deep seated and institutionalised prejudices against Islam and Muslims, the war on terrorism was severely impacting completely innocent Muslims in Britain. Reports and statistics on dawn raids,

²¹² Fairness for All, A New Commission for Equality and Human Rights, A Response from the MCB, op. cit., p.19ff.

²¹³ Ibid., pp.5-9.

arrests and stop and search served only to vindicate these concerns.²¹⁴ Secondly, Muslims were also concerned that the ongoing ‘war on immigration and asylum seekers’, and now linked with international terrorism, again impacted innocent Muslim families in Britain disproportionately.²¹⁵ Although serious discriminatory practices on the basis of religion were genuine and real, there were few safeguards against them. In fact, the trend seemed to be the reverse: to curtail certain safeguards that existed under international human rights agreements – for example, the curtailment of certain rights through the Anti-Terrorism, Crime & Security Act 2001. These points are explored further in Chapter 4.

The MCB response and concerted lobbying to go beyond just a single equality body resulted in some success. At a speech by Jacqui Smith MP to the Equality and Diversity Forum (EDF) conference on 14 July 2004, she indicated that the new commission will prepare the ground for a single Equality Act as one of its first major tasks.²¹⁶ Meanwhile, pressure from the MCB for more harmonised equality legislation continued to be applied on contacts beyond the DTI. In a strongly worded letter from the Secretary General of the MCB to the Home Secretary, dated 28 July 2004, the MCB hinted that Labour may not get the support it expects from Muslim communities at the next General Election unless something on harmonising equality legislation was included in the next Queen’s Speech.²¹⁷ This was further reinforced through a meeting and exchanges between the present author, then Advisor on Equalities to the MCB, and political and policy advisors at and to No 10.²¹⁸ The pressure eventually won a concession from the top, without the knowledge of the Home Office and some of the other key Government Departments. The concession was relayed to the MCB Equalities Advisor, by a Special Advisor at the No.10 Policy Unit, at 7am on 28 September 2004, and then announced later that day by the Prime Minister in his speech at the Labour Party conference – a day before the MCB

²¹⁴ MPA Scrutiny, Report on MPS Stop and Search Practice, London: Metropolitan Police Authority, 2004.

²¹⁵ See: Government White Paper – Secure Borders, Safe Haven, Integration with Diversity in Modern Britain, Response from the Forum Against Islamophobia & Racism, March 2002.

²¹⁶ See also: Government Response to the Consultation on the White Paper, Fairness for All – A New Commission for Equality and Human Rights, 18 November 2004, and the linked statement in Parliament – Hansard, Written Ministerial Statements, 18 Nov 2004, c.109WS, acknowledging the strong response from the MCB and its persuasiveness. See also the MCB press release on the Governments response: MCB Welcomes the Creation of a New Commission for Equality & Human Rights, 19 November 2004.

²¹⁷ Letter available in Interviewee 1’s Files.

²¹⁸ The meeting was arranged by Angela Mason, then Director of the Women & Equality Unit at the DTI, and attended by Carey Oppenheim, Special Advisor to the Prime Minister, and Matt Cavanagh, Special Advisor to the Home Secretary, amongst several other special and policy advisors from across Whitehall Departments.

fringe meeting at the conference, which was to be attended by Tony Blair MP, Prime Minister; Jack Straw MP, Foreign Secretary; David Blunkett MP, Home Secretary; and Patricia Hewitt MP, Secretary of State for DTI, amongst a number of other Cabinet and other ministers.²¹⁹

The good news announced by the Prime Minister, however, was slightly dampened when later that day the Home Office issued its own statement on the legislation announced.²²⁰ The statement suggested that the new legislation would cover discrimination, indirect discrimination and victimisation but was silent on harassment. The Home Office later confirmed that this was not an oversight but considered policy, driven in particular by Fiona McTaggart MP, the junior minister for race and religion. There followed various telephone discussions with the Home Office and a meeting there with the main stakeholders, but the Home Office position remained unchanged and largely unexplained. There was also an exchange of letters on this between the MCB and the Home Secretary. On 25 October, the MCB wrote: “We understand that the proposal to exclude harassment is being argued on the ground of free speech. We find it difficult to understand how the free speech argument is justified for GFS when it was not for employment.²²¹ ... We also understand that, in terms of defining ‘services’ ... there is as yet no firm commitment on the issue of mirroring section 19B–F of the Race Relations Act 1976, as amended, in the new legislation against religious discrimination in GFS ... this is very troubling ... without the inclusion of law enforcement, regulatory and control functions in the definition of services, the legislation will remain very unsatisfactory, particularly in light of recent concerns about stop and search figures and the policing of Muslim communities generally.” The MCB position was reiterated in similar letters from the TUC, DLA and EDF, and a written opinion from Barbara Cohen, a leading authority in this area.²²² In a response letter dated 8 November, the Home Secretary expressed sympathy with the point on the definition of services, but less sympathy with the harassment point, though not

²¹⁹ The full text of the Prime Minister’s speech at the Labour Party conference is available at: http://news.bbc.co.uk/1/hi/uk_politics/3697434.stm.

²²⁰ Home Office Press Release, Strengthening Protection against Religious Discrimination, 28 September 2004.

²²¹ Referring to the recent Employment Equality (Religion or Belief) Regulations 2003.

²²² Copies of these letters and Barbara Cohen’s Opinion of 5 November are available in the MCB Files, together with the exchange of letters between the MCB and the Home Office. Barbara Cohen, a key member of the DLA, who was at the Home Office meeting, had already forensically dismantled the Home Office concerns – arguing very persuasively that the Home Office position would not contribute to free speech but only confusion.

completely ruling it out. One further attempt was made on the harassment point by the MCB in a letter dated 6 December, supported by a position paper also backed by Justice and Liberty, and a dossier of real cases collected from reports in the press on all aspects of GFS discrimination: direct, indirect, harassment and victimisation – but again it failed to make the impact desired.²²³

Much of what the MCB demanded, over and above the Government's initial position of only wanting to legislate for a single equality body, was ultimately secured in Part 2 of the Equality Bill 2005 – albeit with what can only be described as political pressure at the top resulting in a political decision forced down into the relevant government departments. Private assurances were also given for additional legislation after the election (eg, regarding the public sector equality duty) – but there was now a race against time for legislative space in Parliament to get the legislation through before the elections. In keeping with its salami-slice strategy, therefore, the MCB restrained from introducing additional amendments in Parliament, especially on the issue of harassment, once the draft legislation had been introduced. It opted for pushing the legislation through and keeping the public sector equality duty and harassment issues for another day.²²⁴ The Bill, however, did not make it through before the General Election in 2005, but was reintroduced in the same form immediately after the election, and was passed into law in 2006.

The Equality Act 2010

The case for comprehensive anti-discrimination and equalities legislation on grounds of religion and belief had been amply made and clearly accepted in New Labour's second term in Government. It was also clear, however, that not all of it would be delivered within that term. Some of it at least would require a wider and deeper discussion before it would succeed in Parliament and be accepted by wider society – a point recognised and made by Muslim communities themselves through the discussion about primary vs secondary

²²³ The position paper, *The Case for Inclusion and Statutory Definition of Harassment in New Legislation against Religious Discrimination in Goods, Facilities and Services*, and the dossier – F. Dossa and T. Choudhury, *Religious Discrimination in the Delivery of Goods, Services & Facilities, The Experience of Muslims in the UK*, December 2004, are available in the MCB Files. See also: *Briefing on extension of protection against discrimination on grounds of religion or belief*, Justice, November 2004.

²²⁴ See Sir Iqbal Sacranie's speech at the EDF Conference, *Keeping Equality on the Agenda*, 15 June 2005 – available in the MCB Files.

legislation around the implementation of the European Employment Directive. In light of this, even whilst the Equality Bill 2005 was progressing through Parliament, on 25 February 2005, ahead of the General Election on 5 May 2005, with concerted lobbying pressure from the Muslim community (particularly the MCB), alongside many others from across the equality strands, the Government announced two wide-scale and comprehensive reviews, the Equalities Review and the Discrimination Law Review – both to be assisted by a single Reference Group of key stakeholders.²²⁵

With regards to the Equalities Review, the Government recognised that despite 40 years of equalities legislation, evidence suggested that there were still social, economic, cultural and other factors that denied or limited individuals the opportunity to fulfil their potentials and to contribute to society fully. In order to ensure a firm basis for the future development of policies and programmes that promote equality of opportunity and overcome disadvantage, Britain needed a compelling understanding of these persistent factors. The Equalities Review was, therefore, to investigate into the causes of persistent discrimination and inequality in British society and provide a deeper understanding of how they may be addressed by public policy; make practical recommendations on key policy priorities for the Government and public sector, employers and trade unions, civic society and the voluntary sector; and inform both the modernisation of equality legislation, towards a Single Equality Act, and the development of the new Commission for Equality and Human Rights. The Review Panel was to start work in March 2005 and report to the Prime Minister by Summer 2006.²²⁶ The Discrimination Law Review was to consider the opportunities for creating a simpler, fairer and more streamlined equality legislation framework in a Single Equality Act, which produced better outcomes for those who experienced disadvantage. This work was to begin alongside the independent Equalities Review; to consider the recommendations of the Equalities Review; and, in particular, to consider the following key areas: an examination of the fundamental principles of discrimination legislation and its underlying concepts through a comparative analysis of the different models for discrimination legislation; an investigation of different approaches to enforcing discrimination law so that a spectrum of enforcement

²²⁵ See: DTI and Cabinet Office Press Release, Review of Causes of Discrimination Announced, 25 February 2005.

²²⁶ For more on the Equality Review, see: <http://archive.cabinetoffice.gov.uk/equalitiesreview/about.html>; for its final report, see: Fairness and Freedom – The Final Report of the Equalities Review, London: The Stationery Office, 2007.

options could be considered; an understanding of the evidence of the practical impact of legislation – both within the UK and abroad – in tackling inequality and promoting equality of opportunity; and an investigation of new models for encouraging and incentivising compliance. A key priority was to achieve greater consistency in the protection afforded to different groups while taking into account evidence that different legal approaches may be appropriate for different groups. The Review was to begin immediately. Its anticipated product was a series of proposals for a coherent, modern, outcome-focused framework for this area of the law with a view to bringing forward a Single Equality Bill.²²⁷ Whilst committing to these two new initiatives, the Government remained committed to establishing the new Commission for Equality and Human Rights on the current timetable, with the new body becoming operational in 2007.

The Reference Group, with its wealth of experience and insights of stakeholders and experts from the relevant equality and human rights areas, the business sector, trade unions and public services, was to inform the work of both the Equalities Review and the Discrimination Law Review. The Reference Group was to act in an advisory capacity to the two Reviews, suggesting ways forward as they developed their inquiries. It was to be consulted at regular intervals to advise on particular issues or questions throughout the period of each Review, but also to be able to offer independent advice to each Review as and when appropriate. It was to have access to the same evidence base used by the Reviews, and whilst its discussions were to be confidential, it was expected that its members may wish to consult others to ensure that the Reviews are aware of relevant opinions amongst wider stakeholders and experts. However, the Reference Group was not to be a parallel process and was not to produce a report of its own. The Group was to be co-chaired by the Chairs of the Disability Rights Commission and Equal Opportunities Commission, and its members were to include key campaigners from different strands of equality, independent experts and representatives from equality bodies, the business sector, trade unions, the public sector, and Scotland and Wales. Significantly, the Muslim representative on the Taskforce/Steering Group, was to retain a seat on this Reference Group.²²⁸

²²⁷ For the Discrimination Law Review's final output, see: A Framework for Fairness – Proposals for a Single Equality Bill for Great Britain, A consultation paper, London: DCLG, June 2007.

²²⁸ For minutes of the Reference Group's meetings, see:
http://archive.cabinetoffice.gov.uk/equalitiesreview/reference_grp/meetings.html.

Subsequent to the London bombings on 7 July 2005, however, just two months after the General Election, relations between the MCB and the Government began steadily to sour. At the heart of this was a difference in analysis of the underlying causes resulting in the London bombings. The Prime Ministers analysis of the atrocities was that it resulted from a strand of extremist Islamic theology in and of itself – later to be termed ‘Islamist ideology’. The MCB and other Muslim organisations suggested that this extremist theology and activity fed off British foreign policy, particularly with regards to Afghanistan and Iraq.²²⁹ The Prime Minister was already facing much criticism on Afghanistan and Iraq, and had hoped for some leniency on this from the MCB in return for his announcement on new religious discrimination legislation on goods, facilities and services.²³⁰ But the MCB held its lines on the Afghanistan/Iraq issues – suggesting that they were the main cause for the London bombings.²³¹ This apparently infuriated the Prime Minister and is suggested to be one of the main reasons behind the infamous ‘rules of the game will change’ speech.²³² Whilst this phrase was mostly in reference to more draconian anti-terrorism legislation, one rule that was indeed to change was the Governments preferred relationship with the MCB as the representative voice of British Muslim communities – and the incoming Secretary of State for the newly created Department for Communities and Local Government (DCLG), the Rt Hon Ruth Kelly MP, was tasked to find, and indeed even helped to set up, new Muslim organisations and/or individuals that could fill the MCB’s role.²³³

This change in the Government’s relationship with the MCB had a significant impact on the equalities work on grounds of religion or belief – the Muslim community had lost its

²²⁹ The MCB noted in particular the videoed statements by the 7/7 bombers – where they made this point explicitly. There were several reports, from both before and after 7/7, that came to the same conclusion – see, for example: Joint Intelligence Committee Report, International Terrorism – Impact of Iraq, London: JIC, April 2005; and J. Chilcot et al, The Report of the Iraq Inquiry, Report of a Committee of Privy Counsellors, London: House of Commons, 6 July 2016.

²³⁰ See how he links the two in his speech at the Labour Party Conference on 28 September 2004, op. cit.

²³¹ See, for example, the viewpoint of Inayat Bunglawala, spokesperson for the Muslim Council of Britain, at: <http://news.bbc.co.uk/1/hi/uk/4693845.stm#bunglawala>.

²³² See: The rules of the game are changing, The Guardian, 5 August 2005; online at – <https://www.theguardian.com/uk/2005/aug/05/july7.uksecurity5>.

²³³ This was clearly signalled in a speech by Ruth Kelly on 11 October 2006 – for the relevant sections of the speech, the MCB’s rebuttal of key points and an exchange of correspondence between the MCB and Ruth Kelly, see: http://salaam.co.uk/themeforthemonth/september03_index.php?l=64. Kelly helped set up and/or supported two Muslim organisations to replace the MCB, the British Muslim Forum and the Sufi Muslim Council. The Kelly mission continued under her successor, Hazel Blears MP, and only changed when John Denham MP arrived as Secretary of State at the DCLG. By then, however, the damage to the reputation of and the relationship with the MCB had already been ingrained across Government and Whitehall.

most important point of access into government for achieving its anti-discrimination and equalities objectives. The situation was made all the more difficult by the fact that Ruth Kelly was now also the Minister for Women and Equality, overseeing the work of the Women and Equality Unit, which was overseeing the Discrimination Law Review and leading the equalities work in government. The equalities work, particularly (but not exclusively) on sexual orientation, did not sit well with Ruth Kelly's strict Catholic views²³⁴ – and the Christian view and voice more generally was, on the whole, moving towards being more vociferously against the extension of the law, in terms of both harassment and the public sector equality duty, to cover religion.²³⁵ Additionally, on the Reviews front, under Trevor Phillips as chair, the Equalities Review – which Muslims had initially hoped would establish and champion their case – had completely marginalised the Reference Group, showed little interest in religion or belief as a strand and was running with a very strong agenda of its own.²³⁶ Thus, the momentum in the equalities work gained over the previous two government terms slowed dramatically. Suddenly, where it had appeared to Muslims that there was an understanding before the General Election on the public sector equality duty, and perhaps even on harassment in goods, facilities and services, there was now an uphill struggle on both fronts. In the circumstances, the Muslim effort focused on the public sector equality duty – at the cost of losing protection from harassment in the delivery of goods, facilities and services, and of rebuilding the demand for better incitement legislation.²³⁷

Despite these difficulties, however, the momentum built up for a single equality act over the previous two government terms was simply too strong to stop its flow, and Kelly eventually saw through to publication the Government Green Paper on this on 12 June

²³⁴ See: P. Stanford, Ruth Kelly – Back in the limelight, *The Tablet*, 15 April 2017.

²³⁵ See the eventual responses of the Evangelical Alliance, the Church of England and the Catholic Bishops Conference of England & Wales to the Government Green Paper, *A Framework for Fairness – Proposals for a Single Equality Bill for Great Britain*, op. cit., captured in: *The Equality Bill – Government response to the Consultation*, London: House of Commons, July 2008.

²³⁶ Note, for example, how the Review's proceedings/consultation events completed failed to engage Muslims in any meaningful way – see:

http://archive.cabinetoffice.gov.uk/equalitiesreview/consultation_events.html.

²³⁷ One reason for this choice was the work being done at the time on securing an EU Directive on implementing the principle of equal treatment in the delivery of goods, facilities and services between persons irrespective of religion or belief, disability, age or sexual orientation – COM (2008) 426/3. At the time, with the Commission strongly behind the proposal, there was a strong feeling that the Directive would be adopted at some point in the near future – in which case the harassment point would be addressed by necessity. However, movements on the Directive subsequently stalled and have not been revived.

2007.²³⁸ The Green Paper made no commitment to extending the public sector equality duty to cover all grounds, but consulted on this in detail. In its response to this Green Paper, the MCB made another strong case for the duty to be extended to British Muslims.²³⁹ It started by stating the benefits of a positive duty generally: it is a proactive and mainstreaming approach to equalities, not dependent upon the proof of fault by an individual complainant, but treating equality as a shared goal to be achieved through co-operation, negotiation and compromise between all groups in society; it provides public sector organisations such as hospitals and schools with a framework to deliver equality; it ensures equality issues are considered at the outset by identifying barriers to equality; it is a proactive promotion of equality which means that discrimination that could lead to costly litigation can be prevented; it ensures that employees in public bodies are representative of the communities that they serve and that they understand the impact that their work will have on equalities issues; it is a framework for monitoring and evaluating progress through equality impact assessment and workforce monitoring; and the process ensures that decisions about needs are made at a local level after a process of consultation, and this allows public bodies to make decisions about how to achieve the goals of equality and non-discrimination when taking into account their own resources and priorities. In short, it encourages an inclusive, pro-active, non-adversarial approach to fair access and participation while providing effective remedies and sanctions. The submission then described the problem with Muslims not being covered by the duty at the time and made a case for its extension to them. The gap in the duty in protecting Muslims meant that public authorities in local communities where there were large numbers of Muslims were not required to take the needs of these communities and citizens into account as service users in making decisions about their services. This was especially problematic because these were often the most marginalised groups, as shown in the Census analyses, who needed to be integrated into mainstream public institutions which were the primary sources of integration for socially, economically or politically marginalised groups. Inclusive public institutions are also better placed to promote equality, integration and

²³⁸ A Framework for Fairness – Proposals for a Single Equality Bill for Great Britain, op. cit.

²³⁹ The MCB's response to the Government Green Paper, A Framework for Fairness, op. cit., is available at: <http://archive.mcb.org.uk/wp-content/uploads/2016/02/Legal-Affairs-Committee-Documents.pdf>. The details of the response summarised here are to be found in an additional memo specifically on the public sector equality duty that accompanied the response and is available in the MCB Files. For a very helpful paper that both informed the MCB and was informed by the MCB, see: Colm O'Conneide, Taking Equal Opportunities Seriously – The Extension of Positive Duties to Promote Equality, London: EDF, 2003.

community cohesion because a harmonised approach ensures that the needs of religious groups are aligned with the needs of other religious and non-religious social groups in the community through a process of consultation, negotiation and compromise. This aligning of social groups in this way helps to embed a culture of reciprocity of equality and equity: ‘I recognise your rights because you recognise mine’ becomes ‘we share an understanding of a collective duty to promote all equality strands’. A harmonised approach also ensures that mainstreaming of equality does not have a negative impact on vulnerable groups such as women, the disabled and the elderly who are often less powerful within religious minorities – as the accommodation of a religious group will be subject to their meeting the requirements of other equality groups. And finally, the approach would also go a long way towards eliminating the mono/multi-ethnic faith communities anomalies. The MCB submission also included practical examples of how the positive duty would operate in practice, the real problems it would address and the solutions it might bring – and provided responses to frequently asked questions on extending the positive duty to religion and belief.

Soon after the publication of the Green Paper, however, there was a new Prime Minister, Gordon Brown MP, and cabinet responsibility for equalities changed to the Rt Hon Harriet Harman MP on 28 June 2007. Relations between the new Prime Minister and the MCB were not as ideologically hardened as with the previous Prime Minister, and Harman had significantly more sympathy for equalities legislation, and particularly for gender equality – although she had little understanding of, and perhaps little natural sympathy for, the religion or belief strand. Importantly, however, Muslim campaigners felt that the doors of possibilities were not closed with her. There thus followed a new round of lobbying, albeit much quieter. This new phase of lobbying involved very careful treading in terms of both policy influencing work at the Women & Equality Unit (WEU), subsequently the Government Equalities Office (GEO),²⁴⁰ through the Muslim member of the Reference Group,²⁴¹ and political lobbying – both directly, targeting senior sympathetic politicians, and indirectly through a new crop of junior ministers of Muslim heritage.²⁴² After considerable lobbying work behind the scenes, Harman eventually

²⁴⁰ GEO was formed out of the WEU in October 2007.

²⁴¹ See the additional submissions made to the WEU/GEO – available in the FaithWise Files.

²⁴² Note in particular the lobbying work done through Sadiq Khan MP, but also more directly with senior politicians like Jack Straw MP and Peter Hains MP by Sir Iqbal Sacranie – confirmed with Sir Iqbal Sacranie in his interview for this study on 23 May 2016.

agreed to extend the duty to the new strands.²⁴³ However, there was one further spanner in the works thrown in by Lord Lester and his team at the Odysseus Trust: the suggestion that if the duty was to be extended to religion and belief, it should only be extended insofar as its first and third limbs (non-discrimination and good relations) but not its second limb (promotion of equality of opportunity).²⁴⁴

The Government Equalities Office, now leading on the drafting of the Single Equality Bill, initially accepted the Lester teams suggestion. However, due to further considerable internal and external pressure,²⁴⁵ this was changed at the very last minute.²⁴⁶ The White Paper stated that the “Equality Bill will contain a new streamlined Equality Duty to replace the race, disability and gender equality duties, which will also cover gender reassignment, age, sexual orientation and religion or belief. What this means in practice is that the duty will require public bodies to consider how their policies, programmes and services affect different disadvantaged groups in the community. We will be discussing with relevant organisations how the new duty will work in practice, especially in relation to religion or belief.” This commitment resulted in s.143 of the Equality Bill 2009, which read as follows:

143 Public sector equality duty

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

²⁴³ See: The Equality Bill – Government response to the Consultation, London: House of Commons, July 2008.

²⁴⁴ See: A. Lester and P. Uccellari, Extending the equality duty to religion, conscience and belief – proceed with caution, *European Human Rights Law Review*, Vol.5, 2008, pp.567-73.

²⁴⁵ See, for example, the D. Greaves and M. Aziz note from Prevent, DCLG, sent through the Secretary of State for DCLG to GEO, and the subsequent K. Dhillon briefing to ministers as a result: A Single Public Sector Equality Duty – Extension to Religion or Belief, June 2008. Both are available in the FaithWise Files.

²⁴⁶ Initially leading up to an important meeting of the Domestic Affairs Committee on 19 May 2008 – and then sealed across Whitehall at a further meeting on 12 June, only days before the White Paper, Framework for a Fairer Future – the Equality Bill, London: House of Commons, June 2008.

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

...

(6) The relevant protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

However, Lord Lester was not to give up his fight yet and sought to remove the extension to the second limb twice in the House of Lords through amendments.²⁴⁷ On both occasions, however, the amendments were defeated,²⁴⁸ and the full duty was extended to cover religion and belief in s.149 of the Equality Act 2010 – only days before Parliament concluded business prior to the General Election in May 2010, which saw New Labour replaced in government by a new Tory/Lib-Dem coalition.²⁴⁹

British Muslim engagement and impact

This last section of this chapter considers briefly how British Muslims engaged with the development of the provisions on non-discrimination and equality on grounds of religion or belief. Returning to and employing the extended Dinham and Lowndes framework developed in Chapter 1, it is clear that the British Muslim engagement with the development of the provisions in this chapter was extensive. This engagement was mostly bottom-up – British Muslims taking the initiative to engage the government and/or policy making and legislative process on an agenda very important to them. For example, on aggravated offences at the time of the Crime and Disorder Act 1998 (CDA 1998) and on the delivery of goods, facilities and services and the public sector equality duty following the European Employment Directive. It was initiated and undertaken by a wide range of actors with a broad spectrum of motives. This included, first and foremost, representative organisations like the UKACIA/MCB, but also specialist advocacy organisations like

²⁴⁷ This caused intense reaction and activity amongst Muslim campaigners for this legislation – resulting in, for example, intense lobbying of senior politicians in the House of Commons and the MCB/FaithWise Briefing Note to the House of Lords in December 2009 – available in the FaithWise Files.

²⁴⁸ Note in particular the contribution of Baroness Warsi in achieving this – changing the position of her party on this to ensure that the duty goes through with all three limbs for religion or belief. See her contribution in the House of Lords on 2 Mar 2010, Hansard, cc.1404-06.

²⁴⁹ For a more detailed analysis of the positive duty, see: S. Fredman, *The Public Sector Equality Duty*, *Industrial Law Journal*, Vol.40(4), December 2011; and for an assessment of the Coalition's approach to enforcing it, see: B. Hepple, *Enforcing Equality Law – Two Steps Forward and Two Steps Backwards for Reflexive Regulation*, *Industrial Law Journal*, Vol.40(4), December 2011.

FAIR and BMRC – speaking for or on behalf of Muslim communities. It also included faith leaders and representatives in their personal capacity, as well as individually successful Muslims in politics and the Civil Service, who felt called to respond in particular circumstances – for example, on the public sector equality duty in the Equality Act 2010. Mostly, these actors were driven by their own initiative, sometimes in competition and occasionally in co-operation with each other – for example, on the aggravated and incitement offences in ATCSB 2001.

Throughout the development of the provisions on non-discrimination and equality on grounds of religion or belief, British Muslims often worked with others beyond the Muslim community – through ad hoc alliances with other civil society organisations and non-departmental public bodies (eg, the CRE), for example, on religiously aggravated offences at the time of the CDA 1998 and incitement offences leading up to the Racial & Religious Hatred Act 2006 (RRHA 2006); through existing networks, for example, the Inter Faith Network for the UK, to deliver the two joint statements on incitement legislation; and through forming longer-term powerful new coalitions and forums, for example, the EDF, with and through which they worked on all aspects of civil non-discrimination and equality provisions and the single equality body. In some cases, the initiative was taken by government or a third party but subsequently driven by Muslims, for example, incitement to religious hatred legislation was introduced by government in the ATCSB 2001, and subsequently by Lord Avebury as a Private Members Bill, but the governments Facts and FAQs sheets around the RRHA 2006 were practically written the BMRC. In other cases, government initiated processes where the Muslim community was strongly represented, for example, on the Equalities Taskforce, Steering Group and Reference Group.

This activism within the British Muslim community, alliance building and partnership work in wider civil society, and engagement with a continuum of government actors and roles – including politicians (at various levels, eg, cabinet, ministerial and parliamentary levels), civil servants and public officials (including in NDPBs and quangos), various consultation and advisory fora established by the government and its organs, and advisors at different levels across this continuum – certainly bore considerable fruit. Thus, whilst it is true that much of the equality legislation in the 2000s may not have been at all

possible without the vision and energy of veteran campaigners from some of the other equality strands and human rights,²⁵⁰ it is equally true that this legislation would not have been extended to the extent it was on the ground of religion or belief without the vigilance, energy and constructive participation of British Muslims. Working in consonance on the whole, on their own terms (for example, not readily accepting equality provisions in counter-terrorism legislation), and with organisations like the Equality and Diversity Forum (EDF) and its members, they made it possible for Government to deliver – and in the end, New Labour had delivered much of the equality legislation demanded by the Muslim community, though there still remained the inconsistencies in the provisions on harassment in goods, facilities and services and incitement between mono-ethnic and multi-ethnic faith communities.

The impact of the legal provisions, along with the other provisions and measures discussed in Chapters 2-5, on the integration of Muslims into British society will be discussed in chapter 6, which is devoted to just this discussion.

²⁵⁰ For example, Francesca Klug OBE (human rights), Lee Jasper (race), Angela Mason OBE, (gender and sexual orientation), Sarah Spencer CBE, (race and human rights) and Sir Bert Massie (disability).

Chapter 3: The non-legal measures to promote non-discrimination and equality

Introduction

One key lesson learnt across the earlier strands of non-discrimination and equality was that legal provisions alone would not deliver all that was required, and that certain non-legal measures were just as important for this to happen. This chapter will begin with some general background information to contextualise the development, and the possible opportunities missed for such development, of the non-legal measures to promote non-discrimination and equality on grounds of religion or belief. It will then critically trace and assess the genesis, development and substance of some of the key non-legal measures that were developed and the key opportunities that were lost. Along with this, it will examine British Muslim engagement with the development or not of these measures – how British Muslims influenced or responded to and thereby shaped or reshaped them. In particular, this chapter will consider the idea of a faith communities unit in Government; a non-departmental public body (or a commission) for religion and belief; public sector agreement targets on grounds of religion and belief; work on public procurement on grounds of religion and belief, and a system of rewards and interventions for equalities work on grounds of religion and belief. We will consider each of these in turn – but first, some background on non-legal equality measures and provisions more generally. The chapter will conclude with a section on the impact of the British Muslim engagement on these measures and the equality agenda as a whole.

The Background

The idea that legislation alone would not be enough to promote non-discrimination and equality is as old as calls for positive law in this area, if not older. However, it is arguable that the modernisation agenda with regards to the UK constitution, government and public sector that was the hallmark of the New Labour government from 1997 gave it fresh impetus.²⁵¹ As Spencer and Taylor suggest, unlike some concepts in policy debates,

²⁵¹ There is a very large body of literature on New Labour's modernisation agenda – see, for example: J. Newman, *Modernizing Governance – New Labour, Policy and Society*, London: Sage, 2001. The concern here is how that agenda and discourse impacted on the development of the equalities agenda – particularly,

‘modernisation’ had a significant level of usage and shared meaning.²⁵² Modernisation was not an end in itself, but a means to meeting individual and societal goals. In the public sector, it was to be the means to ensure a shift in emphasis from working practices that suit public sector organisations to service delivery that suits the public. In the course of the first New Labour term, this had been fleshed out by reform programmes which, if not always consistent in practice, shared common elements²⁵³ – most relevant and significantly for the delivery of non-discrimination and equality work, this included: new institutional arrangements established in Whitehall to facilitate planning and service delivery on issues like non-discrimination and equality that do not fit neatly within departmental boundaries; strengthened regulatory, inspection and monitoring frameworks on such issues through significantly empowered non-departmental public bodies (NDPBs) and independent inspection regimes; a focus on outcomes, reliance on evidence-based evaluation and policy development, and the use of targets and performance measures to drive performance towards those outcomes; the use of public procurement to pursue the same aims in the private and third sector as in the public sector; and the recognition of excellence coupled with intervention where satisfactory delivery was not forthcoming.²⁵⁴

equalities on grounds of religion and belief, and more specifically with regards to equality for Muslims. Thus, the relevant literature in this instance is much narrower – and much of it in what is sometimes known as ‘grey literature’ or unpublished material. A good example of the relevant literature in this instance is: C. Collins, *Separate Silos – Race and the reform agenda in Whitehall*, London: IPPR, 2002, which provides a good discussion on the Modernising Government White Paper of 1999 and its implications for the development of race equality in the UK.

²⁵² S. Spencer and S. Taylor, *Modernisation and the Race Equality Agenda*, CRE Papers for Commissioners Meetings, October 2003.

²⁵³ Note, for example, the series of white papers and speeches Ministers used in the first term of government to set out a vision for the modernisation agenda with two particular goals: improvement of public services so that they reflect the needs and aspirations of users/citizens; and a broader goal of services which build and foster strong, cohesive communities – services which are not just for people but which engage them in decision making and delivery. Note, in particular, the Prime Minister’s speech on this: ‘Public services are the power of the community in action...they are social justice made real’, October 2001.

²⁵⁴ S. Spencer and S. Taylor, *Modernisation and the Race Equality Agenda*, op. cit. There is specific literature on each of these elements: for example, for new institutional arrangements and roles see – J. Newman, *Changing Governance, Changing Equality? New Labour, Modernization and Public Services*, *Public Money & Management*, Vol.22(1), 2002, pp.7-14, and J. Squires and M. Wickham-Jones, *New Labour, Gender Mainstreaming and the Women and Equality Unit*, *British Journal of Politics and International Relations*, Vol.6(1), February 2004, pp.81-98; and on evidence, targets and outcomes based policy and delivery work, see – M. Bevir and D. O’Brien, *New Labour and the Public Sector in Britain*, *Public Administration Review*, Vol.61(5), September/October 2001, pp.535-47, and M. Langan, *Social Services – Managing the Third Way*, in J. Clarke et al (eds.), *New Managerialism, New Welfare*, London: Sage Publications, 2000.

A good example of the new machinery (structures and working practices) put in place across Whitehall and the Civil Service, to tackle issues which cut across departments, from 1997, that gathered pace from 2001, to enable delivery of the modernisation agenda, is the Children and Young People's Unit, which dealt with, amongst other things, the overlaps relating to young people, drugs and criminal justice – through mechanisms such as joint PSA targets.²⁵⁵ The new institutional arrangements in Whitehall to facilitate the planning and service delivery on non-discrimination and equality that did not fit neatly within departmental boundaries included, for example, the Race Equality Unit at the Home Office, the Office for Disability Issues at the Department for Work and Pensions, and the Women and Equality Unit at the Department for Trade and Industry (that later developed into the Government's Equalities Office). The new arrangements for non-discrimination and equality, however, faced two immediate and continuing challenges pulling in opposite directions. On the one hand, departments still retained considerable control over the shared agenda and were reluctant to concede any of this control. Thus, for example, the Race Equality Unit at the Home Office found that where responsibility was divided between the Home Office and other government departments, with no obvious and clear mechanism in place to enable it to drive change through Whitehall, developing a cross cutting race equality strategy was by no means an easy task. This changed over time as the modernisation agenda became more embedded but was never resolved completely. On the other hand, driven by the necessity of responding to the EU directive on age, sexual orientation and religion, the Government's move to establish a cross-equality agenda meant that the established individual equality units were required to concede hard won control they had demanded from the departments, and also to work on wider issues.²⁵⁶ Again, this was not always easily forthcoming, improved over time, but was far from ever being completely resolved.

In terms of strengthened regulatory, monitoring and investigation frameworks through significantly empowered non-departmental public bodies (NDPBs), in the area of non-discrimination and equality, the CRE, EOC and DRC – that later merge into the EHRC, are clear examples of this. The equality NDPBs were given new powers to play a key

²⁵⁵ N. Parton, *Safeguarding children – a socio-historical analysis*, in K. Wilson and A. James (eds.), *The Child Protection Handbook – The Practitioner's Guide to Safeguarding Children*, Edinburgh: Elsevier, 2007, pp.21-22.

²⁵⁶ For example, the CRE was required in some instances to undertake work falling in the religion terrain; EOC, work falling in the sexual orientation terrain; and the DRC, work falling in the age terrain.

strategic monitoring and enforcement role, to be based on an identifiable and agreed baseline of performance (as discussed below): monitoring to identify strong and weak performers, to learn from best practice and to identify those needing support or enforcement action. There were, however, significant challenges to this.²⁵⁷ Throughout the embedding of the modernisation agenda, there was a concurrent and dichotomous climate of resistance to regulation as imposing a burden on public (and private) bodies. The Race Relations (Amendment) Act 2000, for example, was perceived by some as heavy on procedure and resources – and thus, as inimical to modernisation. Also, initially at least, there was a lack of a granulated evidence base for any of the equality grounds – both on the problem and evaluation of ‘what works’. This weakened the capacity to argue for particular priorities and to identify the strategies most likely to be effective in closing the equality gaps; and made impact assessments problematic. There was the challenge of identifying failing authorities in a systematic way given that the equality NDPBs had no statutory role in monitoring overall performance and there was no requirement on authorities to inform them on what they were doing or achieving – ie, how much of the failure was an equality failure as compared to an overall failure, how was this to be discerned where the service recipients were overwhelmingly from a particular racial or religious group, and who was responsible for taking action in such cases – the equality NDPB or the sectoral inspectorate body. Initially, there was also little experience and poor understanding of which enforcement powers were most appropriate to tackle which elements of poor performance, such as failure to conduct impact assessments, or failure to deliver key outcomes. Similarly, there was a poor understanding of the strengths and weaknesses of the different enforcement powers and the cost of deploying them, and hence the need to clarify exactly what can be done before entering an enforcement process in order to use powers sparingly but to major effect. Then, of course, there was the challenge of a lack of resources, or alternative agencies, to provide one-to-one guidance to failing authorities. For example, authorities expected the CRE to be able to hold their hand through preparing a race equality scheme, conducting impact assessments or

²⁵⁷ The key challenges are helpfully summarised in S. Spencer and S. Taylor, *Modernisation and the Race Equality Agenda*, op. cit. For more detail on the challenges and how they may be overcome, see: S. Fredman and S. Spencer, *Delivering Equality – Towards an Outcome-Focused Positive Duty*, Submission to the Cabinet Office Equality Review and the Discrimination Law Review, June 2006. For learning in this area from N. Ireland, see: C. McCrudden, *Review of Issues Concerning the Operation of the Equality Duty*, in E. McLaughlin and N. Faris (eds.), *Section 75 Equality Review – An operational review*, Vol.2, Belfast: Northern Ireland Office, 2004. For a detailed analysis of the more technical challenges, see: L. Neckles, *The effectiveness of the race and disability public sector equality duties as positive legal duties and legal accountability tools*, PhD Thesis, Edge Hill University, September 2015.

identifying priority outcomes, but neither the CRE nor other agencies had the resources to do this, and thus failed to meet expectations – causing resentment where they were unable to provide assistance but then threatened enforcement action. Finally, there was also the fact that the delivery of the outcomes by which the equality NDPBs were to be judged themselves could only be delivered by others – requiring them to develop relationships with government and public bodies that were optimal in securing delivery. This required a very delicate balance of partnership and enforcement, and extremely nuanced messaging – not easy to achieve in the best of circumstances. However, whilst the CRE was slow to demonstrate that the RRAA delivered results, when eventually it commissioned research on this, the research showed that authorities overwhelmingly perceived that their work on the race public sector equality duty had produced positive benefits.²⁵⁸

The work of the equality NDPBs was to be further supported by a strengthened regime of independent inspection bodies in all areas of equalities concern, eg, Ofsted in education, the Social Services Inspectorate and the Commission for Health Improvement in health, and a whole host of inspectorate bodies in the area of crime and disorder. In practice, the NDPBs worked very closely with the Inspectorates: ensuring that the inspectorates mainstreamed equalities into their core inspections, and not only as an occasional thematic extra. The CRE, for example, had a memorandum of agreement with many of these bodies and a framework guide prepared for them on how to do the equalities inspections.²⁵⁹ The work of the NDPBs and inspectorate bodies was further strengthened by the work of the Audit Commission – which, through public reporting on performance, sought to enhance accountability.²⁶⁰ The NDPBs also worked through strategic partners, in recognition that a regulator alone could not reach all 43,000 public bodies individually, seeking to harness the influence of those agencies that influence them – eg, through the TUC and individual unions; professional bodies (eg, ACPO); umbrella bodies (eg, LGA and the Employers Organisation); and parent departments (eg, ODPM) with sectoral

²⁵⁸ Schneider-Ross, *Towards Racial Equality: An evaluation of the public duty to promote race equality and good race relations in England and Wales*, London: CRE, 2002, pp.5-8.

²⁵⁹ CRE, *The Duty to Promote Race Equality – A Framework for Inspectorates*, London: CRE, July 2002.

²⁶⁰ See, for example: Audit Commission, *The Journey to Race Equality – Delivering Improved Services to Local Communities*, London: Audit Commission, January 2004.

strategies, in this case in local government, health, education and criminal justice.²⁶¹ Often this work was to promote and share good practice.

In relation to the focus on outcomes, reliance on evidence-based evaluation and policy development, and the use of targets and performance measures to drive performance towards those outcomes, the modernisation agenda advocated that the goal was not simply more investment (input) and the nuts and bolts of the delivery process (outputs), but more importantly a wider set of impacts (outcomes). Outcomes were defined in national and local targets (such as those on educational attainment in the DfES literacy strategy) or PSAs (Public Service Agreement targets), which were each linked to a delivery plan.²⁶² From the start, however, there was pressure to reduce the number of targets whilst most equalities activists and professionals felt there were not quite enough for non-discrimination and equalities issues. Of course, once set, replacing or refining targets (eg the Department of Health star rating system) could take years of negotiation – for good reason they could not be replaced each year. Nonetheless, targets were, of course, revised over time where there were good arguments to do so, and to reflect changing priorities. The broad outcomes identified for equalities, however, resonated with those that public bodies were being urged to achieve in any case under the wider modernisation agenda: meeting the needs of the whole population (reducing the gaps in service outcomes); parity in service user satisfaction; representative workforces; parity in employee satisfaction; parity in public confidence levels; and measurable improvements in community relations.²⁶³

The progress made towards these targets was to be measured by performance indicators, and this necessitated an evidence base for the evaluation of performance and comparison with similar bodies, to highlight and learn from best practice, guide improvement and identify optimum policy reform. The identified outcomes/PSAs and the evaluation and evidence work on equalities, and particularly on minorities, however, was often weak and

²⁶¹ See, for example: CRE, *The Police Service in England and Wales – Final report of a formal investigation by the Commission for Racial Equality*, London: CRE, March 2005; IDeA/LGA, *Equality Framework for Local Government*, London: IDeA, March 2009; TUC, *Equality Duty Toolkit*, London: TUC, October 2011.

²⁶² See: Foreword by the Chancellor, *2000 Spending Review – Public Service Agreements*, July 2000.

²⁶³ S. Spencer and S. Taylor, *Modernisation and the Race Equality Agenda*, op. cit.

challenging, eg, on differential health outcomes.²⁶⁴ There was a recognition, however, that serving a diverse customer/citizens base necessitated having staff that reflected that diversity, and setting targets for recruitment, retention and promotion to achieve this.²⁶⁵ In terms of equalities, this approach was certainly applied to ethnic minorities – eg, in the police and fire services, but also to women and people with disabilities. Furthermore, the coincidence of the public sector equality duty in the Race Relations Amendment Act 2000 with the modernisation agenda provided a concrete opening to require and encourage public bodies to build not just race equality, but equality more generally, into their core business: to persuade the 43,000 authorities covered by the duty that they cannot deliver their target outcomes unless they also delivered on equality targets. However, research has revealed that the race equality duty led authorities to focus too heavily on process (outputs), on what they were required to do, and not on what they were expected to achieve (outcomes) – as intended by the modernisation agenda.²⁶⁶ The challenge then was to persuade authorities to identify key outcomes (whether or not yet built into the mainstream targets and performance indicators). In practice, in the difficult balance an equality NDPB was required to strike in how it allocated its resources between the time consuming and low visibility work of securing performance indicators and developing strong working relationships with inspectorates and high profiled initiatives that earned it greater visibility and popularity with its stakeholders, the latter nearly always won.²⁶⁷

With regards to the use of public procurement to pursue the same government aims in the private and third sectors as in the public sector, equalities in this element of the modernisation agenda perhaps took the longest to develop.²⁶⁸ A key rationale for public procurement in the modernisation discourse was the idea of choice. The idea that we should all be able to make appropriate choices, about services that we receive, regardless

²⁶⁴ G. Bevan, Setting Targets for Health Care Performance, Lessons from a Case Study of the English NHS, National Institute Economic Review, Vol.197(1), July 2006, pp.67-79; and National Audit Office, Department of Health – Tackling inequalities in life expectancy in areas with the worst health and deprivation, London: The Stationery Office, July 2010, pp.9-12.

²⁶⁵ See, for example: Cabinet Office, 10-Point Plan for a Diverse Civil Service, November 2005.

²⁶⁶ See, for example, the Schneider-Ross survey and report commissioned by the CRE, op. cit. – which resulted in the CRE suggesting that each body must identify 3-5 priority outcomes and demonstrate tangible improvement over 3 years. Consequently, the CRE also produced outcomes guides drawing on evidence of inequality to suggest what these outcome priorities should be. In some cases, the guides were produced jointly with the relevant parent department in Whitehall, signalling their endorsement.

²⁶⁷ Thus, for example: CRE, The Police Service in England and Wales – Final report of a formal investigation by the Commission for Racial Equality, London: CRE, March 2005.

²⁶⁸ C. Cozens, Public Procurement and Equality – Steps towards a standard tendering framework, A report for the Equality and Diversity Forum, London: Equality and Diversity Forum, November 2008.

of income, including diversity of service provision to meet our different customer requirements. On the part of government, this included buying in services but also outsourcing to private and voluntary sectors – on the basis that it is the service that is important, not who provides it. This, of course, was a double-edged sword. On the one hand, it meant that with the Governments buying power it could influence how the private and third sector responded to the equalities needs of the day, perhaps even bring it in line with the government’s approach without having to legislate to do this. On the other hand, however, it raised important issues of not just performance management and accountability with regards to equalities in those sectors, but also how the public sector positive equality duty could be achieved in areas of employment and service delivery that would traditionally be in the public sector, but had now been outsourced to the private and third sectors. There was indeed a feeling amongst some equalities advocates that there was a risk that local autonomy, or outsourcing to private and voluntary providers, would make it more difficult to require that they delivered on equalities – particularly if the delivery body was not covered by a statutory equality duty or it fell outside the remit of any inspection bodies.²⁶⁹ Compliance in this instance would be solely through the procurement process and this was still an untested area. However, some important best practice emerged in time that demonstrated that, alongside its problems, procurement could also be utilised to positive effects for equalities. One important example was to be found in how various bodies related to the 2012 Olympics Games were able to pursue various equalities objectives through the tools of public procurement.²⁷⁰

Finally, in terms of the recognition of excellence coupled with intervention where satisfactory delivery was not forthcoming, indeed a system of rewards, assistance and consequences – based upon performance and accountability, for the best, the average and the poorest performing public services was instituted.²⁷¹ Rewards included earned autonomy from regulation, funding, and possibly Beacon status;²⁷² average performers could expect assistance to improve their performance; and the under-performers could experience less autonomy, less funding, and intervention and externalisation of services.

²⁶⁹ S. Spencer and S. Taylor, *Modernisation and the Race Equality Agenda*, op. cit.

²⁷⁰ D. Smallbone et al, *Procurement and Supplier Diversity in the 2012 Olympics*, EHRC, November 2008.

²⁷¹ J. Newman, *Modernizing Governance: New Labour, Policy and Society*, op. cit., p.91ff.

²⁷² The Beacon Councils Scheme was a competitive annual process to identify excellence and innovation among councils, and encourage selected councils – Beacon Councils – to share best practice with others. See: S. Wilson and A. Lilly, *Beacon Councils Scheme – Case Study*, Institute for Government, August 2016.

For equalities advocates, this presented a tension: on the one hand, there was the desire to include equality within the definition of ‘excellence’ – however, if this resulted in earned autonomy, there was the concern that this could potentially relieve the body of responsibility to demonstrate delivery on equality in the future. At the same time, however, there was a recognition that devolved funding and responsibility – ie, front line services taking increasing responsibility for delivering both national and local standards and targets – could provide greater flexibility and scope for innovation, but equally, could create some tension with the need for national standards (including those on equality) and reduce the scope for national pressure to deliver.²⁷³ Despite these tensions for equalities, however, this element of the modernisation agenda provided another useful tool to promote equality, where this was felt to be an useful and appropriate tool on balance.

New Labour's modernisation agenda set a new context for work on non-discrimination and equality. It provided significant new opportunities to mainstream non-discrimination and equality into the core business of public bodies – and through them, beyond the public sector. By shifting the parameters within which non-discrimination and equality was to be pursued, it also posed new challenges as described above. The remaining of this chapter will consider the implications and outcomes of this new context for non-discrimination and equality on grounds of religion or belief – with particular reference to British Muslims, and the role British Muslims played in taking advantage of the opportunities on offer and addressing some of the specific challenges they faced in moving forward.

The non-legal measures to promote non-discrimination and equality

A Faith Communities Unit in Government

The idea of a hub in Government that could deal with issues to do with religions preceded the New Labour years.²⁷⁴ Taylor suggests that it goes back to the inner cities riots of the very early 1980s – starting with the Toxteth riot in 1981 – described by the Guardian

²⁷³ S. Spencer and S. Taylor, *Modernisation and the Race Equality Agenda*, op. cit.

²⁷⁴ J. Taylor, *After Secularism: Inner-City Governance and the New Religious Discourse*, Whitefield Briefing, Vol.7(5), Dec 2002 – a useful summary of Taylor's PhD thesis: *After Secularism: Inner-City Governance and the New Religious Discourse*, London: School of Oriental and African Studies, 2002.

newspaper at the time as ‘the most frightening civil disorder ever seen in England’. In Taylor’s view, a key reason for the riots – despite government investments in the inner cities – was the ‘purely materialistic analysis’ of the conditions in inner cities and the focus largely on the built environment. Where people were engaged from those communities rioting, this was largely through gate-keepers based on race. According to Taylor, the approach ‘had largely ignored the actual and spiritual reality of people’s lives’. The secularisation trend in society and government was so dominant at this time, however, that despite a small but significant counter-movement and new religious language in government subsequent to the riots – arising from both dynamics within the evangelical wings of the Christian denominations and the emerging demands of migrant and ethnic minority faith communities – it was not until the early 1990s that the government of the day could adopt an approach to utilise religious networks to listen to and lever public resources closer to inner cities inhabitants identified by their religious beliefs and identities.²⁷⁵ A strong incentive for this policy step-change was the recognition that organised religions have a level of access to communities, resources and solutions which governments do not, but which governments could support and use in seeking to promote neighbourhood renewal and social inclusion.²⁷⁶ This was a primary reason for the birth of the Inner Cities Religious Council (ICRC). Set up in 1991, by the then Secretary of State for the Environment, with the support of the Archbishop of Canterbury, the Council was to provide a forum for the major faith communities and the Government to discuss policy issues, to assist in enabling partnerships to take forward urban regeneration and to provide assistance to faith communities wishing to develop work that contributes to urban regeneration, particularly through addressing the social problems in the inner cities.²⁷⁷

The Council enjoyed considerable success in its early days in all its objectives, and its role was strengthened with the advent of New Labour in government. However, under the new government, ironically for one that did not wish to ‘do God’, such units in Whitehall proliferated. There was a Religious Issues Section at the Home Office (HO), a Religious Freedom Panel at the Foreign and Commonwealth Office (FCO), a Central

²⁷⁵ J. Taylor, *After Secularism* (PhD thesis), op. cit., pp.100-1.

²⁷⁶ On this point about organised religion as a resource for governments, see: A. Dinham and V. Lowndes, *Religion, Resources and Representation*, op. cit.

²⁷⁷ J. Rivers, *The Law of Organised Religions: Between Establishment and Secularism*, Oxford: Oxford University Press, 2010, pp.296-305.

Religious Advisory Committee at the Department for Culture, Media and Sport (DCMS), a National Association of Standing Advisory Councils for Religious Education at the Department for Education and Skills (DfES), a Religious Advisory Panel at the Ministry of Defence, and through chaplaincy arrangements, a Multi-faith Group on Healthcare Chaplaincy at the Department of Health (DoH) and a Chaplaincy Council and Prison Service Faith Advisors Panel at the HM Prison Service. In addition to these standing arrangements, there was also a mushrooming of ad hoc arrangements on specific issues. A Lambeth Group, with representation from the five faith communities represented on the ICRC, together with representation from various government departments, the Royal Households, and others, was set up to plan the celebrations around the millennium – and this was repeated two years later for a range of multi-faith events to celebrate the Golden Jubilee. At the departmental level, groups were set up at the DCMS – to consult on the review of the BBC Charter; the DoH – to discuss a new policy on organ donations; the HO/FCO – to consult on new language requirements for ministers of religion; the DfES – to discuss a national framework for religious councils; the Department for Environment, Food and Rural Affairs (DEFRA) – to consult on cremation; and the Department for Trade and Industry (DTI) – to engage Muslim women on their needs and concerns. Furthermore, the DfES held regular meetings with bodies providing faith schools; the Department for International Development (DfID) held regular meetings with Christian Aid, CAFOD and Islamic Relief; and the Department for Constitutional Affairs (DCA) regularly consulted the Church of England on church-state relations and relevant policy developments.²⁷⁸ As early as the very beginning of the second term of the New Labour Government, the picture that was emerging then, in the context of the modernisation agenda with regards to new institutional arrangements in Whitehall to facilitate consultation, planning and delivery on issues that did not fit neatly within departmental boundaries, was that developments across Whitehall had outpaced the ICRC, and that the ICRC was neither equipped or adequate to deal with, or even co-ordinate, all the issues being raised by the faith communities. At best, the ICRC was ‘a forum for consultation across government departments with a particular focus on regeneration and the drive for inclusion.’²⁷⁹ It was at this point, in 2003, based on a recommendation by the Lambeth

²⁷⁸ Papers from the Home Office Steering Group to Review the Patterns of Engagement between Government and Faith Communities, June 2003. Available in BMRC Files.

²⁷⁹ ODPM, *Our Towns and Cities – The Future, Delivering an Urban Renaissance*, November 2000, para.3.47.

Group that found its way into the Labour Party manifesto, that a wide-ranging review was established to consider current patterns of interface (engagement, involvement, consultation and co-operation) between Government and faith communities, and how faith communities could be further involved in policy development and delivery across Whitehall.²⁸⁰

The review mapped the above developments in detail, and – in light of the evidence – focused its recommendations on: improving the quality of departmental engagement and consultations with citizens from the faith communities in matters of national policy, which it suggested required greater ‘faith literacy’; advising faith communities on various approaches they could adopt themselves to get the most out of their dealings with Government; the specific issue of national services and celebrations, and how to involve the different faith communities in these in a way that reflects the multi faith diversity of the UK without compromising the integrity of the different faiths; how central Government could follow the precedent set by many local authorities and engage effectively with faith communities and inter faith bodies on the local and regional levels – not just in terms of consulting on policy, but also in terms of including them in delivery, impact assessment and taking forward improvements into the future; and finally – most importantly for our purposes, whether the existing mechanisms for engagement at the national level between the Government and the faith communities collectively were fit for purpose or whether changes would be desirable. The review concluded and recommended that, whilst the present decentralised model placed responsibility on departments to ensure that faith issues and interests were fully engaged in the conduct of their business, and whilst this should remain crucial to building a dynamic partnership between Government and faith communities, there should nonetheless be a unit in Whitehall leading on faith issues across departmental boundaries.²⁸¹ The recommendation was a compromise position borne out of wrangling between Whitehall departments and between the government and stakeholders, some of whom had suggested a new high level forum for engagement between Government and faith community representatives which could not only discuss wider social and moral issues but also issues across departmental

²⁸⁰ Papers from the Home Office Steering Group to Review the Patterns of Engagement between Government and Faith Communities, *op. cit.* See also: F. Mactaggart, House of Commons, Hansard, 30 June 2003, c.12W.

²⁸¹ Faith Communities Unit, *Working Together – Co-operation between Government and Faith Communities*, London: Home Office, February 2004.

boundaries.²⁸² The concluding recommendation appeared to suggest that this new lead unit in Whitehall would have two significant roles: a cross departmental approach to capacity building in the departments and the communities, and the lead role to ensure that faith issues were effectively addressed in the programme of work that was underway to further extend safeguards against discrimination, including the proposed Commission for Equality and Human Rights – a role that some of the Muslim representatives involved in the review were particularly keen on pushing.²⁸³

In real time, however, the final part of the review had already been outpaced by other developments and departmental politics by the time of its completion and the publication of the review report. The most significant other development was the Community Cohesion Panel established in early 2002 – following various official reports on the northern cities disturbances in the spring/summer of 2001, and particularly its Faith Practitioners Group. Whilst the final report of the review was published in February 2004, already in 2003, at the behest of the Faith Practitioners Group, the Home Office had decided that its Religious Issues Section, a part of its Race Equality Unit, which had been supporting the review, would be reconstituted as a separate Faith Communities Unit (FCU) – and that this unit, rather than the ICRC, would be the lead unit across government reflecting the modernisation agenda's need of an institutional arrangement in Whitehall to facilitate consultation, planning and delivery on faith issues that did not fit neatly within departmental boundaries.²⁸⁴ The Home Office then sought to impose this decision into the review report as a recommendation, which is what caused the wrangles with the other departments, particularly the Office of the Deputy Prime Minister (ODPM), the departmental home of the ICRC. The imposition, however, was eventually grudgingly accepted.²⁸⁵

²⁸² This suggestion from stakeholders was batted into the long grass, with a promise to reconsider it the following year when the implementation of the recommendations in the review were to be revisited, and then dropped – see: *Working Together – Co-operation between Government and Faith Communities*, Progress Report, August 2005.

²⁸³ Key Muslim figures included in this review were Sir Iqbal Sacranie and Sheikh Zaki Badawi, both being advised on equality issues at this time by the present author – who attended most of the review meetings on behalf of one or the other.

²⁸⁴ See: *A Report of the Faith Practitioners Group of the Community Cohesion Panel*, 15 May 2003, where the main recommendation at para.51 is to establish a separate Faith Unit which sits alongside the existing Race Equality and Community Cohesion Units. See also a proposed outline (3 July 2003) and a brochure (Oct 2003) on the new unit. The report, outline and brochure are available in the BMRC Files.

²⁸⁵ *Faith Communities Unit, Working Together – Co-operation between Government and Faith Communities*, London: Home Office, February 2004, p.78, para.6.3.15. See also: T. Cattle, *The End of Parallel Lives? The Report of the Community Cohesion Panel*, July 2004, pp.29-30.

The aims and roles of the FCU were first conceived and explored in an internal paper by a key advisor to the Home Office, Revd Dr Alan Billings, a member of the Community Cohesion Panel and the more senior co-chair of the Faith Practitioners Group.²⁸⁶ The paper suggested that such a Unit would be evidence of the government's continuing commitment to the goal of building socially cohesive communities and an acknowledgement that faith communities have a part to play in that. The paper further elaborated that by creating the FCU the government would recognise that religion is a potent force globally in the modern world that cannot be ignored – albeit that historically, as a country and a continent, and as a global exception to the norm, the emergence of the modern state in the UK has been accompanied by the secularisation of its key institutions; that for many British people the matter of faith is fundamental to their self-identity, and that this is manifested in so many different ways through their participation in the public sphere – some completely benign, but not always;²⁸⁷ that faith communities have a role in building socially cohesive communities – particularly where, in a context of super-diversity on grounds of origins and faiths, with communities connected and tied to virtually every part of the world, tensions and conflicts around the world are instantly beamed into Britain by modern mass communications; and that government has a sophisticated role to play in enabling partnerships involving faith communities to develop and flourish – albeit within our very own paradigm of the modern, democratic state with its secular institutions on the one hand, and on the other, the intrusion of religion in many forms into the public domain, regularly and demanding responses – a role teased out by the review discussed above. The paper stressed that the creation of the FCU would not suggest that the government was seeking either to commend religious faith or give religious organisations privileges – that is not what faith communities were seeking from the government, but it would suggest that the government had moved beyond categorising the diversity that characterised modern Britain only in terms of race, ethnicity and culture, to the recognition of faith (and the diversity therein) in terms of how people self-identified themselves, knowing also that in many parts of the country faith communities have resources of many kinds that can be put at the service of local communities to the benefit of all, if recognised, engaged and encouraged. The aim and objectives of the FCU would

²⁸⁶ A. Billings, Faith Communities Unit – Setting the Agenda, Home Office, Community Cohesion Panel, Faith Practitioners Group, September 2003.

²⁸⁷ This is, of course, hugely contested by organisations like the National Secular Society and the British Humanist Association – see: Commission on Religion and Belief in British Public Life, *Living with Difference – Community, Diversity and the Common Good*, Cambridge: The Woolf Institute, 2015.

thus be to promote an environment in which: all faith communities were valued and respected; faith communities could work together to help build social inclusion; and faith communities could work in partnership with national and local government to help ensure that policies and programmes were sensitive to faith issues and benefited from the input that faith communities could make to civil society.

Having spelt out the rationale for the FCU, the Billings paper then sketched out its role in some detail. Principally, the FCU was to address four audiences and four tasks. Firstly, facing inward across Whitehall, in order to engage with faith communities in a way that is sensitive and knowledgeable, the task of sensitizing and informing those who develop or implement policies – that is, the careful development of a programme of religious literacy and capacity that can be made available across departments. This development would require building resources of both material and personnel to promote greater religious literacy.²⁸⁸ Secondly, facing outward, the development of partnerships with and between faith communities, both at the central and local level, in order to build a more co-ordinated and cohesive society – where partnership entailed a real engagement, and not just ‘enlistment’, recognising that there may be differences and tensions with some partners, but capitalising on the strengths and commonality of purpose. To enable this, the advice in the paper was to maintain an Advisory Group for the FCU, to support the Inter Faith Network, and to maintain/develop bilateral partnerships as well as multilateral ones. Thirdly, also facing outward, to engage with a range of other bodies – establishing and developing relationships with, for example, local government and the Local Government Association, SACREs, regional councils, councils for voluntary service and the Faith-based Regeneration Network. And finally, again facing outward, to influence attitudes in wider society – through greater faith literacy and responsibility on the part of ministers, members of the government and Members of Parliament, who should of course be robust in their criticisms of faith communities when that is merited, but also know that, as shapers and leaders of public opinion, they have a responsibility to improve their own knowledge and understanding in order to be accurate and sensitive in their discussion of faith issues. In addition to these tasks, the paper also suggested some immediate priorities. Firstly, that the achievements and lessons of the Golden Jubilee – of finding common values, valuing different traditions and discovering ways of working together despite

²⁸⁸ This would be the same as or similar to the race equality training of the Race Equality Unit.

differences – should not be lost, but should in some way be institutionalised, for example, through an annual national multi-faith day or week. Secondly, promoting not just good interfaith relations, but perhaps also good interfaith social action – that is, in some way, developing the interfaith field to the level and spirit of ecumenism evident amongst the churches through their work together in matters of social concern, as developed in the twentieth century after a period in the nineteenth century of rivalry and competition. Thirdly, to work directly with particular faith communities and on particular issues as may be appropriate – for example, on faith schools, neighbourhood renewal or community development. And fourthly, to work with the media at both the national and local level – in television and radio, as well as in newspapers – to present faith communities in ways that avoid stereotyping and to present faith issues in ways that are fair and balanced, so that the role the media plays is one of enhancing and not eroding good community relations.

Members of the Muslim community were given an opportunity to comment on the Billings paper before the establishment of the FCU.²⁸⁹ Whilst agreeing to the thrust of the Billings paper, Muslim community leaders made several suggestions that they felt would enhance the FCU in its role as the lead unit across Whitehall facilitating consultation, planning and delivery on faith issues that did not fit neatly within departmental boundaries. Firstly, whilst they agreed and were very keen on the idea of a unit in Government with deep literacy on religious diversity and the needs of different communities, they homed in on what this might mean. Alongside more knowledge about the diversity within the ‘God-Lump’, they suggested an urgent need to develop the language and policy discourse around faith communities – a discourse that can comfortably and confidently distinguish between the needs of organised and non-organised faith communities, majority and minority faith communities, centralised and decentralised faith communities, mono-ethnic and multi-ethnic faith communities, visible and non-visible faith communities, well-established and recently-arrived faith communities, etc.²⁹⁰ The ability to make such distinctions helps us to finesse and target

²⁸⁹ Note that the Muslim response was co-ordinated by the present author as a member of the Faith Practitioners Group. The response is available in the BMRC Files.

²⁹⁰ ‘God-lump’ was a phrase used by the Revd David Rayner, Secretary of the Inner Cities Religious Council, to convey the simplistic way in which Government often viewed faith communities at the time. On the point about developing the language and policy discourse around faith communities, see M. Aziz, *Envisioning Religious Equality in Britain over the Next Ten Years*, Equal Opportunities Review, London: Michael Rubenstein Publishing, January 2003.

policy initiatives and action exactly where it is most needed. This is the message that came out strongly from the Cabinet Office's report around this time on Ethnic Minorities in the Labour Market – albeit that the report was focussed on race and not religion.²⁹¹ The report made the point that it was not enough to talk about 'ethnic minority' underachievement. Some ethnic minorities were clearly not underachieving – eg, Chinese and Indian children in education. A one-size-fit-all response in such a situation simply resulted in further advantaging some whilst not adequately catering for others. Different ethnic communities suffered different forms and levels of the 'ethnic penalty'.²⁹² It was only by developing the sophistication of the policy discourse around the problem that different aspects of the problem, and the problem overall, could be better addressed. The report did, however, make an interesting observation with regards to some faith communities. It found that, having controlled for a number of socio-economic factors, Indian Hindus were twice as likely to do better in employment than Indian Sikhs or Indian Muslims. What the report did not explore was whether this may have been related to the relative visibility of the religions involved. This point illustrated the need for greater sophistication in the discourse on minority faith communities, if that discourse was to assist at all in addressing the needs and concerns of those communities.

Secondly, and possibly most importantly from the Muslim community leader's perspective, they suggested that the analogy identified in the paper, with the Race Equality Unit (REU), should be taken further in two respects. First, with regards to the aim of promoting an environment in which all faith communities were valued and respected. They suggested that this aim be extended to promoting an environment in which all faith communities were equally valued, respected and protected. They argued that the right to religion, the right to equality in the enjoyment of religion and the right not to be discriminated on the basis of religion were guaranteed in the most significant international and European instruments of human rights. In the UK, however, there was still some way to go to make these rights real in law. There were numerous calls on the UK Government from United Nations and Council of Europe agencies to set this right, but many religions still had no protection from incitement to religious hatred – eg,

²⁹¹ Strategy Unit, *Ethnic Minorities and the Labour Market – Final Report*, London: Cabinet Office, March 2003.

²⁹² See: M. Aziz, *Double Trouble – Muslims Suffer Both Race and Religion Penalties*, *The Muslim News*, September 2003.

Muslims suffered from this at the hands of far right organisations across British cities and towns, and except in the area of employment, there was still no protection for many religions from religious discrimination – eg, a Buddhist could still be refused service in a hotel for being Buddhist and a Muslim could still be turned away by a GP’s surgery for being Muslim.²⁹³ They argued that it was inconceivable that a Faith Communities Unit would carry much credibility in the long term in some faith communities unless it sought urgently to address some of these basic human rights issues and gaps/anomalies in the law that seriously impacted and concerned these faith communities. They suggested that in this regard the FCU should emulate the role played by the REU with regards to race relations legislation.²⁹⁴ They further argued that, beyond legal protection from religious hate crimes and discrimination, if the Government was to truly promote an environment where faith communities feel equally valued and respected, then it must also seek to accommodate religious practices where these do not in any way undermine our shared values. An example of this had recently been provided by the Chancellor, when he modified certain fiscal rules to make greater allowances for Islamic banking.²⁹⁵ The modifications did not in any way undermine shared British values, but allowed greater accommodation of the Muslim faith in Britain. They felt that more of this approach was needed, and the FCU could play a leading role in this approach. Second, that in the same way as the Home Office is the first port of call for all Government departments and agencies on all matters concerning race – as a result of which, the Home Office itself undertakes and commissions much analysis and new research on many race issues, so it should be the first port of call on religion and should play the same role. The reports by the Home Office on religious discrimination (the Derby Report) and options available to policy makers and legislators (the Cambridge Report) was a good starting point on religion, but if the Home Office was similarly to become the first port of call on religion, it must similarly develop its own programme of research and analysis on issues relating to faith communities. The FCU could provide a natural home for the development of such

²⁹³ Note that much of this was taken straight from the campaign for comprehensive religious discrimination legislation launch by FAIR in early 2002, as discussed in Chapter 2 – see: FAIR, *Time to Make a Difference – Getting a Fair Deal for British Muslims*, Media Pack, London: FAIR, March 2002.

²⁹⁴ That is, it should focus not just on the soft-edged work of faith literacy and community cohesion but also the hard-edged work of securing strong anti-discrimination legislation on grounds of religion and mainstreaming measures for promoting religious equality throughout the public, private and voluntary sectors – eg, through inspection regimes, PSA targets, procurement and voluntary sector funding agreements.

²⁹⁵ See: High Street bank offers Islamic mortgage, BBC, High Street bank offers Islamic mortgage – available at: <http://news.bbc.co.uk/1/hi/business/3035292.stm>.

a programme of research and analysis. This led to their final argument in this respect, which was that the race experience suggested that simply raising awareness through training and providing monitoring, analysis and new research may not be enough. In race work, it was felt that what was needed was a more automated process of mainstreaming race considerations across Whitehall and policy making. To this end the Home Office had developed a new ‘Race Strategy’. If policy making in Government was to really achieve being informed by and sensitised to faith needs, a similar ‘Faith Strategy’ would be required. The Muslim leaders argued that until ‘faith’ became a part and parcel of the standard Policy Impact Assessment (PIA), it was difficult to see how policy making would be sensitized to faith needs. They suggested that the FCU should take the challenge of exploring this issue further with the objective of developing an appropriate ‘Faith Strategy’.²⁹⁶

Thirdly, they took a stronger position on the question of funding than the Billings paper. They argued that if the FCU was to be at all effective it must have the means of being able to fund work directly or through bodies such as the Inter Faith Network.²⁹⁷ They argued that if the Government was serious about engaging faith communities and building partnerships, it would need to invest. Faith communities would bring much resources to this partnership – but investment on the Governments side was required if it was to make the best use of such resources for community cohesion purposes. Above all, the Government needed to invest in certain faith communities to build capacity in those communities to enable them to better organise themselves and to ‘properly buy into’ the process of engagement and partnership.²⁹⁸ Much of the then engagement with some faith communities was done through volunteers in those communities. They felt that this was short-changing those communities in a very big way and a great injustice to them. In developing such engagement and partnership with race communities, the Government had much experience of the type and level of investment required, eg, through the Connecting Communities initiative administered by the Race Equality Unit. A similar approach was needed from the FCU, and this could not be left to the REU – after all, they

²⁹⁶ On this point of a ‘faith strategy’, see in particular: A Report of the Faith Practitioners Group of the Community Cohesion Panel, *op. cit.*, paras.31-32.

²⁹⁷ The model here was again borrowed from the Race Equality Unit which had its own funding pots, eg, the Connecting Communities pot, but also funded race equality work through the CRE, eg, the Getting Results pot.

²⁹⁸ The arguments here were not dissimilar to those used for funding of local Race Equality Councils (RECs).

pointed out, in a recent round of grant giving, only 3 faith organisations out of 75 organisations had received any money from the Connecting Communities initiative, and at least 2 out of those 3 could be seen as ethnically weighted.²⁹⁹ Finally, they suggested that the FCU could take a lead role on public recognition and appointments from faith communities. This could be developed as a strategy for recognising individuals from faith communities through the national honours system for contributions they have already made to their communities and society generally; engaging certain faith communities in areas of policy where they may not otherwise be engaged; addressing the issue of under-representation of certain faith groups in the planning and delivery of certain key public services; capacity building in faith communities where this is needed. The Muslim community leaders suggested that the FCU could build this into its long-term work.

In the course of its existence, the FCU changed its name several times. In 2005, it was renamed the Cohesion and Faiths Unit (CFU) – bringing two units together, the Community Cohesion Unit (CCU) and the FCU. In spring 2006, the entire Race, Faith and Cohesion Directorate moved to the new DCLG – the old ODPM. CFU swallowed what was left of the ICRC and its incarnations – eg, Faith Communities Consultative Council, but fell in the shadow of the emerging Preventing Extremism Unit (PEU) in the wake of the July 2005 London bombings.³⁰⁰ In 2011, the FCCC was discontinued, but the rest of the work survived under the Coalition Government following New Labour's time in office, albeit more streamlined, under the Faith and Integration Division/Faith Engagement Team. In practice, however, the FCU (in its various reincarnations) was always a poor cousin to other units in Government serving the other equality strands.³⁰¹ In terms of 'faith literacy', the approach across government was weak – the occasional 'faiths week' and similar shorter events, that officials from across Government could attend if interested. The result was a continuation in wider Government, and even within

²⁹⁹ Analysis based on a list of names of successful applicant organisations to the Connecting Communities Fund 2003. List available in BMRC Files.

³⁰⁰ From a Muslim community perspective, it is interesting to note how its gateway into government changed from a focus on equality (when it was still under the Religious Issues Section in the Race Equality Unit) to good relations/cohesion (when it was under the FCU/CFU) to preventing radicalisation, extremism and terrorism (noting that once the PEU had been set up, the CFU almost, though not entirely, washed its hands on Muslim community issues). This argument about the machinery of government's point of access for or prism of engagement with Muslim communities, sidestepping or shifting from equality to security, or even just cohesion, is a very important insight that needs to be addressed and corrected if Muslims are ever to enjoy the same rights as other protected groups.

³⁰¹ Compared with, for example, not just the REU serving race equality, but also the Women and Equality Unit, serving gender and sexual orientation equality, and the Disability Unit serving disability equality.

the same department, of poor understanding of the diversity within and issues facing minority faith communities. For example, with regards to Muslims it went as far as Sunni-Shia and moderate-extremist, and not much further – sometimes resulting in appalling decision-making, eg, engaging with organisations linked with extremism abroad, but not organisations doing sterling citizenship and integration work in the UK.³⁰² Where the FCU was specifically approached by other Government departments, however, it could be an important point of reference and for sign-posting – thus, for example, it provided on various occasions critical specialist insights and advice on Islamic finance to the Treasury, on Shariah law and Shariah councils to the MoJ, on FGM and forced marriages to the FCO, on ‘credible voices’ and entry visas to the HO, and on face veiling to the DfES/DCSF.³⁰³ Coming out of the Community Cohesion Panel (CCP)/Faith Practitioners Group (FPG), the FCU placed its emphasis on good relations work – with and between faith communities, building on the achievements and learning from the Golden Jubilee work. This was reinforced when the FCU merged with the CCU, and resulted in an important commission in 2006, the Commission on Integration and Cohesion, producing an important report.³⁰⁴ A key shift in this report was the suggestion of more multi-faith social action, alongside the existing work on multi-faith dialogue. Any other work at the FCU or its incarnations has been far less visible, eg, proactively engaging with a range of other bodies as the ICRC had done, building capacity in faith organisations through funding, bilateral work with specific faith communities on specific issues – eg, with the Jewish communities on Holocaust memorial and education, public recognition work and public appointments work, and influencing attitudes in wider society – particularly through working with the media.

³⁰² For example, the Government was engaging with, and even indirectly funding, organisations and individuals directly linked to theology and groups responsible for the murder of Salman Taseer, the former Governor of Punjab (on the grounds that they were Brelewi/Sufi, and therefore moderate), but reluctant to engage with the Islamic Society of Britain (on the ground that it had historical links with the Muslim Brotherhood, and was therefore extremist). The present author sought to address this binary division of the Muslim community into ‘good Muslims’/‘bad Muslims’ on at least four separate occasions (comments on FCO policy papers; comments on various draft Prevent strategies; briefing paper for the Cabinet for a new approach to Muslims; briefing paper for a new Minister) using two different models (the multi-dimensional and sub-group models), but on each occasion was drowned out by ideological lobbies with powerful political connections within government. All relevant documents are still available in the FaithWise Files.

³⁰³ These are just examples from the range of advice work delivered by the present author as a consultant senior advisor on race, faith and cohesion at the government. Much of this was in written form and is available in the FaithWise Files.

³⁰⁴ Commission on Integration and Cohesion, *Face to Face and Side by Side – A framework for partnership in our multi-faith society*, London: DCLG, July 2008.

Disappointingly for Muslims, the FCU was from the start reluctant to take on much non-discrimination and equality mainstreaming work – the other two main streams of equality work, alongside good relations, assigned to most equality organs, whether government units or NDPBs. Some members of the Faith Practitioners Panel, notably those representing the Church of England, were vocally against equality work through legislation, on the ground that this was not in their interest and could have unintended consequences for them – indeed, be the small end of the wedge towards disestablishment.³⁰⁵ Some iterations of the Billings paper carried paragraphs and recommendations on an equality legislation role for the FCU but these were edited out in other iterations,³⁰⁶ and paragraphs and recommendations drafted by the Muslim representatives on equality legislation for the FPG/CCP reports were eliminated from the final reports of both groups by Revd Alan Billings, as the senior co-chair of the FPG, despite the support for these paragraphs by the junior co-chair (a Muslim) and the director of the IFN.³⁰⁷ Others, including the chair of the CCP, cautioned that mixing the streams of work would inevitably result in the equality work drowning out the good relations work as had happened with race with the creation of the CRE,³⁰⁸ and by implication suggested that the FCU could focus on the good relations work whilst the new CEHR could take on the equality work. The final report of the Steering Group on Government's Interface with Faith Communities did, however, recommend that the FCU should maintain some focus on the equality work. Consequently, the FCU did take on some legislation work, but only in relation to criminal law (ie, 'equality of protection') and not civil law (ie, 'equality of treatment/opportunity' – and more as a result of law and order pressures at the HO, driven by David Blunkett, then as a result of equality concerns per se. Thus, the FCU led the work on incitement to religious hatred. But, in some cases, the FCU has actually been more of a hindrance on equalities legislation than help – eg, on the issue of harassment in the delivery of goods, facilities and services.³⁰⁹ The FCU has also not been particularly

³⁰⁵ Note how the same arguments were more recently used against equal marriage in the context of the Marriage (Same Sex Couples) Act 2013.

³⁰⁶ A paper trail of Muslim members of the FPG seeking certain provisions and Christian members taking them out is available in the FaithWise Files.

³⁰⁷ See written comments by Brian Pearce on the Billings paper and draft of FPG report dated March 2004. Sections and recommendations on equality legislation in this draft disappear from later drafts. Revd Billings role in this was mentioned to this author in discussions with senior civil servants and Rumman Ahmed, the junior co-chair.

³⁰⁸ T. Cattle, *The End of Parallel Lives? Report of the Community Cohesion Panel*, July 2004, p.18-19.

³⁰⁹ As we saw in the previous chapter, Fiona MacTaggart MP, then HO Minister responsible for this area of work, took a particular dislike to harassment legislation and restricted it as much as possible so that it applies in the public sector, but not the private sector.

keen on research and analysis work. Where the FCU has shown reluctance and resistance to certain work, Muslims have had to pursue this work elsewhere in Government – eg, non-discrimination legislation and equality mainstreaming work through the WEU/GEO,³¹⁰ where the focus is on gender and sexual orientation, and research and analysis through sections of the HO/DCLG more focused on race or ‘Prevent’.³¹¹ Thus, by the end of the New Labour years in office, the FCU was still by far the weakest as an equality unit, if it was ever that, and had the weakest understanding and use of the rest of the Government machinery for equality purposes, as compared to all other units in Government working on the other equality strands.³¹²

A Non-Departmental Public Body or a Commission

The Muslim campaign for an appropriate commission for religious equality is as old as the community’s campaign for religious equality itself. The demand from the Muslim community for the CRE to extend its remit to include Muslim concerns, as it had done with the Sikh and Jewish communities, or for an alternative religion and belief equality commission to be established was vocal as early as the 1980s. In response, the CRE, in its Second Review of the Race Relations Act 1976, stated:

“It is the Commission’s view that ... Religious identity needs protection in law in a similar way to racial identity. International obligation would seem to demand a law on incitement to religious hatred in Britain, and probably also a law prohibiting discrimination on religious grounds. ... This will inevitably raise questions about whether a new Commission should come into existence.”

and

“... the Race Relations Act does not give protection against religious discrimination as such, and the Muslim communities have been understandably disappointed that the

³¹⁰ For example, legislation on goods, facilities and services on grounds of religion and belief, the public sector equality duty and equality PSA work covering religion and belief were all taken through the WEU/GEO under their wider equality remit. Papers available in FaithWise Files.

³¹¹ Prevent is a part of the UK’s counter-terrorism strategy, and is the focus of Chapter 5 of this thesis.

³¹² See the EDF table on the different strands and how they are served by Government equality units – paper on Government’s equality machinery held in FaithWise Files.

Commission has been unable to translate its concerns for their interest into effective law enforcement. We believe that the government should give consideration to introducing legislation with enforcement machinery to combat religious discrimination. *We do not believe, however, that this would be best achieved by extending the scope of the Race Relations Act or the powers of the Commission [italics added].*³¹³

The campaign, however, continued through virtually every submission on equalities from the Muslim community over the next 15 years – led in the 1990s by An-Nisa Society, the Union of Muslim Organisations, UKACIA, and subsequently the MCB, and in the early to mid-2000s, until the establishment of the CEHR, by the MCB, FAIR and BMRC.³¹⁴ Throughout that period, however, there was not much change at the CRE in terms of its position on Muslim concerns, and not much appetite in government to impose any such change on the CRE. For the Muslim community, so long as there was some hope that the legal definition of race could be extended to cover ethnic minority faith groups, the suggestion was that the CRE would be the natural equality NDPB for ethnic minority faith issues.³¹⁵ Once it became clear, however, that race legislation did not and would not include religion, particularly after the politics around the Beloff Opinion as discussed in the last chapter, there was a parallel issue that also needed considering: whether separate legislation on religious discrimination and other non-discrimination measures on grounds of religion and belief should be accessed and promoted through the CRE, or a new NDPB was required for this. The problem from the government perspective was that a new NDPB for religion and belief was not politically possible without also setting up separate NDPBs for sexual orientation, age, and arguably also, human rights.³¹⁶ This would mean funding at least seven equality and human rights NDPBs, which it argued was unrealistic. The Governments response from quite early on was, therefore, a new body to cover all equality grounds as well as human rights – though realising this would not be an easy sell

³¹³ CRE, 2nd Review of the Race Relations Act 1976, London: CRE, June 1991 (later published in September 1992).

³¹⁴ Note the collation of some of the earlier submissions in: UKACIA, *Muslims and the Law in Multi-Faith Britain*, op. cit. For later submissions see: FAIR, *Towards Equality & Diversity – Implementing the Employment and Race Directives*, op. cit.; BMRC, *Government Consultation on Equality & Diversity*, op. cit.; MCB, *Fairness for All – a new CEHR*, op. cit.

³¹⁵ See: Response from An-Nisa Society et al to the CRE’s consultation on the Second Review of the Race Relations Act 1976, 31 January 1992; and letter to Trevor Phillips, then Chair of the CRE, dated 15 June 2004 from the British Muslim Research Centre (BMRC). Response and letter available in BMRC Files.

³¹⁶ An NDPB for human rights was strongly advocated in the lead-up to the Human Rights Act 1998, but did not materialise. The fear was that additional equalities NDPBs would make it difficult not to respond to that demand.

to all equality stakeholders. With the European Employment Directives to be implemented by 2 December 2003 and any visions of a single equality NDPB some way off in the future, there was then a discussion in government about possible interim institutional arrangements, as signalled and consulted on in the government consultation paper entitled *Towards Equality and Diversity*.³¹⁷ Within the context of the early discussions on the implementation of the European Employment Directives, the Muslim community came to an early realisation that there would be no separate NDPB for religion and belief – not least, because the Directives themselves did not require any such institutional machinery; that a single equality body was perhaps the most it could expect – and perhaps also the best option in the interest of Muslims in light of its experience at the CRE; but that some interim arrangements, even if at the CRE, were worth pursuing. Thus, in its response to the government consultation paper, through FAIR,³¹⁸ it fully endorsed the idea of creating a single Equality Commission; noted that the timescale within which the Government was likely to introduce a single commission represented a problem, in that it continued to leave a vacuum with regards to institutional arrangements for the new strands of discrimination; agreed that for the interim period, the enforcement of religious discrimination legislation should be delegated to the Commission for Racial Equality (CRE) – but strongly advocated that if this option was to be adopted, there should be a specialist section at the CRE, with its own Commissioners and budget, dedicated solely to dealing with religious discrimination. Such measures, it argued, were necessary to avoid marginalisation within an organisation that has an established tradition and experience of only dealing with racial discrimination.

One of the benefits of the early realisation as to where the equalities NDPB(s) discussions were heading, was that the Muslim community could contribute to the development of ideas for a single equality body from very early in its inception, both from outside and inside government. In terms of outside government, FAIR was a founding member of the Equality and Diversity Forum (EDF), set up in March 2002, and actively involved in commissioning and guiding one of the earliest pieces of work commissioned by the EDF

³¹⁷ *Towards Equality and Diversity – Implementing the Employment and Race Directives*, London: DTI, December 2001.

³¹⁸ *Towards Equality and Diversity – Implementing the Employment and Race Directives*, Response from the Forum Against Islamophobia and Racism, London: FAIR, March 2002.

– on the key issues raised by the possible creation of a single equality body.³¹⁹ The paper was based on a group discussion with EDF members and stakeholders, as well as informal interviews with individuals from bodies across the six strands of equalities then recognised in law and with other key stakeholders. The paper explored in detail various strategic issues such as vision, values and style, and remit; various implementation issues such as timing and change management; the body’s potential powers and functions; and finally, various structural matters such as organisational structure, resources, geography and the body’s relationship to Government. Digging deeper below the consensus on the high-level vision of those engaged, the paper revealed important differences of emphasis in strategic approach; and in the envisioned remit, values and style of the body – which in turn affected the views on the body’s functions, the skills and experience needed in its governance and staff, and its organisational structure. EDF also played a key role in encouraging the three existing equality commissions to commission a report on the lessons to be learnt from single equality commissions abroad, and helped to guide that work. FAIR provided detailed feedback on early drafts of the report and a formal response to a later draft at a public seminar.³²⁰ These two papers were critical in shaping the Government’s initial thinking on the single equality body. However, there was much more to be done, and this was reflected in the Muslim community’s response to the next set of consultations by the government on equality and diversity.³²¹

In January 2003, the Government launched a new suite of consultation papers on equality and diversity. A key paper within this was on future institutional arrangements for equalities.³²² The Muslim community response to this paper was provided in a submission by the BMRC.³²³ It stated that the community fully agreed with the Government that equality institutions make a vital contribution to materialising equality provisions and endorsed the Government’s proposal to create a single Equality Commission for all strands of discrimination. However, it felt that there were many shortfalls and gaps

³¹⁹ C. Collins, *Single Equality Body: Issues Paper – A paper for the Equality & Diversity Forum*, London: EDF, October 2002.

³²⁰ C. O’Cinneide, *A Single Equality Body: Lessons from Abroad*, London: EOC, September 2002. FAIR’s contributions to the development of this report are available in its files.

³²¹ See also: M. Aziz, *Equality & Diversity in Modern Britain – The Muslim Perspective*, Connections, CRE Magazine, February 2003, where the present author contributes ideas and language which is subsequently widely adopted – eg, ‘a pillars and beams approach to developing a new Commission’.

³²² *Equality and Diversity – Making it Happen*, London: DWP, DTI, HO and ODPM, January 2003.

³²³ *Equality & Diversity – A Response from the British Muslim Research Centre*, London: BMRC, March 2003. Available in BMRC Files.

between the Government's claims with regards to the vision for and objectives to be achieved by the proposed single equality body and the immediate provisions it was willing to make, and made many observations and recommendations to address them. It also commented on matters relating to the proposed body with regards to which Government was yet to make any decisions and was genuinely seeking to consult. It argued that a single equality body, that will be the focal point for a very diverse range of strands of discrimination, must have clarity of vision, values and objectives from first principles from the outset, and that these must be clearly stated and communicated to the public. Ideally the vision, values and objectives of the new body should aim to (i) redress the negative consequences of group identity – including challenging stereotypes and disadvantage and facilitating inclusion, participation and equality of opportunity, and (ii) facilitate, even promote, the full development of group identity – these aims being based on the fundamental right to respect for individual humanity, dignity and worth.³²⁴ In order to make real the Government's stated intentions for greater integration, coherence and simplicity in equality provisions, through a single equality body, it argued that a single Equality Act, that levelled up and harmonised provisions across the strands, was essential. This would enable a single equality body to make the same provisions and provide the same level of protection to individuals regardless of their gender, race, disability, religion or belief, sexual orientation or age. It expressed concern that, in the absence of a level playing field, any new body would be built on a hierarchy of equality provisions, which would foster divisions between the strands rather than the trust and cross-working which would be vital to the organisation's success, and that this could seriously undermine the organisation's credibility to those that may need it most.³²⁵

The BMRC Response stated that the organisational structure of the new single equality body was critical to its success. The challenge here was to strike the right balance between the desirability of horizontal structuring, through functions based departments running across the strands, and the need for vertical structuring, with particular emphasis on specific strands – the challenge of achieving the right equilibrium between what it called the 'pillars' and 'beams' of the structural architecture of the new body. The balance to be struck between the beams and pillars, it argued, ought as much as possible to be enshrined

³²⁴ For more detailed work on the first principles of equalities, see S. Fredman, *Discrimination Law*, Oxford: OUP, 2011; *The Future of Equality in Britain*, London: EOC, 2002.

³²⁵ Note that this point was also made through the EDF and separately by almost all its members.

in the legislation enabling the new body, but without over-prescriptive detailing in order to allow sufficient flexibility to respond appropriately with the changing needs of time. It noted that the different strands of discrimination were at different stages of evolution, and thus, had slightly different needs. Consequently, the single equality body must have access to the greatest range of powers. It, therefore, welcomed the Government's statement that the powers and functions of the existing Commissions were to remain central to the new body, but argued that, in order to maintain credibility across the range of strands, the body must be seen to apply its powers and resulting functions equally across the strands. It accepted that the new single equality commission would be an enabling body, not seeking to provide all the necessary functions and priorities itself, but by virtue of partnership working with other agencies, including non-governmental bodies, through alternative outlets. It noted that this may prove to be a particularly important strategy towards ensuring the materialisation of the functions and priorities at the regional and local level, and thus, helping to tackle barriers to equality at source. However, it argued that, in addition to the powers, functions and priorities with regards to the six strands of discrimination, the remit of the new body should extend to two more areas of work: human rights and social inclusion/community cohesion.³²⁶ It further argued that tackling discrimination depended on having effective means to spread awareness of equality rights to individuals, businesses and the public; to give advice and information to individuals; to provide advice and guidance to business and other organisations; to give support for individuals with complaints of discrimination; to undertake investigation where appropriate; and to take enforcement action where needed – and that this would not be achieved with regards to religion and sexual orientation without a suitably resourced interim equality organisational arrangement. It, therefore, urged the Government to reconsider its emerging position at that point and to support the new equality legislation, enforceable from December 2003, with such an arrangement. It argued that the speedy development of jurisprudence in the new strands was critical and that this would be seriously impeded without interim institutional support arrangements, and that the argument that an interim arrangement would compromise future options, was at best, erroneous.³²⁷

³²⁶ The social inclusion/community cohesion point was in direct contradiction to what later emerged in the report from the Home Office Community Cohesion Panel: T. Cante, *The End of Parallel Lives?* op. cit. In the end, the Government adopted the BMRC position over the CCP position.

³²⁷ In the end, the Government adopted a compromise position on interim arrangements – funding relevant NGOs to undertake promotional and consultation activities, but not casework.

A key government response to the consultation on a single equality body in the early part of 2003, was to set up a Taskforce by the end of that year specifically to consider and ‘advise the government on how the new body can best be developed’.³²⁸ The BMRC was invited to be a member of this Taskforce, the fuller terms of reference of which was ‘to advise the Government on the role, functions, priorities and activities of the proposed Commission for Equality and Human Rights (CEHR), in furtherance of the Governments statements [of 30 Oct 2003] on the future arrangements for equality institutions in GB; provide such advise in preparation for a White Paper; and provide ongoing policy advise, including assessment of responses to the White Paper, on the range of issues raised in the White Paper and in response to it’.³²⁹ In practice, the Taskforce provided an opportunity to discuss and shape each part of the White Paper as well as its overall shape and contents. Membership to the Taskforce, therefore, provided the Muslim community with an opportunity to influence the shaping of the White paper and the new body right at the heart of government. Just how much influence was exerted and fed through into government thinking, and *vice-versa*, is reflected in the content of the White Paper that was subsequently published in May 2004³³⁰ and the Muslim community’s response to it – this time drafted under the auspices of the Muslim Council of Britain.³³¹ The MCB response shared the Government’s assertion in the White Paper that a single Commission for Equality & Human Rights was the appropriate way forward, and particularly welcomed the Government’s decision to include human rights within the remit of the new body. The response agreed that a balance will need to be found between the needs of the different strands in terms of adoption by or transfer into the new body, but that this need not hold up the overall proposed timetable for the new body in any way.³³² It agreed that a single commission would, in the longer term, bring great benefits for all: a strong and authoritative voice for championing equality and human rights and promoting cultural change; a strategic cross-cutting approach to enforcing discrimination legislation; a single point of contact and integrated advice for individuals and organisations; a more

³²⁸ Language used in parliamentary statements and news release on 30 Oct 2003, and in letters to members of the Taskforce on 1 Dec 2003.

³²⁹ As stated in attachments to the letter of invitation dated 1 December 2003, which resulted in the author joining the Taskforce as a member.

³³⁰ White Paper: Fairness for All – A New Commission for Equality and Human Rights, London: DTI, May 2004.

³³¹ Fairness for All: A New Commission for Equality and Human Rights – A Response from the Muslim Council of Britain, London: MCB, August 2004.

³³² This was coded language to say that the Government should push ahead with the CEHR, even if the CRE was not ready for it – and that if need be the CRE could join at a later date.

comprehensive means to address multiple discrimination; better prospects for a real challenge to institutionalised forms of discrimination; the ability to promote good relations among and across strand specific communities towards a greater cohesive society; and the ability to share the experience and expertise of existing commissions across the equality and diversity agenda. A single over-arching commission set up with expertise of the different strands would also remove hierarchies of protection afforded to different groups and avoid duplication of resources, thus increasing the proportion of funding going to front-line work.

Having pushed for a more concrete timeframe and the above long-term aspirations for the CEHR in the White Paper, the Muslim community response did not shy away from expressing its concerns as to how ready the Government was to meet them in light of its experience on the Taskforce. Foremost amongst its concerns were issues relating to integration, coherence and simplicity. It reiterated that to achieve the proclaimed vision, it was essential to equip the single Commission with a single Equality Act from the start. It said that it was concerned by the possibility of a single equality body which had no statutory powers in relation to goods and services and positive duty to promote equality for three of its strands: religion/belief, sexual orientation and age. The different levels of statutory powers for the different strands, it felt, would have a significant impact on the functions performed by the new body with regards to each strand, the priorities of the organisation as a whole, relations between the strands and the organisation's credibility amongst those that may need it most. It also argued that a single Equality Act would help to reduce the complexities and inconsistencies that existed and make equality legislation easier to understand and implement, more effective, and thus, of greater benefit to employers and service providers, advice givers and members of the public. However, it accepted that if the new body must proceed on the basis of the existing equality legislation, then it should do so, but should make one of its earliest tasks the priority to bring coherence and simplicity to such legislation. Finally, it expressed some concerns around the level of resourcing for the new body. Achieving the vision and functions required across the six strands of equality and human rights could not be done other than by an extremely well-resourced organisation. It noted that the Government recognised that the new body would 'need to be properly resourced', but expressed concern that there was no further indication as to what this might mean in practice save a lone reference in

the partial regulatory impact assessment section at the end, which suggested that the annual expenditure on the CEHR will be higher than that of the existing commissions given its broader remit. The response stressed that taking on three new strands and human rights, with additional duties and powers across the board, represented a significant broadening of ‘the remit’, and resourcing for the new body must reflect this fact. The Government’s vision for equality and human rights, as the basis of a cohesive and prosperous society, could only become a reality if the new Commission was sufficiently resourced, and not seen as a cost-cutting exercise. The Muslim input into the Taskforce, thus, directly influenced the content of the White Paper, and what it was not able to get in there was spelt out in its public response to it, which not only influenced other responses, notably from the EDF, IFN and the CRE, but also substantially influenced the Government’s policies on equalities legislation and institutional arrangement beyond the White Paper.³³³

The Government’s key response to the equalities stakeholders’ responses on the White Paper was to establish a new CEHR Steering Group to replace the Taskforce – to not just advise on but also to help implement the idea of a single equality body. The Muslim Council of Britain was invited to provide a representative on this Steering Group.³³⁴ The Steering Group members were to provide three significant streams of assistance. Firstly, to develop buy-in from the constituencies they represented;³³⁵ secondly, to help with the drafting of the 2005 Equality Bill and to take it through to the Equality Act 2006; and thirdly, to help build up the CEHR as an organisation ready to be operational on the day of its launch.³³⁶ This, alongside the work at the EDF that the MCB representative was still heavily involved in, provided considerable opportunity to the Muslim community to

³³³ This was explicitly acknowledged in *Fairness for All: A New Commission for Equality and Human Rights – Government Response to the Consultation*, London: DTI, November 2004 – where the Government specifically states that it intends to introduce new legislation on goods, facilities and services on grounds of religion and belief as a result of the powerful public submission by the MCB.

³³⁴ The present author was asked to fill this role by the MCB.

³³⁵ The MCB representative was additionally backed by the Inter Faith Network and Churches Together in Britain and Ireland, who supported the MCB Representative to work with Hanne Stinson, Director of BHA, and also a member of the Steering Group, to set up the Religion and Belief Consultative Group (RBCG) as a means of discussing issues arising in the Steering Group with a wider religion and belief stake-holding group and developing their buy-in to developments through the Steering Group. The RBCG survived for some time after the launch of the CEHR in 2007, and then collapsed due to a conflict between Evangelical and Secular members. By that point, however, it had done its job as required by the Steering Group.

³³⁶ For the Government’s statement on this, see Megg Munn MP’s response to Angela Watkinson MP, recorded in Hansard, 12 December 2006, cc.968W, and available at: <http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm061212/text/61212w0012.htm>.

shape the new mega non-departmental public body in the area of non-discrimination and equality as appropriate to its needs – albeit in discussion and negotiation with other stakeholder representatives and government – and this it did. The Muslim community could not have asked for more than what was provided for the new CEHR in the Equality Act 2006. The MCB representative later commented to this effect when the whole process of setting up the CEHR was later reviewed by the Hansard Society in its work on good practice in law-making.³³⁷

Once in place, however, the CEHR, which changed its name to the Equality and Human Rights Commission (EHRC), failed in many ways to live up to its promise, and this was regularly covered in the media. From the start many stakeholders had an issue with the appointment of its first Chair, Trevor Phillips, who at one point vociferously opposed the idea of a single equality body, tried to keep the CRE out of it by mobilising grassroots race equality organisations and voices, and then accepted the position of chair seemingly through deals struck behind closed doors. This left many stakeholders from all strands feeling that he was not interested in the equality and human rights family and race equality stakeholders feeling betrayed – resulting in a credibility gap for the EHRC from its inception. This was not helped by Phillips’ repudiation of the concept of ‘institutional racism’ and call for an ‘end to multiculturalism, which alienated many race equality advocates further still. His leadership style caused almost half of the first batch of Commissioners to resign and drove away many of the most senior staff, including the Commission’s first Chief Executive, Nicola Brewer. Morale and loyalty was low amongst those that remained.³³⁸ Additionally, after two years of inception, the National Audit Office refused to fully sign off the Commissions accounts on the grounds of certain financial concerns – observing also its weaknesses in developing a clear business strategy, agreeing an organisational design and ensuring effective operation management.³³⁹ Politicians also began to question whether the organisation was good value for money at a £70m annual budget, and even Harriet Harman, who appointed Phillips twice as chair,

³³⁷ A. Brazier et al, *Law in the Making – Influence and Change in the Legislative Process*, Hansard Society, 2008.

³³⁸ For a good summary of these and other concerns, and references to further material, see: J. Squires, *Is the EHRC working*, *The Guardian*, 21 July 2009.

³³⁹ See: *Report of the Comptroller and Auditor General to the House of Commons*, NAO, 18 June 2008.

stated that ‘the Commission needs to do more in terms of delivery and engagement with stakeholders’.³⁴⁰

Beset with these controversies and problems from the start, in terms of the EHRCs work, many felt that it had lost the distinctness of its ‘pillars’ or its individual strands of equality, and thus, that there was an overemphasis on adopting a ‘one size fits all’ approach that distanced it from the specific concerns of its stakeholders. Others felt that it overemphasised soft promotional activities over hard law enforcement – especially with regards to enforcing anti-discrimination controls against private sector employers. Some felt that this was due to the fact that the commissioners were appointed by and accountable to the Government rather than directly to Parliament, which meant the Commission was more vulnerable to governmental and bureaucratic pressure. In terms of the religion or belief strand, coming in as a junior partner with less equality legislation provisions, it was quickly perceived as being relegated to the bottom of the hierarchy of strands at the EHRC – particularly when in conflict with other strands.³⁴¹ For Muslims too, though they achieved on paper what they wanted in this body, in reality, it delivered little for them. It has been timid on counter-terrorism and human rights issues, which will be addressed in the next chapter – but, it has also been timid on non-discrimination and equality issues, eg, on incitement, harassment and reasonable accommodation.³⁴² More importantly, it has also been timid on fully elaborating on the results from its s.12 of the Equality Act 2006 work, its reviews of the UK’s state of health with regards to equalities, human rights and good relations – particularly with regards to religion, often hiding religious inequalities behind race inequalities.³⁴³ A more robust approach to, and follow through work on, these reviews may have given it greater impetus for its religion or belief work. Despite these shortcomings and criticisms of the Commission, however, the potential remains for it to be turned around in more favourable circumstances.

³⁴⁰ A. Gentleman and P. Butler, Lady Campbell’s resignation adds to sense of crisis at equality commission, *The Guardian*, 17 July 2009.

³⁴¹ For an interesting reflection on this and the EHRC’s work on the religion or belief strand, see: D. Perfect, Concluding remarks and implications for policy – reflections on religion or belief as an equality issue and a human right, in D. Llewellyn and S. Sharma (eds.), *Religion, Equalities and Inequalities*, London: Routledge, 2016, pp.210-22.

³⁴² See, for example, the EHRC’s positioning on reasonable accommodation and harassment in the delivery of goods, facilities and services, in: *Religion or Belief – Is the Law Working?* Manchester: EHRC, December 2016 – where it feels very much that it is finding reasons to justify the status quo rather than champion stakeholder needs and demands, as supported by experienced practitioners.

³⁴³ See, for example: EHRC, *Is Britain Fairer? The state of equality and human rights in 2015*, Manchester: EHRC, 30 October 2015.

The Outcomes Approach and the Public Sector Agreements Regime

It is said that New Labour fell into the outcomes approach and the introduction of the PSA regime unexpectedly and unplanned, almost by accident³⁴⁴ – even if the approach and regime were later, particularly after the re-election of Labour in 2001, to become a fundamental part of its modernisation agenda.³⁴⁵ The back-story is that two days before the announcement of the Comprehensive Spending Review (CSR) in 1998, Ed Balls, then economic adviser to the Chancellor, Gordon Brown, told Treasury officials to replace the emerging performance framework called Output Performance Analyses (OPAs) with new performance measures called Public Service Agreements (PSAs). His key argument was that the OPAs were not aligned to the five key election pledges (such as reducing NHS waiting lists) and did not include targets, which would make it difficult for the Government to demonstrate measurable improvements in public services as a result of increased spending. Underlying this was the desire to demonstrate that New Labour was economically literate and a responsible steward of public money. Immediately after the CSR announcement, the general expenditure policy team in the Treasury was tasked with developing the PSAs over the next few months. It ended up recycling the OPAs, although the departments themselves also added hurriedly developed targets. The result was over 600 PSAs in total – and given how little time was spent on developing them, unsurprisingly, they were highly variable in detail, specificity and measurability. At this stage, it was not clear where this initiative would go next. There were many problems with the PSAs. It was not clear who was responsible for delivering them and whether officials would even be held to account for failure to achieve them. More critically, the PSAs were not tied to any levers, since spending allocations had already been agreed prior to their announcement. Consequently, these early PSAs had limited traction and little progress was made. Nonetheless, the Treasury decided to stick with them, albeit recognising the need to improve the PSAs. This was attempted in the Spending Review of 2000, and led to a marked reduction in the number of PSAs from over 600 to 160 – with noticeable improvements in their scope and definition. The new PSAs were more systematic and uniform – they included an overarching/high level aim, broad

³⁴⁴ N. Panchamia and P. Thomas, *Civil Service Reform in the Real World: Patterns of success in UK civil service reform*, London: Institute for Government, 2014, p.46.

³⁴⁵ See the Prime Minister's Foreword on the outcomes approach, the PSA agenda and how they fit into the modernisation agenda, in: *Modern Public Services for Britain – Investing in Reform*, Comprehensive Spending Review, New Public Spending Plans 1999-2002, The Stationery Office, July 1998.

objectives/outcome-focused commitments, and specific measurable targets. Each PSA was also underpinned by a Service Delivery Agreement and Technical Notes. Around the same time, the Government Resource Accounting Act was passed, which tasked the Public Spending Committee with scrutinising PSAs by asking departments to report on them through their resource accounts. Alongside improvements in the operating model, the negotiation of PSAs was now explicitly tied to the spending review process, which increased the potential for the Treasury to incentivise departments to deliver on government's overall objectives in return for appropriate funding.³⁴⁶

The outcomes approach and PSAs regime, however, did not fully take off until after the 2001 General Elections. It is said that the Prime Minister, Tony Blair, had been frustrated with the lack of progress made during his first term and wanted to use his second term to push through radical public service reform – thus giving renewed impetus to the modernisation agenda. Labour's 2001 election manifesto had focused heavily on improving public services in four key areas: education, health, crime and transport. Immediately after the election, in June 2001, the Prime Minister's Delivery Unit (PMDU) was created in the Cabinet Office, to provide scrutiny and support on a selection of 17 of the Government's highest priority PSAs, broadly related to the 2001 manifesto commitments.³⁴⁷ With a direct hands-on interest in these PSAs from the Prime Minister and a well-connected, collegiate and dynamic leadership at the new PMDU, co-located with the Treasury, it is at this point that not only these PSAs and the departments responsible for their delivery – the Home Office, Department for Health, Department for Education and Department for Transport – but the PSAs agenda as a whole, became significantly more electrified. The departments remained responsible for achieving their PSA targets, but the PMDU played a crucial friendly challenge and support function through the deployment of a range of tools and processes. It adopted an evidence-based approach to identifying and tackling barriers to delivery. It used the red-amber-green (RAG) traffic-light rating system to assess the progress departments had made towards meeting targets, and gave them an opportunity to contest and change their ratings only if they had the evidence to underpin their claims (which was rarely the case). The first

³⁴⁶ N. Panchamia and P. Thomas, *Public Service Agreements and the Prime Minister's Delivery Unit*, London: Institute for Government, Undated.

³⁴⁷ M. Barber, *Instruction to Deliver – Fighting to transform Britain's public services*, London: Methuen, 2008.

league table was produced four months into PMDU's life and was intended to send a shockwave through the system. After this, the ratings featured regularly in the six-monthly delivery reports that kept the departments on their toes. In the 2002 Spending Review, the PSAs framework was significantly remodelled – the PSAs were reduced to 130 targets and their scope and definition were further improved. The Spending Review of 2004, following a report of the Public Affairs Select Committee on the PSAs regime,³⁴⁸ which criticised the PSA targets for being too top-down and amenable to 'gaming' and other perverse consequences, followed by the Government's response to this,³⁴⁹ announced that PSAs will focus more on outcomes and be less prescriptive with targets, allowing more local freedom to set them. It also further reduced the number of PSAs to 110 and introduced the Service Transformation Agreements – including cross-cutting progress measures of service delivery.

The planned Spending Review of 2006 was delayed due to the difficult change over in Prime Ministers, but this created an opportunity for a fundamental rethink about the Government's performance management framework. The Comprehensive Spending Review in 2007 announced the new framework and set out 30 government priorities, or new PSAs, underpinned by 153 individual measures or targets. They covered most departments and cut across multiple departmental boundaries. Each cross-cutting PSA was underpinned by a single Delivery Agreement, which was shared across all contributing departments. The new framework was the result of extended collaboration between the Treasury, PMDU and the departments, with substantial involvement from ministers and their advisers, where each part of the framework had been subjected to challenge by a sample of frontline professionals and experts. It was the culmination of a decade of finessing the PSA regime to make it fit for purpose. There followed around this new extensive regime a comprehensive range of governance arrangements. Each cross-cutting PSA was overseen by a cabinet committee, had a lead department, lead secretary of state and Senior Responsible Officer (SRO) and a delivery board comprising senior officials from contributing departments. The SRO for the PSA was required to submit a report to the cabinet committee following the six-monthly delivery reports. The delivery board would also escalate issues they could not resolve to the cabinet committee. The

³⁴⁸ Public Administration Select Committee, *On Target? Government by Measurement*, July 2003.

³⁴⁹ Cabinet Office, *Devolving Decision Making*, March 2004.

whole new regime and the arrangements around it was to be overseen by the PMDU. However, the Conservative Party in opposition explicitly opposed these developments as ‘big government’, ‘central control’ and ‘a targets culture’, the hallmarks of New Labour – and soon after coming to power in May 2010, the Coalition Government abolished the PMDU/PSA machinery and replaced it with what it called Structural Reform Plans as part of a broader suite of documents collectively known as the Departmental Business Plans, reflecting the position that government cannot commit to outcomes, but only to inputs.³⁵⁰

It is true that from the very beginning of the PSAs regime there were PSAs on race equality. The CSR of 1998 made explicit reference to race equality in the chapter for the Home Office – in its sections on departmental objectives/headline outputs, approach to spending and key areas for investment and reform. It made race equality a ‘wider Governmental objective’, tasked the Home Office to support this financially, and to develop an action plan to combat racial disadvantage and set targets to increase the numbers of people from ethnic minority communities in the Government and its services as a key component of investment and reform going forward, ie, the modernisation agenda.³⁵¹ These targets or ‘basket of indicators’ were spelt out in a Home Office publication in March 2000, in the immediate aftermath of the Macpherson Report into the racist murder of the black teenager, Stephen Lawrence, and included comprehensive data to illustrate comparative perceptions of and attitudes towards public services between the majority and ethnic minority communities; harder and more specific data on a range of key policy areas across Government which directly impact and/or are of particular interest to ethnic minority communities – including economic activity, education, health, law and order, housing, local government, the use of lottery funding, and the voluntary sector; and data about what the Government itself is doing to improve race equality within the Civil Service, its own service delivery arm.³⁵² The Spending Review of 2000, delivered as the RRAA 2000 was awaiting Royal Assent, affirmed that the promotion of race equality

³⁵⁰ N. Panchamia and P. Thomas, *Civil Service Reform in the Real World*, op. cit., p.46-55.

³⁵¹ See *Modern Public Services for Britain: Investing in Reform – Comprehensive Spending Review: New Public Spending Plans 1999-2002*, The Stationery Office, July 1998, Chapter 11. See also more oblique references to race equality in the chapters for DfEE (Chapter 6), DETR (Chapter 8), DCMS (Chapter 19) and DSS (Chapter 20).

³⁵² Home Office, *Race equality in public services – driving up standards and accounting for progress*; March 2000.

within the provision of public services was a priority for the Government and that improvements in key areas will be measured through the annual publication of a set of race equality indicators – as kick-started by the HO publication in March. This was captured under Objective 5 of the Home Office PSA, as Performance Target 14.³⁵³ The Spending Review of 2002, further raised the profile of the race equality PSA targets, stating that there were long-standing ethnic inequalities in educational attainment, employment opportunities and life chances generally, the Government was determined to tackle these, and therefore, the Review had: set a revised race equality PSA to ensure that by 2006 the Home Office will have worked with all departments to bring about measurable improvements in race equality; included a specific PSA target (shared between the DWP and the Department of Trade and Industry) to raise the employment rate of ethnic minorities and reduce the difference between their employment rate and that for the population as a whole; provided additional resources targeting the effects of deprivation on educational attainment through reformed Local Authority funding systems (and increased direct payments to schools) to help meet new school-level floor targets, which will benefit ethnic minority pupils; provided £14 million over three years to extend outreach work to help jobless ethnic minorities access the range of support that is available to help them move into work; and provided additional resources for the Advisory, Conciliation and Arbitration Service (ACAS), which will enable it to promote equalities in UK workplaces.³⁵⁴ This narrative was captured in the new HO PSA Objective 6: To support strong and active communities in which people of all races and backgrounds are valued and participate on equal terms; and Performance Target 9: To bring about measurable improvements in race equality and community cohesion across a range of performance indicators, as part of the government's objectives on equality and social inclusion.³⁵⁵

³⁵³ Prudent for a Purpose – Building Opportunity and Security for All, 2000 Spending Review, New Public Spending Plans 2001-2004, The Stationery Office, July 2000, Chapter 10; Spending Review 2000 – Public Service Agreements 2001-2004 White Paper, Chapter 5, p.14. Note that in SR2000 there were two other cross-cutting PSAs featuring race: the criminal justice system PSA (Chapter 22), requiring the improving of the level of public confidence in the criminal justice system, and the welfare to work PSA (Chapter 21), aiming to increase the employment rates of 'disadvantaged groups'.

³⁵⁴ Opportunity and Security for All: Investing in an enterprising, fairer Britain – New Public Spending Plans 2003-2006, The Stationery Office, July 2002, Chapter 3, p.37.

³⁵⁵ Spending Review 2002: Public Service Agreements 2003-2006 White Paper, December 2002, Chap.6, p.14. Note also Objective 2, Performance Target (PT) 4 on confidence in the Criminal Justice System (CJS), and how PT 4 and 9 are reflected in the separate CJS PSA at Chap.22. See also PT 6 and 10 of the DTI PSA at Chap.12 on enterprise and employment, respectively – the latter shared with the DWP PSA, PT 4 and Local Government PSA, PT 14; and Cabinet Office PSA, PT 4, at Chap.20, on ethnic minorities in the Senior Civil Service.

In the Spending Review of 2004, however, explicit mention of race equality is dropped almost entirely from the headlines and subsumed under a cross-cutting chapter on ‘A Fairer Society, with Stronger Communities’, where only occasional reference is made to race inequalities, except for one section entitled ‘Race Equality and Integration’, where a new PSA target ‘to reduce race inequalities and build cohesive communities’, with a clear focus on cross-government working in order to improve outcomes for ethnic minority communities across key public services, is announced, and a new strategy on race equality and community cohesion is promised. The narrative in the rest of that chapter in the review reads almost as if a deliberate decision was taken to substitute race with class. However, various PSAs are refined or redefined, or newly introduced in that chapter that are clearly intended for ethnic minorities suffering inequalities and others sharing their position in society.³⁵⁶ Interestingly, the new key target (HO PSA Performance Target 7) comes under a new Objective 5, which seeks that ‘citizens, communities and the voluntary sector are more fully engaged in tackling social problems and there is more equality of opportunity and respect for people of all races and religions.³⁵⁷ The use of the phrase ‘race and religion’, or a variation of it, had become more common in some parts of Government by this stage, for two reasons. Primarily because of the greater assertiveness of Muslim demands on the Government as we have discussed so far, but also, at least to some extent, because one of the Governments most senior equality tsars at this time was a practising Muslim.³⁵⁸ However, this change in the language at this high level of stating of intentions was not followed through and did not result in substantive change for Muslims in practice – eg, in this instance, the PSA target was still focused on race equality in a way that it excluded Muslims as a category. Similarly, the race equality and community cohesion strategy that subsequently transpired did little for Muslims as a category on the equality

³⁵⁶ Stability, Security and Opportunity for All – Investing for Britain’s long-term future, New Public Spending Plans 2005–2008, The Stationery Office, July 2004, Chapter 3, p.57-70. In addition to ‘Race PSA 7’, note in particular DWP PSA 4 and DTI PSA 10, and more oblique references to race equality in DfES PSA 10 and 14, ODPM PSA 5 and 7, DoH PSA 2 and CJS PSA 2.

³⁵⁷ Spending Review 2004: Public Service Agreements 2005-2008 White Paper, Chapter 6, p.19.

³⁵⁸ This point was put to Museji Takolia CBE in an interview for this study on 20 August 2016. He was the Governments Senior Advisor for Diversity and Equality at the Cabinet Office between 2002-4, and was succeeded by another Muslim, Waqar Azmi as the Governments Chief Diversity Advisor (who led on the Cabinet Office’s 10-Point Plan for a Diverse Civil Service – referenced above and below). Takolia was very reluctant to confirm this point, saying only that at that time, at that level, the discourse was still very much ‘Black and White’, all minorities were still subsumed under the Black category, but ‘everyone brings their own interest to their job’.

side.³⁵⁹ Equally, the reports that follow on the strategy, adopted the same pattern.³⁶⁰ By the 2007 Comprehensive Spending Review, however, a decade from the first CSR, a specific race equality Performance Target was dropped altogether and replaced with a more general new PSA to address the disadvantage that individuals experience because of their gender, race, disability, age, sexual orientation, religion or belief, by enabling people to benefit from opportunities and participate in the economic and social success of communities, through a measurable reduction in inequalities. The new PSA (PSA 15) included commitments to reduce discrimination in employment and increase participation in public life by under-represented groups. The PSA was to be led by the new Government Equalities Office (GEO).³⁶¹

As with the equality legislation and institutional arrangement, the early demand from the Muslim community with regards to this aspect of the modernisation agenda, was again that the work on race equality should be extended to cover multi-ethnic minority religious groups such as Muslims. From as early as 2001, the FAIR documents had made it clear that changes in equality law and institutional set-up in themselves would be insufficient to address British Muslim concerns of the time, and that additionally there was a need to extend policy initiatives to ensure the mainstreaming of Muslims, their concerns and needs, throughout the public and private sectors.³⁶² FAIR had argued that the existing mainstreaming and policy initiatives for minorities did not sufficiently meet this goal because they did not extend to multi-ethnic religious minorities such as Muslims. FAIR had made a general argument – that, regarding mainstreaming and policy initiatives, the Home Office should extend its interest and remit in race equality to specifically cover multi-ethnic religious minorities such as Muslims who were not, and whose specific needs were not, at the time covered by the construct of and undertakings on ‘race’ – and also, a number of particular arguments. Firstly, it had argued that these initiatives should be used

³⁵⁹ Note the Muslim response to the consultation on the strategy: *Strength in Diversity – Towards a Community Cohesion and Race Equality Strategy*, A Response from the Muslim Council of Britain, September 2004.

³⁶⁰ See, for example: T. Cante, *Improving Opportunity, Strengthening Society – A third progress report on the Government’s strategy for race equality and community cohesion*, Vol.2, *Race Equality in Public Services – Statistical Report*, Department for Communities and Local Government, February 2009.

³⁶¹ HM Treasury, *Meeting the aspirations of the British people – 2007 Pre-Budget Report and Comprehensive Spending Review*, London: The Stationery Office, October 2007, Chapter 5, p.82.

³⁶² In the same way as many Whitehall departments had mainstreamed thinking about race, gender and disability in their policy work subsequent to Cabinet Office guidelines in 1998 based on the DfEE guidelines issued to their staff in 1996, entitled ‘Policy Appraisal for Equality Treatment’ (PAfET) – see: C. Collins, *Separate Silos – Race and the reform agenda in Whitehall*, London: IPPR, 2002, p.9.

to allow public institutions and policy makers an opportunity to also consider the impact of policies on Muslims – and more specifically, it had argued that policy makers should use the emerging Policy Impact Assessment (PIA) tools, off the back of the new public sector race equality duty, to also specifically measure impact for/on Muslims (there is more on this point in the previous chapter). Secondly, that these mainstreaming and policy initiatives, working with all parts of Government and across departmental boundaries, to drive up race equality – through clear milestones and outcomes – should also specifically address inequalities faced by Muslims. Thirdly, that Muslims should specifically be included in all Governments equalities analysis – and, in particular, that the SEU and PIU, still at No. 10 at the time, should specifically include Muslims in their work, both in terms of their existing research, analysis and policy initiatives work on social exclusion, and also new work, some of which could focus specifically on Muslim social exclusion. And fourthly, that the diversity action plan being developed as part of the Civil Service Reform Programme at the time should specifically include multi-ethnic religious minorities, such as Muslims, in relation to, *inter alia*, targets, progress, mentoring and diversity awareness.³⁶³

The sum of FAIR's argument was that all monitoring, research, targets and work towards achieving those targets on race equality should include multi-ethnic religious minorities such as Muslims. Not surprisingly, then, as with equality legislation and institutional arrangement, there was resistance to this to the end. Apart from the above intervention on PSAs, however, repeated almost verbatim on a number of other occasions,³⁶⁴ almost as a postscript to other demands, there was almost no other intervention from the Muslim community on the subject of PSAs. The focus was very much on the public sector equality duty instead – as described in the last chapter. In some ways, Muslims had not lost much by their lack of attention to the PSAs framework. The construction of the race equality PSAs and targets were weak, and delivery on them was even weaker.³⁶⁵ However, there were two important ways in which Muslims lost out because of their lack of involvement

³⁶³ See FAIR's Response to the Home Secretary's Statement in the House of Commons on Monday 15 October 2001, London: FAIR, November 2001. Available in the FAIR Files.

³⁶⁴ See, for example: Towards Equality and Diversity – Implementing the Employment and Race Directives, Response from the Forum Against Islamophobia and Racism, London: FAIR, March 2002; Equality & Diversity – A Response from the British Muslim Research Centre, London: BMRC, March 2003; and Fairness for All – A New Commission for Equality and Human Rights, A Response from the Muslim Council of Britain, London: MCB, August 2004.

³⁶⁵ C. Collins, *Separate Silos*, op. cit., p.17.

with and inclusion in the PSAs framework. First, the equality PSAs and targets set into motion thinking about and developing tools and procedures for capturing information across Whitehall departments that would help to secure the baseline data required to understand inequalities, to understand why those inequalities existed, to construct realistic outcomes, and to assist with what is required to achieve those outcomes – all in a form specific and relevant to the departments. The evidence-based approach to evaluation and policy development that was supposed to mirror the PSA framework, at each departmental level, developed without reference to Muslim needs and concerns. Muslims made significant contributions to two other developments – the insertion of a religion question in the Census³⁶⁶ and the securing and realisation of s.12 of the Equality Act 2006, a triennial review of the UK’s state of health with regards to equalities, human rights and good relations³⁶⁷ – that partially filled this gap, but not fully, as they provided more general data and not data specifically sought by the departments to fit their needs as they saw them, based on their equality targets. This data was vitally important for the public sector equality duty to hit the ground running. Second, the stand-alone equality PSA that emerged in the CSR of 2007 (PSA 15) included religion – not because Muslims had any direct hand in it, but more as a consequence of the pan-equalities approach Muslims had helped to set in motion through the EDF and the WEU/GEO – but, without much Muslim involvement in the development of the PSA, the performance targets, and the delivery plan and monitoring of progress underpinning the PSA, it remained weak on religion.³⁶⁸ This weakness meant that Muslims lost out on a significant tool in Whitehall, developed through the test and trial of four previous generations of PSAs, that was potentially very important for equality in and through Whitehall throughout the Brown years in Government, that may have helped launch the public sector equality duty on religion far quicker and more smoothly. The equality PSA, along with the whole PSA regime, was abandoned as soon as the Coalition government came into power in 2010.³⁶⁹

³⁶⁶ J. Sherif, A Census Chronicle – Reflections on the Campaign for a Religion Question in the 2001 Census for England and Wales, *Journal of Beliefs & Values*, Vol. 32, 2011, pp.1-18.

³⁶⁷ This is covered in more detail in Chapter 6.

³⁶⁸ For the full text of the PSA, Performance Targets, Delivery Plan and how progress was being measured see: Government Equalities Office Autumn Performance Report 2009, London: GEO, December 2009.

³⁶⁹ N. Panchamia and P. Thomas, *Civil Service Reform in the Real World*, op. cit., p.55.

Public Procurement

If Muslims had contributed significantly to the development of legislation and institutional arrangement to protect against religious discrimination and to promote equality and good relations, and to address other Muslim concerns as described in the last chapter and this chapter so far, then they did not do so well in what is to be covered in the remaining of this chapter. This is mostly because they were so consumed in the areas already covered that the resources were simply not there to cover any additional areas of work. For the purposes of this chapter, and thesis as a whole, however, it is just as important to cover those areas where Muslims enjoyed a measure of success as well as those where more could have been done, and should be done going forward. One such area is that of public procurement, where the Muslim contribution was small, except that they encouraged the EDF to commission a very important piece of research on this topic that later helped to shape the Governments thinking on it.³⁷⁰ Public procurement is the term used to describe how public bodies undertake purchasing – including the planning of purchasing, drafting the contracts, selecting the tenderers, awarding the contracts and monitoring and managing contract performance. In the UK, it is estimated that approximately one-third of the total annual public expenditure is spent on contracts for works, goods and services through public procurement. This makes public bodies vital customers for all businesses. The size and security of payments offered by public contracts makes them especially attractive, and this gives public bodies real leverage in the market. Thus, where public bodies are concerned to promote equality and are willing to use their purchasing power to ensure that the private and voluntary sector organisations with which they do business, do the same on equality, the impact could be huge. In the UK, apart from various bits of EU Directives transposed into UK Regulations – which were not particularly effective,³⁷¹ the clearest legal duty to consider equality in public procurement was provided by the public sector race equality duty in the RRAA 2000. The duty required public bodies to have due regard to the need to eliminate unlawful racial discrimination and to promote race equality in all that they do, and this of course included procurement – and thus, to meet their equality duties, public bodies had to ensure that

³⁷⁰ See: C. Cozens, *Public Procurement and Equality – Steps towards a standard tendering framework*, A report for the Equality and Diversity Forum, London: Equality and Diversity Forum, November 2008. The present author was involved in the development of commissioning this paper.

³⁷¹ See, for example, EC procurement directive 2004/18/EC, the Public Contracts Regulations 2006 and the Public Services (Social Value) Act 2012.

when they spent public money it was not supporting unlawful discrimination but was encouraging and supporting the promotion of race equality.

Race equality could be taken into account in public procurement in five basic ways. Firstly, through the planning of the procurement – that is, through asking the questions from the start: how should race equality be reflected in the contract, and what should the contract look like? This is when a public body decides what it wants to ‘buy’. It is an opportunity to consult users or potential users and to review equality outcomes under an existing or previous contract. At this stage the public body will also decide the best way to meet the needs it has identified, for example, the size or length of the contract, so that in some cases contracts will be particularly suited for SMEs (including SMEs led by people from ethnic minorities). Secondly, through defining the subject of the contract – what is the public body asking the contractor to do in relation to race equality or what equality outcomes is the public body seeking? Race equality will be more relevant in some contracts (for example, a contract to provide health services to the public or a section of the public) than others (for example, a contract for the supply of sterilised surgical instruments). Following on from the planning stage, a public body can incorporate into the contract specification the equality requirements that need to form part of the subject of the contract, for example, to meet the needs of different ethnic groups when providing services such as information services or sports and leisure services. Thirdly, through how the contract is to be performed or the conditions set to ensure good equality practice by the contractor in carrying out the contract. Every public body with statutory duties to eliminate discrimination and to promote equality was required to use contract conditions to make sure that the contractor did not discriminate unlawfully and that the workforce the contractor was using to carry out the work or provide services on the public body’s behalf was recruited and managed in ways that are consistent with the public body’s equality duties. In addition, in some cases the subject of the contract could itself impose equality requirements, for example, the specification for the provision of sexual health counselling services could require the contractor to try to employ both men and women as counsellors to account for cultural sensitivities. Fourthly, through the procurement process itself, ie, how the public body builds race equality into each stage in ways that are compatible with EU rules. In selecting tenderers, a public body could take account of any findings of discrimination against a contractor by a court or tribunal and,

for works or services contracts, their past record on workforce equality or, where relevant, their past record in meeting equality service requirements in previous contracts. Where equality formed part of the subject matter of the contract and there were therefore explicit equality requirements or outcomes in the contract specification, one of the criteria for the contract award could be how well tenderers were able to meet those requirements or outcomes, but this had to be clearly stated in the contract documents. Finally, through monitoring and management – ensuring equality requirements in the specification and contract conditions were being complied with and met by the contractor.³⁷²

The evidence base on the use of public procurement for eliminating discrimination and promoting equality, however, was very poor. There were some examples of contractors meeting well-drafted equality requirements – and even doing more – and other examples that suggested that some public authorities were ignoring equality at each of the above stages, but there were no comprehensive data sets to draw firm conclusions.³⁷³ It is likely that the pattern was extremely varied, not only across different public bodies but also within a single body. However, the Business Commission on Race Equality in the Workplace, established by the National Employment Panel at the request of the then Chancellor of the Exchequer in 2005, reported in 2007 as follows: ‘Our survey [of more than 1,000 businesses] and the evidence of the persistent ethnic minority employment gap, shows that business as a whole does not see a reason to improve its practices’ – and recommended that the Government ‘through its position as the UK’s major purchaser, uses its leverage over, and relationships with, private sector companies to motivate the private sector to promote race equality’. It further stated that its proposals were ‘consistent with the need to obtain value for money in public procurement’; that it had ‘not seen convincing evidence that companies would incur large costs in complying with these proposals’; and moreover, ‘even if compliance with workplace race equality provisions should, at least in the short term, increase the cost of performing some contracts, it would be wrong to see it as a loss of value’.³⁷⁴ The idea of using public procurement to promote

³⁷² See: CRE, *The Duty to Promote Race Equality – Race Equality and Public Procurement*, A guide for public authorities and contractors, London: CRE, July 2003; see also – C. Cozens, *Public Procurement and Equality*, op. cit. See how this early and seminal work was subsequently reflected in the EHRC’s guidance work on procurement: EHRC, *Buying Better Outcomes, Mainstreaming equality considerations in procurement*, A guide for public authorities in England, Manchester: EHRC, March 2013.

³⁷³ C. Cozens, *Public Procurement and Equality*, op. cit. p.8.

³⁷⁴ *The Business Commission on Race Equality in the Workplace – A Report by The National Employment Panel*, October 2007, pp.25-27, paras 72, 76 and 87, available at: <http://www.dwp.gov.uk/ndpb/nep-pdfs/BusCommissionReport.pdf>.

equality, based on the experience in Northern Ireland, the USA, Canada and other countries, which has shown that state purchasing power can be a highly effective tool for achieving change within the private sector, has thus been well recognised and accepted.³⁷⁵ Gordon Brown, as Chancellor of the Exchequer, in his Budget Report 2005, having recently requested the National Employment Panel to convene a Business Commission on Race Equality in the Workplace, had stated that ‘the Government should promote the incorporation of race equality into public procurement within current legal and policy frameworks’;³⁷⁶ the Confederation of British Industry (CBI) stated in its evidence to the Equalities Review ‘Employers believe public procurement is a highly effective lever for increasing diversity... This lever should be used more effectively by the public sector to further spread good practice in the private sector’;³⁷⁷ the final report of the Equalities Review itself proposed that ‘The new public sector duty should incorporate a specific requirement for public bodies to use procurement as a tool for achieving greater equality’;³⁷⁸ and in its response to the Consultation on the Discrimination Law Review,³⁷⁹ the Government stated that it is ‘exploring how public procurement can be used to further equality outcomes, and will examine a range of both legislative and non-legislative options’.³⁸⁰

The Discrimination Law Review identified that one reason why equality did not feature more in public procurement was that public bodies were on the whole uncertain about the extent to which they could and should use procurement to promote equality – whilst some public bodies simply lacked the motivation to take up such levers. The EDF advocated that there was a need to remove this reluctance and uncertainty that was inhibiting action – and that this could be achieved most simply by incorporating into equality legislation an explicit requirement on public bodies to build equality into all aspects of

³⁷⁵ See: R. Dhimi et al, *Developing Positive Action Policies – Learning from the Experiences of Europe and North America*, London: Department of Works and Pensions, 2006.

³⁷⁶ *Budget 2005 – Investing for Our Future, Fairness and Opportunity for Britain’s Hard-Working Families*, London: The Stationery Office, March 2005, p.93.

³⁷⁷ *Evidence to the Equalities Review*, Confederation of British Industry, 2005, p.35, para 118.

³⁷⁸ *Fairness and Freedom: The Final Report of the Equalities Review*, February 2007, p.119 available at: <http://archive.cabinetoffice.gov.uk/equalitiesreview/>.

³⁷⁹ *The Discrimination Law Review (DLR) was launched in February 2005 to consider ‘the opportunities for creating a clearer and more streamlined equality legislation framework which produces better outcomes for those who experience disadvantage ... while reflecting better regulation principles’ – see: www.equalities.gov.uk.*

³⁸⁰ *The Equality Bill – Government Response to the Consultation*, London: GEO, July 2008, p.52, para 4.13.

procurement.³⁸¹ This would make it clear that public bodies are both entitled and obliged to use procurement to reduce inequality. Also, if public bodies had an explicit legal duty to make equality part of procurement then they would not be able to allow a contractor who had cut costs by adopting poor equality practices to benefit from their disregard of equality. The law would ensure that public contracts would consistently be awarded to those who are prepared to provide equal opportunities. The Discrimination Law Review agreed with the EDF that, despite guidance on equality and public procurement already available to public bodies, the barriers to better use of procurement to promote equality remained; providing additional guidance would, of course, be useful, but guidance on its own was unlikely to bring about better action; and, to overcome the uncertainty and confusion that was inhibiting progress, the Equality Bill it was working towards should state in general terms what would be expected of the public bodies listed in regulations. Regulations and a Code of Practice could then set out in fuller detail what public bodies should do at the different stages of the procurement process, within the context of EU and UK law, giving them far greater certainty. An immediate benefit of this approach would be that all prospective contractors could refer to the legislation to know in advance what may be required of them in terms of equality if they chose to enter into contracts with a public body. This would particularly help SMEs with more limited resources, who would be able to take appropriate steps to be prepared to compete for public contracts. In the end, the regulations approach is exactly what the Equality Act 2010 adopted.³⁸² Thus, whilst the profile of the Muslim community was minimal regarding better provisions on equality through public procurement, through its significant work on extending the public sector equality duty to cover religion and belief, and its partnership work through the EDF and the Discrimination Law Review on including an explicit provision on public procurement in the Equality Act 2010, it ensured a clear legal basis and obligation for the promotion of equality on grounds of religion and belief through public procurement.

A System of Rewards and Sanctions

Of the most common elements of New Labour's modernisation agenda, the element of performance related rewards and sanctions was perhaps the least developed with regards

³⁸¹ Public Procurement: A valuable tool for equality, London: EDF, October 2008.

³⁸² Equality Act 2010, Part 11, Chapter 1, s155.

to non-discrimination and equality. There is no evidence that direct administrative sanctions were ever applied, developed or even discussed by Government specifically with regards to poor performance on equalities. The primary levers for equalities work were legislation and regulation,³⁸³ performance targets and monitoring, inspections and reviews, and guidance and assistance. There were more examples of rewards, and the best of these is perhaps the Beacon Council status for promoting race equality, introduced in the third round of the Beacon Council Scheme.³⁸⁴ There were other examples where equality was not the central theme, but a part of a larger basket of items that were subject to performance related rewards and sanctions – for example, there was performance related pay for Permanent Secretaries of Whitehall departments, which was partially linked to performance against specifically quantified diversity targets;³⁸⁵ central Government departments were allocated funding dependent upon their performance in the two previous years, where one of the indicators of their performance may have been equality related, although the link between performance and funding levels was never made explicit; and there was the linking of local authorities' Comprehensive Performance Assessment scores to the degree of intervention and inspection by the Audit Commission, where an element of the score may have been related to equality considerations.³⁸⁶ Certainly, where there were such baskets for assessment the CRE worked hard to ensure that race equality was within that basket.³⁸⁷ However, there seems to have been little interest or work in this area by Muslim communities, and consequently or otherwise, there appears to be little profile of equality on grounds of religion in this aspect of the modernisation agenda.

British Muslim engagement and impact

This final section of this chapter considers briefly how British Muslims engaged with the development of the non-legal measures on non-discrimination and equality on grounds of religion or belief. Using the extended Dinham and Lowndes framework developed in Chapter 1, it is clear that British Muslims were mostly responding to the development of

³⁸³ Note that this could result in possible sanctions from the courts but not administrative sanctions from the government, which is what is meant here.

³⁸⁴ The Beacon Council Scheme: Consultation on themes for future rounds, The Advisory Panel on Beacon Councils, DTLR, Oct 2001.

³⁸⁵ See: Cabinet Office, 10-Point Plan for a Diverse Civil Service, November 2005.

³⁸⁶ The Use of Sanctions and Rewards in the Public Sector, London: National Audit Office, 2008.

³⁸⁷ S. Spencer and S. Taylor, Modernisation and the Race Equality Agenda, op. cit.

the initiatives covered in this chapter – as compared to the last chapter where they took a much more initiating and leading role. However, in examining the pattern of Muslim engagement with the measures discussed in this chapter, it does highlight a limitation of the extended Dinham and Lowndes framework. The focus of this framework is on initiatives deriving from and/or driven by government or the Muslim community and engaging the other. However, the initiatives discussed in this chapter, reveal that they may have derived from and/or been driven by a third party, whether another faith community or a separate equality strand, resulting in very different dynamics between the different parties involved.

Thus, in terms of institutional arrangements, the idea of a cross-Whitehall unit on faith communities and issues may have fitted the modernisation agenda well, but it was also a very important initiative for, and seeded and developed by, the churches – particularly the established church, the Church of England. Church representatives, involved in developing this initiative, had their own ideas about what the Faith Communities Unit should be and what work it should do – and though significant Muslim organisations and individuals, as part of organised religion and networks as well as in individual capacities, engaged with it extensively and intensively, in the end it was far from what they needed and wanted, and over time became relatively irrelevant to their core needs, and at times even a hindrance. In the process, however, it did sharpen the Muslim understanding of what those needs were in terms of machinery of government so that they could find them elsewhere in Whitehall, in this case the WEU/GEO. In the case of a single equality body, this was clearly initiated and driven by government, even if responding to demands from various quarters including Muslims. Various Muslim organisations engaged significantly in the development of the CEHR/EHRC, albeit mostly through a small group of individuals who were also trusted by other faith and belief groups. Muslims achieved what they wanted in this body on paper, but in reality, it has delivered little for Muslims since its inception. It has been timid on counter-terrorism and human rights issues, on non-discrimination and equality issues, and on fully elaborating its findings on the UK's state of health with regards to equalities, human rights and good relations vis-à-vis religion and belief – often hiding religious inequalities behind race inequalities. However, in more favourable political circumstances, with the right leadership and Muslim input,

the body could yet make a great contribution to the British Muslim experience and the integration of Muslims into British society.

With regards to the non-legal tools for the promotion of equality discussed in the latter part of this chapter, it is clear that British Muslim engagement was weak. In relation to the PSAs, FAIR had articulated some initial thoughts and demands early in the 2000s, and these were formulaically repeated in subsequently Muslim submissions to government consultations – but with little campaigning or lobbying energy. The fact that religion was included in later PSAs was more as a result of Muslim assertiveness elsewhere and more generally, and cross strand developments. Similarly, there was very little Muslim engagement on any work around promoting religion and belief equality through public procurement or government rewards and sanctions. However, perhaps the overall outcome on the non-legal tools for the promotion of equality, coming out of the overall equality movement during the New Labour years in Government, to which Muslims made a significant contribution as illustrated in this chapter, is the best that the Muslim community might have achieved – for in focusing its limited resources in securing the public sector equality duty on grounds of religion, and working with and leaving to other strands better resourced to build in the non-legal tools into the general scope of the positive duty, it has left open the possibility that the impact to be achieved through those tools may still be achieved in the future through better use of the positive duty on grounds of religion – when the Muslim community has the ability to do so.

The impact of the non-legal measures, along with the other provisions and measures discussed in Chapters 2-5, on the integration of Muslims into British society will be discussed in chapter 6, which is devoted to just this discussion.

Chapter 4: The legal provisions to promote security and counter terrorism

Introduction

Having considered the legal and non-legal measures and provisions to promote non-discrimination and equality, in this chapter we will consider some of the key legal provisions introduced by New Labour to prevent terrorism and promote security. The chapter will begin with some general background information on the historical development of the security context in the UK so that more recent developments can be contextualised within that landscape. It will then critically trace and assess the genesis, development and substance of the key New Labour legal provisions to promote security and counter terrorism, particularly in light of atrocities committed by Muslims. It will examine British Muslim engagement with the development of these provisions – how British Muslims responded to and thereby shaped or reshaped them. Selected on the basis of significance, profile and/or impact, the initiatives to be covered in this chapter include: the widening of the definition of terrorism, the enhancing of police powers in relation to terrorism and the provisions on proscription in the Terrorism Act 2000; the provisions on indefinite detention and freezing of assets in the Anti-Terrorism, Crime & Security Act 2001; control orders in the Prevention of Terrorism Act 2005; pre-charge detention and incitement/glorification of terrorism in the Terrorism Act 2006; and fingerprints and DNA samples in the Counter-Terrorism Act 2008. The chapter will conclude with a section on the impact of British Muslim engagement on these initiatives and the security agenda generally.

The Background

The UK has a long history of anti-terrorism legislation that conferred emergency powers to police forces in cases of suspected terrorism. The Prevention of Violence (Temporary Provisions) Act 1939 was passed in response to an IRA campaign of violence under the ‘S-Plan’ or the Sabotage Plan that targeted the civil, economic and military infrastructure of the UK from 1939 to 1940. The Act was passed in August 1939, weeks before Britain’s entry into the Second World War, and despite its name, was renewed annually until 1954.

The Act is the direct ancestor of much of the anti-terrorism legislation that has impacted British Muslim communities over the last two decades – for example, the special anti-terrorism powers on stop and search, arrest and detention, and seizure of assets. The Act was eventually repealed in 1973. Meanwhile, in Northern Ireland, special powers legislation had been periodically utilised in response to spasms of political violence since its partition in 1922.³⁸⁸ However, with the outbreak of civil unrest and intensification of political violence in the 1960s, referred to as ‘the Troubles’, these special powers provisions were triggered anew – and, as the communal violence escalated, these powers, including those on internment,³⁸⁹ were quickly enhanced and supplanted by the Northern Ireland (Emergency Provisions) Act 1973, the same year that the 1939 Act had been repealed. A key innovation in the 1973 Act was the introduction of the Diplock courts, where the right to trial by a jury was suspended for certain ‘scheduled offences’ and the court consisted of a single judge.³⁹⁰ The Diplock courts also operated on modified rules of evidence, that is, lower standards for various aspects of criminal procedure, for example, rules on admissibility and confessions – resulting in the use of uncorroborated confessions and testimonies. Further, with a single judge as final arbiter of both law and facts, it meant not only that the judge was often more interventionist, giving defendants and witnesses a harder time, but also that the judge heard the evidence before deciding admissibility, which in practice could be very unfair against the accused.³⁹¹ However, with the Northern Ireland peace process, the number of cases heard in Diplock courts per year fell from a peak of 329 in the mid-1980s to about 60 in the mid-2000s,³⁹² and in August 2006, the Northern Ireland Office announced that the courts were to be abolished from July 2007. This was supposedly achieved under the Justice and Security (Northern Ireland) Act 2007 – but experts suggest that in practice they remain in use in much the

³⁸⁸ See: L. Donohue, *Regulating Northern Ireland – The Special Powers Acts 1922-1972*, *Historical Journal*, Vol. 41(4), 1998, p.1089.

³⁸⁹ Internment was introduced on 9 Aug 1971. On that same day, 3,000 British soldiers, supported by RUC Special Branch officers, arrested 342 suspected IRA members through dawn raids – 104 were released without charge within 48 hours and the remaining were imprisoned. By 1975, when internment was phased out, thousands had been interned.

³⁹⁰ The Diplock courts were a response to Lord Diplock’s report in 1972 addressing the problems of dealing with Irish republicanism other than through internment, eg, witness and jury intimidation – see: W. Diplock, *Report of the Commission to Consider Legal Procedures on Terrorist Activities in Northern Ireland*, London: HMSO, 1972.

³⁹¹ For more analysis of the Diplock courts, see: S. Doran and J. Jackson, *Judge Without Jury – Diplock Trials in the Adversary System*, Oxford: Clarendon Press, 1992; and K. Douwe, *The Diplock Courts in Northern Ireland – A fair trial? An analysis of the law*, Utrecht: Netherlands Institute of Human Rights, 1984.

³⁹² N. Ireland Office, *Replacement Arrangements for the Diplock Court System – A Consultation Paper*, 2006.

same format as the original, and thus, non-jury trials still take place in Northern Ireland, as elsewhere in the UK, albeit only in ‘exceptional cases’.³⁹³

The first significant and substantial Act for our purposes, applying across all parts of the UK, was the Prevention of Terrorism (Temporary Provisions) Act 1974, enacted following the outbreak of the IRA bombing campaigns of the early 1970s. The Act was introduced by Roy Jenkins, then Home Secretary, as an emergency response to the two Birmingham pub bombings by the IRA in November 1974, in which 21 people died and 184 were injured. There was a fervent desire to respond to what was perceived as ‘the greatest threat [to the country] since the end of the Second World War.’³⁹⁴ The Bill was announced on 25 November, when the Home Secretary warned that: ‘These powers are draconian...unprecedented in peacetime’³⁹⁵. Parliament was supportive and passed the Bill, almost without any amendment or dissent, on 29 November. It is suggested that the basis of the Act had already been drawn up as part of the Home Office contingency planning after the Old Bailey explosion in March 1973, and the Bill introduced by Roy Jenkins was substantially the same as that prepared by the prior Tory government.³⁹⁶ Like the 1939 Act, the 1974 Act was also intended to be a short-term or interim measure, but was repeatedly renewed – until it became bedded-down as a semi-permanent feature of British law.³⁹⁷

The 1974 Act contained three Parts. Part I proscribed the IRA in Britain, made display of support for it illegal and provided for up to 5 years in prison for members of the organisation. Part II gave the Home Secretary the power to exclude people from Great Britain, Northern Ireland or the United Kingdom as a whole, that he considered – on police evidence – to be involved in the ‘commission, preparation, or instigation of acts of terrorism’ associated with Northern Ireland.³⁹⁸ Exemption from expulsion was only granted to those permanently resident in Britain for the previous twenty years. A right of

³⁹³ C. Walker, *Terrorism and the Law*, Oxford: Oxford University Press, 2011, Ch.11. Note that the trial of Brian Shrivvers and Colin Duffy, for the murder of two British soldiers, was heard in a Diplock court in January 2012.

³⁹⁴ See: House of Commons Debates, Vol.882, c.743, 28 November 1974.

³⁹⁵ *Ibid.*, c.35, 25 November 1974.

³⁹⁶ See: C. Walker, *Prevention of Terrorism in British Law*, Manchester: Manchester University Press, 1992, Ch.4.

³⁹⁷ See: L. Donohue, *Emergency Powers and Counter-Terrorist Law in the UK*, Dublin: Irish Academic Press, 2000.

³⁹⁸ s.3(3) Prevention of Terrorism (Temporary Provisions) Act 1974.

appeal to an ‘adviser’ was provided, but his advice to the Home Secretary was not binding and could be ignored. Part III extended the powers of arrest and detention of the police by allowing them to hold a person suspected of terrorism for questioning for 48 hours on their own authority, and for a further five days on the issuing of a Detention Order by the Home Secretary. In addition, the police were empowered to search premises on a warrant issued by an Inspector (or above) and not, as was usual, on the authority of a magistrate. Further, the police were given powers – the origin of the present Schedule 7 to the Terrorism Act 2000 – to conduct security checks on travellers entering and leaving Great Britain and Northern Ireland. These powers were made subject to renewal by affirmative resolution of both Houses of Parliament, every six months at first, and then, after March 1976, every year. In practice, the Act fully justified the description ‘draconian’. In the first four months of the Act, between November 1974 and April 1975, three people were charged under Part I – two subsequently having the charges against them dropped; forty-five Exclusion Orders were issued – where only five of the eleven appeals were successful; 489 people were detained under the Act at police stations – though only sixteen were later charged with criminal offences; and the use of Part III of the Act – to search, arrest and detain – was, in effect, to expand the intelligence-gathering of the police and the Special Branch rather than to catch those involved in bombings. The NCCL, later renamed Liberty, observed at the time that the police already had sufficient powers to combat the IRA: ‘police powers in practice are far wider than in theory...the new law, therefore, legitimises and extends past abuses’.³⁹⁹ The issuing of Exclusion Orders (i.e. deportation) was open to even greater abuse. For, in effect, Orders were issued by the Home Secretary against those whom the police lacked sufficient evidence to bring before a court of law.⁴⁰⁰

Just after the 1974 Act was enacted, a seven-person committee was convened under the chairmanship of the former Lord Chancellor, Lord Gardiner, ‘to consider, in the context of civil liberties and human rights, measures to deal with terrorism in Northern Ireland’. The Gardiner Commission made more than 40 recommendations in its report of January 1975. Prominent among them was the ending of Special Category Status for prisoners convicted of scheduled offences, a bold if controversial attempt to subject Irish republican

³⁹⁹ NCCL, Annual Report 1974-5, p.10.

⁴⁰⁰ T. Bunyan, *The Political Police in Britain*, Quartet, 1977, pp.51-56.

terrorism to the constraints of normal criminal justice.⁴⁰¹ The 1974 Act was rewritten and replaced in March 1976 by the Prevention of Terrorism (Temporary Provisions) Act 1976. In addition to the powers granted by the 1974 Act, the 1976 Act also made it an offence to contribute to or to solicit contributions towards acts of terrorism, or to withhold information relating to acts of terrorism or persons committing them.

The Prevention of Terrorism (Temporary Provisions) Act 1984 re-enacted the provisions of the 1976 Act with some modifications to incorporate the changes recommended by Lord Jellicoe in his review of the operation of the 1976 Act.⁴⁰² Two of the main changes to the 1976 Act related to exclusion orders – first, the duration of exclusion orders was restricted to three years from the day on which they were made, but the Secretary of State could make a further order against the person who was the subject of an order which had expired; and second, the period of ordinary residence in a part of the United Kingdom which exempted a British citizen from exclusion from that part was reduced from 20 years to 3 years. The Prevention of Terrorism (Temporary Provisions) Act 1989 re-enacted many of the provisions of the 1984 Act, but also incorporated a number of changes recommended by Lord Colville of Culross in his review of the operation of the 1984 Act.⁴⁰³ The new measures included: powers to facilitate the investigation and seizure of terrorist funds; changes in remission for persons convicted of scheduled offences in Northern Ireland; and the introduction of a scheme of regular reviews during the first 48 hours of detention under s.14. The Prevention of Terrorism (Additional Powers) Act 1996 further extended the 1989 Act. In particular, it further extended the powers of search in connection with acts of terrorism and terrorist investigations; conferred new powers to the police in relation to areas cordoned in connection with terrorist investigations; and enhanced powers to impose prohibitions and restrictions in relation to vehicles on roads in connection with the prevention of acts of terrorism. The 1976, 1984 and 1989 Acts continued to stay as emergency ‘temporary’ powers, in response to particular or anticipated events, that had to be renewed each year. The first two Acts contained final

⁴⁰¹ G. Gardiner, Report of a Committee to consider, in the context of civil liberties and human rights, measures to deal with terrorism in Northern Ireland, London: HMSO, January 1975.

⁴⁰² G. Jellicoe, Review of the Operation of the Prevention of Terrorism (Temporary Provisions) Act 1976, 1983. Note that there were several other reviews between 1978 and 1984, notably by the Philips Commission, Lord Shackleton and Sir George Baker. However, these appear to have been restricted to processes and procedures and have made little significant long-term impact for our purposes.

⁴⁰³ M. Colville, Review of the Operation of the Prevention of Terrorism (Temporary Provisions) Act 1984, London: HMSO, 1987.

date clauses beyond the annual renewal date, as did the 1974 Act – but this provision was not included in the 1989 Act. Irrespective of this difference in detail, however, much of all these Acts have remained on the statute book.

Whereas the purpose of the Diplock, Gardiner, Jellicoe and Colville reports was essentially to conduct post-legislative review and scrutiny of the use of the powers, the report by Lord Lloyd, produced in 1996, was to serve a slightly different purpose in its focus. It was to recommend the introduction of new law and procedures to deal with changes to the terrorist threat. Lord Lloyd was asked to consider the future need for permanent counter-terrorism legislation in the UK, on the assumption that there would be a state of lasting peace in Northern Ireland but there may be other international challenges. Lloyd's recommendations on the necessity of permanent terrorism legislation formed the basis of the Terrorism Act 2000. The 2000 Act replaced the earlier Acts but contained many of their powers. Importantly, however, its fortuitous timing gave it enormous influence over the development of post-9/11 legislation in other countries.⁴⁰⁴ In the UK, it moved very quickly from being a consolidated act to a new baseline and springboard for a new phase of legislative activism in counter-terrorism. From 2000 to 2010, the end of its time in government, New Labour passed a series of Terrorism Acts that were no longer focussed on terrorism related to Northern Ireland but aimed at terrorism more generally, but specifically 'international' terrorism – these included Acts in 2001, 2005, 2006 and 2008.⁴⁰⁵

The new phase of activism was the result of primarily two reasons. First, it was due to the rise of international terrorism – orchestrated in the name of Islam and worldwide Muslim causes, targeting countries (and their interests) friendly to Britain, British citizens and interests abroad, and ultimately Britain itself. The most serious of these attacks took place on 11 September 2001, when four simultaneous attacks in the USA killed nearly 3,000 people, including 67 British citizens. Subsequent to these attacks, there were other significant attacks, mostly in Muslim countries such as Pakistan, Tunisia, Morocco,

⁴⁰⁴ See: K. Roach, *The 9/11 Effect – Comparative Counter-Terrorism*, Cambridge University Press, 2011.

⁴⁰⁵ International terrorism was defined as having four characteristics: the perpetrators are driven by particular extremist beliefs; they operate as non-state actors (groups, networks and individuals) – but sometimes sponsored and protected by states; the terrorism is carried out against a very wide range of targets in many countries; the terrorism is intended to cause maximum destruction and deaths indiscriminately with the perpetrators often prepared to kill themselves in the process. See: Home Office, *Countering International Terrorism – The United Kingdom's Strategy*, London: HMSO, July 2006.

Qatar, Jordan, Indonesia,⁴⁰⁶ Turkey and India, as well as more attacks in Egypt, Saudi Arabia, and Yemen. There were also significant attacks in Europe: multiple attacks on the Madrid train network in March 2004, and ultimately, attacks in the UK in July 2005, when nearly simultaneous explosions on the Underground network and a bus in London killed 52 people and injured over 700 others.⁴⁰⁷ There were also many other intended terrorist actions in the UK in this period which were either disrupted or unsuccessful.⁴⁰⁸ Further, between 11 September 2001 and 31 March 2008, there were 340 terrorism related charges – 222 under terrorism legislation (including for possession of an article for terrorist purposes; fundraising; membership of a proscribed organisation; provision of information relating to a terrorist investigation; collection of information useful for a terrorist act; other offences under terrorist legislation) and 118 under other legislation (including for conspiracy to murder; offences under the Explosive Substances Act 1883; murder; other offences under criminal legislation). Of the 340 suspects charged, as of 31 March 2008, 196 had been convicted – of which 103 received custodial sentences and a further 14 were detained for deportation or extradition; 107 (91%) of this total of 117 self-declared as Muslim.⁴⁰⁹ The second reason for the legislative activism was the increased tendency in the New Labour years to resort to legislation as a key lever to address any problem.⁴¹⁰ So far as terrorism was concerned, New Labour justified its increased legislative activism by arguing that this was a new form of terrorism, presenting an unprecedented level of threat, and that the old powers of the state were not sufficient to address the nature of this new threat.⁴¹¹

However, there is perhaps a deeper argument here that accounts for the increased willingness to expand the powers of the state to tackle terrorism. The best articulation of

⁴⁰⁶ Including the bombing of a nightclub in Bali in October 2002, in which over 190 people were killed, including 28 British citizens.

⁴⁰⁷ Home Office, *Countering International Terrorism – The United Kingdom’s Strategy*, op. cit.

⁴⁰⁸ For example, by Richard Reid in Dec 2001; Kamel Bourgass in 2003; Omar Khyam in March 2004; Dhiren Barot in August 2004; Muktar Said Ibrahim on 21 July 2005; Parviz Khan in January 2007; Bilal Abdulla and Kafeel Ahmed a few months later; and Andrew Ibrahim and Nicky Reilly in April 2008.

⁴⁰⁹ Home Office Statistical Bulletin, *Statistics on Terrorism Arrests and Outcomes in Great Britain – 11 September 2001 to 31 March 2008*, London: Home Office, 13 May 2009. Note that these figures are, of course, not the final figures for convictions – as the cases of some of those charged would still be live in the courts at the cut-off point for the bulletin.

⁴¹⁰ Nigel Morris, Blair’s ‘frenzied law making’ – a new offence for every day spent in office, *The Independent*, 15 August 2006.

⁴¹¹ See: Home Office, *Countering International Terrorism – The United Kingdom’s Strategy*, op. cit.

this argument is provided by Beck's notion of the 'risk society'.⁴¹² Beck's theory contends that we have entered an epoch of reflexive modernisation, whereby the fruits of modernisation themselves are being used to create risks within society. Given the unrelenting momentum of modernisation and the interdependence between advancements in technology and the manufacturing of risks, Beck argues that the production of risks is now beyond our control. He claims that through self-awareness and exposure to the devastation caused by these manufactured risks, that the world now has a propensity to understand the increase in the number of societal insecurities through the lens of 'risk', whereby there is a desire to extinguish such uncontrollable and uninsurable risks from ever materialising through tailored policy and legislation attempting to 'feign control over the uncontrollable'. Following Beck's theory would suggest that New Labour Ministers were concerned that they would be blamed for inaction if attacks like those on 11 September 2001 or 7 July 2005 re-occurred, and therefore, introduced legislation and policies that allowed pre-emptive action. They were also clearly influenced by surveys revealing that the public was increasingly willing to give up its civil liberties in the name of counter-terrorism.⁴¹³

The proportionality of counter-terrorism legislation, however, has been a key point of concern from the very early days of such legislation, as illustrated by the NCCL/Liberty observation mentioned above. This has not changed with the new generation of anti-terrorism legislation commencing with the 2000 Act, with many refusing to accept the government's assessment of the level of the threat from terrorism or that this justifies the scope and extent of the legislation.⁴¹⁴ It has been argued that the new national security discourse, since 11 September 2001, has increasingly eroded the hard-won liberties enshrined in international human rights law and national constitutions protecting civil

⁴¹² U. Beck, *The Terrorist Threat – World Risk Society Revisited*, *Theory, Culture and Society*, Vol.19(4), 2002, p.39.

⁴¹³ See: A. Parks, *British Social Attitudes Survey 2006-7 – Perspectives on a Changing Society*, National Centre for Social Research, London: SAGE, 2007, which resulted in this article in the press: J. Carvel and L. Ward, Huge majority say civil liberty curbs a 'price worth paying' to fight terror, *The Guardian*, 24 January 2007, available at – <https://www.theguardian.com/uk/2007/jan/24/terrorism.idcards>.

⁴¹⁴ See: *Reconciling Security and Liberty in an Open Society – Liberty Response*, London: Liberty, August 2004. Note also the observation by the JCHR that despite many Government and official statements it has 'never been presented with the evidence ... to be satisfied of the existence of a public emergency threatening the life of the nation' and its call to allow greater independent democratic assessment of the threat to national security – see: JCHR, *Response to HO Discussion Paper, Counter-Terrorism Powers: Reconciling Security and Liberty in an Open Society*, Eighteenth Report of Session 2003-04, London: JCHR, 21 July 2004.

rights.⁴¹⁵ In the UK, the growing tension between counter-terrorism and human rights was evident in the high-profile campaigns against certain legislative proposals from civil liberties and human rights organisations, senior judges expressing their disagreement in cases under the Human Rights Act, and parliamentarians rebelling against government plans. Of particular concern were provisions expanding the definition of terrorism, enhancing police powers in relation to stop, search and arrest, widening the scope for proscription offences, allowing indefinite detention without charge, increasing the use of closed tribunal proceedings, raising maximum periods for pre-charge detention, and introducing control orders and glorification of terrorism offences. Countries throughout Europe have their own counter-terrorism laws, but there have been efforts at the European level, largely led by the UK, to ensure they have a united purpose.⁴¹⁶ However, human rights organisations, like Liberty, have consistently criticised the UK for having some of the most draconian anti-terrorism legislation in the West – for example, the longest period of pre-charge detention in any comparable democracy.⁴¹⁷

In the meantime, whilst providing a much-needed language for the articulation of civil liberties and human rights concerns, opinion has been divided over the ability of the Human Rights Act 1998 (HRA 1998) to have had any real impact on the content and enforcement of Britain's anti-terrorism laws. Some suggest that it has been toothless whilst others have argued that it has helped counter attacks on civil liberties.⁴¹⁸ Some argue that one of the major reasons for this ambivalence is the limited power of the courts under the Human Rights Act 1998 – even when they find legislation to be incompatible with human rights, the court can only make a 'declaration of incompatibility' and must then leave it up to the government to change the law. They cite an example of this in the 2004 decision by the House of Lords condemning Part 4 of the Anti-Terrorism, Crime and Security Act 2001 (on indefinite detention of terrorist suspects on grounds of nationality or immigration status) as incompatible with human rights, and suggest that this only resulted in the government extending its powers of detention through the

⁴¹⁵ Reconciling Security and Liberty in an Open Society – Liberty Response, *ibid.*

⁴¹⁶ See, for example: D. Keohane, *The EU and Counter-Terrorism*, Brussels: Centre for European Reform, 2005; *The Absent Friend – EU Foreign Policy and Counter-Terrorism*, *Journal of Common Market Studies*, Vol.46(1), 2008, pp.125-46; J. Argomaniz et al, *A Decade of EU Counter-Terrorism and Intelligence – A Critical Assessment*, *Intelligence and National Security*, Vol.30(2-3), 2015, pp.191-206.

⁴¹⁷ Reconciling Security and Liberty in an Open Society – Liberty Response, *op. cit.*

⁴¹⁸ EHRC, *Human Rights Inquiry – Report of the Equality and Human Rights Commission*, Manchester: EHRC, 1 June 2009.

introduction of control orders to the whole of the British people, under the Prevention of Terrorism Act 2005.⁴¹⁹ Others, however, argue that it has been a real restraint on the Government. They argue that s.4 aims to reconcile judicial supervision with parliamentary sovereignty, but this has to be balanced against the s.3 duty on courts to read legislation ‘so far as possible’ to be compatible with Convention rights. Thus, the Government was forced to respond to the ruling in the Belmarsh cases by repealing legislation on the detention of foreign nationals. However, the Belmarsh cases succeeded on a discrimination point and the response was to remove that discrimination element when introducing the control order regime. The problem was not, therefore, with the HRA, but with the fact that the courts found control orders to be compatible with ECHR Art.5. This was again the case when the UK courts found s.44 of the Terrorism Act 2000, the controversial power to stop-and-search in any public place without reasonable suspicion, to be compatible – but which, in January 2010, was held to be incompatible by the European Court of Human Rights, and has since been repealed. Overall, however, most perceive the HRA 1998 to be an important check on security provisions.⁴²⁰

With this background as the big picture context, the rest of this chapter will consider how British Muslims have engaged with some of the key provisions in the key counter-terrorism legislation taken through Parliament by New Labour, with a view to considering in a subsequent chapter what impact the provisions and this experience of engagement have had on the integration of Muslims in British society.

The legal measures and provisions to promote security and counter terrorism

The Terrorism Act 2000

The Terrorism Act 2000 (‘TA 2000’ or ‘2000 Act’) received Royal Assent in the summer of 2000 and was law by spring 2001. It has since become the centre-piece of anti-terrorism legislation in the UK. However, many considered the legislation to be a serious assault on various fundamental human rights.⁴²¹ The British Muslim engagement with anti-

⁴¹⁹ IHRC, Britain – An Outpost of Tyranny, 4 February 2005.

⁴²⁰ EHRC, Human Rights Inquiry, op. cit.

⁴²¹ See, for example: J. Hammerton, The Terrorism Act 2000 – A Commentary. Available at: <http://www.magnacartaplus.org/bills/terrorism/index.htm#en1>.

terrorism legislation at the time the Terrorism Bill 2000 was going through Parliament was limited. Only two Muslim organisations responded to the legislation – the MCB with two press releases and the IHRC with a briefing on the Act. MCB’s first press releases, issued prior to the draft legislation, agreed that there should be good laws against terrorism in ‘accord with the European and international human rights conventions and declarations’, but stated that the proposed measures would make bad law in that they carried a ‘serious risk of compromising our own respect for civil liberties, rule of law and commitment to human rights’. The MCB doubted that the proposed measures would answer the real problem of terrorism, and suggested that they may instead result in abuse of the law on the one hand and sow seeds of distrust and alienation on the other.⁴²² Neither the MCB or the IHRC, however, engaged with the legislative process in relation to this Bill. In an interview for this study, Sir Iqbal Sacranie, the founding Secretary-General of the MCB explained that the MCB, and the Muslim community generally, simply were not aware at that time what impact this Act would later have on British Muslims, believing that it was mainly targeted at Northern Ireland – however, this changed quickly as the provisions in the 2000 Act started to bite in the Muslim community, particularly after 9/11, and the Muslim community challenged some of its key provisions respectively.⁴²³

Definition of Terrorism

The IHRC briefed its readers on the 2000 Act some months after it had already received Royal Assent.⁴²⁴ In particular, it briefed on the wide definition of terrorism in the Act and its potential for abuse. Under s.1 of the Act, it defined terrorism as any specified action, the use or threat of which is designed to influence any government or to intimidate the public in order to advance a political, religious or ideological purpose. The specified actions included acts involving serious violence against a person, causing serious damage to property, endangering a person’s life (other than the person committing the act), creating a serious risk to the health or safety of the public or acts designed to interfere with or seriously disrupt an electronic system. Many felt that the Act defined terrorism so widely that it could include what people would normally think of as direct action – it could even include certain forms of industrial action. It was not limited to what people

⁴²² MCB Press Release, Fight Terrorism, but not through draconian laws, 25 August 1998.

⁴²³ Interview with Interviewee 1 on 23 May 2016.

⁴²⁴ IHRC Briefing, The Killing in Kashmir and the Terrorism Act 2000, 29 December 2000.

would normally think of as terrorism. IHRC noted that the definition made no distinctions as to which government the accused was seeking to influence (eg, their own government, the government of a neighbouring, democratic or friendly state, or the government of a repressive or colonialist state further afar) or where the actions took place, and whilst it gave some flesh to the scope of the acts to be covered, it was extremely thin on the threshold for those acts to begin constituting acts of terrorism. Thus, for example, the definition could capture groups voicing support for armed resistance against occupation within international law or even non-violent struggles for democracy and human rights against repressive regimes abroad – one of the main concerns for the IHRC.⁴²⁵ The proof that the definition was very wide and open to abuse was embarrassingly illustrated for the Labour Government when an 82-year-old heckler at the Party's annual conference in September 2005, Walter Wolfgang, was forcibly removed from the conference hall under the Act for shouting 'nonsense' during Jack Straw's speech on the Iraq War.

The concern regarding the wide definition of terrorism in s.1 was amplified by how it impacted and shaped the other offences and powers in the Act. For example, ss.32-39 of the Act stipulate the powers of the police in a 'terrorist investigation' and the obligations of those being investigated. Given the wide definition of terrorism in s.1, under these provisions the police could order a terrorist investigation of any organisation that appeared to them to endanger public safety or health or cause serious damage to property for any political purpose and to influence any government. Thus, for example, an organisation opposing repressive governments overseas could theoretically become subject to a terrorist investigation for organising a mass fax campaign targeting those governments' offices – as this could be seen as 'interfering with', or even 'seriously disrupting, 'an electronic system' belonging to those governments. Where one of these repressive states was about to sign an important business deal with the UK, the UK government could accede to this repressive regime's request to do something about such a campaign in order to smooth the deal. Where such an organisation became subject to a terrorist investigation, its most senior committee members, for example, its director of research could be charged with 'directing a terrorist organisation' under s.56 of the Act, which carries a possible life sentence as punishment. Critics noted further that the

⁴²⁵ IHRC's other main concerns were around the lower standard of rights under the new terrorism legislation (and for religious and political conscience) as compared to ordinary criminal law, and a possible breach by the Act of the ECHR – by shifting the burden of proof in some cases from the prosecution to the defendant.

activities someone directs under this offence need not themselves be terrorist, and it did not matter at what level the directing took place – all that was needed was that the accused had in some way directed some of the activities of the organisation. Similarly, a nurses’ union could become the subject of a terrorist investigation due to a strike over pay that ‘endangered public health’. The union could then, under s.39 of the Act, carrying a maximum penalty of 5 years imprisonment, be barred from the use of its computers on the ground that this might ‘interfere with the investigation’, and be required not to disclose or inform anyone of this as this might ‘prejudice the investigation’. Further, under Schedule 5 of the Act, the police could order searches of the union’s offices for any incriminating information, and under s.15, order its bank accounts to be frozen and prevent the union from raising any new funds to support the strike.⁴²⁶

The broad definition of terrorism in s.1 has underpinned not only the offences contained within later sections of the Act, but also subsequent anti-terrorism legislation, which we will discuss below. However, the definition did require that all three of its limbs be satisfied to constitute terrorism – ie, there must be an act or a threat of an act, it must be designed to influence a government or intimidate the public, and it must be with the purpose of advancing a political or ideological cause.

Police Powers

The second area of concerns with regards to the Terrorism Act 2000 focused on the significantly enhanced specific powers of the police in relation to suspected terrorism. The first time these were addressed by a Muslim organisation was in a report by the IHRC in September 2002, which sought to provide an overview of the Muslim experience of the counter-terrorism legislation since 9/11 by providing brief summaries of cases and a legal and human rights analysis of each.⁴²⁷ The report focused in particular on arrests and harassment – estimating that approximately 80 people had been arrested or harassed through ‘fishing expedition’ home visits by the police and intelligence services under the

⁴²⁶ Note, thus, the assurances required and given by the Government at the time in relation to these concerns regarding the wide definition of terrorism, particularly with regards to industrial action – see, for example, the statement of Lord Bassam in the House of Lords, Hansard, 6 April 2000, cc.1481-90.

⁴²⁷ IHRC, *The Hidden Victims of September 11 – Prisoners of UK Law*, IHRC, September 2002.

anti-terrorism provisions.⁴²⁸ The report concluded that the war on terrorism had become a veiled war against Muslims and Islam ('the hidden victims of 9/11') causing much damage in terms of Muslim confidence in the state and its institutions and officers/officials, and therefore to community, social and national cohesion. In June 2003, Arani & Co Solicitors released a similar report in the form of a submission to the Privy Council Review Committee on Counter-Terrorism Legislation (the Newton Committee).⁴²⁹ Intended to supplement a submission by FAIR to the Newton Committee,⁴³⁰ the report very powerfully articulated experiences of the anti-terrorism legislation within the Muslim communities through 12 case studies from the work of Arani & Co. Solicitors and two organisational statements from Massoud Shadjareh, Chair of the IHRC, and Khalida Khan, Chair of An-Nisa Society. The report provided graphic details of extremely threatening, racist/Islamophobic and vulgar language and behaviour during some stop and search incidences, including pointing a gun at a 10-year-old and threatening to blow his brains away and setting police dogs on some young men walking towards a mosque who later required hospital treatment – concluding that such behaviour had bred widespread fear and insecurity in Muslim communities. The submission made a robust case on the counter-productivity of the counter-terrorism legislation, and the strength of feeling against some of the key provisions were compellingly reflected in December 2003 in the Newton Committee Report on the Anti-Terrorism, Crime & Security Act 2001,⁴³¹ forcing the Home Office, on 25 February 2004, to issue a discussion paper entitled Counter-Terrorism Powers: Reconciling Security and Liberty in an Open Society. The Home Office consultation provided an opportunity for the British Muslim community to contribute to counter-terrorism discussions in a way, and with a strength of force, it had not done previously. The contribution was led by a young Muslim intern/researcher at Liberty, Tazeen Said, who coordinated Liberty's submission to this consultation in liaison with various Muslim organisations, who then also made their own

⁴²⁸ There were no official figures released at this stage – so the estimates were based on stories in the media and conversations with journalists, lawyers and human rights NGOs. See also: British Muslims accuse security services of harassment, *The Muslim News*, Issue 160, 30 August 2002; K. Ahmed et al, Blunkett sorry for MI5 harassment, *The Observer*, 25 August 2002.

⁴²⁹ See: Arani & Co, Submission to Privy Council Review – http://www.aranisolicitors.com/articles_privy.html.

⁴³⁰ FAIR, Anti-Terrorism, Crime and Security Act 2001 Review, A Submission from FAIR, May 2003 – this submission is mentioned throughout the Arani submission and in FAIR's submission to the HO Discussion Paper, but it has not been possible to get hold of a copy of it for this research.

⁴³¹ Privy Counsellor Review Committee, Anti-terrorism, Crime and Security Act 2001 Review – Report, London: The Stationery Office, 18 December 2003.

submissions – this included a joint submission from FAIR, Al-Khoei Foundation and Muslim College London, and separate submissions from the MCB and IHRC respectively.⁴³²

The primary set of concerns raised by these submissions were in relation to the provisions around stop, search, arrest and detention. These were, of course, initially intended for the Real IRA and similar groups in Northern Ireland, even if with the 2000 Act there was also an eye on international terrorism. Of most concern was s.44, which allowed the rolling designation of an area of London where the powers of stop and search could be carried out without ‘reasonable suspicion’⁴³³ – thus giving the police almost unlimited powers of stop and search in these areas. Authorisation could only be given for a specified area to prevent acts of terrorism, last for up to 28 days, and be used to search for things that could be used for terrorism. The police could not ask for the removal of any clothing in public except hats, jackets or coats, gloves and shoes, but could detain for as long and use as much force as was reasonable for the search. The responses to the Home Office discussion paper contended that s.44 was in regular use since 9/11 in areas of high concentration of Muslims and was not confined to terrorism. Emerging research would appear to have supported this claim. A Met Police Survey suggested a disproportionate increase in the number of Asians being searched between 2000-2 – a 41% increase as compared to 30% for Blacks and 8% for Whites.⁴³⁴ But of particular concern were the figures from the Home Office, which suggested a 302% increase in the number of Asians being searched under s.44 in 2002/03 (from 744 to 2,989 cases). These increases were separate to any rises under PACE 1984 powers.⁴³⁵ The responses concluded that such a steep rise in the

⁴³² See: Liberty, *Reconciling Security and Liberty in an Open Society – Liberty Response*, op. cit.; MCB, *Counter-Terrorism Powers – Reconciling Security and Liberty in an Open Society*, A Response from the Muslim Council of Britain, London: MCB, August 2004; FAIR, *Counter-Terrorism Powers – Reconciling Security and Liberty in an Open Society*, A Muslim Response, London: FAIR, July 2004; IHRC, *Submission to the Home Office in response to the Discussion Paper ‘Counter-Terrorism Powers: Reconciling Security and Liberty in an Open Society’*, London: IHRC, August 2004. Note that there was an earlier version of the MCB submission presented as oral and written evidence to the HO Select Committee on 8 July 2004 and slightly modified versions of the Liberty and IHRC submissions were later published for wider public circulation.

⁴³³ As required by the Police and Criminal Evidence Act 1984 (PACE) for normal criminal law.

⁴³⁴ Most of these Asians were from Pakistani/Bangladeshi background, who are predominantly Muslim. See: Report of the MPA Scrutiny on Metropolitan Police Service Stop and Search Practice, 20 May 2004, p.5.

⁴³⁵ See Home Office press release of 2 July 2004, but also: The Institute for Criminal Policy Research, *Race and the Criminal Justice System – An overview to the complete statistics 2002–03*, London: Kings College, June 2004. Note that earlier Home Office figures, from December 2003, show that in 2002-03 there were 32,100 searches overall under the Terrorism Act 2000. Some estimates put this number at 71,100, as it can be inferred from statistical data that some police forces are recording ‘anti-terrorist’ stops and searches of

use of s.44 powers could only mean abuse of power. Indeed, MPS data revealed that of the 23,441 searches under s.44(1) and (2) in 2002-3, only 199 resulted in arrests, ie, only 0.85%.⁴³⁶ The MCB thus labelled s.44 stops and searches as ‘the most discriminatory law enforcement practice’ targeting and victimising Muslims.⁴³⁷ By 2010, close to a million people had been stopped under s.44,⁴³⁸ but none of these had led to a single conviction for a terrorism related offence. The provision was very heavily criticised from many different quarters, prompted a significant literature,⁴³⁹ and was ultimately challenged in the case of *Gillan and Quinton*.⁴⁴⁰ The question for the courts was whether these powers were so broad that they amounted to ‘arbitrary deprivation of liberty’ contrary to Art.5 of the ECHR. The majority in the House of Lords found that the powers when read together with guidance were not arbitrary. However, in January 2010, the ECtHR found that the powers were ‘not sufficiently circumscribed’ and lacked ‘adequate legal safeguards against abuse’ – and therefore, in breach of both Arts.5 and 8. The powers under s.44 were thus subsequently repealed.⁴⁴¹

Another set of concerns regarding policing powers raised in these submissions were in relation to police raids and arrests. It was commonplace at the time for the police to undertake high-profiled raids, ie, raids accompanied by statements to the media, and make sweeping arrests in ‘fishing expeditions’, and subsequently to quietly release most of those arrested without any charge.⁴⁴² The IHRC noted that since 9/11, more than half of

pedestrians and vehicles using s.60 of the Criminal Justice and Public Order Act 1994 rather than the Terrorism Act 2000. For more information, see *Statewatch Bulletin*, Vol.13(6), November-December 2003.⁴³⁶ See: Home Office, *Statistics on Race and the Criminal Justice System – 2003*, London: Home Office, 2004, pp.28-9.

⁴³⁷ Note that this vociferous expression of concerns by Muslims and wider civil society led to the announcement of a Stop and Search Action Team by Hazel Blears MP, the relevant Home Office Minister at the time.

⁴³⁸ D. Anderson, *Report on the Operation in 2010 of the Terrorism Act 2000 and Part 1 of the Terrorism Act 2006*, London: The Stationery Office, 2011, p.68.

⁴³⁹ See, for example: D. Moeckli, *Stop and Search under the Terrorism Act 2000 – A comment on R(Gillan) v Commissioner of Police for the Metropolis*, *Modern Law Review*, Vol.70(4), 2007, pp.659-70; J. Ip, *Suspicionless Searches and the Prevention of Terrorism*, in McGarrity et al (eds.), *Counter Terrorism and Beyond – The Culture of Law and Justice after 9/11*, Abingdon: Routledge, 2010, pp.88-108; K. Sveinsson (ed.), *Ethnic Profiling – The Use of ‘Race’ in UK Law Enforcement*, London: Runnymede Trust, 2010; A. Parmer, *Stop and Search in London – counter-terrorist or counter-productive? Policing and Society*, Vol.21(4), November 2011, pp.369-82.

⁴⁴⁰ *Gillan and Quinton v UK* [2010] 50 EHRR 45 – the case involved two people being stopped and searched outside the ExCeL Convention Centre in London in 2003, which at the time was hosting a military equipment exhibition.

⁴⁴¹ A. Travis, *Stop and search powers ruled illegal by European court*, BBC News, 12 January 2010.

⁴⁴² Note, for example, how on 20 April 2004, 10 Muslims in Manchester were arrested in dawn raids by over 400 officers. The Sun ran the headline ‘Man U Suicide Bomb Plot’ and stated: ‘... a police source said, “The plot involved several individual bombers in separate parts of the stadium. If successful ... attack

those arrested in anti-terror raids under TA 2000, 289 out of 572, were eventually released without charge. Of the 283 facing further police action, Home Office statistics for the period suggested that 99 were charged with crimes not related to terrorism and 27 were on police bail; six were given a caution for criminal matters – again, not related to terrorism; 54 of the arrested were handed over to the Immigration Service for matters relating to immigration offences; another six were sectioned under the Mental Health Act – and only six were eventually convicted of any terror-related offences, all of them from ‘intelligence’ led arrests and none from random raids.⁴⁴³ FAIR observed that those eventually convicted of terror-related offences were mostly for firearms offences, and therefore, could just as easily have been charged under non-terrorism legislation – which would have been the case for a different community. Realising how few were actually being convicted for terror offences from the high-profiled raids and arrests, David Davies MP commented: ‘I was amazed when the Members Research Service provided me with up-to-date figures on arrests, charges and convictions. It turns out that only 2.5% or 14 of the 562 people arrested under the Terrorism Act, between 11 September 2001 and the end of March this year, have actually been convicted of terrorist offences ... That is a very small proportion, and either the Government is losing its fight against terrorism or the degree of threat has been blown out of all proportion’.⁴⁴⁴

A third set of concerns with regards to the enhanced policing powers was in relation to the provisions under Schedule 7 of the 2000 Act, which provided powers for designated constables, immigration officers or customs officers at a port or border to stop, question, search, detain (for up to 9 hours) and (for the police) to take the DNA of anyone entering or leaving the UK to determine whether they were involved in terrorism. This was again a power that could be exercised without any reasonable suspicion, and those being questioned were under a duty to answer, even without a solicitor being present. Failure to co-operate could result in a penalty of 3 months imprisonment or a fine. The responses argued that Muslims were being singled out for special security questioning, checks and

would have caused absolute carnage. Thousands ... could have been killed’.’ After 10 days custody, all 10 arrested and detained were released without charge. The raids were based on a fan’s Man U posters, used ticket stubs and a fixture list seized on a previous raid. The Muslim Safety Forum demanded an investigation into the disclosure to the press in a letter dated 1 June 2004. The Chief Constable of Greater Manchester Police acknowledged an officer may have been involved, but concluded it would be impractical to investigate.

⁴⁴³ See: http://www.homeoffice.gov.uk/docs3/tatc_arrest_stats.html

⁴⁴⁴ Welsh National Assembly Members Research Service, Concern over terror arrests, IC Network, 23rd July 2004.

detentions at airports, including some very prominent Muslim figures, eg, Lord Nazir Ahmed and Shaikh Suleman Motala, a very prominent Muslim scholar, on his way to Hajj. FAIR reported that in a survey it had undertaken in the Muslim community, 32% of the participants claimed to have been subjected to Islamophobia at airports. One participant is reported to have said: ‘I believe that I was searched at airports here [UK] and in the US simply due to my name even though they insisted the process was random’.⁴⁴⁵ The real Muslim civil society campaign to challenge the use of Schedule 7, however, was to come much later – from the Federation of Students Islamic Societies (FOSIS). Rooted in the lived experience of its members, FOSIS became aware of this issue through contacts with student Islamic societies, and in 2009 created a Civil Liberties Division within FOSIS to develop a campaign aimed at raising awareness of individual rights when examined under Sch.7. The campaign also drew external attention to the extensive misuse of counterterrorism stop and search powers at airports. The campaign aimed at greater accountability for the use of these powers through greater transparency. Though FOSIS started the work in 2009, the use and impact of Sch. 7 remained largely unnoticed until 2011,⁴⁴⁶ when, due to its dogged pursuance of information through Freedom of Information requests, the impact of Sch.7 featured prominently in a report of the Equality and Human Rights Commission, and subsequently in the reports of the Independent Reviewer of Terrorism Legislation, David Anderson QC, in 2012 and 2013.⁴⁴⁷ The release of the data and the reports highlighted the extensive use of Sch.7: between 2004 and 2009, there were 10,404 examinations lasting over an hour.⁴⁴⁸ Since then it has also been revealed that, between 2009 and 2014, over 338,000 people were ‘examined’,⁴⁴⁹ and a further half a million people each year are estimated to be asked

⁴⁴⁵ FAIR, *Community Survey – Counter-Terrorism Powers Impact on the Muslim Community in Britain*, London: FAIR, 2004.

⁴⁴⁶ Note, for example, that it barely featured as a concern in A. Carlisle. *Report on the operation in 2008 of the Terrorism Act 2000 and Part 1 of the Terrorism Act 2006*, London: The Stationery Office, 2009, and was not included in the 2010 government Review of Counter-Terrorism and Security Powers. Nor was it included in the Equality and Human Rights Commission report on the operation of stop and search powers in England and Wales: *Stop and think – a critical review of the use of stop and search powers in England and Wales*, London: Equality and Human Rights Commission, 2010.

⁴⁴⁷ T. Choudhury and H. Fenwick, *The Impact of Counter-Terrorism Measures on Muslims in Britain*, London: Equality and Human Rights Commission, 2011; D. Anderson, *The Terrorism Acts in 2011 – Report of the Independent Reviewer on the Operation of the Terrorism Act 2000 and Part 1 of the Terrorism Act 2006*, London: The Stationery Office, 2012 and *The Terrorism Acts in 2012 – Report of the Independent Reviewer on the Operation of the Terrorism Act 2000 and Part 1 of the Terrorism Act 2006*, London: The Stationery Office, 2013.

⁴⁴⁸ Lord West, House of Lords, Hansard, Vol.415, c.35WA, 1 December 2009; V. Dodd, *Asian people 42 times more likely to be held under Terror Law*, *The Guardian*, 23 May 2011.

⁴⁴⁹ D. Anderson, *The Terrorism Acts in 2013 – Report of the Independent Reviewer on the Operation of the Terrorism Act 2000 and Part 1 of the Terrorism Act 2006*, London: The Stationery Office, 2014, p.41.

screening questions but not formally ‘examined’.⁴⁵⁰ Despite this extensive use of Sch.7, however, Anderson reports that he was unable to find “any case of a Sch.7 examination leading directly to arrest followed by conviction in which the initial stop was not prompted by intelligence of some kind”.⁴⁵¹ This being the case, it became possible to imagine that Sch.7 could be challenged in the courts in the same way as s.44, and thus the case of *Miranda*, where the Court of Appeal held that Sch.7 was incompatible with the ECHR.⁴⁵² Anderson suggests that the ‘main pressure for reform’ of Schedule 7 came from FOSIS.⁴⁵³ Since the *Miranda* decision, the government has agreed to review Sch.7, and Anderson has urged that in this review FOSIS’s voice is ‘clearly heard’.⁴⁵⁴ Some related provisions were introduced under ss.82-88 of the Anti-Terrorism, Crime and Security Act 2001 (2001 Act), including measures relating to arrest and removal from aircraft and airports, detention of aircraft and aviation security services. It is surprising, however, that the Muslim responses never formally addressed these provisions, particularly in light of the anecdotal evidence on how they have impacted British Muslim communities – but perhaps these experiences have been subsumed under concerns expressed in relation to the operation of Sch.7.

A further set of concerns raised in these responses addressed some additional police powers contained in the 2001 Act. IHRC’s second briefing on the 2001 Bill, released on 26 November 2001, expressed particular concerns around issues surrounding s.93, making it a criminal offence for anyone refusing to remove a piece of clothing when requested by the police. The FAIR responses to the Bill⁴⁵⁵ also addressed the issue of removing facial and hand coverings in some detail. They agreed with the IHRC that police and customs officers already had powers that enabled them to conduct identification and investigation functions in pursuit of legitimate law enforcement aims and that the Home

⁴⁵⁰ D. Anderson, *The Terrorism Acts in 2011*, op. cit., p.103.

⁴⁵¹ *Ibid.*, p.111.

⁴⁵² *R (Miranda) v Secretary of State for the Home Department* [2016] EWCA Civ.6 – the case involved the detention of the claimant by officers of the Metropolitan Police at Heathrow Airport under Sch.7. The claimant was questioned and items in his possession, notably encrypted storage devices, were taken from him.

⁴⁵³ D. Anderson, *The Terrorism Acts in 2013*, op. cit., p.418.

⁴⁵⁴ D. Anderson, *The Terrorism Acts in 2011*, op. cit., p.100.

⁴⁵⁵ FAIR submitted three responses: the first response focused specifically on the issues of removing facial and hand coverings, incitement to religious hatred and aggravated offences – and argued that the Government should instead focus on civil anti-discrimination policy and legislative initiatives; the second was a summary of the first specifically written for the Home Affairs Select Committee considering the provisions; and the third was a more general submission addressing all other aspects of the Bill.

Secretary had not provided any pressing national security or law and order reasons that justified the introduction of additional powers. In the circumstances, FAIR argued that the use of such additional powers, especially with regards to facial coverings, may interfere with the rights to privacy and physical integrity as contained in Art.8 of the Human Rights Act, the freedom to manifest one's religion or beliefs as contained in Art.9 and the Art.14 prohibition of discrimination with regards to the enjoyment of the rights and freedoms as set forth in the Human Rights Act. FAIR also agreed with the IHRC that the additional powers would disproportionately impact on women who wear facial and head covering as part of their mandatory religious obligations as Muslims, particularly as they were being introduced against a background of pre-existing and increasing (post-September 11) tensions between Muslim communities and law enforcement officers/agencies. They argued that the introduction of these wide ranging and intrusive powers may have the same impact that the 'stop and search' laws were having on relations between the African/Caribbean community and the police.

The Muslim responses to the Home Office discussion paper in 2004 made several recommendations with regards to the enhanced policing powers under the TA 2000 – particularly regarding the lack of accountability for the actions of law enforcement officers. The IHRC noted that there was no public record of how many s.44 authorisations had been given or their results; no analysis of those stopped, searched, charged and convicted – of terrorism offences or other offences;⁴⁵⁶ little by way of safeguards for proportionality; and no redress for those adversely affected. The MCB thus endorsed all the recommendations of the MPA scrutiny panel in this regard, particularly recommendations 5, 6, 16–19 and 29 – demanding an expedited critical review of the powers under s.44. The MCB also strongly endorsed recommendations 14, 20 and 27 – on monitoring by faith alongside ethnicity, and further demanded proper monitoring of and accountability for all police powers under all counter-terrorism provisions, including all stops and searches; stops at ports; warrants for arrests and searches; arrests, charges and convictions; offences for which originally stopped against offences for which convicted; and the quality of intelligence used by different forces. The Muslim organisations also made recommendations with regards to the Islamophobia arising out

⁴⁵⁶ Note that the Home Secretary's response to this was that such "information could ... be obtained only at a disproportionate cost.", House of Commons, Hansard, 20 October 2003, col.418W.

of the implementation of the policing provisions. MCB, in particular, suggested that the Government should take determined action to stem further spread and internalisation of Islamophobia in society by making accurate information more readily available, especially on arrests, charges and detentions, and giving more public recognition of wrongful arrests and detentions; proactively preventing ill-advised leaks to the media – which compromise individual rights to a fair trial and damage a whole community,⁴⁵⁷ critically reviewing the IPCC and its processes when it deals with complaints from Muslim communities, and prosecuting all media in breach of the Contempt of Court Act 1981; compensating Muslim individuals and communities where wrongfully impacted; and, where the community as a whole is impacted in such a negative way, assisting through literacy, educational and promotional initiatives in Government and the general public to restore damage – eg, through Islam awareness, and anti-discrimination and pro-diversity initiatives.

Proscription

The third set of concerns with regards to the 2000 Act was in relation to its provisions on proscription and related offences. Under Part 2, s.3 of the Act, the Secretary of State could proscribe an organisation if they believed it to be ‘concerned in terrorism’. The organisation could be deemed to be concerned in terrorism if it had committed or participated in acts of terrorism, prepared for terrorism, promoted or encouraged terrorism, or was otherwise concerned with terrorism. Bearing in mind the wide definition of terrorism, this meant they could proscribe an organisation like Greenpeace where it was associated with tearing up GM crops, or even where associated with ‘interfering with’ an ‘electronic system’ – for example, a mass faxing campaign targeting a particular government which risked overloading that governments fax machines. Further, an organisation that encouraged such actions without engaging in them itself could also be proscribed, but most vaguely, an organisation that was somehow ‘concerned with’ terrorism (eg, organised some related anti-government rallies) could also be proscribed. Under ss.4-7, the Home Secretary was not required to make a case against the

⁴⁵⁷ Note that the MCB presented evidence to the Attorney-General that Ministers, senior officials (particularly in the intelligence services) and the media had not only colluded in contempt of court, but done so with misinformation – but his reaction was only to write to the editors of the main newspaper reminding them of the 1981 provisions.

organisation in court in order to proscribe it, and the organisation did not get a chance to defend itself against the proscription – it could only appeal after the proscription. A Home Secretary could, therefore, effectively criminalise the members and supporters of an organisation without having to prove any wrongdoing on their part and without them having an opportunity to defend themselves. In light of the wide definition of terrorism, it is not difficult to see how the vagueness of the grounds for proscription could lead to these provisions being abused to shut down legitimate protest organisations. The banning of non-violent political organisations effectively amounts to state censorship of political views. This has the potential to drive debate underground where they could fall into the control of the wrong hands. The IHRC repeatedly made this point.⁴⁵⁸

All 14 organisations initially proscribed under Sch.2 when the 2000 Act first came into force in February 2001 were either Republican or Loyalist operating in Northern Ireland. However, within a month, the then Home Secretary, Jack Straw MP, used the Act to proscribe 21 new organisations, and by November 2002, four more were added to the list. Of these, 18 of them were Islamic/Muslim groups. By the summer of 2004, 20 of the 25 organisations then proscribed under the TA 2000 were Muslim – most of them local liberation movements never posing a threat to the UK. By the end of the New Labour years in government, the list included over 40 organisations. The MCB's second press release on the 2000 Act, mentioned above, came with the addition of the first batch of Muslim organisations to the proscribed list – stating that the new additions were ill-conceived and based on double standards, bad for civil liberties and community relations and inadvertently reinforced the Islamophobia brigade. The Secretary General of the MCB stated that “The Home Secretary has failed to distinguish between legitimate resistance movements who fight against the illegal occupation of their own land and organisations like the IRA which have targeted mainland Britain”.⁴⁵⁹ The press release was not so much critical of the 2000 Act, or even its provisions on proscription of terrorist organisations or related offences, but more critical of how it had been used in this particular instance. The MCB returned to its distinction point in its response to the Home Office discussion paper in 2004 – it argued that unless the Home Secretary drew a clearer distinction in exercising his proscription powers between terrorist groups which operate

⁴⁵⁸ IHRC Briefing, The Killing in Kashmir and the Terrorism Act 2000, 29 December 2000.

⁴⁵⁹ MCB Briefing, MCB says ‘terror list’ is ill-conceived, 2 March 2001.

outside international law and legitimate political movements that operate within international law, the struggles by liberation movements for self-determination (under Art 1 of the UN Charter) could be deemed as acts of terrorism, and thus, for example, the ANC in South Africa or the Bosnians resisting Serbian ethnic cleansing in 1992 could have been proscribed.

The distinction point led to a further subset of concerns expressed by the MCB. Part 2 of the 2000 Act also created several other new proscription related offences – most importantly, membership or professed membership of a proscribed organisation (s.11); arranging, assisting in arranging, managing or addressing a meeting to be addressed by a member or professed member of a proscribed organisation (s.12); and ‘supporting’ or ‘furthering’ terrorism, eg, through money, property, attending a meeting where a speaker is from a proscribed organisation and wearing clothes or otherwise displaying the name of a banned organisation (s.13). The MCB expressed serious concerns about these provisions, arguing that people in modern democracies should be able to support the causes of persecuted or oppressed minorities, particularly where there are common interests. This was particularly important for Muslims as they hailed from across the world and had common cause in many conflicts where Muslims were being persecuted or oppressed, eg, in Chechnya. The UN agreed that fighting terrorism and allowing struggles against oppression were not mutually exclusive.⁴⁶⁰ The MCB thus reiterated that legislation and practice needed to be able to differentiate between legitimate causes and terrorists who may be using the same causes for their own ends. Likewise, they need to be able to distinguish between support for terrorism and support for addressing the causes – without lumping them into one ‘single narrative’. The MCB also urged that the Home Secretary should follow a set criteria in exercising his proscription powers that ensured transparency and fairness and guarded against political influence, considerations and

⁴⁶⁰ B. Majekodunmi, Assistant to the Special Representative of the UN Secretary General had stated: ‘Many terrorist groups seek legitimacy by claiming to be defending human rights and to have resorted to terrorism as a last resort to address human rights concerns. If there were genuine human rights defenders actively, visibly and effectively addressing those same human rights concerns, this would help to reduce any claim to legitimacy that these terrorist groups are making. In many instances, there are human rights defenders addressing many issues that terrorist groups are also claiming to support but the problem is the perception that those human rights defenders are not being successful in their efforts. My second recommendation would be that supporting human rights defenders and seeking implementation of the declaration on human rights defenders could be included as a key strategy in counter-terrorism and human rights efforts.’ See: ICJ Human Rights and Counter-Terrorism, International Monitoring Systems, 23 October 2003 (afternoon), Room XVI, Palais des Nations, Geneva.

abuse.⁴⁶¹ The MCB was concerned that anti-terrorism legislation was being manipulated and misused by the powerful to settle scores and further section specific interests whether between nations and faith communities, or indeed within faith communities – interests entirely irrelevant to the national security of the UK. The only safeguard against that was that of appeal, which was successfully used in the case of at least one Muslim organisation – the Mujaheddin-e-Khalq (MeK). However, under Part 2 of the TA 2006, the miscellaneous provisions, the Home Secretary was given even wider powers to proscribe terrorist groups and the law was amended to allow the proscription to continue when the group changed its name.

The Anti-Terrorism, Crime and Security Act 2001

The Anti-Terrorism, Crime & Security Act 2001 ('ATCSA 2001' or the '2001 Act') was rushed through as emergency legislation just after 9/11.⁴⁶² It was formally introduced on 19 November 2001, allowed a total of just 16 hours for debate in the Commons, just two extra days for Committee Stage and Third Hearing, and given only 90mins for a debate on the derogation order it contained. It came into force in December 2001, but required annual renewal of some provisions in recognition of the unease around them. However, it gave the state exceptional powers, perhaps previously unthinkable, and severely limited historically protected civil liberties and human rights without providing sufficient safeguards or parliamentary scrutiny. It certainly raised many concerns as it was going through Parliament, and has received much criticism since in light of its implementation and impact. The Anti-Terrorism, Crime & Security Bill 2001 was the first piece of draft counter-terrorism legislation that the British Muslim community really engaged with – led by FAIR, which tried to co-ordinate the Muslim response. However, the weight of the Muslim response was disproportionately focused on the 'sweeteners' in the Bill – the provisions on aggravated offences and incitement to religious hatred (discussed in chapter 2) – and much less on the provisions in relation to terrorism and security. FAIR did, however, manage to put together a substantive response to the Bill beyond the

⁴⁶¹ There was a suggestion that treatment was not equal across communities – ie, some well-known terrorist groups with anti-Muslim ideologies were not proscribed, eg, Kach Kahane, a far-right Zionist organisation, and VHP, which co-ordinated the massacres of over 2000 Gujarati Muslims in India in 2002.

⁴⁶² P. Thomas, 9/11 – USA and UK, *Fordham International Law Journal*, Vol.26(4), 2002, pp.1193-1233. Note also the JCHR observation on the rush: 'many important elements of the Bill were not considered at all in the House of Commons' – Joint Committee on Human Rights, *Anti-Terrorism Crime and Security Bill*, House of Lords, Official Report, Vol.51, 2001-2003.

sweeteners.⁴⁶³ Aside from the indefinite detention point, the FAIR submission also addressed many other provisions in the Bill – most importantly those relating to freezing orders and new police powers. The other key Muslim organisation to engage with some of the other aspects of the Bill at this stage was again the IHRC, which released two briefings whilst the Bill was still going through Parliament.⁴⁶⁴ Once the Bill had passed into law, the IHRC continued to keep a watchful eye on its implementation, along with the implementation of the 2000 Act.⁴⁶⁵ The Arani submission to the Newton Committee also addressed some aspects of the 2001 Act, but the bulk of the Muslim engagement on the 2001 Act was again in response to the Home Office discussion paper in 2004. The most significant concerns from the Muslim organisations throughout focused on the internment or indefinite detention provisions (or what Lord Carlisle, then Reviewer of the Counter-Terrorism Legislation, called ‘executive detention’), and the provisions on terrorist property and the freezing of assets.

Indefinite Detention

In terms of internment provisions, Part 4 of the 2001 Act enabled the Home Secretary to indefinitely detain, without charge or trial, foreign nationals who were suspected of involvement in terrorism. IHRC’s briefing of 14 November 2001 was almost exclusively focused on the proposed internment provisions and FAIR’s third and general submission on the Bill also paid significant attention to them. The provisions, in their final form, were also at the heart of the Muslim responses to the Home Office discussion paper in 2004. The Muslim briefings, submissions and responses on the internment provisions focused on the definition and scope of the provisions, the exaggeration of the threat of terrorism, the invalidity of the internment provisions in law, the lack of due process they created, the faulty intelligence and torture evidence they appeared to allow into the legal system and the discriminatory, deplorable, ineffective and corruptive way they appeared to be implemented. The IHRC briefing noted that foreign nationals suspected of having links to terrorism could be detained or sent to a ‘safe’ third country if they could not be returned

⁴⁶³ The Muslim Submission on the Anti-Terrorism, Crime & Security Bill 2001, London: FAIR, November 2001.

⁴⁶⁴ Briefings: Emergency Legislation Violates Human Rights Standards 1 and 2 were released on 14 November and 26 November 2001, respectively. The briefing of 14 November was re-released on 1 January 2002.

⁴⁶⁵ See, for example, Sultana Tafadar, Internment, Military Tribunals and Persecution in the West, Feb 2002 and IHRC, The Hidden Victims of September 11, op. cit.

to their country of origin because they were likely to face persecution there – the problem was in terms of the very broad definition of terrorism and the fact that anyone could be held in detention in the absence of any concrete evidence, but merely on the basis of suspicion. The FAIR submission concurred with the IHRC, noting by way of examples that, in stipulating the provisions, the Bill failed to define with sufficient precision what constitutes having a ‘link’ with a person who is a member of an ‘international terrorist group’ and what constitutes being subject to the ‘influence’ of persons outside the UK.

The Muslim organisations accepted that there was a threat to the UK from international terrorism, but argued that the Government perception of that threat did not reflect the reality and that the Government had over-exaggerated this threat – as it had done on WMD in Saddam’s Iraq. The MCB reiterated the JCHR observation that, despite Government and official statements,⁴⁶⁶ the public had ‘never been presented with the evidence ... to be satisfied of the existence of a public emergency threatening the life of the nation’ and supported the JCHR call for greater independent democratic assessment of the threat to national security.⁴⁶⁷ The Home Secretary refused to elaborate on the threat as he believed it was inevitable that such scrutiny would only ‘invite ridicule’.⁴⁶⁸ Liberty in particular had argued that there is no such thing as a risk-free society in the modern world, only societies where such risks are minimised and managed. Liberty and the Muslim organisations felt that the Government’s argument for a fair and effective balance between liberty and security was in fact a false dichotomy. The state can achieve multiple objectives: it can maintain a healthy democracy, protect the public and avoid unnecessary breaches of human rights – these are not mutually exclusive but integral components of good governance; and above all, the state does not need to sacrifice minority rights at the altar of majority security.⁴⁶⁹ From this perspective, these organisations argued that ‘there was already an enormous amount of legislation that could be used in the fight against

⁴⁶⁶ See, for example, the public lecture by the Director General of the Security Service: E. Manningham-Buller, James Smart Lecture – Global Terrorism: Are we meeting the challenge? 16 October 2003; and the Home Secretary’s statement to the House of Commons that the threat is self-evident – Hansard, March 2004, c.417.

⁴⁶⁷ JCHR, Response to HO Discussion Paper, Counter-Terrorism Powers: Reconciling Security and Liberty in an Open Society, *op. cit.*

⁴⁶⁸ See: MCB, Memorandum submitted to Home Affairs Select Committee, London: House of Commons, 14 December 2004, para.45.

⁴⁶⁹ For an excellent exposition on this, see: B. Simpson, *Human Rights and the End of Empire – Britain and the Genesis of the European Convention*, Oxford: Oxford University Press, 2001.

terrorism’,⁴⁷⁰ and that there was no need for further provisions on internment. The JCHR agreed to this, noting that the UK provisions on counter-terrorism were already the most rigorous compared to most liberal democracies even before the 2001 Act.⁴⁷¹ The Government, however, argued that the pre-ATCSA 2001 options of prosecuting under existing UK law, deporting to a safe country, or leaving suspected terrorists at large were not sufficient for requirements in the post 9/11 context. Prosecution in an open criminal process was often not possible because the evidence would be considered inadmissible in the courts (eg, on grounds of hearsay, intercept, etc.) or would compromise source, place others in danger, reduce effectiveness of intelligence techniques in the future, create further security risks and/or threaten international relations. Deporting was often not possible either because of the risks of torture in countries where suspected terrorists could be returned (ie, it would be against the Refugee Convention and Art 3 of the ECHR to do so).⁴⁷² Also, those suspected of international terrorism should not remain in public without restraint for obvious reasons. The Government argued that a new fourth option was thus needed as provided in Part 4 of the ATCSA 2001. Under this option the Home Secretary would ‘certify’ a foreign national as a ‘suspected international terrorist’ if s/he ‘reasonably’ believed the person’s presence in UK is a ‘risk to national security’ and ‘suspects the person is a terrorist’. This certification would then permit detention of the person without charge and deportation or extradition where this was possible. In practice, it would effectively result in indefinite detention without charge of foreign nationals based on denial of normal legal processes, eg, the right to know the charge and evidence, a fair public trial and appeal to a higher court.⁴⁷³

With regards to the validity of the internment provisions, the Government argued that a state of emergency existed: that is, the UNSC had recognised 9/11 as a threat to international peace and security and passed Resolution 1373, requiring all States to take measures to prevent the commission of further such terrorist attacks;⁴⁷⁴ there were foreign

⁴⁷⁰ Quote from the evidence of Ken Macdonald, Director of Public Prosecutions, to the JCHR, 19 May 2004.

⁴⁷¹ Note that Part 4 was also subject to international criticism – see, for example, Amnesty International’s Annual Report 2004.

⁴⁷² Note also *Chahal v UK* [1996] ECHR 54, which ruled that suspected terrorists could not be deported to torture.

⁴⁷³ Thus, up to August 2004, 17 suspects had been certified – 12 indefinitely detained without charge under the 2001 Act, one detained under other unspecified powers, one released on bail but effectively kept under house arrest, two left the UK, and one was released following a successful appeal against certification.

⁴⁷⁴ UNSCOR, 56th Session, 4385th Meeting, Res. 1373, 28 September 2001, UN Doc. S/RES/1373(2001).

nationals in UK suspected of ‘international terrorism’, who were a ‘threat to the security of the UK’;⁴⁷⁵ these foreign suspect nationals, similar to those committing the 9/11 atrocities, could not be deported due to Art.3 – and therefore, it was necessary to detain them under a state of emergency. The Muslim briefings, submissions and responses argued that the UK was the only country in the world to have felt it necessary to set aside its Art.5 ECHR/Art.9 ICCPR legal obligation to protect the right to liberty and security of the person, under the Art.15 ECHR/Art.4(1) ICCPR derogation provisions, to allow Part 4 detentions, and that it was very doubtful if any of the elements of Art 15 were fulfilled: ‘public emergency threatening the life of the nation’; ‘to the extent strictly required by the exigencies of the situation’; and ‘measures are not inconsistent with other obligations under international law’. The IHRC briefing argued that to derogate under Art.15 ECHR by declaring a state of emergency threatening the life of the nation, as required, would be completely disproportionate to the exigencies required by the situation – particularly in light of the fact that the UK itself was not subject to any terrorist activities and none of the other European signatories felt the need to declare such a state of emergency. The FAIR submission provided a very detailed discussion of the requirements for a derogation under Art.15 of the ECHR, the Home Secretary’s case and the evidence provided in support of that case – and in light of this, agreed with the IHRC’s briefing, as very lucidly articulated by Amnesty International, that the requirements for a derogation were not fulfilled.⁴⁷⁶ However, as the decision to derogate was based on ‘closed information’, it was impossible to contest the decision on the level of the threat in any comprehensive way. The Muslim responses, nevertheless, argued that from what evidence there was in the public domain, derogation was neither necessary or reasonable, but disproportionate and excessive.⁴⁷⁷ A report later submitted to the IHRC on the detentions under the 2001 Act, by a lawyer acting for two of the detainees, argued that

⁴⁷⁵ As stipulated in s.5(1) of the Special Immigration and Appeals Commission Act 1997.

⁴⁷⁶ Amnesty International, UK – Creating a Shadow Criminal Justice System in the Name of Fighting International Terrorism, 16 November 2001 – AI Index: EUR 45/019/2001.

⁴⁷⁷ The responses referenced the case of *Lawless v Ireland*, where the European Court of Human Rights defined a public emergency as ‘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’ – (No3) 1 EHRR 15 [1961]. In *Lawless*, the violence was occurring within the country which declared the public emergency. However, there was no attacks on British soil up to that point by terrorists linked to Al-Qaeda and the Home Secretary had himself, when announcing the proposal for the legislation in October 2001, stated that ‘there is no immediate intelligence pointing to a specific threat to the UK’ – House of Commons, Hansard, 15 November 2001, c.925. Furthermore, it was difficult to imagine that those detained were truly a threat to the life of the nation or international peace when the UK itself was offering them the option to voluntarily leave the UK for a third country.

the detention provisions were a panic response to 9/11, a backlash against Muslims which served only to fuel further backlash and an increase in Islamophobia – whilst not actually addressing any of the issues which the Government claimed was the purpose of the 2001 Act.⁴⁷⁸

Another set of concerns in relation to the internment provisions, and perhaps the most important, focused on the lack, or even the denial, of due process or right to a fair trial, suggesting a contravention of Art 6 ECHR. The Home Secretary's detention of suspects could be challenged and reviewed by an 'independent body', the Special Immigration Appeals Commission (SIAC),⁴⁷⁹ but the body functioned as an immigration tribunal rather than a criminal court, and was severely restricted in its procedures and powers. Liberty argued that there are three areas of law and court processes: criminal, emergency anti-terrorism and immigration law – the protection of due process and presumption of innocence reducing as you drop down that scale. It argued that designing the new detention provisions under immigration law reduced them to the least protection from due process abuse, even though they were in relation to possibly the gravest of crimes. The IHRC briefing had argued at the Bill stage that the provision of indefinite detention with reviews only on a six-monthly basis, by SIAC – a closed court, and not by an independent judicial authority reviewing the substance of the case in open court, was a real denial of due process and a violation of human rights standards and norms.⁴⁸⁰ The deeper concern, however, was with how the provisions were characterised by their suspension of the basic rules of evidence. The FAIR submission to the 2001 Bill noted that in stating his case for derogation, the Home Secretary had argued that the authorities could not secure the imprisonment of suspected terrorists by prosecuting them for crimes because of 'the strict rules on the admissibility of evidence in the criminal justice system of the UK and the high standard of proof required'. The rules of evidence and standard of proof in the criminal justice system have, of course, been prescribed to reduce the risk of innocent individuals being convicted, punished and stigmatized. FAIR thus argued that what the Home Secretary was proposing was to establish a twin track, parallel and inferior criminal

⁴⁷⁸ N. Garcia, Report to the Islamic Human Rights Commission on the Detentions under the Anti-Terrorism, Crime and Security Act 2001, London: IHRC, September 2002.

⁴⁷⁹ This is a special superior tribunal or court to review on appeal immigration, nationality and deportation cases involving national security issues.

⁴⁸⁰ For an analysis of the role to be played by SIAC, see: H. Fenwick, The Anti-Terrorism, Crime and Security Act 2001: A Proportionate Response to 11 September? *Modern Law Review*, Vol.65(5), September 2002, pp.724-64.

justice system for foreign nationals and asylum seekers suspected of terrorism with far fewer safeguards against real and apparent abuses of arbitrary power. FAIR was particularly concerned that the proposed provisions would permit SIAC to receive secret and ‘closed evidence’ in ‘closed hearings’, ie, the suspect or their counsel would not be allowed access to the evidence or the proceedings – especially where, under s.29(2) of the Bill, it appeared to explicitly rule out any other form of judicial scrutiny of the Home Secretary’s executive decision, e.g. judicial review or *habeas corpus*. FAIR, along with other human rights organisations argued that any such provisions would be simply unacceptable.

However, the final provisions adopted were almost as initially proposed, and consequently the internment provisions in the 2001 Act meant that: the suspect faced no specific charges and was not given access to the evidence against them; the Home Secretary was not obliged to reveal material helpful to the suspect; access to legal advice and representation was extremely limited and there was no legal aid; each appeal required a new security cleared special advocate who did not see the closed material, and the supply of such advocates was limited; and many hearings were held in secret, excluding the suspect and any legal representation – making it impossible to respond to any evidence that was presented. The provisions thus remained very questionable as to fairness and equality of arms between the detainee and the state, but perhaps the most questionable of the provisions was the very low standard/burden of proof to substantiate the accusation. The threshold for the Home Secretary to ‘certify’ and detain was the very low one of ‘reasonable suspicion’ of ‘international terrorism’, to allow the state a wide margin of error to protect against the deep consequences of any terrorism that got through,⁴⁸¹ and the standard of proof for SIAC was the lower one of balance of probabilities, compared to the normal burden of proof in criminal cases, even for the most basic crimes, of beyond reasonable doubt. The Muslim responses to the Home Office discussion paper in 2004 argued that this low standard of the burden of proof, in the context of the wide definitions of terrorism and ‘terrorist’,⁴⁸² meant that anyone could be locked away whose politics the

⁴⁸¹ The MCB questioned the expense of this caution and real miscarriage of justice in a liberal democracy – in some cases, 22 hrs solitary confinement per day without knowing the charge or any hope of trial or release, causing mental impairment and attempted suicide.

⁴⁸² As in ss.2(5) and 21(2) ATCSA 2001, taken from s.1(1) TA 2000 – a person who ‘has been concerned in the commission, preparation or instigation of acts of international terrorism, is a member of or belongs to an international terrorist group’ or ‘has links with an international terrorist group’.

Home Secretary did not like.⁴⁸³ It allowed as evidence very weak material and unrelated links – eg, support for self-determination in Chechnya, with no evidence of harm to the UK, and unproven links with Al-Qaida based on extremely circumstantial evidence. It allowed the Home Secretary significant discretion, open to abuse, that could be used to clamp down on freedom of expression and legitimate non-criminal activity, and to completely stifle the space for Art.1(2) of the UN Charter (struggle for the right to self-determination).⁴⁸⁴ The Muslim responses noted other problems with the provisions: the Home Secretary could claim immunity from scrutiny if his decision was made on undisclosed ‘intelligence information’; SIAC’s remit was restricted to reviewing only the reasonableness of the grounds for suspicion; and appeals from SIAC were limited to only points of law.⁴⁸⁵ The deep concerns with the provisions came not just from human rights and Muslim organisations, but from the judiciary itself.⁴⁸⁶ Most notably, a former SIAC panel member, Sir Brian Barber, criticised the internment provisions in the following terms: ‘The SIAC continues to administer a law whose provisions for indefinite imprisonment without trial seem plainly unacceptable in a democracy, contrary to British traditions of civil liberties and justice, and in breach of our international obligations’.⁴⁸⁷ The problem with such provisions, the MCB argued, is that they lead to abuse, particularly in the context of a ‘state of emergency’, resulting in such miscarriages of justice as the Birmingham Six, Judith Ward, Maguire and the Guildford Four. Thus, in the joint briefing by Muslim organisations and others on the Terrorism Bill 2005, they registered again their ‘total and stalwart opposition’ to proposals by the Government to remove trial by

⁴⁸³ Note that in the case of *M v Secretary of State for the Home Department* [2004] EWCA Civ.324, a Libyan Muslim man was detained in November 2002 at Heathrow, told he would be charged under 2000 Act, but instead held without charge or reason given under 2001 Act at Belmarsh. The evidence was mostly heard in secret, but in March 2004, the Court of Appeal upheld the decision of SIAC that M had been held on ‘confused and contradictory allegations’, and ‘inaccurate’, ‘exaggerated’, ‘clearly misleading’, ‘wholly unreliable’ and ‘unfair’ evidence. M admitted to being part of an anti-Gaddafi group and fighting with Mujahideen in 1992, but court found this did not necessarily establish links with AQ or pose a threat to the UK’s national security.

⁴⁸⁴ Note discussion on this with regards to protestors at an arms fair in London – ‘Liberty, The Right Protest and s.44, 2003, and with regards to ‘rebellion, street battles, civil strife, insurrection, rural guerrilla war and dozen things’ – C. Kegley, *New Global Terrorism – Characteristics, Causes, Controls*, New Jersey: Prentice Hall, 2002.

⁴⁸⁵ For a fuller discussion of these problems and how they could impact foreign nationals, see: H. Athwal, *Campaigners against Terror Act call for Support*, Institute of Race Relations, 26 June 2003.

⁴⁸⁶ See, for example, the case of *M*, *op. cit.*, para.34, where the court states: ‘While the need for society to protect itself against acts of terrorism today is self-evident, it remains of the greatest importance that, in a society which upholds the rule of law, if a person is detained as ‘M’ was detained, that individual should have access to an independent tribunal or court which can adjudicate upon the question of whether the detention is lawful or not’.

⁴⁸⁷ B. Barber, *London Review of Books*, 18 March 2004 – see: http://www.lrb.co.uk/v26/n06/bard01_.html.

jury for terrorism offences and allow the hearing of evidence in secret by only judges and special advocates.

A penultimate set of concerns with regards to the internment provisions were in relation to the use of faulty intelligence and torture evidence. In its response to the 2001 Bill, Amnesty International had already raised the concern that the basis for the Home Secretary's beliefs or suspicions that someone may be linked to terrorism is very likely to be secret information, which the person suspected would be unable to effectively challenge. Such secret information, obtained in most instances from the UK and foreign intelligence services, could very easily be inaccurate or misinterpreted information.⁴⁸⁸ It subsequently appeared to the IHRC that most of the evidence presented to SIAC was indeed intelligence information – similar to that used to make numerous raids on homes and arrest many innocent people, but which, as in the M and Man U cases already cited, was mostly proven to be wrong. A deeper concern expressed in the Muslim responses was around the fact that the internment provisions did not appear to rule out intelligence acquired through torture as required by Art.15 of the Torture Convention. Indeed, SIAC hearings revealed that there was a real and substantial chance that evidence obtained through torture abroad was being used in these hearings.⁴⁸⁹ In August 2004, a JCHR report argued that there was a “significant risk of the UK being in breach of its international human rights obligations if SIAC or any other court were to admit evidence which has been obtained by torture.”⁴⁹⁰ And yet the Court of Appeal, appeared to make use of evidence extracted by torture acceptable – Mr. Justice Ouseley arguing that the

⁴⁸⁸ Note that this occurred during the Gulf War, when about 90 nationals of Arab countries were detained in the UK pending deportation on national security grounds. A more dramatic illustration is by the ‘Iraq dossier’ – the subsequent Butler Report concluded that ‘intelligence’ used to go to war was unreliable: the MI6 had relied on third hand reports and the 45 minutes claim regarding weapons of mass destruction was ‘unsubstantiated’. The war, of course, resulted in the deaths of hundreds of thousands. See: R. Butler, Review of Intelligence on Weapons of Mass Destruction, Report of a Committee of Privy Counsellors, London: The Stationery Office, 14 July 2004.

⁴⁸⁹ This was confirmed by Baroness Scotland, stating that it was the Government's policy that where national security was at stake it was its duty to consider all available information – House of Lords, 26 April 2004, c.WA71. Subsequently, the Home Secretary also conceded that the detentions may be based on intelligence obtained by torture from prisoners being held in Guantanamo Bay, Abu Ghraib, Afghanistan and elsewhere, stating: ‘... it would be irresponsible not to take appropriate account of any information which could help protect national security and public safety’ – Statement from the Home Secretary, 11 Aug 2004.

⁴⁹⁰ JCHR, Review of Counter-Terrorism Powers, Eighteenth Report of Session 2003-2004, London: JCHR, 4 August 2004, para.29. This would certainly reflect Art.15, UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 1984, to which the UK is a signatory without any reservations, and the Guidelines on Human Rights and the Fight against Terrorism, Council of Europe, 11 July 2002.

case could not exclude such evidence because it was an immigration case, not under normal criminal law, and therefore free from fair trial rules.⁴⁹¹ Indeed, Laws LJ was ‘quite unable to see that any ... principle prohibits the [Home Secretary] from relying on evidence which has been obtained by torture by agencies of other states ... [for] ... if the Secretary of State is bound to dismiss [evidence from torture abroad] his duty becomes extremely problematic’ – and thus, in August 2004, the Court of Appeal ruled that evidence obtained under torture in third countries may be used in special terrorism cases provided that the British government had ‘neither procured the torture nor connived at it’.⁴⁹² The MCB argued that this was an extremely retrogressive step, which would make the UK complicit to torture worldwide, encourage its continuance and place it with responsibility for the whole process. Also, under the customary international legal principle of reciprocity, it would legitimise British citizens being detained abroad and tortured for information. Meanwhile, Amnesty, based on clear documentation over 40 years, stated that “once torture has been legitimized, even on a small scale, the use of torture, cruel, inhuman and degrading practices inevitably expands to include countless other victims, and ultimately erodes the moral and legal principles on which society is based. For example, the Israeli government legalized ‘moderate physical pressure’ with controls to limit its use. However, once permitted, thousands of ‘suspects’ were tortured, and the practice became routine and systematic. Even though the Israeli High Court banned the practice in 1999, Amnesty International continues to document Israeli authorities use of torture.”⁴⁹³ Amnesty further argued that, leaving aside the moral repugnancy of torture, it was a proven fact that evidence from torture was completely unreliable. Neuberger LJ (dissenting in *Ajouaou*) added force to the MCB and Amnesty position, stating: ‘By using torture, or even by adopting the fruits of torture, a democratic state is weakening its case against terrorists, by adopting their methods, thereby losing the moral high ground an open democratic society enjoys’.⁴⁹⁴

⁴⁹¹ *Ajouaou and A, B, C and D v. Secretary of State for the Home Department*, 29 October 2003, paras.81 and 84.

⁴⁹² *Ajouaou*, Court of Appeal Judgment, 11 August 2004. See also: *Terror Detainees Lose Appeal*, *The Guardian*, 11 August 2004, and *Is Torture OK for English Courts?* *BBC News*, 17 August 2004.

⁴⁹³ See: K. Ryan, *Torture Debate*, in G. Martin (ed.), *The Sage Encyclopaedia of Terrorism*, Los Angeles: Sage, 2001, p.582.

⁴⁹⁴ See: *Neuberger LJ (dissenting), A & 9 Others v Secretary of State for Home Department [2004] EWCA Civ.1123*.

The final set of concerns expressed in the Muslim responses with regards to the internment provisions argued that that they were discriminatory and deplorable in their implementation, and ineffective and corruptive in their impact. The responses argued that even if the first two elements of Art.15 were fulfilled, it was clear that the third element, ‘measures are not inconsistent with other obligations under international law’, was not – the internment provisions were certainly inconsistent with Art.14 ECHR, the prohibition against discrimination. The discrimination was both in design (only against foreign nationals) and implementation (only against Muslims). This point was strongly emphasised in the Garcia submission to the IHRC in 2002, which observed that the 11 foreign nationals that had so far been interned under the provisions were all Muslims. The Garcia submission also described the conditions in which these Muslims were being held – as cruel, inhuman and degrading, involving daily strip searches and being locked up for 22-23 hours a day in solitary cells, leading to deterioration in physical and mental health.⁴⁹⁵ By restricting the provisions to foreign nationals only, and not addressing domestic or home-grown terrorism at all, whether from Muslim or far right extremists, the provisions were exposed to much criticism. SIAC observed that ‘it is impossible to see how the separate treatment of foreigners, following derogation from the ECHR, can be regarded as other than discriminatory on the grounds of national origin’.⁴⁹⁶ Laws LJ, however, contended that the provisions were not discriminatory, and argued that applying them equally to citizens would be absurd as that would only increase the aggregate human rights abuse. The counter-argument to this was that if these provisions were too draconian for citizens, and to be avoided even in the face of terrorism, they could not be justified at all – ie, if the security threat from British citizens did not warrant derogation or internment legislation, then the same threat from other actors could not justify derogation or

⁴⁹⁵ This description was strongly supported by Amnesty International. See, for example: Amnesty International, *Rights Denied – The UK’s Response to 11th September 2001*, 5 September 2002. The present author visited Belmarsh Prison as lead Commissioner for prisons work at the CRE and witnessed that one of the detainees was sharing a room with one toilet with 7 others. A toilet pipe was completely broken, held together with a towel and resulted in a very strong stench in the room. The detainee said that it had been like that for months, but it was fixed when the author went back two weeks later, but apparently only the day before.

⁴⁹⁶ SIAC, *Ruling on legality of detention under Part 4 ATCSA 2001*, 30 July 2002, para 95. Note also Lord Carlisle’s observation: ‘Some police have expressed misgivings about a law that in practice has only applied to Muslims (because all those currently detained are Muslim): there is a sense that it causes real resentment among parts of the Muslim community who are both residents and nationals of the UK, and possibly makes some aspects of policing more difficult’ – *Review of the Operation of s.21-23, Part 4, ATCSA 2001*, February 2003. T. Choudhury makes similar points, but adds that the far right was eventually brought under the same policy and legislation, even if still treated differently in practice – *Impact of Counter-Terrorism on Communities, UK Background Report*, London: ISD and OSF, September 2012.

internment legislation either. Further, if the provisions could not be justified for citizens then they were also in breach of the first two limbs of Art.15 of the UN Convention against Torture 1984. In light of these criticisms, CERD expressed deep concerns about the provisions and recommended that the Government balance security with its international human rights obligations.⁴⁹⁷ Additionally, Lord Woolf stated that the danger of unlawful discrimination ‘is [most] acute at the time when national security is threatened,’⁴⁹⁸ and the Newton Report thus recommended that ‘[all legislation should] deal with all terrorism [alike], whatever its origin or the nationality of its suspected perpetrators’⁴⁹⁹

The efficacy problems with Part 4 were at least two-fold. First, if the focus of internment was only on foreign nationals, then the obvious change of tactic for recruiters of international terrorism was to switch to recruiting citizens – which would then only serve to further root the problem in the UK. Second, if one of the options was to deport suspected terrorists, then internment was just a ‘3-walled prison’ and a means of exporting terrorism, and given the international nature of terrorism, was not to offer any protection to the UK – the terrorist could simply go to another place and recruit British citizens as the next generation of terrorists. Indeed, in one case the suspect was simply taken to Gare du Nord and released.⁵⁰⁰ Thus FAIR argued that ‘There is no evidence that the ATCSA 2001 on its own makes Britain any safer from the threat of terrorism’, and Liberty argued that if there was any initial value attached to the policy of internment then it was less effective over time, and in fact, counter-productive in the long term. Liberty also argued that in the long term the whole parallel system was also corrosive of the main criminal justice system – or at least this was the experience in Northern Ireland, where civil liberties were suspended for security, juries abolished, rules of evidence changed, evidence from grassing, confessions, interrogations and torture was allowed, and a whole parallel system was developed to deal with political violence. However, the result was that many agencies started operating outside the law initially for political reasons – but in the end, this led to possibilities not just of political abuse, but also personal abuse. Where such abuse of authority and trust became systematic and ‘normalised’, it started

⁴⁹⁷ CERD, Consideration of Reports submitted by State Parties under Art.9, Recommendations, 18 August 2003 (CERD/C/63/CO/11 – 3.1659), para.17.

⁴⁹⁸ See: *A, K & Y v Secretary of State for Home Department* [2002] CA Civ.1502, para.9.

⁴⁹⁹ Privy Counsellor Review Committee, Anti-terrorism, Crime and Security Act 2001 Review Report, op. cit., para.25. Hereafter, referred to as the ‘Newton Report’.

⁵⁰⁰ *Ibid*, para.195.

corrupting the main criminal justice system and undermining the democratic processes, leading to serious erosion of democratic society as a whole. Thus, from an efficacy perspective, the Muslim responses argued that the Government should focus on more effective use of the existing criminal law, system and sanctions – to uphold values fundamental to the UK legal systems, such as human dignity, equality and rule of law; reasonableness and proportionality; and equity, fairness and justice.⁵⁰¹ When these are undermined towards any community, we lose their trust and confidence in the legal system and in Britain and British society as a whole – and this can lead to many counter-productive impacts, as we will discuss in our final substantive chapter.

The FAIR submission to the 2001 Bill concluded on this indefinite detention point by stating that whilst it considered that indefinite detention without prosecution violated international standards, if such a measure was introduced then there should be additional safeguards. Such safeguards should include that the grounds for detention must be specifically related to the emergency situation described in the derogation; that the government should be required to publish regularly information about the application of the law, eg, how many people are detained and the places of detention; and that the detainees must be treated in compliance with all human rights standards, including provisions of the ECHR and other international human rights treaties which remain in full force. Such rights include: the right of detainees to be informed immediately, in a language they understand, of the reasons for their detention and be notified of their rights, including the right of prompt access to and assistance of, and confidential communication with, their lawyer of choice, free of charge if necessary; the right to inform family of the detention and the place of confinement; the right to communicate and receive visits; the right to challenge the detention (*habeas corpus*), be brought promptly before a judicial authority to determine the lawfulness and necessity of the detention, to appeal on the basis of fact and points of law to an independent, impartial higher court, and not to be detained with people convicted of criminal offences; and the right to have effective judicial

⁵⁰¹ On this important point, see the contribution of C. Gearty, Director for the Centre of Study of Human Rights, LSE, to the Newton Committee on 12 December 2002, where he suggests that counteract terrorism legislation should satisfy three fundamental principles in order to be both compatible with human rights and effective in its application: 1. Equality before the law – ‘terrorist violence should be treated in accordance with the ordinary criminal law and departures from that law should be permitted only in situations of overwhelming necessity’; 2. Fairness: – ‘legislation should be clear, certain and internally consistent, with its effectiveness on these scores being judged ... by reference to the requirements of the rule of law’; and 3. Human Dignity – ‘no system of counter-terrorism laws should be allowed to undermine the fundamental dignity of the individual’.

remedies, including full reparation, for arbitrary detention and other human rights violations. Very few of the FAIR safeguards, however, were adopted into the final provisions on internment, resulting in much disquiet about their implementation.

Having carefully examined this disquiet, one of the key recommendations of the Newton Report, published in December 2003, was to end indefinite detention ‘as a matter of urgency’.⁵⁰² It recommended replacing detention powers with legislation which would (i) deal with all terrorists, whatever their origin or nationality, and (ii) would not require the UK to derogate from the ECHR.⁵⁰³ The IHRC emphasised that it was important to adopt both limbs concurrently – otherwise, it would just result in more Muslim ‘citizens’, in addition to ‘foreign subjects’, being detained, and thus, just more alienation. Other significant recommendations from the Newton Committee included that the normal criminal justice system be used to prosecute suspected terrorists, ie, that the Government should define a set of offences characteristic of terrorism, which should be possible to prosecute without relying on sensitive material where the potential penalty was raised due to a link with terrorism being established, and that the UK’s blanket ban on intercept evidence in courts be removed – so that evidence from intelligence is no longer held inadmissible under normal evidential requirements.⁵⁰⁴ Following publication of the Newton Report, both Houses were required to consider it within 6 months (ATCSA, s.123) – the report was debated in the House of Commons on 25 February 2004, and the House of Lords on 4 March 2004. The Home Office Discussion Paper (on Reconciling Security and Liberty) was released to coincide with these discussions.

Liberty, on the whole, agreed with the Newton Committee, particularly on the need to balance between security and fair trial and other rights, and the need for appropriate forum and procedure to achieve this – but Liberty was strongly opposed to the Newton Committee’s proposal to replace SIAC with a French style examining judge and an inquisitorial or investigative approach.⁵⁰⁵ Liberty provided many arguments for its

⁵⁰² The Newton Report, *op. cit.*, para.25.

⁵⁰³ *Ibid*, para.203.

⁵⁰⁴ *Ibid*, paras.207-15. Intercept evidence is currently inadmissible under s.17 of the Regulation of Investigatory Powers Act 2000.

⁵⁰⁵ See Recommendation No.26c, The Newton Report, *op. cit.*, para.224. The IHRC spells out the strengths of this proposal, seems to approve of it, but does not say so explicitly. The strengths of the proposal are also recounted in JCHR’s Eighteenth Report of Session 2003-2004, *op. cit.*, para.58, where it also mentions how it was used for Algerian suspected terrorists in France in the early 90s.

position – mostly around the limitations of the French approach and its ill-fit in the English legal system, but it was particularly concerned by the recommendation’s uncomfortable parallels with the Diplock Courts in N Ireland – suggesting that it was a ‘Diplock court by another name’, in that it is a judge without jury criminal trial; may have modified rules of evidence (eg, lower standards for confessions and other criminal procedures, which can be very unfair to the accused); and has a judge who is final arbiter of both law and facts, resulting in a more judge interventionist approach, ie, judge giving defendants and witnesses a harder time.⁵⁰⁶ For Liberty, as mentioned already, there were serious flaws in using immigration legislation for national security and the policy and practice of internment was counter-productive, but importantly, the fight against terrorism was best addressed under normal criminal law. Liberty thus preferred surveillance over other undesirable alternatives, and in support of this cited a number of other comparable liberal democracies, eg, France, Sweden and Canada, and recommended a mixture of the Swedish and Canadian approaches – ie, interception of communication with warrant; bind-overs; and restrictions, reporting and surveillance (eg, electronic tagging), but with appropriate safeguards.⁵⁰⁷ However, the Home Office response to Newton and Liberty was that the alternatives do not provide the same level of protection as detention and the alternatives are resource intensive. Liberty’s counter-response was that these were flawed objections, as other jurisdictions were using these alternatives and they were not more expensive – and in any case, expense was a poor argument in this instance, as the concern should be around what is most productive. In terms of Liberty’s call for a return to normal criminal processes and sanctions, it made further concessions. Whilst it argued for the application of the rules of evidence to ensure fairness in all cases, it suggested that rules on public interest immunity could be established to protect state sources; the bar on intercept material could be relaxed, even lifted, as the UK was the only country in the world to have the ban, except Ireland; and more formal procedures could be established to allow compulsory questions powers (as in company law) and plea-bargaining – both

⁵⁰⁶ For discussions on Diplock courts and how they disadvantaged defendants, see: S. Doran and J. Jackson, *Judge Without Jury*, op. cit.; and K. Douwe, *The Diplock Courts in Northern Ireland*, op. cit.

⁵⁰⁷ Note, however, that whilst Liberty accepted increased surveillance as an alternative to detention (because surveillance could be HRA compliant if it had legitimate purpose and was proportionate), it did not accept bail, curfew or restricted rights of association and communication (discussed at para.248 of the Newton Report), which it felt were not easily made compliant under HRA. Liberty reluctantly accepted civil restriction orders as recommended by the JCHR (ie, restrictions on movement by curfews, tagging, daily reporting requirements, restrictions on association, or the ability to use financial services or to communicate freely, as discussed at paras.251-253 of the Newton Report), even though it felt these were not particularly effective.

of which would need strong safeguards. Whilst the MCB agreed with Liberty that the Government should explore alternatives to internment, the IHRC took a somewhat contrary position. The IHRC was against increased surveillance because this had the potential to flagrantly violate the fundamental right to privacy. It suggested that the Liberty approach of comparing indefinite detention and surveillance was ‘failed logic’ and the wrong approach – each should be judged on its own merits and rejected. IHRC also took a contrary position on intercept evidence – arguing again that it was too dangerous and carried serious possibilities of wholesale invasion of privacy. IHRC argued that all evidence should be subject to the normal safeguards under PACE 1984,⁵⁰⁸ and that all evidence to be used must be made available to suspects, so that the validity of the evidence can be challenged.

The disquiet against the provisions on indefinite detention came to its height in a House of Lords case in 2004. In July 2002, the detainees had mounted their first legal challenge in SIAC. SIAC held that there was a public emergency, and thus, detention without trial was justified. However, as mentioned above, it also held that the detention was unlawful because it was discriminatory. In Oct 2002, the Court of Appeal overturned SIAC’s ruling – holding that there was no discrimination because detainees were unlike British nationals (they had a ‘right to remain’, but not a ‘right not to be removed’).⁵⁰⁹ In Oct 2003, SIAC ruled against 10 detainees. On 11 Aug 2004, appeals to have the 10 cases reconsidered by SIAC were dismissed by the Court of Appeal.⁵¹⁰ The other 4 detainees at this stage were not appealing because they had no decisions from SIAC yet. In early August 2004, the parliamentary Joint Committee on Human Rights published a further report on counter-terrorism powers.⁵¹¹ The report was heavily critical of key provisions of ATCSA 2001, covering many of the points above, but particularly against the provisions on indefinite detention. In Oct 2004, a 9-judge panel in the House of Lords heard an appeal against the entire legal basis for the suspects’ detentions, including the lawfulness of derogation and the compatibility of the legislation with other human rights obligations,

⁵⁰⁸ S.78(1) of PACE states: ‘In any proceedings the court may refuse to allow evidence on which the prosecution proposes to rely ... if it appears to the court that, having regard to all the circumstances in which the evidence was obtained, the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it’.

⁵⁰⁹ *A, X, Y and others v Secretary of State for the Home Department* [2002] EWCA Civ.1502.

⁵¹⁰ *A and 9 Others v Secretary of State for the Home Department* [2004] EWCA Civ.1123.

⁵¹¹ JCHR, Eighteenth Report of Session 2003-2004, op. cit. – this was further to its Sixth Report of Session 2003-04, Anti-Terrorism, Crime and Security Act 2001, Statutory Review and Continuance of Part 4, London: JCHR, 24 February 2004.

and found in favour of a terrorist suspect, who had been detained without charge for over two years, and set a time limit for his release.⁵¹² Part 4 was thus subsequently repealed. However, the judgement created the way for control orders, which could be equally applied to British nationals and allowed for the imposition of an extensive set of conditions on the movements of the suspected person – this is discussed in more detail below.

Terrorist Property and Freezing of Assets

Whilst the internment provisions in the 2001 Bill and Act attracted the lion share of the attention of Muslims and others, there was an important second set of concerns with that legislation that focused on its provisions on terrorist property and the freezing of assets. These provisions essentially extended executive powers over freezing bank accounts and assets of suspected terrorists. The 2000 Act had already consolidated five main offences relating to the financing of terrorism: s.15 made it an offence to invite anyone to give or to receive money or property for the purposes of terrorism; s.16 prohibited using property and money for the purposes of terrorism; s.17 interdicted involvement in arrangements where money or property is made available for terrorism; s.18, headed money laundering, banned facilitating the retention of terrorist property in any way; and s.19 compelled the disclosure of knowledge or suspicion of terrorist funding based on information that came to light from one's trade, profession, business or employment. Sch.1 of the 2001 Act allowed terrorist cash to be seized and kept for 48 hours. The period of retention could be extended up to 3 months subject to a Magistrates' Court order. These orders could be renewed but the maximum total period of retention was 2 years. However, the Magistrates' Court could order, upon application, that the cash be forfeited totally or in part under Sch.1, para.6.

At the Bill stage, FAIR argued that there were already extensive powers in place with regards to funds implicated in terrorist or suspected terrorist activities,⁵¹³ and as such questioned the need for further legislation. Echoing Justice,⁵¹⁴ it argued that all that the

⁵¹² *A and Others v Secretary of State for the Home Department* [2004] UKHL 56.

⁵¹³ Note, for example, Sch.6 of the Terrorism Act 2000.

⁵¹⁴ Justice, Briefing on the Anti-Terrorism Crime and Security Bill, House of Commons Second Reading, November 2001.

new provisions would do is allow the circumvention of current safeguards against abuse in existing provisions, eg, the normal criminal law procedures and/or parliamentary scrutiny. It expressed particular concerns around the proposed account monitoring orders and restraint orders. Such orders were already available under the TA 2000, but the Bill allowed for them to be made at any point after an investigation had begun, rather than only where charges were anticipated. Since both these orders were intrusive of Art.8 privacy rights, FAIR argued that it was vital that they be subject to adequate safeguards. FAIR also expressed concerns in relation to the possible change in the liability test. Under existing legislation failure to report suspicion of laundering was already an offence. Modifying the existing test of actual suspicion to a test based on negligence, it argued, would lead to arbitrary exercise of this imposed duty – and bearing in mind the increase in anti-Muslim prejudice in the post 9/11 period, it argued that there was a real risk that the different pieces of legislation on financial control would be applied in a significantly disproportionate and discriminatory manner towards Muslims. In relation to freezing orders, it expressed concerns that the conditions that would trigger the use of the power to make such orders were very broad and not justified as a necessary and proportionate response within the existing context; that there was a substantial risk that the powers delegated may be used as a political tool – especially as the widening of the triggers for freezing orders included targeted action to freeze the assets of overseas governments or residents; that there was a lack of safeguards to prevent the application of freezing orders in a disproportionate and discriminatory fashion, potentially affecting the legitimate use of property and assets; and that the retroactive nature of the power to freeze assets appeared to contravene the spirit of the HRA and the ECHR.⁵¹⁵ However, though there is much anecdotal evidence that the provisions on terrorist property and freezing of assets have had much negative impact on the everyday lives of Muslims, there is surprisingly little more on this in terms of Muslim responses to counter-terrorism legislation and government consultations, except in relation to Muslim charities, as already discussed.⁵¹⁶

⁵¹⁵ For example, Art.7(1) and (2).

⁵¹⁶ See also: V. Metcalfe-Hough et al, UK humanitarian aid in the age of counter-terrorism: perceptions and reality, London: Overseas Development Institute, March 2015

The Prevention of Terrorism Act 2005

The Prevention of Terrorism Bill 2005, introduced in the House of Commons on 22 February 2005, was in response to the 2004 House of Lords ruling that detaining foreign nationals without trial was unlawful and breached the European Convention on Human Rights.⁵¹⁷ The Bill introduced instead ‘control orders’, allowing the Home Secretary or a court to impose restrictions on a suspected terrorist they considered ‘necessary for purposes connected with preventing or restricting involvement by that individual in terrorism-related activity’. Such restrictions could include placing the individual under house arrest, restricting their access to mobile phones and the internet, restricting their rights of association in person and requiring that visitors be named in advance, so that they may be vetted by MI5. The order could also include a requirement to surrender the individual’s passport, allow searches of premises and to co-operate with surveillance arrangements. The Bill was severely criticised by many human rights organisations, including Amnesty International, Human Rights Watch, Justice and Liberty, and there was a substantial rebellion against it by backbench Labour MPs.⁵¹⁸ The House of Lords made several amendments to the Bill – the most significant being the introduction of a sunset clause, much as in the Prevention of Terrorism Acts of 1974–1989. Other amendments included requiring the Director of Public Prosecutions to make a statement that a prosecution would be impossible before each individual control order could be issued; a judge to authorise each control order; a review of the legislation by Privy Councillors; and restoring the ‘normal’ burden of proof of ‘beyond reasonable doubt’ rather than the weaker one of ‘balance of probabilities’. The vote in the Lords was notable for being the first time that Lord Irvine, friend and mentor of the Prime Minister, Tony Blair MP, and recent Lord Chancellor, had ever voted against the Labour government. However, most of the amendments were rejected though the government was forced to promise a review of the legislation a year later.⁵¹⁹ The Bill thus received Royal Assent on

⁵¹⁷ The House of Lords judgment was given on 16 December 2004.

⁵¹⁸ For a discussion of this opposition to the Bill, see: M. Nellis, *Electronic Monitoring and the Creation of Control Orders for Terrorist Suspects in Britain*, in T. Abbas (ed.), *Islamic Political Radicalism – A European Perspective*, Edinburgh: Edinburgh University Press, 2007.

⁵¹⁹ Accordingly, Charles Clarke MP, the Home Secretary, agreed to table legislation in Spring 2006 to allow Parliament to consider amendments to the Act following the first report of the Independent Reviewer of Counter-Terrorism Legislation, Lord Carlisle of Berriew, QC. Lord Carlisle reported on 2 February 2006, but the Home Secretary announced that he would not be introducing fresh legislation as the Terrorism Bill 2006 was already under consideration. Instead, the government indicated that it would allow amendments

11 March 2005, and the first control orders, to deal with the ten suspects previously interned in Belmarsh, were issued immediately.

Unfortunately, there was very little Muslim engagement with the 2005 Bill, perhaps due to the extremely swift passage of the Bill through Parliament – only 18 days between introduction and Royal Assent. The only notable engagement was from the IHRC, which was very quick off the mark in responding to the Government’s announcement of the legislation on 26 January 2005. On 4 February 2005, the IHRC issued a briefing addressing the two main points covered by the Government’s announcement – ‘diplomatic assurances’ and ‘control orders’.⁵²⁰ The IHRC noted, as it had previously dreaded, that the new provisions would apply not just to foreign nationals, but also British citizens whom the Home Secretary suspected of being involved in terrorism. Indeed, the Home Secretary, had gone further – suggesting that families and friends of terror suspects could also face similar control orders. The foremost of the IHRC’s concerns, however, were the proposals that the control orders would be imposed by the Home Secretary based on his suspicion alone, rather than by the courts based on evidence, and a breach of a control order would constitute a criminal offence which could lead to imprisonment. IHRC argued that the power to sanction an individual should remain the sole prerogative of the judiciary in a court of law, otherwise this would constitute a severe undermining of the long-established doctrine of separation of powers. IHRC outlined other sentiments and conclusions that would later be more fully argued in briefings by Human Rights Watch and Liberty – most notably that the very concept of ‘executive control orders’ undermined the rule of law, the right to a fair trial and the presumption of innocence.⁵²¹ In fact, Liberty’s position on the Bill was that it was so fundamentally flawed and being rushed through so quickly that the organisation would not be engaging in proposing any amendments, as no amendment could make the legislation any the more acceptable.

to the Act in consolidating counter-terrorism legislation scheduled for 2007. In any event, ss.1-9 of the Act were subject to annual renewal by affirmative resolution of both Houses of Parliament.

⁵²⁰ IHRC, Britain – An Outpost of Tyranny, 4 February 2005. The diplomatic assurances route was not to be incorporated into the new legislation, but pursued in parallel. It is not covered in this study due to time and space considerations, but also because it has been very sparingly used – the only notable case being that of Abu Qatada. For a good summary of the diplomatic assurance cases, see: Amnesty International, Diplomatic Assurances Against Torture – Inherently Wrong, Inherently Unreliable, April 2017 (AI Index: IOR 40/6145/2017).

⁵²¹ Note: Human Rights Watch, Commentary on Prevention of Terrorism Bill 2005, London: HRW, 1 March 2005; Liberty, Briefing on the Draft Prevention of Terrorism Act 2005 (Continuance in force of ss.1-9) Order 2010, February 2010; From ‘War’ to ‘Law’ – Liberty’s Response to the Coalition Government’s Review of Counter-Terrorism and Security Powers, 2010, London: Liberty, pp.1-12.

IHRC's concerns regarding the balance of executive and judicial involvement in the making of the orders was addressed as the Bill was going through Parliament. However, the only concession by the Home Secretary was that orders that required formal derogation from international human rights commitments would be made by a judge in the High Court, rather than a politician.⁵²² Non-derogation orders could be appealed through the judicial review rules, but this could only test the legality of the procedure, not the evidence – and, as the court only needed to be satisfied that the Home Secretary had 'reasonable suspicion' for issuing any control order, there was very little prospect of any successful appeals. Instead, the appeal process served only to legitimise the orders. Further, the appeals process involved the use of special advocates, closed evidence and the inability of the appellant to test the evidence against them – but this was the same process as that just denounced by the House of Lords Appellate Committee as 'the stuff of nightmares' in their judgement on the detention of foreign nationals under Part 4 of ATCSA 2001, the very judgement that triggered the new legislation. Many thus concluded that the control order route was not much better than the internment route and the Government was not listening, but simply and stubbornly finding a way around the law to do what it wanted. Not surprisingly, the provisions of the Act subsequently resulted in many unfair and unsafe orders imposing severe and intrusive prohibitions, including indefinite house arrest for up to 16 hours a day – of course, without any charge or conviction, for the orders were preventive measures that allowed the police to limit the movement and activity of suspects aimed at disrupting their 'possible' involvement in terrorism. Typical obligations included no internet access, restriction of visitors and night time curfews, and breach of any terms of a control order without reasonable cause could result in a fine, up to 5 years imprisonment or a combination of both. The orders were imposed for up to 12 months, whereupon they lapsed unless renewed on application. The provisions and their implementation were such an assault on human rights that in April 2006, a High Court judge issued a declaration under s.4 of the Human Rights Act 1998 that s.3 of the Prevention of Terrorism Act 2005 was incompatible with the right to fair proceedings under Art.6 of the ECHR.⁵²³ Whilst this judgement was partly reversed by

⁵²² These 'derogating control orders' required the UK government to issue a notice of derogation from Art.5 EHRC (the right to liberty). Conversely, non-derogating control orders did not require derogation and could simply be imposed by a Court upon application by the Secretary of State. In practice, the Government carefully avoided using any derogating control orders.

⁵²³ See the very scathing judgment against the Government by Mr Justice Sullivan in *Re MB* [2006] EWHC 1000 (Admin), 12 April 2006.

the Court of Appeal on 1 August 2006,⁵²⁴ the description of the order as an ‘affront to justice’ in the High Court continued to linger, until the relevant provisions were eventually repealed on 14 December 2011 by the new Coalition Government through s.1 of the Terrorism Prevention and Investigation Measures Act 2011.

The Terrorism Act 2006

The Terrorism Bill 2005 was introduced in Parliament on 12 October 2005, in the aftermath of the 7/7 bombings in London. It was preceded by considerable tough rhetoric by the Prime Minister and his top team⁵²⁵ – the impact of which, we will consider in Chapter 6. The government considered the Bill a necessary response to an unparalleled terrorist threat. However, despite a greater appetite for counter-terrorism legislation in the general public, in light of the atrocities of the 7/7 bombings, the provisions contained in the Bill encountered great opposition from those who felt that it was an undue imposition on civil liberties, and could even increase the risk of terrorism.⁵²⁶ Unlike previous counter-terrorism legislation, the Muslim engagement with the 2005 Bill/2006 Act, as it was passing through Parliament, was strong. The IHRC took the lead, sending out a briefing on 18 August 2005 responding to a Home Office pre-Bill consultation document published on 5 August on exclusion or deportation from the UK of foreign nationals on non-conducive grounds. Following this initial briefing, IHRC proceeded to developing a more extensive joint briefing or statement, working with a number of other Muslim organisations (including the MCB), other national and local campaigning organisations (including Liberty, 1990 Trust, CAMPACC and Statewatch) and renowned human rights law firms (including Birnberg, Peirce & Co) – which was released on 8 September 2005. IHRC released a further briefing on 10 November specifically on the Home Office’s

⁵²⁴ Secretary of State for the Home Department v MB [2006] EWCA Civ.1140. But note the very interesting analogy drawn by the House of Lords in Secretary of State for the Home Department v JJ – between a prisoner in an open prison and a suspected terrorist under a control order. The Lords pointed out an anomaly in the Home Secretary enforcing harsher conditions on an individual who was not been convicted of any crime in comparison with an open prisoner who enjoyed freedoms of association.

⁵²⁵ See, for example, the comments of the Prime Minister and the Home Secretary on 5 August and 15 September respectively. On 5 August, Tony Blair PM, at his regular monthly news conference announced ‘... there will be new anti-terrorism legislation in the Autumn. This will include an offence of condoning or glorifying terrorism ... anywhere, not just in the United Kingdom’. On 15 September, Charles Clarke MP, the Home Secretary, published draft clauses of the intended bill. Draft clause 2 would make it illegal to publish a statement which ‘glorifies, exalts or celebrates the commission, preparation or instigation (whether in the past, in the future or generally) of acts of terrorism’.

⁵²⁶ Liberty, Press Release – Alarm as Terrorism Bill rushed through Parliament, 25 October 2005.

consultation document of 6 October on ‘Preventing Extremism Together: Places of Worship’, and also published a fuller report on 15 November on the overall state of anti-terrorism measures in Britain. Together, the press releases, statements and the report, developed by IHRC on its own and with others, argued that there was no evidence that more legislation with wider-ranging anti-terrorism powers was required. More specifically, the co-ordinated joint statement between Muslim and other campaigning organisations and prominent human rights law firms argued that in the five months since the London bombings the police had succeeded in doing all that they needed to do without hindrance, and the Government’s attempts to be seen as doing something post 7/7, by being tougher on Muslims through the use of greater force and fear, was not only signalling a green light to racism and Islamophobia, but also creating many legal uncertainties previously taken as cornerstones of British life and ultimately undermining the very values it asserted to be protecting.⁵²⁷ The statement further reminded the readers of the experiences of the conflict in Northern Ireland and the lessons of the previous 30 years when the removal of fundamental rights and the creation of an entire suspect community achieved nothing other than the continuation of violence, fear, bitterness and the creation of an unbridgeable divide, and called on the government to protect all citizens by advocating a proper and judicious use of the existing law and by realising that over-reaction will be deeply counterproductive. Meanwhile, the Terrorism Bill drew considerable media attention, not least because one of the key votes resulted in the first defeat of the Blair Government in the House of Commons, and the worst such defeat for any government since 1978. Of particular concern were the new provisions on incitement and glorification of terrorism and the extension of pre-charge detention. Nonetheless, the Bill received Royal Assent on 30 March 2006.

The Incitement and Glorification of Terrorism

On the incitement and glorification of terrorism, the 2000 Act had already made a wide provision – s.59 of the Act forbade inciting terrorism domestically or overseas, particularly inciting another to commit an act of terrorism which would constitute an offence of murder, wounding with intent, poisoning, endangering life by damaging

⁵²⁷ See the joint statement as delivered to the Joint Committee on Human Rights, Written Evidence, 5 December 2005: <https://publications.parliament.uk/pa/jt200506/jtselect/jtrights/75/75we24.htm>.

property or an explosive offence in the UK. The IHRC briefing of 18 August 2005, therefore, expressed concerns regarding the proposal to extend the provisions for deportation of non-citizens, arguing that the new grounds to be covered – of expressing views which the Government considered to: advocate violence in furtherance of particular beliefs; justify or glorify terrorism; foment terrorism or seek to provoke others to terrorist acts; foment serious criminal activity or seek to provoke others to serious criminal acts; foster hatred which may lead to intra-community violence; and/or be extreme views that are in conflict with the UK's culture of tolerance – were either extremely vague or already sufficiently covered under existing laws.⁵²⁸ The joint briefing also claimed it was unclear as to the need for the three new terrorism offences proposed by the Home Secretary earlier on 18 July 2005: 'acts preparatory to terrorism', 'terrorist training' and 'indirect incitement to terrorism' – as at least the first two were already covered under ss.57-8 and 54 of the Terrorism Act 2000, and the third offence, claimed to implement Art.5 of the Council of Europe's Convention on the Prevention of Terrorism agreed in April 2005, potentially widened existing provisions so significantly as to create many legal uncertainties and to place it in conflict with other rights under international human rights standards, eg, the right to support armed resistance against occupation.⁵²⁹ The joint statement argued that such legal uncertainties would result in innocent people being arbitrarily punished and drive any support for armed resistance against foreign occupation and criticism of foreign policy underground – and that this is not just criminalisation of thought but also creates spaces which can then be exploited by extremists or for political point-scoring between individuals, groups and communities. The joint briefing also stated that the proposal on indirect incitement was particularly problematic if it was to be used for excluding and deporting people, closing mosques and 'more extensive' use of control orders, as appeared to be proposed by the Prime Minister on 5 August – as this was likely to further disproportionately impact British Muslims. It urged that laws should be developed and implemented in an indiscriminate manner and should not single out any specific community for collective punishment or be perceived as such.

⁵²⁸ On vagueness, did violence in furtherance of one's beliefs, for example, include the use of force in self-defence while under attack and did justifying or glorifying terrorism include supporting people like Nelson Mandela and organisations like the ANC? On existing provisions, note how the existing laws were already sufficient to convict non-citizens like Shaikh Abdullah al-Faisal of incitement offences.

⁵²⁹ There is an extremely thin line, for example, between empathising with the Palestinian cause and condoning or justifying the actions of suicide bombers – a point highlighted by Cherie Blair's speech in Jordan in 2004, for which she was publicly accused by Israel of 'condoning' such bombings.

Notwithstanding the existing and wide opposition to any new provisions, however, Part 1 of the 2006 Act introduced a series of new criminal offences intended to assist the police in tackling terrorism, including a new prohibition on the ‘glorification’ of terrorism. Under s.1, it was a crime to directly or indirectly ‘encourage’ or ‘induce’ others to terrorism. Indirect encouragement included statements which ‘glorified’ (whether in the past, future or generally) acts or offences which may reasonably be inferred by members of the public as encouraging others to emulate them in existing circumstances.⁵³⁰ It was an offence even if the person or group making the statement did not intend to encourage terrorism.⁵³¹ With the wide definition of terrorism, s.1 criminalised careless talk, but also seriously infringed free speech rights – for example, on foreign policy or in speaking out against repressive regimes anywhere in the world. Under s.2 it was unlawful to sell, loan, or otherwise disseminate publications or information that was likely to be understood as directly or indirectly encouraging terrorism, or being useful in an act of terrorism. Under s.5 it was an offence for a person intending to commit or assisting others to commit terrorism to undertake any conduct giving effect to that intention. The obvious problem with this, of course, was how one read intentions from speech and actions. It is suggested that these provisions together had an immense chilling effect on Muslim communities and pushed many discussions out of the public domain.⁵³²

Perhaps, those most affected by the incitement and glorification provisions were members of university Islamic societies. Their voice on this, however, was not to be heard until significantly after the Terrorism Bill 2005 had passed into law. The key concern for members of student Islamic societies was around the offence of ‘encouragement of terrorism’ (s.1). The Act itself was largely silent on the crucial issue of what constitutes direct or indirect encouragement or other inducement. Of particular concern was the fact

⁵³⁰ Terrorism Act 2006, ss.1(3) and 2(4)(a).

⁵³¹ See: ss.1(2)(b)(ii) and 2(1)(c). The amendment that only those who intended to incite terror could be prosecuted was defeated by two votes in the House of Commons (300-298). It has been suggested that the Government’s resistance to an intention requirement was hypocritical, given that the reason offered for creating the offence was the need to comply with Art.5 of the Council of Europe Convention on the Prevention of Terrorism which expressly requires specific intent. See: A. Hunt, Criminal Prohibitions on Direct and Indirect Encouragement of Terrorism, *Criminal Law Review*, 1 June 2007, pp.441-58.

⁵³² This was particularly the case in light of the prosecutions under this Act, such as that against Samina Malik or the ‘Lyrical Terrorist’, on 8 November 2007, for possessing terrorist literature (including poems she had written), supporting martyrdom and posting poems on this on the internet and possessing records likely to be useful in terrorism. The prosecution initially secured a nine-months suspended jail sentence on 6 December 2007, but this was later overturned by the Court of Appeal on the ground of being unsafe on 18 June 2008. See: *R v Malik* [2008] All ER (D) 201 (Jun).

that the offence could be committed recklessly, irrespective of whether, in fact, anyone was encouraged, and while it did not have direct extra-territorial application, it did apply to statements made in the UK in relation to actions overseas – bringing within the scope of the legislation statements by individuals that provided direct or indirect encouragement to those involved in political resistance to any government abroad, irrespective of the nature of the regime or the opportunities for democratic opposition to such regimes. In determining whether a statement was ‘likely to be understood’ by some of the members of the public to whom it was made as an encouragement or inducement, the context and audience were to be critical factors. During the passage of the legislation the relevant Government Minister had explained that ‘no offence will be committed if a member of an audience at an academic lecture thinks, “Well, I am not encouraged to commit terrorist acts, but I can quite imagine that, *if this sentiment was expressed at a gathering of young Muslim men*, it could have an encouraging effect on them (emphasis added)”’.⁵³³ The Minister’s comment, while trying to alleviate concerns about the chilling effects of the offence on free speech, inadvertently pointed towards the way in which statements made in the course of a student Islamic society talk or debate could be unlawful by virtue of the largely Muslim audience at such an event, whilst the same statements would be unproblematic if made at other student society events.⁵³⁴

For the Federation of Student Islamic Societies (FOSIS), and its constituent members, a linked and more critical concern was the potential for any organisation considered to encourage terrorism to be proscribed under the Terrorism Act 2000.⁵³⁵ The encouragement of terrorism by an organisation included any activity which unlawfully glorified (as described above) any act of terrorism or had the effect of associating the organisation with statements containing any such glorification.⁵³⁶ FOSIS argued that the wide scope of these offences left student Islamic societies uncertain about the boundaries of the criminal law, and therefore, a stifling or chilling effect on the speakers they were able to invite and the discussions and debates they were able to host. This being the context, FOSIS found certain accusations or demands made against or from it, very

⁵³³ Hazel Blears MP, House of Commons, Hansard, 9 November 2005, col.391.

⁵³⁴ For an excellent discussion on this, see: T. Choudhury, *The Terrorism Act 2006 – Discouraging Terrorism*, in I. Hare and J. Weinstein (eds.), *Extreme Speech and Democracy*, Oxford: Oxford University Press, 2010, pp.463-87.

⁵³⁵ Terrorism Act 2006, s.3.

⁵³⁶ Terrorism Act 2006, s.21.

worrying: that it did ‘not always fully challenge terrorist and extremist ideology within the higher and further education sectors’, and that their members take ‘a clear and unequivocal position against extremism and terrorism’.⁵³⁷ It argued that it could not credibly challenge Muslim extremism and terrorism if it and its members were not able to speak freely and frankly on topics like terrorism vs ‘freedom fighters’, without the fear of being penalised themselves, and that, as with prosecution for pre-emptive crimes, the wide executive discretion in labelling individuals as extremist or at risk of radicalisation limited the scope of effective challenge to the exercise of that power – leaving neither Muslim communities, nor Government organs, to defeat terrorism and extremism in open discourse, and therefore, pushing that discourse underground and completely in the hands of the extremists.

The Extension of Pre-Charge Detention

The second set of concerns with the 2006 Act was in relation to its provisions extending pre-charge detention – perhaps the more controversial of its provisions. The Criminal Justice Act 2003 had already doubled the period of detention of a terrorist suspect for questioning from 7 days in the 2000 Act to 14 days – on the ground that forensic analysis of chemical weapons materials might not be complete in 7 days. A government amendment to the Terrorism Bill 2005 proposed that those arrested under suspicion of terrorist crimes could be held for up to 90 days before being charged. This was a considerable increase over the existing provision of a maximum of 14 days – particularly when compared to the maximum of four days without charge allowed in cases of murder, rape and complex fraud. Under the suggested scheme, detentions would be reviewed every seven days by a judge sitting *in-camera*, who would rule as to whether the ongoing detention was justified. The Government argued that, given the nature of the threat posed by Al-Qaeda and related groups, involving suicide bombings and mass carnage, it was no longer prudent for investigators to wait while a conspiracy developed – instead, it was necessary for police to arrest terrorist suspects immediately, while police enquiries were at a relatively early stage. The proposed 90-day detention period was necessary, the Government argued, as forensic testing and questioning of the suspect could not be

⁵³⁷ These points were eventually articulated in a warning in print in the 2011 Prevent Strategy. See: HM Government, Prevent Strategy, London: The Stationery Office, 2011, pp.74-75.

completed within the allotted fortnight – necessary evidence to decide charges might be encrypted on one of thousands of hard disks, and it could take many weeks to search them.

The Government repeatedly made the point that they had been advised by the police that 90 days was a necessary term of detention to prevent terrorism. Indeed, Andy Hayman, Assistant Commissioner of the Metropolitan Police, wrote to the Home Secretary on 6 October 2005, to express this view in very strong terms. The letter laid out in great detail the differences between past IRA terrorism and ‘modern’ international terrorism – for example, targeted as opposed to indiscriminate attacks; geographically limited networks and span of operations as compared to more global networks and operations; more sophisticated use of technology and forensics in terrorism now than in the past; and greater language and cultural barriers in relation to international terrorism in comparison to IRA terrorism – and argued that these significant differences justified the 90 day advise.⁵³⁸ The Home Secretary, Charles Clarke, repeated many of these points in his speech during the second reading of the Bill.⁵³⁹ Opposition to the 90 day detention proposal, however, was just as strong. The IHRC response was that the proposals simply amounted to a mini-version of detention without trial through the back door – still including government appointed judges, secret evidence, secret hearings, court appointed defence lawyers, and so on. These were all contentious procedures considered to violate rights against arbitrary detention and to a fair trial, and most of which had already been struck down by the highest courts. IHRC advocated that the Government should instead, as Muslims have previously called for: introduce more measures for accountability by the police for their actions – particularly as they now have such wide and unfettered powers under anti-terror laws; introduce provisions for third party independent reporting and faith-based recording of both hate crimes on grounds of religion/belief and stop, search and arrests carried out – in order to ascertain the true level of Islamophobia; strengthen

⁵³⁸ Note that Michael Todd, Chief Constable of Greater Manchester Police, also publicly supported the increased duration of detention in very similar terms to Hayman, noting ‘That is the view not only of the Metropolitan police, but of chief constables across the country and the terrorism committee that represents them. See: A. Asthana, Who can we trust in the fight against terrorism, *The Times*, 7 November 2005.

⁵³⁹ See: Charles Clarke MP, House of Commons, *Hansard*, 26 October 2005, c.340. Note how the extension was also supported by the public – a YouGov poll commissioned by Sky News suggested that 72% of the public supported the 90 days proposal, with only 22% opposing it. See: M. Sobolewska and S. Ali, Who speaks for Muslims? The role of the press in creating and reporting of Muslim public opinion polls in the aftermath of London Bombings in July 2005, *Ethnicities*, Vol.15(5), 2015, pp.675-95.

provisions to ensure members of Government refrain from commenting on individual cases in which the guilt of the accused has not been proven in court – as such statements constitute contempt of court and should be treated as such, and from attacking the judiciary – as such attacks lead to a decline in public confidence in the system of justice; and require a full public apology by the police where suspects are released without charge so as to help remove the stigma of being arrested and detained.

Other opponents of the 90-day detention provisions broadly argued that everyone has a right to liberty unless charged with a crime and detention for 90 days without charge was a retreat from *habeas corpus*. Many argued that the denial of such a fundamental right could not be justified, even by the threat of terrorism. Critics, including the former Conservative Party leader, Michael Howard MP, argued that none of the suspected terrorists released under the 14-day regime were later incriminated by new evidence, meaning that the police had never practically needed longer than 14 days. Archbishop Desmond Tutu likened the government's proposed period of detention without charge to provisions in South Africa under apartheid: 'Ninety days for a South African is an awful *deja-vu* because we had in South Africa in the bad old days a 90-day detention law'.⁵⁴⁰ For further comparison, the Syrian government, in seeking to crush the Syrian Uprising that began in 2011, instituted provisions for detention without charge for a maximum of 60 days.⁵⁴¹ Furthermore, the Bill's opponents, who included Conservatives, Liberal Democrats and members of the Labour Party, compared the proposed 90 days to the policy of internment used in N. Ireland during the 1970s – where, they held, the policy served to antagonise N. Ireland's Republican community, and thus, recruit for the Provisional Irish Republican Army. Some also saw the 90 days proposal as dangerously extending the scope of a 'police state', and others argued that it was simply the Blair government pandering to public opinion. In the end, the House of Commons rejected the 90 days provision at the Report Stage, but voted through an amendment for 28 days – thereby still quadrupling the period allowed under the Terrorism Act 2000. The extended period, however, was subject to annual renewal by an affirmative order in Parliament – as it was amongst the longest in any comparable democracy. However, whilst the new

⁵⁴⁰ Blair: Guantánamo is an anomaly, *The Guardian*, 17 February 2006.

⁵⁴¹ UN High Commissioner for Human Rights, Report on the situation of human rights in the Syrian Arab Republic, UN Human Rights Council, 15 September 2011, p.6.

provision was formally brought into force on 25 July 2006,⁵⁴² and annually renewed until 2010, it was rarely used. In a report to the new Coalition Government, it was revealed that the provision was never used after 2007, and only twice used in the year of its inception in 2006, in both cases for less than 21 days and in both cases (in relation to the transatlantic airline plot in August 2006) resulting in failed prosecutions.⁵⁴³

The Counter-Terrorism Act 2008

The Counter-Terrorism Bill 2008 was given its first reading in January of that year. The Bill sought to introduce a miscellany of provisions left out of or dropped from earlier legislation – and in some cases to deal with some unfinished business. Notably, the Government sought again to extend the period of detention without charge, this time to 42 days. This resulted in a re-run of the 90 days detention without charge debate from 2006. Once again, the Muslim organisation taking the lead in engaging with the 2008 Bill was the IHRC. In its submission to the UN Universal Periodic Review in March 2008,⁵⁴⁴ IHRC addressed in particular the proposals for extending the pre-charge detention period – arguing that there was little evidence that even the current 28 days period was needed or used; that even the existing period was the longest in all comparable liberal democracies; and that the present conditions of pre-charge detention at Paddington Green Police Station (of solitary confinement in cells without sunlight) were the worst they could be short of inhumane or degrading treatment or punishment. The only notable Muslim organisation to have dissented from the IHRC submission was the British Muslim Forum (BMF), a relative newcomer at the time to the representation of Muslim communities in British public life. The BMF appeared to argue that, whilst it was against it in principle, the extension to the pre-charge period may be required for national security and was inevitable from the governments perspective, and therefore, it was more

⁵⁴² The Terrorism Act 2006 (Commencement No. 2) Order 2006.

⁵⁴³ Report produced by Lord Macdonald QC, the former Director of Public Prosecutions, to coincide with the publication of the Counter-Terrorism Review commissioned by the Coalition Government on taking office. See: HM Government, *Review of Counter-Terrorism and Security Powers – Review Findings and Recommendations*, London: The Stationery Office, January 2011; and *Review of Counter-Terrorism and Security Powers – A Report by Lord Macdonald of River Glaven QC*, London: The Stationery Office, January 2011.

⁵⁴⁴ See: IHRC Briefing, United Kingdom – Submission to the UN Universal Periodic Review, London: IHRC, Saturday 1 March 2008. The IHRC also made an oral statement on pre-trial detention at the UN Human Rights Council in Geneva. See: IHRC Press Release, Islamic Human Rights Commission (IHRC) Makes an Oral Statement at Human Rights Council, United Nations Regarding Pre-Trial Detention in Britain, London: IHRC, 11 June 2008.

constructive to accept and seek adequate protections and safeguards than to fight it.⁵⁴⁵ However, the BMF position was flatly refused by the Muslim community leadership as a whole, including core members of the BMF.⁵⁴⁶ The provision was subsequently dropped from the Bill after a defeat in the House of Lords on 13 October 2008, and rather than reverse this defeat with another difficult vote in the House of Commons, the Government let it pass and drafted instead a Counter-Terrorism (Temporary Provisions) Bill that would stand ‘ready to be introduced if and when the need arises’.⁵⁴⁷ The Bill was, however, never introduced in Parliament. Instead, having opposed the proposals for the extension of the pre-charge period in 2006 and 2008, and subsequent to a review of some of the ‘most sensitive and controversial security and counter-terrorism powers’ in 2010,⁵⁴⁸ the partners in the Coalition Government allowed the relevant provisions in the 2006 Act to expire in 2011, reverting to a maximum detention without charge period of 14 days – and this was made permanent through primary legislation the following year, through the Protection of Freedoms Act 2012. Fourteen days is still the longest period of pre-charge detention of any comparable democracy – in the USA the limit is two days, in Ireland it is seven, in Italy it is four and in Canada it is just one.

The most notable provisions introduced by the 2008 Act included allowing the police to be able to remove documents from a property to decide whether or not they need to be legally seized as part of an investigation; and powers to seize the assets of those convicted of terrorism related offences and to require them to register and notify the police of their whereabouts (similar to existing requirements for sex offenders). The most important provisions from the perspective of this study, however, are those allowing the police greater use of DNA samples and to take fingerprints and DNA samples from individuals who were subject to control orders. The Act also made it an offence to elicit, attempt to elicit, or publish information ‘of a kind likely to be useful to a person committing or

⁵⁴⁵ This was confirmed in an interview for this study with the Chair of the BMF at the time, Khurshid Ahmed. See, also: <https://www.theguardian.com/commentisfree/2008/jun/11/civil liberties.terrorism>.

⁵⁴⁶ For example, an emergency meeting was called by a key founding member of the BMF, Maulana Bostan Qadri, where the chair of the BMF was first asked to account for his position and statements, and then to change them. There was also a stinging attack on the organisation and its leadership even from some senior Muslim Labour politicians, eg, from Lord Ahmed of Rotherham, who suggested that BMF were not reflecting the position of their own constituencies but kowtowing to Government. See: <http://www.salaam.co.uk/muslimsinbritain/?p=698>.

⁵⁴⁷ See: Jacqui Smith, House of Commons, Hansard, 13 October 2008, c.624.

⁵⁴⁸ HM Government, Review of Counter-Terrorism & Security Powers – Review Findings and Recommendations, op. cit.

preparing an act of terrorism’ about a constable, a member of Her Majesty’s Armed Forces, the Security Service, the Secret Intelligence Service, or Government Communications Headquarters. However, there was very little engagement on any of these provisions from British Muslim communities.

British Muslim engagement and impact

The final section of this chapter returns to consider briefly how British Muslims engaged with New Labour initiatives – in this case the development of some of the key legal provisions to prevent terrorism and promote security. Returning to Dinham and Lowndes, it is clear that, in contrast to the last chapter, the initiatives discussed in this chapter are a better fit for their framework – in that the initiatives discussed in this chapter were mostly derived from and driven by government. It is also clear that the part of their continuum of faith actors and roles most engaged by these initiatives was that focused on communities and organisations – in this case, more specifically, Muslim communities and organisations. In examining the patterns of engagement on the initiatives discussed in this chapter, it would appear that faith networks played a far lesser role than in relation to the initiatives in the equality policy domain. Individuals, whether as faith leaders or representatives also played a lesser role, except in the context of faith organisations – though there were exceptions to this, eg, the role played by Tazeen Said in Liberty. There is a parallel in this chapter, however, with the last chapter – drawing on the extended part of the Dinham and Lowndes framework as developed in Chapter 1: it is clear that British Muslims were mostly responding to the developments discussed in this chapter, mostly by virtue of their own initiative. The response, however, was characterised by two elements: first, it was far more defensive; and second, the response and the resulting engagement, partnering with other civil and human rights organisations, targeted much more the different organs of the legislature (Parliament) and judiciary (the courts) than just the executive (Government) – the focus being very much to stop, change or overturn the governments initiatives.

This chapter also makes it clear that British Muslim engagement in the security policy domain was very limited before 2001, but picked up very fast after 9/11, when this became an important arena for them for engagement and lobbying. In this engagement,

Muslim organisations generally accepted that there was a threat to the UK from international terrorism – and terrorism generally should be condemned and challenged by all. The government’s position was that protecting British citizens’ freedom to live and go about their lives without fear of terrorism is more important than the civil liberties of suspected terrorists. However, Muslim organisations generally disagreed that the government’s approach, its legal provisions and their implementation were the best way to address the threat of terrorism. They believed that the threat of terrorism should not be used as a pretext to infringe human rights.⁵⁴⁹ Quoting Lord Scarman, they argued that ‘it is when fear is stalking the land that the bill of rights is needed most’.⁵⁵⁰ Thus, they argued that any legislative response to terrorism should adhere to the following principles: it must be necessary and proportionate bearing in mind powers already available under the ordinary criminal and civil law of this country; the language of the provisions must be clear and certain – particularly where the definition of terrorism was not, but was instead politically loaded, conceptually confusing and lacking an wide acceptance; there must be adequate safeguards and mechanisms of accountability incorporated into the response to ensure that powers are not open to abuse – such safeguards being particularly necessary for confidence building in ethnic and religious minority communities towards law enforcement agencies; and any new measures adopted must be carefully circumscribed within and limited to the exceptional situation that justifies them – ie, they must not be too broad or disproportionate to national security or law and order needs. They also argued that where new powers are intended to be permanent and are not time-limited by sunset clauses, in view of the gravity of these powers and their implications for individual civil rights, they should only be adopted after extensive consultation and parliamentary scrutiny, and not in such haste; existing provisions should be given a chance to bed before new ones are rushed through – eg, TA2000 before many of the provisions in ATCSA2001; and before substantial new powers are given to law enforcement agencies, careful consideration must be given to the background they are being introduced in – in this instance, there was pre-existing and increasing tensions between Muslim communities and law enforcement agencies given the social and political climate and tone of media coverage at the time, resulting in a substantial risk that these additional powers could be used in a discriminatory manner, as indicated by the Macpherson and Denham

⁵⁴⁹ As powerfully argued by many prominent human rights advocates. See, for example: UN High Commissioner for Human Rights, A/56/36, p.43.

⁵⁵⁰ Lord Scarman, as quoted in F. Klug, Now We Really Need Rights, The Observer, 7 October 2001.

reports.⁵⁵¹ They believed that arbitrary powers were likely to lead to miscarriages of justice – and would only make matters worse.

Though it may not have appeared so at the time, British Muslim engagement with the proposed and final legal security provisions, coupled with the principles from which they lobbied, though slow to start, bore tremendous impact and results over time.⁵⁵² The arguments they presented were rich, and working with others – sometimes even the media,⁵⁵³ but mostly other civil society human rights organisations – on many occasions they were able to either get the government to concede at the Bill stage (eg, with regards to extension of pre-charge detention to 90 or 42 days) or overturn or modify the law through case law in the courts (eg, with regards to s.44, Sch.7, indefinite detention and control orders). Sometimes, working with law enforcement agencies, they were able to modify practice on the ground – for example, in relation to dawn raids and recording by religion.⁵⁵⁴ Some of the provisions were ineffective (eg, the glorification provisions), and in some cases these provisions have died their own death (eg, extension of pre-charge detention to 28 days). In some cases, however, the provisions remain, are detrimental to Muslim communities, but little progress has been made to change them – eg, with regards to the wide definition of terrorism, proscription and the confiscation of assets.

The impact of the legal provisions in the security policy domain, along with the other provisions and measures discussed in Chapters 2–5, on the integration of Muslims into British society will be discussed in chapter 6, which is devoted solely to this discussion.

⁵⁵¹ W. Macpherson, *The Stephen Lawrence Inquiry Report*, London: Home Office, 1999; J. Denham, *Building Cohesive Communities: Report of the Ministerial Group on Public Order and Community Cohesion*, London: Home Office, 2001.

⁵⁵² The Muslim frustration with the Government on counter-terrorism provisions (and on equality provisions) was summed up by one interviewee for this research: ‘New Labour consulted everyone and listened to no one, and then they wanted to stage manage the Muslim voice as well’ – Interviewee 9 on 6 June 2016.

⁵⁵³ The FAIR submissions on the 2001 Bill attracted some attention in Government and the media. The Home Office sought an urgent meeting with FAIR officers to try and understand its concerns better. The meeting was attended by the present author. The *Sunday Times* captured a few of the key points of the first two submissions, even if dramatically sensationalised with the heading ‘Muslim leaders warn of riots over anti-terror law’, though not much from the third submission, which provided a clause by clause response to the Bill. See: S. Carrell, *Muslim leaders warn of riots over anti-terror law*, *The Sunday Times*, 11 November 2001.

⁵⁵⁴ This work was mostly done by the Muslim Safety Forum (MSF), and information on it was discovered quite late in an interview for this study with one of its former chairs, Azad Ali. However, the MSF does not have an office, its files are not organised in one place but dispersed between several individuals’ homes, and it was not possible to get a deeper understanding of this engagement for this study.

Chapter 5: The non-legal measures to promote security and counter terrorism

Introduction

This chapter will consider the final quadrant of this study, the non-legal measures introduced by New Labour to promote security and counter terrorism in the UK. Once more, the chapter will begin with some general background information to provide a better understanding of the measures. The chapter will then critically trace and assess the genesis, development and substance of the key New Labour non-legal measures to promote security and counter terrorism. It will examine the engagement and role of British Muslims in the development and delivery of these measures. In particular, the chapter will explore some of the community intelligence, research and communications initiatives – eg, the Joint Terrorism Analysis Centre (JTAC) and the Research, Information and Communications Unit (RICU); the community engagement and leadership initiatives – eg, Preventing Extremism Together (PET), the Mosques & Imams National Advisory Board (MINAB), the Muslim Women’s Advisory Group (MWAG) and the Young Muslims Advisory Group (YMAG); the theological initiatives – eg, the Muslim Faith Leadership Training Review, the Cambridge-Azhar Imam Training Programme and the Contextualising Islam in Britain (CIB) project; the educational, awareness and de-radicalisation initiatives – eg, the Islam & Citizenship Education (ICE), Young, Muslim & Citizen (YMC), Radical Middle Way (RMW) and Channel projects; the local work – eg, in developing local partners and projects; and the specific sites of radicalisation initiatives – eg, at universities, prisons and on the internet. The chapter will conclude with a section on the impact of British Muslim engagement on these initiatives and the security agenda generally.

The Background

The non-legal measures to promote security and counter terrorism in relation to British Muslims, subsequently identified as ‘Prevent’, started soon after the 9/11 atrocities, alongside the work on new legislation that primarily targeted terrorism in the name of Islam. Though linked, this work was separate from that which came out of the northern

cities disturbances earlier that year focused on ‘community cohesion’.⁵⁵⁵ Certainly, New Labour governments saw these two areas of work as distinct and sought to keep them separate, even when both areas of work were being led by the same government department – initially the Home Office and then the DCLG. Part of the counter-terrorism work in the community was subsequently transferred back to the Home Office when the Office for Security and Counter-Terrorism (OSCT) was formed in 2007. What remained at the DCLG continued to be kept separate from the cohesion work – and even under John Denham MP, towards the end of the New Labour era, when there was greater recognition and endorsement of the overlap, the work was still undertaken almost entirely through separate structures and budgets.⁵⁵⁶ In fact, the need for this separation of the work was positively articulated on numerous occasions – for example, in submissions and evidence to the Parliamentary Select Committee on Communities and Local Government: ‘We are working to ensure that everyone has the opportunity to live in a safe, prosperous and healthy community. Prevent contributes to this as do a number of other related but *distinct* programmes, including promoting community cohesion, tackling hate crime and other forms of extremism’,⁵⁵⁷ and ‘it would be a mistake to remove those key areas of the Prevent programme and say we will just call that “community cohesion” and not necessarily address those issues or we will just have Pursue and Channel. That strategy would be leaving a big gap in the work of Prevent at the moment’.⁵⁵⁸ However, the separation of the work was not always clear at the operational level and felt on the ground by Muslim communities.⁵⁵⁹

⁵⁵⁵ See: A. Turley, *Stronger Together – A new approach to preventing violent extremism*, London: New Local Government Network, August 2009, p.12-13. For the key documents on community cohesion thinking and work, see: T. Cante, *Community Cohesion – A Report of the Independent Review Team*, London: Home Office, 2001; Home Office, *Improving Opportunity, Strengthening Society – The Government’s Strategy to increase Race Equality and Community Cohesion*, London: Home Office, 2005; D. Dorling, *A Think-piece for the Commission on Integration and Cohesion*, London: The Stationery Office, 2007; Commission on Integration and Cohesion (CIC), *Our Shared Future*, London: HMSO, June 2007; DCLG, *The Government’s Response to the Commission on Integration and Cohesion*, February 2008; DCLG, *Face to Face and Side by Side – A framework for partnership in our multi-faith society*, July 2008.

⁵⁵⁶ For more information on this recognition and endorsement of the overlap, see sub-section below on Community Engagement and Leadership Initiatives.

⁵⁵⁷ DCLG, Memorandum to the Select Committee on Communities and Local Government, October 2009.

⁵⁵⁸ J. Denham MP, Secretary of State for DCLG, Oral Evidence to Select Committee on Communities and Local Government, 18 January 2010.

⁵⁵⁹ Thus, for example, note the evidence of Sir Norman Bettison, the ACPO lead on Prevent, to the Communities and Local Government Select Committee on 11 January 2010 and to the Prevent Review on 7 June 2011, and the following submissions from Muslim civil society organisations: S. Gohir, Submission from the Muslim Women’s Network UK for the Inquiry into the Preventing Violent Extremism Programme, Birmingham: MWNUK, September 2009; and Engage, Submission to the Communities and Local Government Committee Inquiry into ‘Preventing Violent Extremism’, London: Engage, September 2009.

The genesis of the non-legal security and counter-terrorism work with and in British Muslim communities can be traced back to the preparatory work to the UK's first overarching counterterrorism strategy, CONTEST, to around early 2002.⁵⁶⁰ The work was initiated under the then Security and Intelligence Co-ordinator, Sir David Omand, and noted in the first counter-terrorism strategy that came into effect in 2003, but was not fully set out in a public document until 2006.⁵⁶¹ The initial work was developed without any formal public consultation, and despite more than a decade passing from the publication of the first CONTEST strategy, and two further iterations of it in 2009 and 2011, there has still been very limited public consultation on or review of this UK strategy. The Home Affairs Select Committee examined the strategy in 2008 – however, with the exception of written evidence from Amnesty International, the written and oral evidence received by the Committee was limited to those involved in the implementation or delivery of the strategy. Across all three iterations of the CONTEST strategy, it has maintained the same overarching aim and structure. The strategic aim identified in CONTEST was to ‘reduce the risk...from terrorism so that people can go about their lives freely and with confidence’.⁵⁶² CONTEST 1 (the 2006 iteration) drew a distinction between domestic and international terrorism, and identified international terrorism as its focus. This meant that terrorism related to Northern Ireland and domestic far right extremism was outside the scope of CONTEST, which in effect meant that it focused only on AQ inspired or related terrorism. Throughout the New Labour years, this remained the case, and it was only in CONTEST 3 (the 2011 Coalition Government iteration) that this distinction was removed and all forms of terrorism came within the scope of the strategy. In terms of structure, the strategy identifies four strands of work: Pursue, Prevent, Prepare, and Protect. Pursue focuses on detecting and investigating terrorist threats and disrupting terrorist activity as well as prosecuting those who have committed criminal offences. Much of this is now under counter-terrorism legislation – and as such, has been dealt with under the previous chapter. Protect seeks to reduce physical vulnerability by

⁵⁶⁰ CONTEST – The UK's Strategy for Countering International Terrorism, London: Home Office, 2003.

⁵⁶¹ Note the Government's initial mapping out of the key elements of the PVE strategy in: Foreign and Commonwealth Office, Draft Report on Young Muslims and Extremism, London: FCO, 2004. See also: HM Government, Countering International Terrorism, London: The Stationery Office, 2006; DCLG, Preventing Violent Extremism – Winning hearts and minds, London: DCLG, 2007; and Home Office, CONTEST 2 – The UK's Strategy for Countering International Terrorism, London: Home Office, 2009.

⁵⁶² HM Government, Countering International Terrorism, London: Stationery Office, 2006, p.9; HM Government, Pursue, Prevent, Protect and Prepare, London: Stationery Office, 2009, p.56; and HM Government, CONTEST 3 – The UK's Strategy for Countering Terrorism, London: The Stationery Office, 2011, p.9.

strengthening physical protection against a terrorist attack in public places and on national infrastructure, including the transport system and border security, and Prepare focuses on dealing with the scene and aftermath of an attack where it could not be stopped – eg, planning and co-ordinating the roles and work of the security and emergency services immediately after an attack.⁵⁶³ Both Protect and Prepare are seen as having less direct differential impact specifically on Muslim communities that may not also be captured under Pursue, and will therefore not be further covered in this study.

For the purpose of this chapter, then, the remaining and most relevant part of the CONTEST strategy is its section on ‘Prevent’, more fully called ‘Preventing Violent Extremism’ (PVE) in the early days. The aim of Prevent from the beginning was to stem radicalisation, reduce support for terrorism and discourage people from becoming terrorists.⁵⁶⁴ Whilst nominally in place since 2003, it took on a more central role in the overall CONTEST strategy, and was significantly developed, in the aftermath of the 2005 London bombings, and the involvement of young British Muslim citizens in that atrocity.⁵⁶⁵ The need to work more closely with young Muslims and their communities on counter-terrorism, to ‘win hearts and minds’ – particularly of young people who may be vulnerable to persuasion to support terrorists and who might ‘reject and undermine our shared values and jeopardise community cohesion’, was particularly strongly emphasised in the period after the 2005 bombings as a wide range of individuals active across Muslim civil society participated in the Preventing Extremism Together Working Groups that met over the summer of 2005. The Working Groups were set up by the Home Office and helped to explore the rationale and bases for Prevent and develop a range of recommendations for actions on eight themes.⁵⁶⁶ Whilst the Groups generally accepted the need to challenge and disrupt ideologies sympathetic to violent extremism, they also emphasised the need to not only address individual and group vulnerabilities – but also, and perhaps more strongly, increase the resilience of the Muslim community as a whole by addressing its various grievances.⁵⁶⁷ The Working Groups’ report, launched in

⁵⁶³ HM Government, CONTEST 3 – The UK’s Strategy for Countering Terrorism, op. cit., 2011, pp.13-18.

⁵⁶⁴ DCLG, Preventing Violent Extremism – Winning hearts and minds, London: DCLG, 2007.

⁵⁶⁵ See: Communities and Local Government Select Committee, Preventing Violent Extremism – Sixth Report of Session 2009-10, London: House of Commons, 2010.

⁵⁶⁶ Home Office, CONTEST 2 – The UK’s Strategy for Countering International Terrorism, op. cit., 2009, p.15.

⁵⁶⁷ Note, however, the strong feeling in Muslim communities that, whilst they were widely consulted, Government did what it wanted to anyway, ignoring what they said – this is further discussed in Chapter 6. For a critique of the Governments approach, see: P. Thomas, Failed and Friendless – The UK’s ‘Preventing

November 2005, made 64 recommendations, including 27 directed towards government.⁵⁶⁸ The Working Groups and their report contributed to a refreshed cross-cutting Prevent policy across Government and a whole new unit at the Home Office, the Prevent Unit, which was transferred, as it was being formed, to the new Department for Communities and Local Government (DCLG) with the restructuring in government at the time.⁵⁶⁹ This meant that whilst a number of government departments and agencies each had their specific policy interests and owned and delivered significant parts of the Prevent strategy, the Prevent Unit contributed to co-ordinating the delivery of all elements of the strategy and led the community based response to violent extremism.

The Prevent Unit – its mission, objectives and work, were underlined by a strong narrative from the start from No.10 itself. This narrative held that terrorism was caused by the presence of radical and extremist theology and ideology. Radicalisation and extremism were defined as opposition to British values. To prevent terrorism, according to this narrative, the government needed to intervene to stem the expression of radical and extremist theological and ideological opinions and demand allegiance to British values – it needed to identify and promote ‘good Muslims’ to silence ‘bad Muslims’.⁵⁷⁰ This mantra was repeatedly promoted by government Ministers – even whilst there was a growing body of academic, policy and parliamentary scrutiny work which suggested that, as an account of what causes terrorism, it did not stand up to scholarly examination and was fundamentally flawed. The Parliamentary Select Committee on Communities and Local Government, for example, concluded that there was a ‘pre-occupation with the theological basis of radicalisation, when the evidence seems to indicate that politics, policy and socio-economics may be more important factors in the process’, and therefore, suggested that ‘attempts to find solutions and engagement with preventative work should

Violent Extremism’ Programme, *British Journal of Politics & International Relations*, Vol.12(3), August 2010, pp.442-58. See also: C. Heath-Kelly, Counter-Terrorism and the Counterfactual – Producing the ‘Radicalisation’ Discourse and the UK PREVENT Strategy, *British Journal of Politics and International Relations*, Vol.15(3), 2013, pp.394-415.

⁵⁶⁸ DCLG, Preventing Violent Extremism – Winning hearts and minds, op. cit.

⁵⁶⁹ Note that whilst there remained a Prevent Unit at the DCLG throughout the New Labour years, the lead for the Prevent policy was later transferred back to the Home Office with the formation of the Office for Security and Counter-Terrorism (OSCT) in 2007. The Coalition Government repatriated the whole of Prevent back to the Home Office – ostensibly to separate Prevent from cohesion/integration work, but perhaps more as a cost saving measure – see: T. O’Toole et al, Taking Part – Muslim Participation in Contemporary Governance, op. cit., p.61.

⁵⁷⁰ For a critique of this narrative and approach, within the overall context of the War on Terror, see: G. Kassimeris and L. Jackson, The West, the Rest, and the ‘War on Terror’ – Representation of Muslims in neoconservative media discourse, *Contemporary Politics*, Vol.17(1), March 2011, pp.19-33.

primarily address the political challenges'.⁵⁷¹ Throughout the New Labour years, however, Prevent focused on countering 'violent radicalisation and extremism', and at times even allowed government and public organs and agencies to fund and work with groups and organisations that clearly opposed violence but shared aspects of the theology and/or ideological views of those involved in violence.⁵⁷² However, this changed with the Coalition Government and the third iteration of the Prevent Strategy in 2011, when a clear shift was made to widen the focus of Prevent to include the broader set of ideas that it argued underpinned radicalisation. Thus, 'preventing terrorism', post the New Labour years, has involved challenging non-violent extremist ideas 'that are also part of a terrorist ideology'.⁵⁷³ This expansion was repeatedly suggested to New Labour, but not officially adopted.

The alternative to No.10's single narrative, as expressed by many of the Muslim organisations and community leaders, was an account of the causes of terrorism that suggested that radical religious theology and ideology did not on their own correlate well with incidents of terrorist violence and that terrorism was best understood as the product of complex interactions between state and non-state actors.⁵⁷⁴ It argued that the factors which lead someone to commit acts of terrorism are multiplex and cannot be reduced to just holding a set of values deemed to be radical. It pointed towards the fact that there was little evidence to support the view that there was a single cause or route to terrorism. It advocated that accepting this alternative analysis had significant beneficial implications for the development of policies to reduce the risk of terrorism – it would result in a very different and more sophisticated approach to that emanating from the No.10 narrative.

⁵⁷¹ House of Commons Communities and Local Government Committee, Preventing Violent Extremism, London: The Stationery Office, 30 March 2010, pp.3 and 66-7. For a fascinating rebuttal of this obsession with the theological roots of radicalisation over its political dimensions, see: M. Sobolewka, Religious Extremism in Britain and British Muslims – Threatened Citizenship and the Role of Religion, in R. Eatwell and M. Goodwin (eds.), *The New Extremism in 21st Century Britain*, London: Routledge, 2009, 23-46.

⁵⁷² For a discussion on the merits of this approach, see: J. Bartlett et al, *The Edge of Violence – A radical approach to extremism*, London: Demos, 2010. In fact, one of the recommendations of this paper is to maintain this distinction between violent and non-violent radicalisation – so as not to push those who may hold radical views but oppose terrorist groups into terrorism, but instead to hold them as allies in the fight against violent extremism and terrorism.

⁵⁷³ HM Government, *Prevent Strategy*, London: The Stationary Office, 2011, p.6. For a commentary on the development of Prevent in the post New Labour era, see: J. Barlett and J. Birdwell, *From Suspects to Citizens – Preventing Violent Extremism in a Big Society*, London: Demos, 2010.

⁵⁷⁴ For a rich discussion on the complex causes and routes to violent extremism, see: more research on the how some forms of radicalisation may lead to violence and others not see: J. Bartlett et al, *The Edge of Violence*, op. cit., and The Change Institute, *Studies in Violent Radicalisation – Beliefs, ideologies and narratives*, London: Change Institute, February 2008.

Rather than a broad policy that sought to criminalise or restrict radical and extremist opinions, and deal with all Muslims only through that prism, it would focus on individuals and groups who are reasonably suspected of being vulnerable to engaging in some form of terrorism. As for the rest of the Muslim community, just as with the rest of society, there would be meaningful engagement with them and response to their concerns and needs, in the respective policy domains ‘upstream’ and ‘outside the security arena’, irrespective of whether they were friendly to or critical of Government.⁵⁷⁵ The best way of preventing terrorist violence was to widen the range of opinions that could be freely expressed, not to restrict them. It argued that only such an approach could ‘win Muslim hearts and minds’ and avoid the nurturing of a new generation of disadvantaged, marginalised, disenfranchised and antagonised Muslim citizens – that appeared to be the end result of many areas of government policy and practice at the time, including Prevent.⁵⁷⁶

The No.10 narrative dominated the corridors of Whitehall and the Government's public messaging. Initially articulated and fleshed out in a speech by Ruth Kelly MP, the new Secretary of State for the DCLG, in October 2006,⁵⁷⁷ and subsequently reinforced by her successor Hazel Blears MP,⁵⁷⁸ the narrative and the Government position that it would fundamentally rebalance its engagement with Muslim organisations towards those actively taking a leadership role in rejecting and condemning violent extremism and upholding shared values was promoted and protected by an Advisor engineered by No.10 into the new Prevent Unit at the DCLG. The Advisor sought to ensure that the civil service policy and delivery leads, mostly new to this area of work and without much knowledge of Muslim communities, and work of the new Prevent Unit were aligned with this

⁵⁷⁵ On this point about not channelling all engagement with Muslim communities through the prism of Prevent, but engaging with Muslims as part of wider society and within a ‘framework that targets all fragile and vulnerable communities’, and allowing them to grow into resilient communities organically in the long-term, see: R. Briggs, *Community Engagement for Counterterrorism – Lessons from the United Kingdom*, *International Affairs*, Vol.86(4), 17 June 2010, pp.971-81.

⁵⁷⁶ For this alternative narrative, see: A. Kundnani, *Spooked – How not to Prevent Violent Extremism*, London: IRR, October 2009; *The Muslims are Coming! Islamophobia, Extremism and the Domestic War on Terror*, London: Verso, 2014; and *A Lost Decade – Rethinking Radicalisation and Extremism*, London: Claystone, 2015.

⁵⁷⁷ See: R. Kelly, *Britain – our values, our responsibilities*, 11 October 2006 – Speech by Communities Secretary, Rt Hon Ruth Kelly MP, held at Local Government House, London.

⁵⁷⁸ See: *Many Voices – Understanding the debate about preventing violent extremism*, 25 February 2009 – lecture delivered at the London School of Economics (LSE). Note, however, the different approach taken by her successor, John Denham MP, who sought wider engagement with Muslim communities and re-engaged the MCB.

narrative, and that where required new voices in the Muslim community were identified, promoted and funded to support this narrative and work. Thus, for example, a whole new cadre of people, with very little experience of representing diverse Muslim communities in national public life, came to prominence, setting up organisations like the Sufi Muslim Council and the British Muslim Forum. With very little actual grassroots support, these organisations fell away just as quickly as the funding dried up from Whitehall. Other advisors and civil servants already at the DCLG and FCO, and subsequently at the Home Office, mostly fell in line with this dominant narrative and ensuing work, and consequently this approach remained strong throughout the period of Tony Blair MP as Prime Minister. However, the alternative approach was not without its advocates and supporters. Critical to this alternative approach was the appointment of FaithWise, by the Civil Service itself, to advise ministers and senior civil servants on race, religion and community cohesion at the DCLG.⁵⁷⁹ FaithWise successfully convinced the DCLG to commission two significant pieces of research and policy work – one on the complex causes of radicalisation and the other on how the Government might actually win hearts and minds in Muslim communities.

The first commission resulted in a published report.⁵⁸⁰ The report suggested that radicalisation could not be explained by radical theology and extremist ideology alone, but resulted from a much wider and more complex interplay of factors to do with the British Muslim experience and identity politics. Based on an overview of some of the existing social science research evidence at the time, it suggested that religion was increasingly an important aspect of British Muslim identity, and that the reasons for this foregrounding of religion were diverse and complex.⁵⁸¹ The public attacks and disparagement of Islam and Muslims, combined with the discrimination and disadvantage British Muslims were already facing, were significant external factors that led to

⁵⁷⁹ Note that the present author was the Director of FaithWise at the time. Note, also that there was similarly at least one alternative voice at the Home Office – which resulted in the Home Office engaging with Salafis in Brixton, through the STREET project, to help counter violent extremism and terrorism.

⁵⁸⁰ T. Choudhury, *The Role of Muslim Identity Politics in Radicalisation*, London: DCLG, 2007.

⁵⁸¹ The increasing prominence of religion as a marker of identity among Muslims has been noted in a growing body of literature from about the 1990s. See, for example: T. Khaldi, *Religion and Citizenship in Islam*, J. Nielsen (ed.), *Religion and Citizenship in Europe and the Arab World*, London: Grey Seal Books, 1992; T. Modood et al, *Changing Ethnic Identities*, London: Policy Studies Institute, 1994; P. Lewis, *Islamic Britain – Religion, Politics, and Identity Among British Muslims*, London: IB Tauris, 1994; T. Modood, *Anti-Essentialism, Multiculturalism and the ‘Recognition’ of Religious Groups*, *Journal of Political Philosophy*, Vol.6(4), 1998, pp.378-99; J. Jacobson, *Islam in Transition – Religion and Identity among British Pakistani Youth*, London: Routledge, 1998.

increased in-group identification and solidarity based on religious identity. They also led to a spectrum of assertive responses – ranging from Muslim civil society mobilisation to address the prejudice, discrimination and disadvantage to a retaliatory ‘strong’ and ‘macho’ Muslim identity amongst sections of young Muslim men in the face of feelings of socio-economic underachievement on the domestic front and ‘weakness’ in relation to certain international geo-political interests and concerns. However, there were also important internal factors for the emerging salience of religion in British Muslim identity. Studies of young Muslim women showed how religious discourse was being used for internal empowerment – how it played an important role in resisting parental and community restrictions and negotiating their space in Muslim communities and wider society. Similarly, research among young Muslim men found that their Muslim identity provided them with hope and aspirations that allowed them to see beyond their parents’ unemployment and the street and drug cultures in their neighbourhoods.⁵⁸²

The report suggested that in many ways British Muslim identity politics was much the same as the identity politics of other disadvantaged sections of British society – for example, women, ethnic and religious minorities (eg, Black, Jewish and Sikh communities), LGBT minorities, the disabled and the aged. It was being developed and deployed in many different and diverse ways. At its best, the politics of identity could be a trigger for wider civil and political participation – and thus, could encourage and support integration. Indeed, as already noted in Chapter 2, action against prejudice, hostility and discrimination and for the accommodation of religious needs in employment and the delivery of goods and services played an important role in the initial mobilisation of Muslim communities towards greater civic and political engagement. These campaigns indicated affection rather than disaffection; they showed a commitment to Britain and a wish, by Muslims, to make themselves more at home in Britain. Some argued that because this mobilisation was based on religious identity it perpetuated segregated identities.⁵⁸³ However, research at the time suggested that activism for ethnic and religious identity

⁵⁸² For a deeper discussion on these complex issues around identity, especially amongst the Muslim youth, see: A. Mustafa, *Identity and Political Participation Among Young British Muslims – Believing and Belonging*, Basingstoke: Palgrave Macmillan, 2015.

⁵⁸³ See, for example, G. Kepel, *Allah in the West – Islamic Movements in America and Europe*, Cambridge: Polity Press, 1997, pp.112-16; S. Fielding and A. Geddes, *The British Labour Party and ‘Ethnic Entryism’ – Participation, Integration, and the Party Context*, *Journal of Ethnic and Migration Studies*, Vol.24(1), 1998, pp.57-72; C. Husband, *The Place of Muslims in British Secularism*, in N. Al-Sayyad and M. Castells (eds.), *Muslim Europe or Euro-Islam*, Lanham, MD: Lexington, 2002.

based causes, even when conflictual, accelerated integration. Such activism provided pathways into engagement in other forms of civic and political participation. Whilst Muslim identity politics was an important trigger for mobilisation and engagement, the process of participation was transformative in itself and individuals were then more likely to partake in wider processes of civic engagement. Analysis of the 2003 Home Office Citizenship Survey suggested that political activity by Muslims positively contributed to their sense of identification with Britain.⁵⁸⁴

The report was equally clear, however, that at its worst the search for identity could also be a point at which individuals, especially young men, could be vulnerable to isolation and ‘radicalisation’. Three key points emerged from a review of the research and literature at the time on the relationship between identity and radicalisation.⁵⁸⁵ The first point was that the process of radicalisation often involved a moment of personal ‘crisis of identity’ and a search for answers. Whilst defining oneself and one’s relationship with the world is part of the normal process of identity-formation amongst young people, for those on the road to radicalisation or already radicalised, this process created a ‘cognitive opening’, a moment when previous belief systems and explanations were found to be inadequate in making sense of the individual’s experiences and journey in life so far. At the individual level, radicalisation at this stage is not inevitable, but one of a spectrum of possible outcomes that might result from the search for a self identity or identity with a group – it depends much on the other two key points.⁵⁸⁶ The second point was that the answers received and chosen by the individual were shaped by their context and circumstances – the individual’s experience of their society. One model identifying individuals most at risk of radicalisation suggested that this process involved four ‘essential’ filters and indicators: their sense of being at odds with what they perceived to be the dominant values of society; their perception that society did not accept them; their perception that society

⁵⁸⁴ Home Office Citizenship Survey 2003 – People, Families and Communities, London: Home Office, 2004. See also: R. Maxwell, Muslims, South Asians and the British Mainstream – A National Identity Crisis? *West European Politics*, Vol.29(4), September 2006, pp.736-56.

⁵⁸⁵ These points were similarly captured in an analysis by the Dutch government – see: Directorate of General Judicial Strategy, Policy Memorandum on Radicalism and Radicalisation, Amsterdam: Ministry of Justice, 2005, pp.8-10; see also T. Veldhuis and J. Staun, *Islamist Radicalisation – A Root Cause Model*, The Hague: Netherlands Institute of International Relations Clingendael, October 2009.

⁵⁸⁶ For a more detailed discussion on this point of the ‘cognitive opening’, see: A. Beutel, *Radicalisation and Homegrown Terrorism in Western Muslim Communities: Lessons Learned for America*, Bethesda, MD: Minaret of Freedom Institute, 30 August 2007 – see in particular the schematic representation of the radicalisation process in Appendix A: Wiktorowicz’s diagram for joining a radical religious group.

did not afford them equal opportunities; and their sense of feeling marginalised and disadvantaged as a consequence – resulting in a feeling of alienation and a sense of injustice.⁵⁸⁷ All of these perceptions were, of course, affected by the mixed and contradictory messages from the state, the media and public discourse. The third point was that personal contacts and interpersonal relations and dynamics played an important part in how individuals ultimately navigated through their personal identity crisis and any negative experiences of society that may have shaped certain attitudes. Thus, for example, where leaders of Al-Muhajiroun, subsequently a proscribed group, and other actors targeted young Muslim university students and fed and reinforced to them, at this point of personal identity crisis, a message of a historical and contemporary Muslim religious and geo-political conflict with the West; present discrimination and blocked social mobility as individuals and as a community in Western societies; and a legal and political system in the UK that was not interested in their rights to equality and social justice – they were particularly successful in stimulating a radicalisation process that influenced and radicalised significant groups of young Muslims across Britain, some of whom later went on to commit terrorist atrocities either on their own, or in small groups, or as members of international terrorist groups and/or networks.⁵⁸⁸

The search for identity and identity politics, however, as mentioned above, did not necessarily and inevitably lead to radicalisation – there was no single conveyor belt as such. But to avoid the dangers of radicalisation, it was important to understand the experiences and challenges faced by young Muslims in Britain and to respond accordingly – in other words, the search for identity needed to be understood, addressed and channelled appropriately. At the point of the cognitive opening, when young Muslims

⁵⁸⁷ D. Pressman, *Countering Radicalisation – Communication and Behavioural Perspectives*, The Hague: Clingendal Centre for Strategic Studies, 2006.

⁵⁸⁸ Note that feeding a sense of blocked social mobility was a particularly successful recruitment tool amongst students for Al-Muhajiroun, because it is the upwardly mobile group that is most likely to believe ‘that they face a discriminatory system that prevents them from realising their potential’. Interestingly, then, the 2003 Home Office Citizenship Survey showed that for Muslims perceptions of discrimination, rather than actual socio-economic status, had a greater impact on their sense of belonging and attachment to Britain. This is not to say they did not face discrimination; indeed, they did – see: N. Khattub and R. Johnson, *Ethnic and Religious Penalties in a Changing British Labour Market from 2002 to 2010 – The Case of Unemployment, Environment and Planning*, Vol.45(6), 1 June 2013, pp.1358-71; N. Khattub and T. Modood, *Both Ethnic and Religious: Explaining Employment Penalties Across 14 Ethno-Religious Groups in the United Kingdom*, *Journal for the Scientific Study of Religion*, Vol.54(3), November 2015, pp.501-22. For an interesting overview account on the radicalisation process, see: A. Awan, *Transitional Religiosity Experiences – Contextual Disjuncture and Islamic Political Radicalism*, in T. Abbas (ed.), *Islamic Political Radicalism – A European Perspective*, Edinburgh: Edinburgh University Press, 2007, pp.207-30.

sought to re-evaluate their identity and construct a sense of what it meant to be a Muslim in Britain, the appeal of radical groups and actors reflected two further points. Firstly, the lack of religious literacy of Islam amongst some sections of the Muslim youth – the most vulnerable to radicalisation were religious novices exploring their faith for the first time, and as such, were not able to informedly evaluate whether the radical groups and actors were representing an accurate understanding of Islam. Secondly, the failure of many traditional religious institutions and organisations to connect with these young people and to address their concerns and questions. This was in large part due to the poor training of community leaders, and particularly imams and other community faith leaders, in some sections of the Muslim community – and the poor conditions of employment, in these sections, of faith leaders in institutions and organisations that should have been at the forefront of addressing the concerns of young Muslims. Despite these problems, however, the report noted that there was an influential discourse on a ‘European/British-Islam’ emerging, through a new home grown religious leadership outside the mosques landscape, that could be a powerful response to ‘radical Islam’ in the identity formation and politics of young Muslims.⁵⁸⁹ The rationale for this discourse was that there was a need to develop a European/British Islam because second generation Muslims had grown up and lived in Britain for so long that their parents’ version of Islam seemed ‘distant and irrelevant’. The signs were that when the search for identity was coupled with this new discourse, particularly when in opposition to more radical actors, voices and noises, it often resulted in a more ‘receptive, integrationist and dynamic’ Muslim identity – receptive because it was open to Western and other external influences; integrationist because it believed Muslims ought to be a full part of British and European society and to partake in all its civil and political processes; and dynamic because it acknowledged that as contexts change, so will the ways Muslims conceive of and practise their religion.⁵⁹⁰

⁵⁸⁹ See, for example, the works of T. Ramadan: *To Be a European Muslim – A Study of Islamic Sources in the European Context*, Leicester: The Islamic Foundation, 1999; *Islam, the West and the Challenges of Modernity*, Leicester: Islamic Foundation, 2003; and *Radical Reform – Islamic Ethics and Liberation*, Oxford: Oxford University Press, 2009.

⁵⁹⁰ For accounts of this discourse and its impact on British Muslim identity politics, see: J. Nielsen, *Towards a European Islam – Migration, Minorities and Citizenship*, Basingstoke: Palgrave Macmillan, 1999; M. Castells (ed.), *Muslim Europe or Euro-Islam – Politics, Culture and Citizenship in the Age of Globalization*, Kentucky: Lexington Books, 2002; S. Gilliat-Ray, *Muslims in Britain – An Introduction*, Cambridge University Press, 2010; A. Duderijia, *Emergence of Western Muslim Identity – Factors, Agents and Discourses*, in R. Tottoli (ed.) *Routledge Handbook of Islam in the West*, London: Routledge, 2014.

The report thus suggested that whilst interacting with a radical Islamist discourse in the search for Muslim identity could lead to radicalisation and resistance towards integration, engaging with the right discourse, the search for Muslim identity in Britain could also be a significant tool for facilitating the integration of Islam and Muslims in Britain and Europe and challenging radicalisation processes. In essence, the report therefore suggested that the government takes a step back from the No.10 approach of lumping all Muslim identity politics as part of the same ‘Islamist’ single narrative and try to understand it for what it is, how the extremists seek to hijack and misuse it and how the Government, working with Muslim communities, might respond to it. Towards these ends, and in more practical terms, the report makes a number of important recommendations. First, that as young Muslims struggle with and search for their identity, we should ensure that public and voluntary sector agencies are able to address and meet their needs. The appropriate form and level of support will, of course, depend on their individual and specific needs, but ensuring ‘faith sensitivity’ in such circumstances is critical to such support. The report suggested various mechanisms for doing this: firstly, by extending the public sector equality duty, which at the time only covered race, gender and disability, to also cover religion; by using Public Service Agreement targets to ensure that faith sensitivity is designed into the delivery of public services; and by considering the ways in which existing regulatory and public service inspection regimes could be used to achieve this.

Secondly, by addressing the diverse manifestations of Islamophobia as a society and throughout society, and particularly through all the levers available to Government. Experiences of Islamophobia resulted in a sense of not being accepted or belonging to society, and the report suggested that action be taken to address: public misunderstandings and stereotypes about Islam – for example, through careful government messaging that help and not hinder integration and cross-community cohesion and solidarity; prejudice, hatred and hostility towards Muslims – for example, through strengthening the criminal law and the recording and monitoring provisions in this regard; and direct, indirect and institutional discrimination against Muslims on grounds of their religious beliefs and practices – for example, through strengthening all the appropriate civil law and administrative measures available in this respect. The report particularly recommended the need to address the issue of blocked social mobility.

Thirdly, that as young Muslims seek to construct their Muslim identity in Britain, the British Muslim community as a whole should be better equipped to assist them in this journey towards more positive outcomes. This was, of course, primarily the responsibility of Muslim communities. However, as it was clear that Muslim communities on their own were not fully ready for this and might not get there soon, the report suggested a helping hand from government to facilitate the required thought leadership, discourse development, resourcing and capacity building in, around and for the Muslim communities. Thus, in order to address the lack of religious literacy of Islam amongst some of the Muslim youth, the report suggested that the Government could ensure that the RE syllabus and other areas of the curriculum, including history and art, were further developed to cover Islam, its history and contribution to civilisation more widely and thoroughly. Government could also initiate and support the development of quality resources to be used in formal and informal Muslim educational establishments and set-ups and Muslim homes. Government could further consider the ways in which faith leadership training could be strengthened and the conditions of employment of faith leaders improved – so that better quality home-grown leaders are attracted to and trained for such roles, who can more effectively engage with young Muslims to address their needs and concerns. The report also suggested that the Office of the Third Sector should include among its priorities capacity building in the Muslim voluntary sector in order to lead this work in the long term. Finally, the report suggested that the Government should support the emerging discourse on a ‘European/British-Islam’, particularly its focus on Muslim identity as engaged citizenship, in order to expedite the fullness of the integration of Muslims in British and European society.

The second commission, though never published, was an equally important (internal) document.⁵⁹¹ The document, in the form of an extended paper, sought to provide a road map for understanding British Muslim communities, government engagement with Muslim communities at the time and how government might play a more constructive role in moving the critical mass of significant Muslim communities towards contributing to greater societal cohesion and national security through a well thought out and implemented ladder of engagement for developing, promoting and embedding shared

⁵⁹¹ D. Hussain and M. Aziz, *Winning Hearts and Minds – Understanding and Engaging British Muslim Communities*, A Draft Discussion Paper, 2009 (unpublished).

values, aspirations and futures. The paper suggested that government needed to get beyond its simple one-dimensional understanding of and approach to Muslim communities as consisting of either moderates or extremists – as this was too simplistic, did not give sufficient recognition to the very complex diversity amongst British Muslims and was wholly inadequate for the purposes of Prevent and countering radicalisation and extremism.⁵⁹² Having provided a detailed breakdown of Muslim communities, both historically and in the present, the paper proposed that the Government move towards a two-dimensional approach that seeks at least to identify clearer demarcations on the single dimensional spectrum from cultural Muslims to violent extremists – eg, Indifferent, Liberal, Moderate, Conservative, Radical and Violent, and then sub-divide the spectrum into dominant strands as had developed over the previous centuries – eg, Esoteric, Literalist, Modernist, Political and Secular. This was visually presented as in the Trend/Outlook backdrop grid below. The paper suggested that this approach allowed for a more complex and accurate plotting of movements, organisations and individuals, and thus avoided some of the weaknesses and pitfalls of the one-dimensional approach. This was, of course, still a linear and simplified model. In reality, the different currents of the diversity in Muslim Communities moved and interacted in more complex ways as in any human community – and as such, the paper briefly discussed a possible multi-dimensional approach, which it suggested for future research, but felt that it might be too complex for government to move to considering where it was at the time in terms of its understanding of and approach to Muslim communities.

Having provided the grid for understanding Muslim communities, the paper suggested a criteria-based approach and process for plotting key Muslim movements, organisations and individuals onto that grid. The process included a three-part assessment – the dominant strand, position along that strand and the significance of those movements, organisations and individuals in the Muslim community and/or for the Prevent agenda. The paper suggested that the first and third parts of this three-part process were relatively straight forward, but the second part, of plotting along the strand, was more difficult as the information for this was less hard-edged and more qualitative. Placing the idea of

⁵⁹² For a good account of this diversity, see: R. Geaves, *Sectarian Influences within Islam in Britain*, Leeds: University of Leeds, 1996. For a more updated account, including diversity beyond the South Asia Muslim communities, see: I. Bowen, *Medina in Birmingham, Najaf in Brent – Inside British Islam*, London: Hurst, 2014.

good citizenship at the heart of the Prevent agenda, for this second part, the paper thus proposed six criteria as an initial starting point for assessing and plotting along the strands: position on the Westphalian model of the nation state, and in particular what this means in terms of the responsibilities of the state and the duties of the citizen; position on procedural secularism as the appropriate political philosophy and framework for the co-existence of different worldviews in Britain;⁵⁹³ position on democracy and the rule of law as the appropriate means of organising and sustaining political community/life and law and order in a society; position on pluralism/multiculturalism as the social reality and a social good that enriches society as a whole; position on international human rights values and standards as a collective human heritage providing the floor levels for civic values, ethics and morality for a pluralist society; and position on free-market economics, appropriately regulated and with safety nets such as the state welfare system, as the appropriate economic and social security model for a polity such as Britain. In view of the sensitivities such an assessment may generate, the paper suggested that any such assessment should be undertaken at arms-length from Government, that care be taken not to set tests for Muslim communities that are more arduous than may be the case for other communities, and that any resulting information be used by Government alongside other similar materials available from alternative sources. Notwithstanding these concerns, however, and using one of three possible alternatives to measure against the above criteria – the informed ‘sense’ approach, the traffic light approach and the scorecard approach – the paper suggested that it was possible to end up with something like the blue circles and green and red lines in the illustration further below, where the blue circles represented the position and influence of notable organisations and individuals, the red line indicated the limits of the law – beyond which organisations may be proscribed and individuals prosecuted, and the green line represented the limits of the shared values of, and required for, a cohesive society. The paper suggested that some Muslim organisations and individuals would fall between these two lines, and this is where a good engagement strategy would need to find a way of balancing shared values with shared interests which allowed the latter not only to be used for Prevent purposes, but also as means of opening doors towards developing greater shared values in those organisations and individuals, and ultimately more cohesion in society.

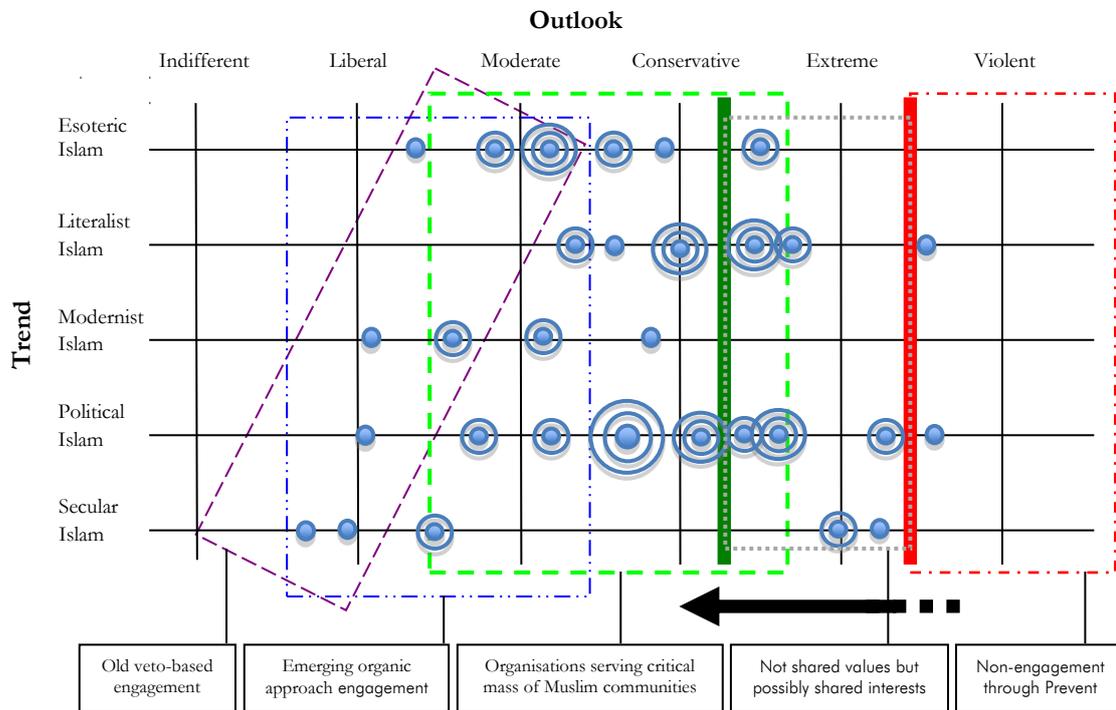
⁵⁹³ The idea of ‘procedural secularism’ was adopted from the then Archbishop of Canterbury – see: R. Williams, Rome Lecture – Secularism, Faith and Freedom, 23 November 2006 – delivered at the Pontifical Academy of Social Sciences in Rome.

If its assumptions were true, the paper suggested that the critical mass of the organised Muslim community would fall somewhere between the moderate to radical parts of the spectrum (the green box in the illustration below)⁵⁹⁴ – and if this was true, the paper suggested that the government could ill-afford to take the ‘veto’ approach that it had hitherto mostly taken – ie, that it would not engage with organisations and individuals because of random concerns in relation to certain shared values. The paper argued that this approach had led to Government engaging with a very narrow range of Muslim organisations and individuals that fell between the liberal to moderate parts of the spectrum (the purple box in the illustration below) – and therefore, few of the most significant organisations across the Muslim communities, and thus, had significantly reduced the prospect of winning the hearts and minds of the critical mass of Muslim communities. To ensure Prevent is successful, the paper suggested that the government needed to move from its veto approach to a significantly more energised ‘organic growth’ approach through a ‘ladder of engagement’ model, which it was already beginning to do (the blue box in the illustration below)⁵⁹⁵ – and then, from there, to make a further step change and move more extensively and vigorously towards a ‘critical mass’ approach in order to encourage Muslim organisations and individuals from across and deep into the strands (the green box, and possibly even the grey box, though perhaps not the red box, in the illustration below) to slowly move towards greater acceptance of a new social contract and shared values (the black arrow in the illustration below) until it was satisfied that this was where the critical mass of the Muslim community was situated. It suggested that one way of achieving this would be to undertake the existing capacity building work for Prevent more strategically: by focusing on some key organisations and individuals in each of the trends/strands and tying this critical mass approach in each trend/strand to a

⁵⁹⁴ Note that the suggestion here that the green box might sit in the grid as indicated contradicted some of the most recent surveys of the time on British Muslims, eg, the Citizenship Survey, the Gallup-Coexist Survey and the OSI At Home in Europe Report. The Citizenship Survey (April-June 2007), for example, shows that feelings of belonging to the UK (answering ‘very strongly’ and ‘fairly strongly’) are high across most Muslim ethnic minorities – eg, Bangladeshis (91%) and Pakistanis (87%), compared with Chinese/Others (72%), Whites (84%), Black Africans (84%), Black Caribbean (85%) and Indians (89%). Similar results were shown in the Gallup-Coexist Survey released in May 2009 and the OSI Report published in December 2009. One way of explaining this apparent contradiction or disparity is to highlight that these surveys focused on the views of individuals/unorganised religion whilst the suggestion here was based on perceptions regarding organisations/organised religion, and that there would appear to be a difference in terms of how the two were answering questions regarding citizenship and the social contract.

⁵⁹⁵ This started happening with John Denham MP as Secretary of State at the DCLG. As mentioned already, he started to re-engage organisations like the Muslim Council of Britain that had been excluded from engagement under his predecessors, Ruth Kelly and Hazel Blears.

more proactive ladder of engagement approach to maximise reach deep into all Muslim communities with the limited resources available.⁵⁹⁶



The paper recognised that in engaging wide and deep into the critical mass of Muslim communities (even if the red box was avoided altogether), there would, of course, be some problems and difficulties for Government raised by relations with certain obvious pathway organisations and individuals due to the historical roots and affiliations of those organisations and individuals, positions adopted by some of them or their members on certain shared values issues, and in particular, some of their positions on the use of force and violent extremism, and suggested various ways Government could address them, including identifying when a problem was not a problem, recognising when there was a need to go beyond shared values to shared interests, knowing when and how to employ a ladder of engagement with at least four distinct levels of engagement (or non-engagement if required), and knowing how to deal with critical red line issues. The paper further suggested a clear handling and communications strategy for current and likely controversies that might arise from the suggested approach, addressing in particular three

⁵⁹⁶ The 'ladder of engagement' approach basically meant engaging as widely and deeply into Muslim communities as possible within legal and political constraints and increasing access to government and resources for those most aligned with the shared objectives of a plural, safe and prosperous society.

distinct and key audiences: think tanks and policy makers, media and journalists and Muslim communities.

With the Advisors at the Prevent Unit pushing different narratives, and pulling and pushing in different directions, as already described above, the work of the Prevent Unit and across Government was persistently underlined by the resulting tensions. The rest of this chapter will, nevertheless, consider some of this work, how other British Muslims engaged with the development of some of the key aspects of this work, and the impact British Muslims overall had on the non-legal measures introduced by New Labour to promote security and counter terrorism in the UK.

The non-legal measures to promote security and counter terrorism

The Community Intelligence, Research and Communications Initiatives

At the heart of the Prevent work was a deeply felt need for good intelligence and research: ‘Intelligence is the most vital element in successful counter-terrorism’.⁵⁹⁷ When significant attention was first given to preventing extremism after the London bombings in 2005, there was very little research on radicalisation and violent extremism in British Muslim communities. The first steps were to build the intelligence base through the Preventing Extremism Together process, and the first stages of Prevent were shaped by evidence from this process. This was supplemented by other publicly available research and thinking, for example, the works of academics like Giles Kepel, Marc Sageman and Edwin Bakker on the nature of radicalisation;⁵⁹⁸ specifically commissioned research and thinking by Muslim academic insiders, as described above; and analyses of Governments own data sets from a number of departments. By 2007, there was a feeling in Government that, through the open source material which had by then become available, the work commissioned and intelligence gathered by Government from various sources and

⁵⁹⁷ R. English, *Terrorism – How to Respond*, Oxford: Oxford University Press, 2009, p.131.

⁵⁹⁸ See: G. Kepel, *Jihad – The Trail of Political Islam*, London: IB Tauris, 2002; M. Sageman, *Understanding Terror Networks*, Philadelphia: University of Pennsylvania Press, April 2004; and E. Bakker, *Jihadi Terrorists in Europe: their characteristics and the circumstances in which they joined the jihad*, The Hague: Institute of International Relations Clingendael, December 2006; B. Hoffmann, *Inside Terrorism*, New York: Columbia University Press, 2006. See also: Q. Wiktorowicz, *Radical Islam Rising – Muslim Extremism in the West*, Lanham: Rowman and Littlefield, 2005; G. Weimann, *Terror on the Internet – the new arena and the new challenges*, Washington: US Institute for Peace, 2006; J. Burke, *Al-Qaeda*, London: Penguin Books, 2007.

analyses, and working closely with international counterparts and local and community partners, there was sufficient cross-governmental understanding of, and a broad consensus around, the key factors involved in and driving the process of radicalisation in the UK and overseas to warrant a revision of the earlier Prevent strategy. This understanding and presumed consensus in government revolved around a number of individual and group vulnerabilities to radicalisation, including a low level of religious knowledge and observance amongst the most vulnerable; the use of religious justifications by charismatic radicalisers pushing a specific ideology; and an environment where the protective function of a firm social identity was weak and violently extreme ideologies were largely unchallenged by alternative explanations or presentation of contradictory evidence. The new Prevent strategy that followed sought to reflect and respond to this understanding and presumed consensus, by prioritising in particular the identifying and supporting of the most vulnerable, understanding and responding to Muslim community concerns in support of Prevent, disrupting radicalisers and creating environments in which their ideologies are challenged.⁵⁹⁹

However, even whilst feeling that there was now a better understanding of the process of radicalisation and how it may be prevented, the strategic objectives underpinning the overarching delivery priorities of the new strategy suggested that the Government was far from convinced that this understanding was in any way or near complete, particularly as it realised that the challenge was still evolving. The strategic objectives included the further development of the knowledge and evidence base, taking account of the international context in which work with UK communities was being undertaken, and improving strategic communications to help build communities' resilience, empowering them to stand up to and reject extremism.⁶⁰⁰ Critical to this work in the early days was the Joint Terrorism Analysis Centre (JTAC), established in June 2003 and based at the MI5 headquarters at Thames House in London. JTAC was represented in the Prevent Unit through a dedicated officer. Primarily, it gathered, assessed and analysed intelligence relating to international terrorism – at home and abroad, produced heat maps of terrorist

⁵⁹⁹ Note the emphasis here on theology and ideology as compared to the politics, policy and socio-economics – for which the strategy and pursuant work was later criticised by a report of the Select Committee on Communities and Local Government: Preventing Violent Extremism, London: The Stationery Office, 30 March 2010, pp.3, 66-7.

⁶⁰⁰ HM Government, Pursue Prevent Protect Prepare – The UK's Strategy for Countering International Terrorism (CONTEST 2), London: The Stationery Office, 2009.

networks and activities, set threat levels and issued warnings of threats and other terrorist-related matters to a wide range of government departments and agencies. It also produced more in-depth reports on trends, terrorist networks and capabilities. This was particularly important and useful to the work of the new Prevent Unit, especially as this was done through bringing together counter-terrorism expertise from the police and government departments and agencies. JTAC, thus, not only provided critical information and analysis for the Prevent work, but it also ensured that all relevant departments were involved in the production of this information and analysis on a shared basis, and in turn, there was some consistency across the departments and agencies in terms of the information and analyses that informed their work. A key concern, however, was that JTAC operated behind bolted doors – even the Muslim Advisors to Government were not allowed access to its meetings and papers. This resulted in limited Muslim input into its work, and therefore, caution about its output even amongst some of the Muslim Advisors in Government.

With limited access to JTAC, the Muslim Advisors at the Prevent Unit were keen that the Unit commissioned and/or undertook some key pieces of research of its own. Two of these have been mentioned already; a third important piece of work was the Understanding Muslim Ethnic Communities (UMEC) reports. Commissioned to the Change Institute (CI) in 2008, the purpose of this research was to gain a better understanding of Muslim communities beyond the larger Muslim ethnic communities of Pakistani and Bangladeshi origin or heritage – so as to improve Government's knowledge of who to target in order to reach all parts of the diverse British Muslim communities. The research resulted in the study of 13 Muslim communities originating from Afghanistan, Algeria, Bangladesh, Egypt, India, Iran, Iraq, Morocco, Nigeria, Pakistan, Saudi Arabia, Somalia and Turkey. The aim of the research was to gather data, knowledge and insights on, and to identify the key characteristics of and key actors in, each of these Muslim communities in order to guide more carefully and meaningfully the Government's work, and particularly the delivery of its Prevent work. The fieldwork for this project took place primarily between April and July of 2008, with qualitative data collection through 220 one-to-one interviews with community respondents and stakeholders and a series of 30 focus groups with participants from different communities. The 13 individual community reports were subsequently synthesised into a single

summary report,⁶⁰¹ setting out the context of migration of these communities and what is known about the demographics of each of them; respondents insights into the socio-economic status of their communities – together with their views on integration and cohesion; the complexities of ethnic and religious identities, emerging dynamics and the intergenerational issues and challenges for young people in these communities; the wide range of continuing links with their countries of origin; a broad overview of the nature and type of civil society development that has taken place in these communities and issues relating to public authority engagement with them and encouragement given to them to participate; and the overall conclusions and recommendations for the wide range of stakeholders with an interest in these issues. The UMEC reports benefited from significant input by the Muslim Advisors and other key Muslim stakeholders and were in turn a key aid to the development and delivery of the Prevent work. They were instrumental in informing Government understanding of individual Muslim communities and the way that Government should engage with these communities – particularly in terms of understanding their socio-economic concerns and identifying the most significant voices in the smaller or ‘quieter’ Muslim communities, as well as reaffirming more generally that there was a need to continue to broaden and deepen engagement across all these different communities and support them through capacity-building work. The reports were shared across Government departments and informed a wide range of policies – for example, the reports suggested that some British Muslim communities, especially Pakistani, Bangladeshi and Somali communities, retained strong links with their countries of origin, and this resulted in Ministers and officials from DCLG, FCO and other departments not only engaging with relevant communities in the UK, to better understand their issues and concerns, but also meeting senior visitors to the UK from, and undertaking visits to, their countries of origin.

Research at the Prevent Unit, however, though a significant priority, was ad hoc and sporadic, as at the other key Government departments undertaking Prevent work. The Prevent Unit at the DCLG prioritised research on the roles played by communities in both driving and preventing extremism and led various evidence gathering and assessment exercises on ‘what works in changing community attitudes towards violent extremism’,

⁶⁰¹ Change Institute, Summary Report – Understanding Muslim Ethnic Communities, London: DCLG, April 2009.

drawing on evidence from within and outside the UK, to highlight lessons about the most effective types of work.⁶⁰² The OSCT at the Home Office led on research to develop increased understanding of the radicalisation process and commissioned reviews of evidence on ‘push and pull’ factors in extremism, drawing on research on gangs, cults and political violence.⁶⁰³ Similarly, there was research being undertaken or commissioned at the Foreign Office, the Ministry of Justice, the two education departments at the time, and other government departments and agencies.⁶⁰⁴ However, the outputs from all this research were often disjointed, and therefore, of little value to others beyond the commissioning government department or agency. Thus, as early as mid-2007, key government departments working together – notably the DCLG, the Home Office and the Foreign and Commonwealth Office – established the Research, Information and Communications Unit (RICU). RICU was to be a cross-departmental strategic research and communications body based at the Office for Security and Counter-Terrorism (OSCT) at the Home Office. Its stated key aims were to research and analyse the ways in which key Muslim audiences at home and abroad reacted to messages from the government; give more coherence to those messages to undermine the Al-Qaeda ideology⁶⁰⁵ – particularly by directly advising CONTEST partners on their counter-terrorism related communications; coordinate government-wide communication activities towards this end of countering the appeal of violent extremism while promoting stronger grass-roots inter-community relations; and expose the weaknesses of violent extremist ideologies and brands and support credible alternatives to violent extremism using communications. In the counterterrorism jargon of the day, its job was to build and promote an effective counter-narrative to the narrative that Al-Qaeda and its allies were propagating in order to reduce the risk of terrorism. On a day-to-day basis, its role was to play a central strategic, co-ordinating and supporting role on Prevent communications

⁶⁰² See, for example: MG Research, Preventing Violent Extremism Pathfinder Fund – Mapping of project activities 2007/2008, London: DCLG, December 2008; L. Pratchett et al, Preventing Support for Violent Extremism through Community Interventions – A Review of the Evidence, London: DCLG, March 2010.

⁶⁰³ See, for example: HM Government, The Prevent Strategy – Stopping People Becoming or Supporting Terrorists and Violent Extremists, a Guide for Local Partners, London: The Stationery Office, May 2008; T. Munton et al, Understanding Vulnerability and Resilience in Individuals to the Influence of Al Qa’ida Violent Extremism, London: Home Office, November 2011; E. Disley et al, Individual Disengagement from Al Qa’ida-Influenced Terrorist Groups, London: Home Office, 2011; HM Government, Prevent Strategy (Prevent 2), London: The Stationery Office, June 2011.

⁶⁰⁴ See, for example: H. Beider and R. Briggs, Promoting Community Cohesion and Preventing Violent Extremism in Higher and Further Education, Coventry: Institute of Community Cohesion, 2010.

⁶⁰⁵ For the Government’s understanding of Al-Qaeda ideology, see: CONTEST – The UK’s Strategy for Countering International Terrorism, London: Home Office, 2003.

across government and delivery partners in addition to carrying out its own Prevent campaigns and media work.⁶⁰⁶

The Muslim Advisors in government played a significant role in setting up RICU and getting it off the ground. Muslim Advisors in DCLG, Home Office and FCO each dedicated a number of days per week to the work of RICU in its early days. RICU developed an extensive work programme to conduct domestic and international research and analyses around audiences, messaging, credible voices and most effective communications channels – using focus groups to test reactions to key Prevent messages, media analysis to understand whether key messages are being reproduced, and media monitoring to build awareness of current and emerging issues.⁶⁰⁷ It designed specific guidance, campaigns and other media work and communications projects aimed at specific audiences, including local government and delivery partners, community organisations, Muslim faith leaders, and more generally, Muslim and other faith and non-faith communities.⁶⁰⁸ It also developed and delivered wider messaging through national and specialist media channels – for example, through Ministerial articles and interviews, new media such as Twitter, forums and blogs – which have younger audiences, and wide-scale regional outreach events by Ministers and senior officials. The success of this work ‘was in the pudding’, illustrated by a number of accomplishments at the time – for example, Jacqui Smith MP’s first speech on counter-terrorism as Home Secretary, which was extensively based on work of, and largely written by, RICU – and was extremely well received in Muslim and other key audiences, and the government’s handling of

⁶⁰⁶ RICU as described in its Introduction and Overview document, in January 2007, setting out its role and remit for Whitehall partners – as supplemented by a second document entitled *The Communications Challenge* in February 2007.

⁶⁰⁷ See: RICU, *Core Counter-Terrorism Language and Messages*, London: OSCT, 2007; *Young British Muslims Online*, London: OSCT, October 2009; *Understanding Perceptions of the Terms ‘Britishness’ and ‘Terrorism’*, London: OSCT, March 2010; *Counter-Terror Message Testing – Qualitative Research Report*, London: OSCT, March 2010; *Credible Voices – Exploring Perceptions of Trust and Credibility in Muslim Communities*, London: OSCT, March 2010; *British Muslim Media Consumption Report*, March 2010; *Estimating Network Size and Tracking Information Amongst Islamic Blogs*, London: TSO, March 2010; *The Language of Terrorism – Analysing the public discourse and evaluating RICU’s impact January 2007-March 2008*, London: TNS Intelligence, April 2010.

⁶⁰⁸ Note, for example: RICU, *Prevent – A Communications Guide*, London: OSCT, 2010; and its work around promoting the FCO’s *Projecting British Islam* project, as well as the work of the *Radical Middle Way*, both of which sought to promote positive British Muslim voices.

community tensions during the Gaza crisis in 2008-9 – when the government communicated with all relevant communities very quickly and effectively.⁶⁰⁹

A key weakness in the development of the Prevent work in relation to community intelligence, research and communications, however, was that it was not bottom-up and responsive. More attention to understanding and addressing Muslim grievances and the root causes of radicalisation, extremism and terrorism was an overriding recommendation made by the PET Working Groups. Recommendation 2 of their report called for ‘an interrogation and understanding of the root causes of terrorism (for example, discrimination, deprivation and alienation facing Muslims; UK foreign policy; the plight of Muslims across the world; etc.)’; their respective weight in the overall process of radicalisation to terrorism; and how they relate to each other – i.e., to what extent they trigger, influence and feed-off each other.⁶¹⁰ The PET Working Groups were clear that it is not enough to tackle only the symptoms of radicalisation, extremism or terrorism, without also addressing their root causes – and this has remained a rallying point in British Muslim communities since the PET exercise. The point has been heard in various Parliamentary Select Committees – eg, the Communities and Local Government Committee and the Home Affairs Committee.⁶¹¹ However, even when it had been heard in the Prevent work, through the efforts of the Muslim community, some of the Advisors and others,⁶¹² there was no core and proactive focus on deeply understanding and systematically addressing the root causes of terrorism through research, policy action and communication, but only a superficial acknowledgement of them and a rehearsed defensive response to them.⁶¹³ This was not helpful in ‘winning the hearts and minds’ of

⁶⁰⁹ See: J. Smith, Statement to Parliament, 2 July 2007 – in the immediate aftermath of failed attacks in London and Glasgow, described as ‘notable for its lack of confrontation, anger or emotive language’: B. Gibson, *The New Home Office – An Introduction*, Hook: Waterside Press, 2008, pp.158 and 160-61. See also the MCB Press Release commending the speech: Statement from the Muslim Council of Britain on Recent Terrorism, 3 July 2007.

⁶¹⁰ See: Preventing Extremism Together Working Groups, *Preventing Violent Extremism – Final Report*, October 2005, London: Home Office, p.82.

⁶¹¹ See: Communities and Local Government Select Committee, *Preventing Violent Extremism*, op. cit.; Home Affairs Select Committee, *Roots of Violent Radicalisation*, Nineteenth Report of Session 2010-12, London: The Stationery Office, 6 February 2012.

⁶¹² Through the efforts of some of the Advisors, clearly it was head in the process of developing and finalising the CONTEST and Prevent strategies – see, for example: HM Government, *Pursue Prevent Protect Prepare – The UK’s Strategy for Countering International Terrorism (CONTEST 2)*, op. cit., pp.43-45; HM Government, *Prevent Strategy (Prevent 2)*, op. cit., p.17-20.

⁶¹³ See, for example: RICU, *Muslim Grievances*, London: OSCT, 2008 – guidance work for counter-terrorism officials and others on identifying and addressing a range of political and socio-economic issues ‘exploited as “Muslim issues” in the promulgation of a terrorist narrative’.

Muslim communities and rallying their support behind the government's efforts towards countering terrorism and promoting security. The irony is that by the time the Prevent work was being developed, New Labour had already achieved much it could showcase to Muslim communities in all areas of their concerns – for example, it had by this point made huge progress on non-discrimination and equalities work (as already discussed in Chapter 2); it had achieved a number of foreign policy successes from the Muslim perspective – eg, in Bosnia and Kosova; and it was making one of the largest foreign aid contributions to Muslim countries in the world. There was much more it could do in these same policy areas to win and keep Muslim hearts and minds. But the overall Prevent approach was so top-down, and often so very heavy handed – excluding and freezing out any that differed with the narrative that the problem was theo-ideological and not geo-political or socio-economic, that it left little space for banking on and developing that achievement and work within the Prevent policy domain. In a context, where there was a growing tendency to filter all engagement with Muslim communities through Prevent but not to deal with their own concerns openly, substantively and thoroughly, this resulted in a loss of trust and confidence in New Labour by Muslim communities. The community intelligence, research and communications work was an early victim of this, and to the extent that it was at the heart of the Prevent work, falling into that Prevent trap, meant that it lost credibility in Muslim communities. For many parts of Muslim communities, the work was thus seen as not genuinely interested in countering terrorism and promoting security in the long term, but only serving a particular top-down agenda with intelligence, tools and 'spin'.⁶¹⁴

Community Engagement & Leadership Initiatives

New Labour noted from very early on that its counter-terrorism work could only be successful if it was delivered in partnership with community organisations and wider society.⁶¹⁵ National and local partners needed to engage with the broadest range of groups

⁶¹⁴ A. Kundnani, Spooked! How not to prevent violent extremism, London: Institute of Race Relations, October 2009; J. Mohammed and A. Siddiqui, The Prevent Strategy – A Cradle to Grave Police-State, London: CAGE, 10 June 2014; CAGE, Blacklisted – The Secretive Home Office Unit Silencing Voices of Dissent, London: CAGE, 9 August 2017.

⁶¹⁵ For a discussion on the importance of this approach, see: R. Briggs et al, Bring it Home – Community-based approaches to counter-terrorism, London: Demos, 2006. For a review of this approach and work, see: R. Briggs, Community Engagement for Counter-Terrorism: Lessons from the United Kingdom, Chatham House: The Royal Institute of International Affairs, Vol.86(4), July 2010, pp.971-81.

and individuals to ensure that they were reaching all parts of the Muslim community.⁶¹⁶ Terrorist groups targeted alienated and isolated vulnerable people in Muslim communities, so that is where the Government's community engagement effort needed to reach. A critical part of the early Prevent work on the ground was, therefore, in relation to engaging Muslim communities. At the national level, government engagement sought to ensure that Muslim communities were reached through various mechanisms, including stakeholder events, advisory groups, capacity-building support, funding, Ministerial attendance at community-led events, and ongoing relationships at official level. A primary purpose of this work was to identify existing, emerging and potential leaders, and promote and develop them in their leadership roles as required and appropriate. However, it also helped to ensure that the Government was engaging with a wide range of the highly diverse actors in Muslim communities (in terms of age, gender, ethnicity and religious denomination) and not just a narrow range of 'gatekeeper' organisations; prioritised and enabled the views and advice of a much wider range of Muslim stakeholders to feed into policy making on how best to achieve the goals of the Prevent programme; as well as ensured that a greater variety of groups able to deliver Prevent projects received support.

In concrete terms, as already mentioned, the Preventing Extremism Together (PET) Working Groups, brought together a wide range of civil society actors, especially individuals active across the Muslim voluntary sector, to meet over the summer of 2005, in the wake of the terrorist attacks on London, to develop a range of recommendations for action on eight themes: engaging with young people; tackling radicalisation and extremism; regional and local initiatives; engaging with women; developing the roles of mosques and imams; security and policing; and, education. An important recommendation in the Working Groups' report, and another key outcome from that work, aside from the setting up of the Prevent Unit at the DCLG, was the setting up of the Mosques & Imams National Advisory Board (MINAB) in June 2006 – fully supported by the Government. Ostensibly, it was set up as independent of government, to bring together different Sunni and Shia traditions within the Muslim communities to self-regulate on standards and best practice in British mosques – to enable mosques to generally build and strengthen their capacities in governance, management and delivery

⁶¹⁶ For governments emphasis on this, see: Department for Communities and Local Government, Delivering the Prevent Strategy – An Updated Guide for Local Partners, London: DCLG, August 2009.

as important hubs in Muslim communities, particularly with regards to, for example, accountability, financial and employee management, and child protection policies and practices. The evidence for the necessity of such work was mostly anecdotal, but it was one of the PET recommendations, and there was some basic research by the Quilliam Foundation and the Charity Commission at the time that highlighted the need for a concerted push to ensure that effectively governed and managed mosques are positioned at the centre of Muslim communities, to act as antidotes to violent extremism and to promote community cohesion⁶¹⁷ – and hence the Government's interest in the recommendation. Government had already initiated a fully funded drive through the Charity Commission to encourage more mosques and Muslim community organisations to register so that they meet at least the basic good standards of governance, management and delivery⁶¹⁸ – the work of MINAB was to supplement this through proactive development work in mosques (including those not registered with the Charity Commission) and with imams, and perhaps even instrumentalise mosques and imams, through their teaching and public education roles, in the fight against radicalisation, extremism and terrorism in a way that a public organ, like the Charity Commission, could not do in an organised religion context – at least at the time.

Several weaknesses had been observed amongst mosques and imams that required addressing if they were to be positioned at the centre of Muslim communities, to act as antidotes to violent extremism and to promote community cohesion.⁶¹⁹ Most importantly mosques and imams needed to be released from the clutches of the 'elders' who ruled their mosques as their own fiefdoms. Mosques needed to be properly governed and managed by suitably experienced trustees and qualified personnel drawn from, representing and conversant with the full range of its potential users. A particular problem in relation to mosques was the low remuneration and poor employment conditions, including the lack of job security, for all its employees, but particularly its imams. This resulted in the best imams finding employment opportunities beyond mosques and

⁶¹⁷ L. Coleman, *Survey of Mosques in England and Wales*, Research for the Charity Commission, London: BMG, 2009; Charity Commission, *Parliamentary Briefing – Survey of Mosques in England and Wales*, London: Charity Commission, February 2009; A. Dyke, *Mosques Made in Britain*, London: Quilliam, February 2009.

⁶¹⁸ This was mostly done through a new unit at the Charity Commission, the Faith and Social Cohesion Unit, fully funded by the DCLG. The purpose of the Unit was to provide dedicated support and advice to religious charities, with a particular focus on Muslim charities, and especially mosques.

⁶¹⁹ T. Choudhury, *The Role of Muslim Identity Politics in Radicalisation*, op. cit.; A. Dyke, *Mosques Made in Britain*, op. cit.

Muslim institutions – the brightest imams finding employment as chaplains in the public sector, eg, prisons, hospitals and universities. A key objective of MINAB was to address these concerns so that mosques could truly be the dynamic hubs in their communities they ought to be – involving and catering to the needs of all sections of their communities. MINAB thus consulted on and developed five standards for mosques and guidance to underpin these – MINAB members were to: apply principles of good corporate governance; ensure that a good range of services were provided by suitably employed, qualified and experienced personnel; ensure that systems and processes were in place to encourage the participation of young people in all activities, including governance; ensure that systems and processes were in place to encourage the participation of women in all activities, including governance; and ensure that there were programmes that promoted the civic responsibilities of Muslims in wider society.⁶²⁰ In reality, however, MINAB was structurally flawed from the start. Whilst it claimed to represent all Muslim schools of thought/jurisprudence and traditions, it did not include amongst its founding members an organisation from the Deobandi communities, which control the largest number of mosques and produce by far the greatest number of imams in Britain. Senior figures in Deobandi communities felt slighted, and on the whole, did not buy into MINAB.⁶²¹ Further, the founding members (Al-Khoei Foundation, British Muslim Forum, Muslim Association of Britain and Muslim Council of Britain) were very much organisations led by male ‘elders’ of the Muslim community. Consequently, MINAB became laden and stifled with elder generation politics, it was not easy for women or the young to partake in it in any meaningful way, and it was slow to produce any significant results.⁶²² At least some of the initiatives described below took off because of early signs that MINAB may not deliver. This was notably the case for at least the Muslim Women’s Advisory Group (MWAG) and the Young Muslims Advisory Group (YMAG) at the DCLG.

⁶²⁰ See: <http://www.minab.org.uk/self-regulation/standards.html>.

⁶²¹ See: Appendix 1 and I. Bowen, *Medina in Birmingham, Najaf in Brent*, op. cit. pp.11 and 24-25.

⁶²² Note how a significant part of that work was subsequently absorbed into Faith Associates, which as a private enterprise with a much lighter structure was able to move a lot quicker in terms of delivering on the ground, and as a result has now become the go-to organisation for government on issues in relation to mosques, madrassahs and imams. See: S. Warraich and K. Feroze, *A Management Guide for Mosques and Islamic Centres*, London: Faith Associates, September 2008; S. Warraich and M. Rahim, *Handbook for Madrassah Management and Safeguarding*, London: Faith Associates, April 2013; S. Warraich et al, *Muslim Women’s Guide to Mosque Governance, Management and Service Delivery*, London: Faith Associates, April 2016.

Where Muslim ‘elders’ and community leaders were failing their communities, particularly in terms of addressing radicalisation, extremism and terrorism, the Government was keen to find good leaders for this work elsewhere – particularly amongst the Muslim women and youth, hitherto underrepresented in Government engagement with Muslim communities. In November 2007, the DCLG set up the Muslim Women’s Advisory Group (MWAG) – to ‘challenge the false and perverted ideology spread by extremists and to give young people the skills and knowledge to turn their backs on hate’.⁶²³ In essence, the MWAG was to be a part of a larger grassroots counter-terrorism strategy to be pursued by the DCLG as part of its work to prevent violent extremism. It was to be led by 19 women, who represented a wide spectrum of British Muslim communities, professions and traditions. They were to work towards preventing violent extremism, but also towards promoting the voices of Muslim women in discussing issues and concerns that affect them, for example, access for women to mosques and their management committees and cultural barriers including honour crimes and forced marriages. The more specific remit of MWAG was to: empower Muslim women at the grass roots, act as ambassadors and represent their views and concerns to Government; provide leadership to communities and be positive role models for Muslim women in society; and empower Muslim women to engage more with the media on a wide range of issues and help dispel myths around the role of Muslim women in society. The Group was refreshed in 2009, increasing the membership to 26 to ensure that the group reflected the diversity of Muslim communities in Britain and had representatives from each region. However, the Group received sustained criticism from its inception from notable members of the Muslim community – for example, Baroness Sayeeda Warsi, who saw the Group as being ‘patronising’ and ‘divisive’.⁶²⁴ Perhaps the most damaging of the criticism of the Group, however, was from a member of the Group itself. In her resignation letter from the Group, and then in evidence to the Communities and Local Government Select Committee, Shaista Gohir, Chair of the Muslim Women’s Network UK, noted that whilst she and others initially welcomed the Group’s potential to enhance

⁶²³ Z. Ahmed, *The Role of Muslim Women in Britain in Relation to the ‘Prevent Agenda’*, in M. Farrar et al (eds.), *Islam in the West: Key Issues in Multiculturalism*, Basingstoke: Palgrave Macmillan, 2012, p.88.

⁶²⁴ For an overview of these criticisms and an assessment of MWAG, see: P. Thomas, *Between Two Stools – The Government’s ‘Preventing Violent Extremism’ Agenda*, *The Political Quarterly*, Vol.80(2), April-June 2009; and C. Allen and S. Guru, *Between Political Fad and Political Empowerment: A critical evaluation of the Muslim Women’s Advisory Group (NMWAG) and government processes of engaging Muslim women*, *Sociological Research Online*, Vol.17(3), 31 August 2012.

their skills and contribute to policy making, the problems with the Group soon became apparent, and she articulated the most salient of these as follows: the actual purpose of the Group did not appear to be to facilitate policy input from the women but to equip them to spy on their communities; the Government did not appear to have any interest in the multiple layers of discrimination faced by Muslim women in wider society and missed many opportunities to make a difference; and individual members of the Group appeared to benefit from being on it through funding and other opportunities and this generated hostility with other women's groups in Muslim communities, thereby undermining the purpose of the Group.⁶²⁵

One year after setting up the MWAG, in October 2008, DCLG and DCSF together launched the Young Muslims Advisory Group (YMAG) – to address the fact that fifty per cent of Muslims in Britain were under the age of 25; whilst there was no single profile of a violent extremist or a solitary pathway to radicalisation, research and data on the subject highlighted that younger people may be at a greatest risk of radicalisation and extremism; and Government did not have direct access to Muslim youth. The stated purpose of this initiative was for Government to work directly with young Muslim leaders to find solutions to a range of challenges, including tackling discrimination; increasing employment levels; preventing extremism and boosting civic participation. YMAG consisted of 23 members between the ages of 16 to 21 – chosen as regional representatives who were supported by a peer network of young people. It emphasised gender balance amongst its members and a broad range of backgrounds and experiences – reflecting also the ethnic and denominational diversity of Muslim communities in Britain.⁶²⁶ YMAG successfully held several meetings with key ministers – and challenged and advised them on issues relating to Prevent and young Muslims, undertook valuable research and consultation work on a wider range of areas, and published a magazine. In March 2009,

⁶²⁵ See: S. Gohir, Open Letter – Resignation from the Government's National Muslim Women's Advisory Group – available on: <http://www.mwnuk.co.uk/news.php?id=58>. See also: S. Gohir, Muslim Women are not Political Pawns, The Guardian, 9 April 2010; and Submission from the Muslim Women's Network UK to the Inquiry into the Preventing Violent Extremism Programme, Birmingham: MWNUK, September 2009, p.6.

⁶²⁶ For more information on the Governments perspective on YMAG, the Group's members, and their main expectations from the Group, see the Press Releases on the Group put out by the DCLG: The next generation of Muslim community leaders, 7 October 2008; and Young Muslims Advisory Group holds their first meeting with Hazel Blears and Ed Balls, 12 February 2009 – available at: <http://webarchive.nationalarchives.gov.uk/20100104175406/http://www.communities.gov.uk/communities/preventingextremism/ymag/>.

it led a major national conference in Leeds for young people of all faiths and none, and from all around the country, to encourage dialogue across communities on Prevent and cohesion. However, like MWAG, it received much criticism from within Muslim communities and other faith communities;⁶²⁷ when it took a strong position on sensitive policy issues, eg, the Israeli-Palestinian conflict, it found itself in some difficulty with the Government; and quite quickly there was some disquiet amongst some of its members – eg, that the government did not prioritised their complex concerns around identity, socio-economic exclusion and lack of engagement in democratic participation, which they considered were more important long term factors determining a community’s resilience to violent extremism.

Advisory groups like MWAG and YMAG potentially enabled the Government to engage more directly with young Muslims and Muslim women about Prevent and issues affecting them more widely. Both of these groups had representatives from the different regions and nations of the UK and to some extent reflected the diversity of British Muslims – and thereby provided the possibility of a rich diversity of views from within Muslim communities. The women and young people on these Groups identified priority areas for the Government to focus on in its delivery of the Prevent agenda and its engagement with Muslim communities. They met with Ministers, to feed in their own and their communities’ views on policy issues. Ostensibly, they also had the possibility of holding dialogues with policy officials and to contribute to policy formation on a variety of issues beyond preventing extremism at a range of departments including the Home Office, DCSF, Ministry of Justice and FCO. This could have been hugely complementary to the cross-government network of community advisors based at key Prevent departments who worked alongside policy officials to feed in views from the community level, as well as to advise on decisions being considered by officials. Wider Government engagement did, of course, have some impact – for example, through listening to views and concerns of local authorities (particularly through LDAG – discussed below) and a wide range of Muslim organisations and individuals on how communications around Prevent were impacting and defining relationships with government and between communities, Government revised its guidance to local authorities on Prevent in August 2009,

⁶²⁷ See, for example, Z. Zaidi, Reinforcing Difference – The Young Muslim Advisory Group isn't simply a useless addition to our bureaucracy, it's divisive as well as unnecessary, *The Guardian*, 14 October 2008.

acknowledging that the label ‘Preventing Violent Extremism’ attached to local funding could in some areas be a barrier to promoting good community based work, and allowing in such cases not only to remove the label from the funding but also to position Prevent programmes within the wider context of bringing together and working with communities. Government agreed not to let labels get in the way of strengthening communities and keeping everyone safe. Consequently, it also provided £7.5 million more funding and greater flexibility to local authorities to deliver Prevent within their wider work on cohesion and building shared values.⁶²⁸

This level of engagement with Muslim communities often also meant that Government was the first to be alerted to broader issues within the community – and when this happened, Government could work swiftly across departments, agencies and communities to ensure that issues were resolved quickly. Events, such as the Gaza crisis in January 2009, demonstrated that Government’s engagement activities had made an impact. Government was quick to write to community and faith leaders to explain the Government’s position, and in addition, in a series of meetings with community members from across the country, arranged at very short notice, Ministers were able to hear stakeholder’s and respond to them directly. Community members were updated throughout this period with written briefings, which they were able to circulate more widely, ensuring that messages that were not getting through to the community via other channels, reached a wider audience. Importantly, in the interest of even-handedness, during the Gaza crisis, Government also kept the Jewish community closely informed about the Government’s approach – and this proactive approach from the Government in both communities ensured the best possible outcome in terms of community relations in such a crisis situation. However, where the Government sought to instrumentalise these advisory bodies only for its own narrow and political purposes, or sought to impose some external agenda on them, this resulted in much tension, stalemate between the Government and the Groups, questions as to the Groups relevancy on both sides, and occasionally individuals resigning from the Groups. Where some considered that the

⁶²⁸ Note that the flexibility that local authorities were permitted in delivering Prevent on a local basis was significant in that it allowed local Muslim groups the opportunity to influence and reshape the direction of PVE in their communities – local authorities such as Leicester and Bristol jettisoned the ‘Prevent’ brand in favour of initiatives more unambiguously focused on building community cohesion, for example, in Bristol, this took the form of ‘Building the Bridge’ initiative, and in Leicester, it took the form of the ‘Mainstreaming Moderation’ initiative.

individuals ‘appointed by Government’ for these Groups were from a very narrow band within the Muslim community to start with, and not as suggested in the second paper commissioned by the DCLG as discussed above, such fall outs between the government and members of these Groups, and the public accusations that followed from the Group members, only consolidated suspicions in Muslim communities about the Government and its Prevent programme as a whole.⁶²⁹

The community engagement work and the leadership development initiatives undertaken by New Labour were not restricted to the UK. As the terrorist threat was international, so too the engagement and initiatives extended to overseas – particularly as British Muslim communities still maintained very strong links with the Muslim world. This overseas work was intended to further deepen the understanding of the processes of radicalisation, reduce the vulnerability of the diaspora Muslim communities and the countries and regions from which they come, strengthen the voices of mainstream Islam to counter the propaganda of the extremists and tackle the grievances which are exploited by those extremists. This work was increased significantly in scale towards the latter years of New Labour – the FCO spending alone on Prevent overseas trebled by 2010 compared to 3 years earlier.⁶³⁰ It was also widened in scope, with support from DFID and the British Council, and more international work by the Home Office and DCLG. DCLG, supported by the OSCT/Home Office and FCO, worked closely on Prevent with international partners, especially in the context of international links of British Muslim communities. DCLG Ministers and officials engaged with foreign governments, theological experts and faith leaders, and those with close links to UK communities. This included meetings with faith leaders in Saudi Arabia, India, Pakistan and Syria to better understand theological influences on British Muslim communities, and to share experiences of tackling extremism. As part of the Muslim Faith Leaders Training Review, reviewers also visited seminaries and scholars in Pakistan and India with links to seminaries in the UK, to gain

⁶²⁹ Note subsequent criticisms about the memberships of these Groups – mostly on the grounds that they were not representative of, and did not command influence in, the communities they were there to represent: T. O’Toole et al, *Taking Part – Muslim Participation in Contemporary Governance*, op. cit.; and C. Allen, *New Labour’s Policies to Influence and Challenge Islam in Contemporary Britain: A Case Study on the National Muslim Women’s Advisory Group’s Theology Project*, Social Sciences Directory, Vol.3(1), pp.2-19, May 2014.

⁶³⁰ For more detail on Prevent work abroad, see: HM Government, *Prevent Strategy (Prevent 2)*, op. cit., p.47-50.

support for the independent review being undertaken in Britain.⁶³¹ The Government also worked closely with key partners in Europe and North America to share best practice, particularly around local engagement, leadership and delivery. This work was further supplemented by outreach, public diplomacy and communications work aimed at overseas audiences, which countered anti-Western opinion by promoting the positive contribution of Muslims to British society and the strong and positive links between the UK and Muslim communities overseas.⁶³²

Whilst the focus of Prevent's community engagement effort was on certain aspects of Muslim communities, there was some awareness in Government that the response to violent extremism had to come from the whole of society. It, thus, sought occasionally to make it clear in public statements that the vast majority in Muslim communities were against violent extremism and wanted to work with the Government to tackle the terrorist groups who targeted the vulnerable, and particularly towards New Labour's latter years, that the Government's effort and funding was for building resilience in all communities where this was most needed, reflecting the nature of the threat. The argument was that cross-community activities could both strengthen community cohesion and the communities' capacity to resist support for violent extremism. Whilst all government departments were to partake in this engagement with a wide range of faith and non-faith communities in the development and delivery of their policy responsibilities towards this end, DCLG was to play a co-ordinating role in these relationships – in particular, through the Faith Communities Consultative Council, which drew together representatives from the nine major faiths in the UK and was to become the main forum in which Government met faith communities collectively. Ministers and officials met the Faith Communities Consultative Council on a quarterly basis, and this provided the opportunity for all faith communities to feed in their views to government on the Prevent agenda as a whole and its impact on faith communities across the board. The meetings resulted in supporting work across faiths through a national community leadership fund – for example, work supported at the Three Faiths Forum and a number of other faith groups involved in

⁶³¹ This is discussed in more detail below – the present author was one of the reviewers to visit India and Pakistan.

⁶³² This work was mostly led by the FCO with a strong contribution from the Home Office and DCLG – of particular note here are the Policy Planners Meetings organised through the Institute of Strategic Dialogue, and the Projecting British Islam and I am the West projects, as well as the RMW international roadshows funded by the FCO.

Prevent at a local level.⁶³³ The additional £7.5m pot for local authorities, mentioned above, was also to contribute to this work of helping all communities to stand stronger together as part of the wider work on cohesion and building shared values to help deliver Prevent.

Other community engagement work and leadership initiatives included an annual national Prevent conference, which was attended by up to 1,000 people – including cross-community delivery partners, community and faith stakeholders, and media representatives; faith and theological leadership training initiatives (to be discussed below); an engaging website, targeting and providing accessible information for a range of audiences including Prevent practitioners and the general public; and local leadership engagement, development and capacity-building work in key partners, in communities previously under-represented in this work – such as in the Somali and Turkish communities, which were engaged on the Prevent agenda by the Government for the first time.⁶³⁴ Most of the community engagement and leadership initiatives, particularly advisory groups like MWAG and YMAG, were disbanded by the Coalition Government – following their earlier argument in opposition that engaging communities solely on the basis of their religious identity was divisive, because it was either giving them preferential treatment or stigmatising them.

The Theological Initiatives

A very specific area of work that took off under government support as a result of the slow progress at MINAB was in imam training and theological leadership. In the Autumn of 2007, subsequent to a suggestion by FaithWise at a roundtable meeting with Ministers, Islamic scholars and theologians, the Prime Minister announced an independent review to examine, with the assistance of Muslim communities, how to build the capacity of Islamic seminaries, learning from other faith communities as well as from experience overseas. The specific aims of the review were to research and evaluate (explore the strengths and weaknesses of) the current training provisions for imams and scholars

⁶³³ See: S. Malik, House of Commons, Hansard, 3 November 2009, col.836W.

⁶³⁴ This local engagement, development and capacity-building was mostly funded through the Community Leadership Fund (CLF), which was a £5.1m pot over three years open to Muslim and non-Muslim grassroots organisations and funded 55 projects in all.

provided by seminaries and other imam-training institutions in the UK – and, in particular, to identify any gaps in the training of faith leaders that needed to be addressed; explore the different models and methods employed for training Muslim faith leaders in the UK and abroad – and identify elements of best practice for wider dissemination; and explore the possibilities of collaborative initiatives between providers of Muslim faith leadership training, similar providers in the other Abrahamic faiths and mainstream further and higher education structures and institutions – in pursuit of the possibilities of attaining additional knowledge and skills for intending imams and faith leaders leading to higher qualifications and better employment prospects. The Muslim Faith Leadership Training Review was commissioned to Dr Alison Scott-Bauman from Gloucester University, due to her extensive work and experience in this area with regards to Christian and Muslim faith leadership training, and Dr Mohammed Muqadam, due to his significant access to the darul ulooms (seminaries) in the UK. After extensive research, the review team published an excellent report on what kinds of training should be provided in the future to Muslim faith leaders and how this could be achieved.⁶³⁵ However, the report took so long to complete that it did not reach government until New Labour was already out of office, and the new Coalition Government that took over showed little interest in the report or its contents.

Even whilst the Government was reviewing existing provisions on imam training, however, it had already accepted, from the early findings of the review and from other sources,⁶³⁶ the argument that the existing provisions were not sufficient for the needs of British Muslims, and especially British Muslim youth. It, therefore, supported various initiatives to supplement the existing provisions for imam training – particularly to equip imams and scholars with the skills and confidence to confront violent extremism. One of these initiatives, the Cambridge-Azhar Imam Training Programme, was jointly led by the

⁶³⁵ See: M. Mukadam and A. Scott-Baumann, *The Training and Development of Muslim Faith Leaders: Current practice and future possibilities*, London: DCLG, 2010.

⁶³⁶ J. Birt, *Good Imam Bad Imam – Civic Religion and National Integration in Britain post 9/11*, *The Muslim World*, Vol.96, 2006, pp.687-705; S. Gilliat-Ray, *Educating the Ulama – Centres of Islamic religious training in Britain*, *Islam and Christian-Muslim Relations*, Vol.17(1), 2006, pp.55-76; A. Siddiqui, *Islam at Universities in England – Meeting the Needs and Investing in the Future*, Report to Bill Rammell MP, Minister of State for Education, 10 April 2007; R. Geaves, *Drawing on the Past to Transform the Present – Contemporary challenges for training and preparing British imams*, *Journal of Muslim Minority Affairs*, Vol.28(1), April 2008; M. Mumisa and E. Kessler, *The Training of Religious Leaders in the UK – A survey of Jewish, Christian and Muslim seminaries*, Cambridge: Woolf Institute, 2008.

FCO, Home Office and DCLG.⁶³⁷ This was an intensive 15-week professional training programme for young British Muslims most likely to become the next generation of faith leaders. It was uniquely designed for young British Muslims graduating from Darul Uloom or Islamic seminaries in the UK. Its principal aim was to build on the knowledge students received at these institutions with a challenging programme of lectures, seminars, workshops, tutorials and personal study assignments, designed to further broaden the participants' appreciation of Islam in a modern context. Alongside other topics, the course covered issues such as multiculturalism, gender equality, human rights and British Muslim identity. It also involved visits to Muslim organisations, a Christian postgraduate theological training centre and a Jewish rabbinical training college. The programme identified and incorporated best practice, for example, from the imam training programmes at the Muslim College in London, run by the late Sheikh Zaki Badawi, and the Certificate in Muslim Chaplaincy Course at the Markfield Institute of Higher Education (which has now developed into a Masters course). The Cambridge-Azhar Imam Training Programme has since been replicated for prison imams and been an inspiration for other more extensive programmes led by Muslim communities – for example, the Contextualising Islamic Studies & Leadership Course at Cambridge Muslim College. The interim report from the Muslim Faith Leadership Training Review and the success of the Cambridge-Azhar Imam Training Programme led to discussions between the DCLG and the Department for Innovation, Universities and Skills (DIUS) to develop a framework of minimum standards for institutions engaging Muslim faith leaders in public service to make them more effective in addressing any issues relating to violent extremism; and subsequently to discussions with the Department for Business, Innovation and Skills (BIS) to develop a faith leadership qualification for all faith leaders. However, this was again lost in the changeover to the new Coalition Government in 2010.⁶³⁸

The advice from the FaithWise Advisor to Government, however, was clear that it was not just that imams were being poorly skills-trained for their task, but also that the theological content that they were being equipped with needed to be (re)contextualised for the UK. FaithWise thus proposed a Contextualising Islam in Britain (CIB) project at

⁶³⁷ Other initiatives included a similar project with the University of Damascus and a project led by Sheikh Musa Admani, chaplain at the London Metropolitan University at the time.

⁶³⁸ See: R. Paton et al, Faith Leaders and Workers Project – Evaluation Report, London: DCLG, February 2009.

the same roundtable as that which discussed the Muslim Faith Leadership Training Review (described above), to bring leading UK Muslim scholars, academics and activists together to address a range of topics – some of the most contentious issues affecting Muslims in Britain – in a safe academic space. The intended purpose of the project was to discuss and explore what the contextualisation of Islamic theology looked like in practice in modern Britain, and what that meant in terms of everyday life for a Muslim living in modern British society. The project was agreed and subsequently commissioned to the Centre of Islamic Studies at Cambridge University, which produced two significant reports – the first addressing secularism, democracy, Shariah law, human rights and citizenship; and the second addressing the individual and the community; family and education; gender equality, identity and sexuality; and political participation in wider society.⁶³⁹ The Parliamentary Select Committee on Communities and Local Government, in its review of Prevent, reserved special praise for this project as the sort of independent and academic initiative which could help curb the appeal of violent extremism through tackling the ideology underpinning it in a very inclusive, honest and transparent way.⁶⁴⁰ The project was funded partly by the DCLG, but the agenda and arrangements for the discussions were, on the whole, drawn up and delivered by the Centre of Islamic Studies at Cambridge. In securing ownership over the discussions and debates, facilitated through a very diverse range of stakeholders, the Centre was able to provide a safe space that resulted in a very rich set of discussions, taking many theological thought leaders in British Muslim communities on a collaborative journey, that produced some great reflections and content on contextualising Islamic theology in Britain that the participants could take back to their communities – and that could also be core material for the training of future Muslim faith leaders.⁶⁴¹ Perhaps what made these theological initiatives more credible in Muslim communities is that they were guided by an independent Advisory Board – which included a wide range of faith and community leaders from Muslim and other faiths communities; they were delivered at arm's length from government through people credible in different sections of the diverse Muslim community; and they

⁶³⁹ See: Centre of Islamic Studies, *Contextualising Islam in Britain – Exploratory Perspectives*, Cambridge: Cambridge University, October 2009; *Contextualising Islam in Britain 2*, January 2012.

⁶⁴⁰ Communities and Local Government Select Committee, *Preventing Violent Extremism – Sixth Report of Session 2009-10*, op. cit., p.42, paras.106 and 109.

⁶⁴¹ The process, in getting there, however, was not all plain sailing. The foreword to the second report refers to the dissensions among those involved in the deliberations, and even the withdrawal of some from certain areas of discussions with which they were uncomfortable. However, the framework for the discussions proved robust enough to hold the participants together until the end of the project and an agreed report.

addressed the problems of radicalisation, extremism and terrorism in a more bottom-up, collegiate and holistic way than other areas of the delivery of Prevent.⁶⁴² This work has continued in Muslim communities through organisations like New Horizons in British Islam – with its motto of ‘looking back to look forward’.⁶⁴³

The Educational, Awareness and De-Radicalisation Initiatives

In the absence of strong community leadership (both secular and religious), contextualised theological content and structures and personnel to disseminate such content, and with the pressing needs of the British Muslim youth in terms of identity politics, as identified by the Choudhury review, the Government also took the view that it could not wait for the above initiatives to bear fruits to tackle these immediate needs of the Muslim youth. Many of the above initiatives would only begin to have an impact in the middle to long term and the needs of the Muslim youth were more urgent. The Government thus initiated and/or funded several key educational, awareness and anti-radicalisation initiatives. Perhaps the most important of these was the Islam & Citizenship Education (ICE) project. This was developed and coordinated by the School Development Support Agency and jointly funded by the Department for Communities and Local Government and the then Department for Children, Schools and Families (DCSF). It took the national citizenship programme of study that UK schools used and added Islamic guidance to it. The approach was essentially to teach citizenship values through the Islamic perspective, based on the idea that citizenship values and Islamic values were broadly compatible – that to be a good Muslim is to be a good citizen and visa-versa. The project supported the development and delivery of a citizenship curriculum and materials for use by madrasahs/maktabas (Islamic evening schools). More specifically, the project aimed to educate pupils aged 7 to 14 (Key Stage 2 and 3) about Islamic tradition, values and their roles and responsibilities in society as good Muslims; promote citizenship education in madrasahs/maktabas by developing appropriate online resources and materials for teachers and pupils; pull together and build upon the existing work done by many British Muslim communities in teaching citizenship education; and develop

⁶⁴² Ibid. See also: H. Tahiri and M. Grossman, *Community and Radicalisation – An examination of perceptions, ideas, beliefs and solutions throughout Australia, Victoria, Australia: Victoria Police, 2013, pp.114 and 125.*

⁶⁴³ Promotion literature at New Horizon’s inaugural conference: The British Islam Conference 2016 – A Marketplace of Ideas, Coventry University, 19-20 March 2016.

suitable materials which could be easily adapted by mainstream schools if they wanted to relate Islamic values to their teaching of the citizenship curriculum.⁶⁴⁴

A second, more informal educational and awareness raising project was the Radical Middle Way (RMW), the second of the two key initiatives to come out of the Preventing Extremism Together consultations led by the Home Office in the aftermath of the 7/7 London bombings in 2005. RMW described itself as a ‘revolutionary grassroots initiative aimed at articulating a relevant mainstream understanding of Islam that is dynamic, proactive and relevant to young British Muslims’. It aimed to work alongside grassroots partners to create platforms for deep spiritual reflection, critical thinking and open debate; encourage positive civic action; and give its audiences the tools to combat exclusion and violence. The RMW delivered over 230 programmes and events in the UK, Pakistan, Sudan, Indonesia, Mali and Morocco. It estimated that over 75,000 people had participated in its programmes in the UK alone, and tens of thousands more had participated world-wide. From 2006-9, RMW received approximately £1.2m funding from the Government for domestic work, and much larger additional funding for international work.⁶⁴⁵ One significant piece of work, additionally funded by the Government under this category and that supplemented the RMW and ICE work, was the Young, Muslim & Citizen toolkit. This project, initiated by the FaithWise Advisor, was delivered by the UK Race and Europe Network. The toolkit, built on the experiences of practitioners with many years of work in grassroots Muslim communities, was a practical guide not only to young Muslims being heard but also involving them at the centre of deciding what and how they should learn about the issues closest to their heart: their sense of identity and belonging, balancing their rights and responsibilities, challenging prejudice and Islamophobia, and participating in and achieving change – all within the British context. The pack was designed to go beyond the organized part of the Muslim

⁶⁴⁴ See: M. Coles, *Islam, Citizenship and Education – Building Akhlaq, Adhab and Tahdhib, When Hope and History Rhyme – A Discussion Paper*, Leicester: School Development Support Agency, January 2010. For an evaluation of this project, see: J. Ryan and K. Last, *Islam and Citizenship Education – Lessons learnt from pilot programmes delivered in Muslim schools and Madrassa in the UK*, in P. Cunningham (ed.) *Identities and Citizenship Education - Controversy, crisis and challenges*, London: CiCe, 2013, pp. 68-80. See also: M. Coles, *Every Muslim Child Matters*, London: Trentham, 2008.

⁶⁴⁵ For a very interesting article on the RMW’s role in contextualising Islam in Britain, see: S. Jones, *New Labour and the Re-making of British Islam – The Case of the Radical Middle Way and the ‘Reclamation’ of the Classical Islamic Tradition*, *Religions*, Vol.4, 4 November 2013, pp.550-66. Note that there were other competitors to RMW in its educational, awareness and anti-radicalisation work, both at the domestic and international levels, and also funded by the government – for example, the Quilliam Foundation (QF). QF, however, seems to have been less accepted in British Muslim communities.

community, to reach as many Muslim youth as possible through many different channels, and included a great range of interactive techniques and material to help young Muslims develop their knowledge, skills and attitudes to be better Muslims and better citizens in Britain.⁶⁴⁶

The final project that might be squeezed in under this sub-heading is the Channel Project. From the beginning, this was a national project delivered through a multi-agency process coordinated at the local level to identify and guide individuals vulnerable to radicalisation through appropriate support. The purpose of the project, as set up under New Labour in 2007, was to identify vulnerable individuals as early in the radicalisation process as possible, to assess the nature and extent of their vulnerability, and to develop tailor-made support plans most appropriate to their individual and specific needs to guide them through their vulnerability. Though police led, the focus of interventions was mostly to be counselling and mentoring – and, as it was initiated under the Prevent Unit at the DCLG, the project was initially focused on Muslim radicalisation and extremism. The Communities and Local Government Select Committee was critical of the project and recommended that it be moved into a proper crime prevention strategy. However, with the Coalition Government’s transfer of most of Prevent back into the Home Office under the OSCT, the Channel Project was retained under Prevent, and with the extension of CONTEST to all forms of extremism, the scope of Prevent and Channel were also expanded accordingly. Under the Coalition Government, Channel was also given a legislative footing.⁶⁴⁷ However, of all the Prevent initiatives, Channel has become perhaps the most despised as a tool for spying on Muslim communities.⁶⁴⁸

⁶⁴⁶ See: Young, Muslim and Citizen – Identity, Empowerment and Change, Ideas, activities and resources for parents, teachers, and youth workers, London: The Runnymede Trust, November 2009 – as very positively reviewed in: M. Coles, Every Muslim Youth Matters – The 4 Ps of Muslim Participation, in B. Belton and S. Hamid (eds.) Youth Work and Islam – A Leap of Faith for Young People, Rotterdam: Sense Publishers, 2011, p.110.

⁶⁴⁷ See: HM Government, Channel Duty Guidance – Protecting vulnerable people from being drawn into terrorism, Statutory guidance for Channel panel members and partners of local panels, London: The Stationery Office, 2015.

⁶⁴⁸ See: A. Kundnani, Spooked – How not to Prevent Violent Extremism, London: IRR, October 2009; Communities and Local Government Select Committee, Preventing Violent Extremism – Sixth Report of Session 2009-10, op. cit., paras.22-40; HMIC and Audit Commission, Preventing Violent Extremism – Learning and Development Exercise, London: Audit Commission, October 2008, para 151; P. Thomas, Responding to the Threat of Violent Extremism – Failing to Prevent, London: Bloomsbury, 2012, pp.130-33; J. Mohammed, The Prevent Strategy – A cradle to grave police-state, London: CAGE, 10 June 2014, pp.12-15.

Local Work

Whilst tackling violent extremism was and remains a national priority, the nature of the challenge has varied greatly from place to place. Thus, whereas all the measures mentioned above were mostly designed and delivered from a national perspective, a significant part of the Prevent work was actually undertaken at the local level.⁶⁴⁹ Certainly, a large part of community engagement on Prevent was undertaken locally through local authorities, the police and educational institutions – enabling local discussions to shape the local delivery of Prevent and to address local needs and issues. The local work started in 2007 with an initial £6 million ‘Pathfinder’ Fund for the 70 local authorities in England with a 5% or more Muslim population.⁶⁵⁰ Pressure on local authorities to participate in this pilot phase came in the form of Local Area Agreements under the Common Spending Assessment requiring the adoption of National Indicator 35 (NI35),⁶⁵¹ which was centred on developing and assessing the breadth and strength of engagement towards ‘resilience to violent extremism’ and was the key performance measure against which local strategic partnerships were to report. Some local authorities initially refused to adopt NI35 in their work, but all of them were ultimately required to report on it to Government Offices.⁶⁵² Many local authorities still remained deeply anxious about PVE, particularly where a number of significant Muslim community groups refused to participate – however, pressure from government saw PVE continue to grow to the point where all local authorities with significant Muslim communities were forced to participate.⁶⁵³

A mapping and assessment of PVE projects, partners, beneficiaries and contributions to Prevent priorities funded under the ‘Pathfinder’ year suggested that over 44,000 people, almost all of them Muslim youths, had been engaged nationally. The report conceded,

⁶⁴⁹ On the importance of this local work and how it shaped Prevent, see: V. Lowndes and L. Thorp, Preventing Violent Extremism – Why Local Context Matters, in R. Eatwell and M. Goodwin (eds.), *The New Extremism in 21st Century Britain*, London: Routledge, pp.124-44.

⁶⁵⁰ See: DCLG, *Preventing Violent Extremism – Winning Hearts and Minds*, London: DCLG, 2007; *Preventing Violent Extremism – Guidance Note for Government Offices and Local Authorities*, London: DCLG, 2007.

⁶⁵¹ HM Government, *NI35 – Building Communities Resilient to Violent Extremism*, London: DCLG, 2008.

⁶⁵² See: Local Government Association, *Submission to Communities and Local Government Select Committee – PVE Inquiry*, London: LGA, 2009.

⁶⁵³ See: A. Turley, *Stronger Together*, op. cit.; Communities and Local Government Select Committee – *Preventing Violent Extremism*, op. cit.

however, that the range of activities was very broad and unfocussed and little independent evaluation had been undertaken on any of them.⁶⁵⁴ One exception to this was Kirklees in West Yorkshire, home of two of the 7/7 bombers, where independent evaluation identified a lack of clarity in the aims of the well-meaning work and its relationship to community cohesion.⁶⁵⁵ Alongside this mapping work, HM Inspectorate of Constabulary and the Audit Commission jointly undertook a learning and development exercise, exploring the progress made by councils and police partners in developing programmes of activity to deliver Prevent. This specifically looked at identifying ‘what works, what doesn’t and what looks promising’ in relation to Prevent activities funded in the pilot year through the Pathfinder Fund and partners’ core budgets.⁶⁵⁶ Whilst work continued in the development of a framework and tools for the monitoring and evaluation of Prevent projects and activities,⁶⁵⁷ the Pathfinder Fund was significantly expanded by the DCLG in 2008 into a full three-year programme, offering a £45m pot of funds for all local authorities with 4,000 or more Muslims.⁶⁵⁸ Meanwhile, additional PVE funding led to 300 new dedicated police posts nationally, some of them attached to the newly-established regional Counter Terrorism Units (CTUs). This all added up to a 2008-2011 key Prevent deliverables budget of £140m, some £85m of which came from the DCLG and the security focussed remainder from the Home Office – contributing to Public Service Agreement (PSA) 26: to reduce the risk to the UK and its interests overseas from international terrorism.⁶⁵⁹ Thus, based on the PVE evaluation work so far, the expansion

⁶⁵⁴ See: PVE Pathfinder Fund – Mapping of Project Activities 2007/08, London: DCLG, 2008. For other research and reports on the Pathfinder year, see: V. Lowndes and L. Thorp, PVE Pathfinder Action Research 2007-8 – A series of four reports, London: DCLG, 2008; V. Lowndes et al, Preventing Support for Violent Extremism through Community Interventions – Rapid Evidence Assessment Report, London: DCLG, 2009.

⁶⁵⁵ P. Thomas, Evaluation of the Kirklees Preventing Violent Extremism Pathfinder – Issues and Lessons from the First Year, Huddersfield: The University of Huddersfield, 2008.

⁶⁵⁶ HMIC and Audit Commission, Preventing Violent Extremism: Learning and Development Exercise, London: Audit Commission, October 2008.

⁶⁵⁷ Prevent projects were monitored, and the most significant were individually externally evaluated. The relative complexity and immaturity of Prevent projects, however, meant that formal evaluation of them was a significant challenge. To ensure that the best possible methodologies were used for evaluating individual projects, a local area and Prevent as a whole, DCLG commissioned Tavistock Institute to produce a study on evaluation methodologies and to provide recommendations and guidance. This resulted in the following: K. Junge et al, A Methodological Paper to Inform the Future Evaluation of CLG-funded Local Authority Preventing Violent Extremism Work, London: Tavistock Institute, February 2009; and Evaluating Local Prevent Projects and Programmes – Guidelines and Resource Pack for Local Authorities and their Partners, London: DCLG, August 2009.

⁶⁵⁸ P. Thomas, Between Two Stools? The Government’s Preventing Violent Extremism Agenda, The Political Quarterly, Vol.80(2), 2009, pp.482-92.

⁶⁵⁹ See: Communities and Local Government Select Committee, Preventing Violent Extremism – Sixth Report of Session 2009-10, op. cit., p.6.

of Prevent was accompanied by greater advice, as well as delivery and impact measurement support, in this area in June 2008 with the publication of a guide and an accompanying resource pack to evaluate local Prevent programmes and projects, and a further publication in July 2008 specifically targeting communities.⁶⁶⁰ However, the material was considered to be weak – with the guide confined to vague suggestions that local authorities ‘might’ decide to develop external evaluation of their programmes and projects. Nonetheless, DCLG and other government departments continued to develop a wide range of guidance, support and evaluation documents to help delivery partners implement the Prevent agenda, and the publications evolved as the government learnt more about what works and how best to communicate with all stakeholders.

A part of the local work from the DCLG was undertaken directly with communities.⁶⁶¹ The local engagement, development and capacity-building work undertaken in grassroots organisations across communities, funded through the £5.1m Community Leadership Fund (CLF), has been mentioned already. There was also the development of local forums to discuss the issues of extremism and Islamophobia through a £3.2m Challenge and Innovation Fund introduced in May 2009. The purpose of this work was to create a strong pool of committed partners at the local level with influence in communities that the Government cannot reach. Government sought to work closely with these partners to strengthen their voices – by facilitating better engagement and dialogue with them to ensure that they had the information, skills and confidence to deliver the Prevent objectives locally.⁶⁶² Much of the local work, however, was undertaken through existing public sector infrastructure and co-ordination tweaks to this required for the more efficient delivery of Prevent. From the DCLG perspective, the key component for Prevent in this infrastructure were local authorities. Local authorities with a significant Muslim population, and their local public sector partners, were therefore given privileged access to Prevent funding pots – not least the Pathfinder pot. DCLG, and wider government

⁶⁶⁰ See: *Evaluating Local Prevent Projects and Programmes*, London: DCLG, 2008 – updated as *Evaluating Local Prevent Projects and Programmes – Guidelines and Resource Pack for Local Authorities and their Partners*, London: DCLG, 2009; *Preventing Violent Extremism – Next Steps for Communities*, London: DCLG, July 2008.

⁶⁶¹ For an overview of this work, see: T. O’Toole et al, *Taking Part – Muslim Participation in Contemporary Governance*, op. cit., p.58. For a perspective on this work from a grassroots angle, see: S. Lakhani, *Preventing Violent Extremism – Perceptions of Policy from Grassroots and Communities*, *The Howard Journal of Criminal Justice*, Vol.51(2), May 2012, pp.190-206.

⁶⁶² See: DCLG, *Preventing Violent Extremism – Community Leadership Fund Guidance*, London: DCLG, April 2008; and *Preventing Violent Extremism – Next Steps for Communities*, op. cit., p.28.

through the DCLG, also shared with them the latest research; Central Prevent Analysis documents, which provided thematic analysis on issues such as radicalisation; OSCT-led Counter-Terrorism Local Profiles, which were classified documents developed by the police and intended to be shared with partners to inform them of the development of local programmes of action; and a cross-government monthly newsletter, which kept local partners up to date by giving a snapshot of important events, conferences, new publications, and national projects – complemented by RICU’s weekly update for local partners on Prevent related news stories. DCLG also worked closely with the Home Office to ensure appropriate training and awareness packages on Prevent issues were available to a full range of local partners, and RICU delivered a programme of workshops throughout the UK to support the development of strategic communications at the local level. Subsequently, DCLG and RICU also developed a communications toolkit to help local partners develop and implement their own effective Prevent communications. Additionally, support for local communications also included targeted communications training for local delivery and local community and faith stakeholders, and the development of local communications toolkits aimed at supporting local community partners to develop and implement their own Prevent communications.⁶⁶³ Building on these approaches, there was also a discussion in government to work intensively with a small group of local authorities to develop a shared understanding of good practice and effectiveness through deploying a small number of DCLG Advisors to work directly in partnership with these authorities. One aspect of this work was to look at how local authorities could work with their communities to tackle Al-Qa’idah influenced extremism. However, this initiative was short lived, as it was introduced very late in New Labour’s time in office, and many of the DCLG Advisors left Government with the Coalition Government coming into power.

A second important component in the infrastructure were the Government Offices in the regions, and in some cases, the devolved administrations. These Offices and administrations played an important role not only in terms of delivery in their regions and nations but also, through their own feedback to Whitehall departments on the views of local partners, in the development of central government policy, programmes and

⁶⁶³ For a good insight into this work with local authorities, see: HM Government, Prevent Strategy (2), op. cit.

projects.⁶⁶⁴ Thus, in 2009-10, DCLG and OSCT invested £1.5m to fund posts in each of the English Government Offices and in the Home Office Crime Team in the Welsh Assembly Government to build their capacity to act as a first point of contact for local authorities, coordinate work across their regions or nation and share best practice with local partners. In that same year, Government also piloted regional support through the Yorkshire & Humber Regional Improvement and Efficiency Partnership, which supported local authorities to set up and deliver specific Prevent workforce training and development activities with the aim of sharing good practice across the region. The Government's National Improvement and Efficiency Strategy provided a further set of important partners in the infrastructure.⁶⁶⁵ The strategy required that government departments work closely not just with local authorities, but also with groups like the Local Government Association (LGA) and Improvement and Development Agency for Local Government (IDeA) to develop sector-led solutions. In this instance, DCLG worked closely with IDeA to build on their local 'peer support' approach, to accredit 30 local authority officers, councillors and third sector representatives to provide support to other authorities on the Prevent agenda. Additionally, the IDeA created a councillors' network and developed councillor-focussed workshops – and run bespoke workshops on issues like developing Prevent action plans.⁶⁶⁶ Both the IDeA and LGA also produced their own guides for Prevent, looking at the role of councillors and considering issues such as the use of council property by groups with extremist views.⁶⁶⁷ The IDeA also facilitated an on-line 'Community of Practice', allowing local practitioners to share best practice, access key documents, post comments and take part in question and answer sessions. Alongside this work, four local authorities were given beacon status for their work on 'cohesive and resilient communities' and were able to share their best practice

⁶⁶⁴ For a summary of the similarities and differences between England and the devolved administrations, see: Prevent Strategy (2), *ibid*, pp.103-5. For the role of the Government Offices in the delivery of Prevent, see: HM Government, *The Prevent Strategy – A Guide for Local Partners in England, Stopping people becoming or supporting terrorists and violent extremists*, London: The Stationery Office, May 2008, pp.8-15; *Delivering the Prevent Strategy – An Updated Guide for Local Partners*, London: The Stationery Office, August 2009, p.22.

⁶⁶⁵ DCLG and LGA, *National Improvement and Efficiency Strategy*, London: DCLG, January 2008.

⁶⁶⁶ For a good summary of the IDeA's work on Prevent, see: <http://www.idea.gov.uk/idk/core/page.do?pageId=7890410>.

⁶⁶⁷ See: LGA, *Leading the Preventing Violent Extremism Agenda – A role made for councillors*, London: LGA, November 2008; IDeA, *Striking the Balance – Managing the use of council facilities for communities*, London: LGA, June 2009; LGA, *Councils' Role in Preventing Extremism – Case Studies*, London: LGA, December 2015.

on the Prevent and cohesion agendas with other local authorities and partners throughout 2009-10.

Initially, this local work through these various components of the public sector infrastructure were handled through a programme of ministerial and official visits to Government Offices, local authorities, statutory partners and communities, and attendance at one-off meetings/events and regular network meetings and conferences. Partly towards this end, and to provide learning opportunities and support the sharing of good practice between local delivery partners, DCLG itself delivered three national conferences between 2007 and 2009, with an average of 1,000 delegates at each conference. The conferences also involved a range of community organisations reflecting a wide range of faiths and no faith. In November 2008, however, these separate parts were brought around the same table specifically for the purposes of Prevent in the form of the Local Delivery Advisory Group (LDAG). Meeting on a quarterly basis, the Group advised the Communities and Home Secretaries on the development and delivery of the Prevent agenda at a local level and strengthened the dialogue between the national government and many of its key delivery partners. Membership of LDAG included representatives from across the fields of local government, policing, education, housing and the third sector. It gave elected members, strategic leaders and local practitioners the opportunity to help shape policy on Prevent at the national level. Discussions at the LDAG emphasised the importance of strengthening the support available to local partners and helped to shape the way that support is delivered. The LDAG built on the regular contact that officials had with strategic service leaders and frontline practitioners across a range of agencies and organisations, and in communities.⁶⁶⁸

Specific Sites of Radicalisation Initiatives

One final area of Prevent work that should be covered in this chapter is that of the very specific initiatives that were undertaken in relation to what came to be termed as ‘sites of radicalisation’, referring in particular to universities, the internet and prisons.⁶⁶⁹ This was

⁶⁶⁸ DCLG, Memorandum to the Communities and Local Government Select Committee, October 2009, para.7. See also: HM Government, *Delivering Prevent – Responding to Learning*, London: DCLG, December 2008.

⁶⁶⁹ Home Affairs Select Committee – *Roots of Violent Radicalisation*, Nineteenth Report of Session 2010-12, London: House of Commons, 6 February 2012.

initially prompted by a study for the European Commission in 2007, which concluded: ‘Like prisons or like the internet, universities were places of vulnerability ... because you get people of a certain age, often away from home for the first time, often feeling quite lost and experiencing a sort of crisis of identity and so on. That makes it easy for extremist groups to pick them up’.⁶⁷⁰ Whilst the evidence for ‘sites of radicalisation’ has since been heavily contested, and mostly discredited, governments have since that study instinctively accepted that conclusion.⁶⁷¹ Thus, during the latter years of New Labour, there was considerable guidance work in further and higher education settings by the newly formed (and soon to be dismantled) Department for Innovation, Universities and Skills (DIUS). The key objectives of this work were to promote and reinforce shared values, create space for free and open debate and listen to and support mainstream voices; to break down segregation amongst different student communities, including by supporting inter-faith and inter-cultural dialogue and understanding and engaging all students to play a full and active role in wider engagement with society; to ensure student safety and campuses that are free from bullying, harassment and intimidation; to provide support for students who may be at risk and appropriate sources of advice and guidance; and to ensure that staff and students are aware of their roles in preventing violent extremism.⁶⁷² There were relatively fewer government funded Prevent initiatives at the further/higher education level – however, one initiative that should be mentioned here is the Campusalam project. Launched in 2008, to support students and staff across 30 campuses in addressing the unique challenges faced by Muslim students, in 2010, it rebranded itself as Campus Lokahi and expanded its work into improving campus relations more generally by building stronger bridges between student societies, and with university administrations,

⁶⁷⁰ See: P. Neumann and B. Rogers, *Recruitment and Mobilisation for the Islamist Militant Movement in Europe*, Brussels: European Commission, December 2007. The work on the internet and prisons were subsequently further developed in P. Neumann and T. Stevens, *Countering Online Radicalisation – A Strategy for Action*, London: ICSR, 2009; and P. Neumann, *Prisons and Terrorism – Radicalisation and De-radicalisation in 15 Countries*, London: ICSR, 2010. Another key and influential proponent of this work is A. Glees – see, for example, his evidence to the All Party Parliamentary Group on Homeland Security: D. Lewin, *Keeping Britain Safe – An Assessment of UK Homeland Security Strategy*, London: Henry Jackson Society, April 2011.

⁶⁷¹ Home Affairs Select Committee – *Roots of Violent Radicalisation*, op cit.

⁶⁷² Department of Innovation, Universities and Skills (DIUS), *Promoting Good Campus Relations, Fostering Shared Values and Preventing Violent Extremism in Universities and Higher Education Colleges*, London: DIUS, 2008. This document builds on the guidance documents sent out to HE providers by Universities UK and the Equality Challenge Unit: *Promoting Good Campus Relations – Dealing with hate crimes and intolerance* (in 2005) and *Promoting Good Campus Relations – An institutional imperative* (in 2007), which provided comprehensive and practical guidance for institutions on appropriate steps to take where activities were likely to threaten the safety and freedoms of staff and students from many forms of bigotry including racism, political or religious intolerance, anti-Semitism and homophobia.

around issues of beliefs and values. The focus of Campus Lokahi was to explore the Hawaiian idea of lokahi (harmony through diversity) on campus through research and action – its main work was to bring different groups to work together to create a positive experience in further and higher education settings.⁶⁷³

The acceptance of the sites of radicalisation thesis in government also resulted in the Home Office launching a Counter-Terrorism Internet Referral Unit (CTIRU) in 2010, to investigate internet-based content which might be illegal under UK law and to take appropriate action.⁶⁷⁴ By the end of New Labour’s term in office, the Unit had received approximately 2,000 referrals, about 10% of which had led to websites or web pages being taken down. This was achieved through both legal challenges and political pressure on internet service providers (ISPs). Additionally, the government pursued strategic prosecutions – not necessarily for the purpose of taking down websites but to prosecute the people who were producing the content for the websites.⁶⁷⁵ However, given the impossibility of completely eliminating extremist material from the internet that had the potential of radicalising individuals towards terrorism – especially in light of the fact that many relevant websites were hosted abroad in jurisdictions with different laws, the government (whilst maintaining this work) reinforced its underlying approach that its best defence against online radicalisation was to empower civil society groups to counter extremist ideology online, and towards this end, it funded organisations like the Radical Middle Way and STREET to undertake this work, supported by the Research, Information and Communications Unit (RICU), as mentioned above – but perhaps the most innovative work in this area has been done by the Institute of Strategic Dialogue.⁶⁷⁶

Finally, with regards to prisons, the focus of the National Offender Management Service (NOMS) was again guidance and training of staff to recognise and deal with the signs of

⁶⁷³ See: J. Smith, Good Campus Relations – Lokahi University Research Briefing Paper 1, London: Lokahi Foundation, April 2012; Lokahi Foundation, Facilitating Conflicts of Beliefs and Values – Best Practice Guide, London: Lokahi Foundation, June 2013.

⁶⁷⁴ For the Home Office research preceding this, see: Connect, Young British Muslims Online, London: Home Office, 2010; D. Stevens, Estimating Network Size and Tracking Information Dissemination Amongst Islamic Blogs, London: Home Office, 2010.

⁶⁷⁵ For more on the work of CTIRU, see: HM Government, CONTEST – The United Kingdom’s Strategy for Countering Terrorism, Annual Report for 2015, London: The Stationery Office, July 2016.

⁶⁷⁶ See the Counter-Narrative Toolkit at: <http://www.counternarratives.org/>. See also: H. Tuck and T. Silverman, The Counter-Narrative Handbook, London: Institute of Strategic Dialogue, June 2016; and L. Reynolds and H. Tuck, The Counter-Narrative Monitoring & Evaluation Handbook, London: Institute of Strategic Dialogue, November 2016.

radicalisation.⁶⁷⁷ NOMS was fortunate, however, to have a particularly good Muslim Advisor from the beginning of its Prevent work. The Advisor marshalled all Muslim prison chaplains to form a constructive response to the challenges under Prevent – particularly in accepting these challenges, and systematically contextualising their theological learning to Britain and developing their skills to deal with these challenges.⁶⁷⁸ Subsequently, these chaplains also benefitted from the Cambridge-Azhar Imam Training Programme discussed above. The result of the Advisors work was not only to equip Muslim chaplains to challenge radicalisation, but also to give them the skills and tools for deradicalization work. Further developments came through significant funding to Youth Offending Teams through the Youth Justice Board.⁶⁷⁹ However, throughout the New Labour years and beyond there remained significant concerns around aftercare for prisoners upon release and the availability and strength of good community-based services for their long-term rehabilitation back into society.⁶⁸⁰

British Muslim engagement and impact

As with the previous substantive chapters, this last section of this chapter will consider briefly how British Muslims engaged with the New Labour initiatives discussed here – the key non-legal measures to prevent terrorism and promote security. In contrast to the legal provisions to prevent terrorism and promote security, New Labour openly proclaimed that the non-legal measures were specifically targeted at Muslim communities – and arguably British Muslims were more engaged with these initiatives than those discussed in the previous three chapters. Returning to Dinham and Lowndes, it would appear that in the pursuit of Prevent the Government sought extensively to engage all parts of their framework of the continuum of faith actors and roles in British Muslim communities. The approach was to Muslim communities as a whole – though in practice this was often limited to engaging with those that government thought would echo its position on theo-ideological factors being the primary cause of international terrorism.

⁶⁷⁷ R. Warnes and G. Hannah, Meeting the Challenge of Extremists and Radicalised Prisoners – The experiences of the UK and Spain, *Policing Journal*, Vol.2(4), 2008, pp.402-11.

⁶⁷⁸ See: HM Chief Inspector of Prisons, *Muslim Prisoners' Experiences – A Thematic Review*, June 2010; S. Gilliat-Ray et al, *Understanding Muslim Chaplaincy*, London: Routledge, 2014.

⁶⁷⁹ For more on the Youth Justice Board and Youth Offending Teams, how they were funded and their effectiveness, see: Centre for Crime and Justice Studies, *Ten Years of Labour's Youth Justice Reforms – An Independent Audit*, London: CCJS, Kings College London, May 2008.

⁶⁸⁰ Home Affairs Select Committee – *Roots of Violent Radicalisation*, op cit.

To its credit, New Labour took on board a suggested distinction at the time between the organised Muslim community and the wider Muslim community – and the various advisory boards were as much an attempt to get beyond the normal gate-keepers to the community as any other objectives sought through them, and thereby to directly engage views and voices who may not be involved in organised British Islam.⁶⁸¹ But initiating, developing and engaging faith based organisations and networks, in light of the capital and benefits they bring, remained very important to New Labour – and hence, the efforts and resources expended on initiatives such as the British Muslim Forum, the Mosques and Imams National Advisory Board and the Faith Communities Consultative Council. There was also an emphasis on engaging individual faith and community leaders in their own right, both informally on a one-to-one basis and more formally through the various advisory groups. Almost uniquely in this part of the quartet, however, New Labour also engaged an array of in-house employed and contracted Muslim Advisors in different departments and agencies, at both policy and delivery levels – these were over and above the regular Muslim civil servants working in this area.⁶⁸² The result of this extensive engagement initiated by Government through every key point on the Dinham and Lowndes continuum was engagement of British Muslims on almost every aspect of Prevent. In addition, drawing on the extended part of the Dinham and Lowndes framework as developed in Chapter 1, there was engagement initiated by members of or organisations from the Muslim community – sometimes to join the bandwagon of Prevent in some form or other to access resources, even if in some cases not in complete agreement with the Government's approach – note, for example, the differences in approaches between the Quilliam Foundation and the STREET project and with the Government; but sometimes also to criticise and critique the government's approach and provisions – for example, the engagement by organisations like the Muslim Safety Forum, IHRC, iEngage/MEND, Cage and An-Nisa,⁶⁸³ or politicians and academics like Baroness Warsi and Yahya Birt, as we've noted already. In these cases of engagement, the target included the additional continuum of government actors and roles – of political party officials, politicians (at various levels, eg, cabinet, ministerial, parliamentary and local government levels), civil servants and public officials (including in NDPBs and quangos),

⁶⁸¹ D. Hussain and M. Aziz, *Winning Hearts and Minds*, op cit.

⁶⁸² The present author was one of them – contracted as a Senior Advisor on race, religion and community cohesion by the DCLG through FaithWise Ltd.

⁶⁸³ See, for example: K. Khan, *Preventing Violent Extremism (PVE) and PREVENT – A response from the Muslim Community*, London: An-Nisa Society, February 2009.

consultations and advisory fora established by the government and its organs, advisors at different levels, and concrete initiatives and projects – but also the wider parliamentary system and other organs of public life, for example, the media.

The impact of this extensive engagement of British Muslims in the development and delivery of Prevent was very mixed. There was little impact in terms of the intelligence work – even security cleared Advisors found this work hard to access, but clearly more impact in terms of research, guidance and communications work – though this was often overshadowed and overrun by a top-down narrative and agenda from No.10, as discussed. There was significant engagement on government-community relations and identifying and developing new leadership to represent views and voices in Muslim communities previously excluded. However, this raised its own problems with Muslims pushing their personal, group and sectarian agendas. Some voices, as in the unpublished Hussain paper, argued for engaging with ‘credible leadership’ who had influence over the ‘critical mass’ of the Muslim community and access to its ‘hardest-to-reach’ parts, and eventually gained some acceptance in government – particularly with John Denham MP as Secretary of State at the DCLG. However, this was very late in the day in terms of New Labour’s time in Government – and the work was almost frozen, and the learnings lost, with the new Coalition Government. There was far more impact on the theological initiatives – primarily because New Labour had been convinced that the work needed to be done but Government could not be seen as leading on theological work, dictating what Muslim theology should look like or how its ministers should be trained. This allowed resources and space for Muslims to develop the work more organically – and that work continued in the Muslim community even after New Labour left office and the Coalition Government disbanded this work because it felt that theological initiatives were not for the Government to undertake. The educational and awareness raising work was again mostly developed organically through Muslim communities. Funding for this work after the new Coalition Government came to office seems to have been diverted to communications work with unfortunate consequences – the educational work has returned to poor resourcing and the communications work is distrusted in Muslim communities, toxifying the Prevent brand as a whole. The deradicalization work, especially the Channel project, appears to have had less input from Muslim communities, was received with some suspicion from the start – and that seems to have only grown

over time.⁶⁸⁴ The impact on local and sites of radicalisation work has been mixed. Where the work was in the communities through community organisations, of course, Muslims shaped that work – however, three points seem to emerge from this work: first, in some cases the quality of this work; secondly, to what extent local organisations were playing the system, ie, presenting the work in Prevent language but doing what they wanted to do anyway;⁶⁸⁵ and third, the divisiveness in Muslim communities resulting from some of this work – which also played out at the national level through, for example, the Sufi Muslim Council, Quilliam Foundation, Faith Matters and Inspire on the one hand and Muslim Safety Forum, IHRC, iEngage/MEND and Cage on the other. Where the work has been more focused on sharpening the institutional and organisational machinery to deliver Prevent, there has been less obvious engagement of and impact by British Muslims. However, at least two initiatives stand out in the sites of radicalisation work, where Muslims have been significantly involved and have had significant impact – the Campus Lokahi project and the Prevent work in prisons.

The impact of this non-legal work in the security policy domain, along with the other provisions and measures discussed in the previous three chapters, on the integration of Muslims into British society is discussed in the next chapter.

⁶⁸⁴ Note that the decision to publish Channel referral data on an annual basis over the past two years seems partly to have been in response to this suspicion in Muslim communities surrounding this programme – see: Home Office, *Individuals Referred to and Supported through the Prevent Programme*, April 2015 to March 2016, London: Home Office, November 2017.

⁶⁸⁵ Note how it has been described by one review of this work as ‘[funds diverted towards] bland and unfocused youth activities’ – see: P. Thomas, *Failed and Friendless – The UK’s Preventing Violent Extremism Programme*, *The British Journal of Politics and International Relations*, Vol.12(3), August 2010, pp.453.

Chapter 6: The impact on the integration of British Muslims

Introduction

The last four chapters described in detail some of the legal and non-legal equality and security provisions and measures introduced by New Labour and how British Muslim communities engaged with them. This chapter will consider their impact on British Muslim communities in terms of integration. The chapter will begin with a background section on the integration paradigms, theories and models currently identifiable with regards to historical, ethnic and other minorities in Western liberal democratic contexts; the perceived biases within the paradigms and how they feed into the dominant theories and models; and what implications this has for Muslims and other faith groups as these theories and models speak to and help flesh out some core principles in Western political philosophy and liberal democracies – liberty, equality and fraternity. Conversely, this section will consider how faith groups engage with the current mechanisms of integration – whether they perceive the dominant paradigms, theories and models are adequate for their needs, and if not, how they may be modified for their integration. This section will also consider the tools currently available for measuring integration, their inadequacies for the purposes of this study, and therefore, also explain the approach adopted in this research. The second part of this chapter will then analyse the interviews of 16 prominent British Muslims on how the provisions and measures introduced by New Labour, discussed in the previous chapters, impacted on the integration of British Muslims from their perspectives.

The Background

The New Labour years in government was a uniquely rich period for discussions on integration. A review of the philosophical, social and policy literature on integration with regards to historical, ethnic and other minorities in Western liberal democratic contexts points to a range of contested objectives pursued through a spectrum of theories and models in this area. According to Modood, the dominant theories and models of integration that come out of this literature, include: assimilation, individual/civic

integration, cosmopolitanism and multiculturalism.⁶⁸⁶ Assimilation is essentially a one-way process of absorption, in which social groups are required to adapt to society and adopt the same identity as the majority or dominant group. By erasing difference, it hopes to reduce disturbance, discrimination and disadvantage between majority and minority groups as far as possible. However, from about the 1960s, the term took on pejorative connotations in many political and policy circles, as it came to be seen as clashing with the liberal, egalitarian and accommodating values of the time – notably resulting in a declaration in 1966 by the then Home Secretary, Roy Jenkins, that in the view of the British government integration was ‘not a flattening process of assimilation but equal opportunity accompanied by cultural diversity in an atmosphere of mutual tolerance’.⁶⁸⁷ Nevertheless, whilst ‘assimilation’ as a term has been superseded by ‘integration’ in public discourse, yet even today when some politicians and policy commentators advocate for integration, they are actually, consciously or not, advocating for one or another form of assimilation.⁶⁸⁸ More progressive understandings and models of integration, on the other hand, see it as a two way process, where members of the majority as well as immigrant and minority communities are required to adapt and adopt in order to form a new integrated whole.⁶⁸⁹ The arena of particular interest here is that of institutions – whether in the public, private or third sector, where they are required to take the lead in promoting integration, and there are non-discrimination, equality and good relations provisions to ensure this happens. However, according to Modood, a distinction should be drawn here between an earlier model of integration, ie, individual or civic integration, and later models of integration, which include cosmopolitanism and multiculturalism. In this earlier model of individualist integration, members of migrant or minority communities could claim rights as such, and institutional adjustments could be demanded, but only as individual claimants. Migrant and minority communities could

⁶⁸⁶ T. Modood, *Post-Immigration ‘Difference’ and Integration*, op. cit.

⁶⁸⁷ R. Jenkins, *Racial Equality in Britain*, in A. Lester (ed.), *Essays and Speeches by Roy Jenkins*, Collins, 1967.

⁶⁸⁸ See: R. Brubaker, *The return of assimilation? Changing perspectives on immigration and its sequels in France, Germany and the United States*, *Ethnic and Racial Studies*, Vol.24, July 2001, pp.531-48; R. Alba and V. Nee, *Remaking the American Mainstream – Assimilation and Contemporary Immigration*, London: Harvard University Press, 2009; E. Morawska, *A Sociology of Immigration – (Re)Making Multifaceted America*, Basingstoke: Palgrave Macmillan, 2009.

⁶⁸⁹ Note, for example: *The Common Basic Principles for Immigrant Integration Policy in the EU* – as adopted by the Justice and Home Affairs Council in November 2004, forming the foundations of EU initiatives in the field.

form their own civil society groups and exist as private associations, but the model did not extend to their recognition or support in the public realm.⁶⁹⁰

Cosmopolitanism, according to Modood, requires that difference is recognised, but that a group identity characterised by that difference is not imposed on the individual. The model was particularly strongly advocated by Black activists and academics inspired by the American civil rights movement.⁶⁹¹ They argued that in the earlier stages of migration and settlement, especially in the context of a legacy of European supremacism, colonialism and racism, groupness resulted in social exclusion. It was as a result of mass migration, social mixing and cultural sharing that the dominant identity categories of modernity, such as race and nation, started dissolving – and producing contexts of diversity, and even ‘superdiversity’.⁶⁹² People were then able to have more fluid and multiple identities, combine them in their own individual ways and use them as they wished in context-sensitive ways. This allowed them optimal possibilities to retain of their difference what they wished, but not to be ‘boxed’ by them; it allowed them to blend into majority culture, be successful – whether in politics or arts and culture – and thereby produced a new ‘multiculture’ in Britain.⁶⁹³ The imposition of group identity or even the political recognition of it, they argued, would have held this back. The cosmopolitanism

⁶⁹⁰ For expositions of this model, see: B. Barry, *Culture and Equality – An egalitarian critique of multiculturalism*, Cambridge: Polity, 2001; and C. Joppke, *Citizenship and Immigration*, Cambridge: Polity Press, 2010.

⁶⁹¹ See: P. Gilroy, *Between Camps – Race, identity and nationalism at the end of the colour line*, London: Allen Lane, 2000; K. Appiah, *Identity, Authenticity, Survival – Multicultural societies and social reproduction*, in A. Gutmann (ed.), *Multiculturalism – Examining the politics of recognition*, NJ: Princeton University Press, 1994, pp.149-64; J. Waldron, *Minority Cultures and the Cosmopolitan Alternative*, *Michigan Journal of Law Reform*, Vol.25, 1991-2, pp.751-93. See also: S. Hall, *New Ethnicities*, in J. Donald and A. Rattansi (eds.), *Race, Culture and Difference*, London: Sage, 1992, pp.252-9; *The Question of Cultural Identity*, in S. Hall and T. McGrew (eds.), *Modernity and its Futures*, Cambridge: Polity Press, 1992, pp.218-40; and *Aspiration and Attitude ... Reflections on Black Britain in the Nineties*, *New Formations*, Vol.33, Spring 1998, pp.38-46 – though Hall appears more of a policy multiculturalist in his later writings, see for example: S. Hall, *The Multicultural Question*, in B. Hesse (ed.), *Unsettled Multiculturalisms*, London: Zed Books, 2000; *Cosmopolitan Promises, Multicultural Realities*, in R. Scholar (ed.), *Divided Cities – The Oxford Amnesty Lectures 2003*, Oxford: Oxford University Press, 2006, pp.20-51.

⁶⁹² S. Vertovec, *Super-diversity and its implications*, *Ethnic and Racial Studies*, Vol.30, 2007, pp.1024-1054.

⁶⁹³ For a more lucid exposition on how culture could be ‘recognised’ but not ‘reified’ – such that we can acknowledge the value of culture to an individual’s sense of self without subjecting or sublimating them to illiberal group dynamics, see: A. Phillips, *Multiculturalism without Culture*, NJ: Princeton University Press, 2007. For a more extreme version of the individual over the group approach, see: M. Mirza et al, *Living Apart Together – British Muslims and the Paradox of Multiculturalism*, London: Policy Exchange, 2007, where the absence of a ‘homogeneous Muslim community’ is used to advance engagement on an individual basis only to the exclusion of any group-based rights – arguing further that group-based engagement strategies provoke ‘victimhood’, which only perpetuates ‘vulnerability’ among group members.

model certainly has its appeal: Modood notes how it may encourage and capture ‘the conviviality and sociability achieved by British Caribbean communities, or their success in the sports and popular culture domains, which has placed them at the centre of British national imaginaries, which may perhaps not be fully achievable under the individualist integration model’.⁶⁹⁴ However, aside from Modood’s own critique of cosmopolitanism, including its fit to the history, needs and aspirations of some communities and localities but perhaps not others, it does beg the question as to how a group addresses areas where it is not doing so well if its groupness is not to be politically recognised – for example, in the case of British Caribbean communities, economic marginalisation and over-representation in relation to social problems associated with deprived inner-city areas. One way of addressing this might be to advocate for cosmopolitanism and ‘equality of treatment’ in social integration whilst still advocating for civic integration and ‘equality of opportunity’ in terms of sectoral integration.⁶⁹⁵

Multiculturalism, in Modood’s view, seeks to address the deficiencies in the above models. It requires not only a two-way process of integration but also recognising and involving groups as well as individuals. The basic premise of this theory or model of integration is that each of these groups is distinctive (though not necessarily homogenous), their differences from the majority and between themselves may be internally or externally ascribed in different measures, and therefore, their integration cannot be achieved by a single template but by working differently with them as required – and hence the suffix ‘multi’. The ‘culturalism’ part of the term refers to the fact that the groups in question may not be marked just by newness, phenotype or socioeconomics, but by a host of differences and group identities, including gender, sexual orientation, language, culture and religion – and, sometimes by overlapping, but at other times, also by conflicting with each other. Importantly, however, the integration of groups is not as an alternative to the integration of individuals, but in addition to that work.⁶⁹⁶

⁶⁹⁴ T. Modood, *Accept Pluralism, Multiculturalism and Integration – Struggling with Confusions*, Robert Schuman Centre for Advanced Studies, European University Institute, 2011, p.5–8.

⁶⁹⁵ For the distinction between ‘equality of treatment’ and ‘equality of opportunity’, see to Chapter 2.

⁶⁹⁶ For key literature on multiculturalism, see: C. Taylor, *The Politics of Recognition*, in A. Gutmann (ed), *Multiculturalism and ‘the politics of recognition’ – An Essay*, NJ: Princeton University Press, 1994, pp.25–73; W. Kymlicka, *Multicultural Citizenship*, Oxford: Oxford University Press, 1995; B. Parekh, *Rethinking Multiculturalism: Cultural Diversity and Political Theory*, Cambridge MA: Harvard University Press, 2000; CMEB, *The Future of Multi-Ethnic Britain – Report of the Commission on the Future of Multi-Ethnic Britain*, London: Runnymede Trust, 2000; T. Modood, *Multiculturalism – A Civic Idea*, Cambridge: Polity, 2007.

Multiculturalism is then a method of blunting the hard edge of prejudice and discrimination against the individual, but also of enabling minority groups to define themselves and their needs and seeking recognition and accommodation of these in the public realm. It opposes liberal colour-blind and cultural neutrality individualism with group identity recognition. It is a way of advancing a form of equality that is open and sensitive to legitimate cultural differences. In recent years, however, multiculturalism as a model has been much criticised for fracturing societies, allowing the development of parallel communities and lives and undermining national cohesion.⁶⁹⁷ It has been renounced by some politicians and parties – and some have even gone as far as saying that it is now dead.⁶⁹⁸ Others have proposed an alternative model which they have called interculturalism.⁶⁹⁹ Cattle, a key proponent of this model, argues that multiculturalism is now an outdated model of integration, and suggests that it should be replaced by interculturalism. In elaborating on this, his principal argument is that multiculturalism is held back by its inability to capture identity as a dynamic concept, particularly in contemporary times, when globalisation and superdiversity have rendered models that pivot around race and minority-majority relations within the nation state passé. Whilst multiculturalism, he argues, only reinforces the boundaries and strengthens the grip of fixed identities over minority groups, interculturalism moves towards an understanding of all forms of difference and negotiation between them so that they are able to pursue a shared community in a shared space. For Modood, however, interculturalism does not represent an original or alternative model to multiculturalism – for its concerns and offer in relation to dynamic identities and fostering cohesion can already be addressed and met within forms of multiculturalism.

⁶⁹⁷ On this, see, for example: C. Kukathas, *Liberalism and Multiculturalism – The Politics of Indifference*, *Political Theory*, Vol.26(5), October 1998, pp.686-699; M. Mirza et al, *Living Apart Together – British Muslims and the Paradox of Multiculturalism*, London: Policy Exchange, 2007; and D. Goodhart, *Progressive Nationalism – Citizenship and the Left*, London: Demos, 2008.

⁶⁹⁸ See, for example, the speech by David Cameron PM at the 47th Munich Security Conference on 5 February 2011 – but see also how governments have continued to pursue a multicultural discourse and policies even whilst attacking them: V. Uberoi, and T. Modood, *Has Multiculturalism Retreated in Britain?* *Soundings*, 2013.

⁶⁹⁹ For more detailed accounts of this model, see: L. Sandercock, *Reconsidering Multiculturalism – Towards an Intercultural Project*, in P. Wood (ed.), *The Intercultural City – A Reader*, London: Comedia, 2004; M. James, *Interculturalism – Theory and Policy*, London: Baring Foundation, 2008; A. Rattansi, *Multiculturalism – A Very Short Introduction*, Oxford: Oxford University Press, 2011; T. Cattle, *Interculturalism – The new era of cohesion and diversity*, Basingstoke: Palgrave Macmillan, 2012. But, see also: N. Meer and T. Modood, *How Does Interculturalism Contrast with Multiculturalism?* *Journal of Intercultural Studies*, Vol.22(2), 2012, pp.177–96.

According to Modood, these different theories and models build on each other, and the divergences and nuances between them may be further illustrated by the policy concerns they seek to address and how they relate to some of the core principles in Western political philosophy and liberal democracies – particularly, liberty, equality and fraternity. Modood undertakes to provide this illustration in a tabulated form as follows:⁷⁰⁰

	Assimilation	Individual Integration	Cosmopolitanism	Multiculturalism
Objects of Policy	Individuals and groups marked by ‘difference’.	Individuals marked by ‘difference’, especially their treatment by discriminatory practices of state and civil society.	Individuals marked by ‘difference’, especially their treatment by discriminatory practices of state and civil society, and societal ideas, especially of ‘us’ and ‘them’.	Individuals and groups marked by ‘difference’, especially their treatment by discriminatory practices of state and civil society, and societal ideas, especially of ‘us’ and ‘them’.
Liberty	Minorities must be encouraged to conform to the dominant cultural pattern.	Minorities are free to assimilate or cultivate their identities in private but are discouraged from thinking of themselves as minority, but rather as individuals.	Neither minority nor majority individuals should think of themselves as belonging to a single identity but be free to mix and match.	Members of minorities should be free to assimilate, to mix and match or to cultivate group membership in proportions of their own choice.
Equality	Presence of difference provokes discrimination and so is to be avoided.	Discriminatory treatment must be actively eliminated so everyone is treated as an individual and not on the basis of difference.	Anti-discrimination must be accompanied by the dethroning of the dominant culture.	In addition to anti-discrimination the public sphere must accommodate the presence of new group identities and norms.
Fraternity	A strong homogenous national identity.	Absence of discrimination and nurturing of individual autonomy within a national, liberal democratic citizenship.	People should be free to unite across communal and national boundaries and should think of themselves as global citizens.	Citizenship and national identity must be remade to include group identities that are important to minorities as well as majorities; the relationship between groups should be dialogical rather than one of domination or uniformity.

For Modood, whilst one of these models may be more suitable for some communities and another for others, they all, collectively and separately, have their limitations. The key limitation for our purposes is in relation to how they engage with faith and religious identities in the UK – whether they engage with them at all, and if so, whether adequately

⁷⁰⁰ T. Modood, Post-Immigration ‘Difference’ and Integration, London: British Academy Policy Centre, 2012.

so.⁷⁰¹ Modood suggests that a key shortcoming in the existing integration theories and models is their exclusion of an adequate account of faith and religious identity, arising out of their loading with certain biases not favourable to religion and religious communities – for example, the European secularism bias or the Anglo-American race relations bias.⁷⁰² The European secularism bias and its poor account of faith is theoretically strongest in the assimilation and civic integration models, where the starting position is that religion is a private matter and faith-based practice and arguments have no space in public policy and public life. The cosmopolitanism model also excludes an adequate account of faith – in that, central to most faiths and faith identities is the idea of community, but political recognition of ‘community’ or ‘group’ identity is discouraged by this model. Theoretically, the multiculturalism model should have no problem in engaging with and providing an adequate account of faith identity politics. However, to assume this is to be naïve of the hegemonic power of secularism in British political culture, especially on the centre-left. The multiculturalism model was born out of the emergence of the ‘politics of difference’ movement – but, whilst this movement welcomed black and related ethno-racial identity politics, and through its take ‘the personal is the political’, gender and sexual orientation identity politics, which were all intrinsic to the rainbow coalition on identity politics, this coalition was mostly unhappy with Muslim consciousness and assertiveness, and Muslims joining the camp. For some this rejection was specific to Islam, but for many the ostensible reason was that it is a religious identity and by virtue of that it should be confined to the private sphere.⁷⁰³ Of course, by this latter objection at face value, the difference theorists, activists and professionals were reverting to a public-private distinction they had spent three decades undoing, but some much preferred this than the alternative. Thus, whilst religious difference, identity and expression should theoretically have a home in a thoroughgoing

⁷⁰¹ The inadequacies of the existing theories and models certainly come across very strongly when reading key works by the most prominent faith leaders in the UK – see, for example, J. Sacks, *The Home We Build Together – Recreating Society*, London: Continuum Books, 2007; T. Ramadan, *Islam, the West and the Challenges of Modernity*, Leicester: Islamic Foundation, 2009; R. Williams, *Faith in the Public Square*, London: Bloomsbury Continuum, 2012.

⁷⁰² T. Modood, *Multiculturalism – A Civic Idea*, Cambridge: Polity, 2007; *Post-Immigration ‘Difference’ and Integration*, London: British Academy Policy Centre, 2012, p.25.

⁷⁰³ This was mostly argued on the basis that race, gender and sexual orientation were immutable traits and not chosen ones, like religion – thus, whilst the former could make legitimate claims to the politics of difference, and therefore, to group rights, religion did not merit the same treatment. Indeed, some argued that any demand for similar treatment should be actively resisted – see, for example, F. Fukuyama, *Europe vs Radical Islam*, *Policy Review*, 27 February 2006.

model of multiculturalism, it has often been treated with much caution – as if it was an illegitimate child of the model.⁷⁰⁴

The most obvious manifestation of the Anglo-American race relations bias and its poor account of religious identity is, of course, the late extension and development of equality legislation on grounds of religion and belief. Despite Roy Jenkins introduction of the concept of integration into the UK's political agenda in the mid-1960s, as stated above, all the legal and non-legal anti-discrimination, equality and good relations provisions and measures that followed to facilitate this integration, until the turn of the millennium, excluded religion and religious identity – most importantly, the institutions that were created to serve this purpose: the Community Relations Commission created by the Race Relations Act 1968 (RRA 1968) to promote 'harmonious community relations' and the Commission for Racial Equality created by the Race Relations Act 1976 (RRA 1976) with a duty under s.43(1)(b) to 'promote equality of opportunity, and good relations, between persons of different racial groups', that was subsequently incorporated as the third limb of the public sector equality duty 'to promote good relations between people of different racial groups') in the Race Relations (Amendment) Act 2000 (RRAA 2000). The exclusion started, as already noted in Chapter 2, with the RRA 1968 and was reinforced in the RRA 1976 – which, despite intense discussions at the Bill stage to include religion as a marker for racial group and identity, along with colour, race, nationality and national/ethnic origin, ultimately did not do so because it was not considered an important enough marker at the time.⁷⁰⁵

The exclusion was further reinforced, at least for Muslims, when the definition of 'racial group' was extended by case law in the early 80s, but fell short of adequately accounting for all religious groups and identities – in that the definition, as previously explained, was expanded to include only mono-ethnic religious groups, like Sikhs and Jews,⁷⁰⁶ but not multi-ethnic religious groups like Muslims and Christians.⁷⁰⁷ This definition of 'racial group', developed in civil anti-discrimination legislation, not only fed into all areas of

⁷⁰⁴ For an interesting read on this, see: T. Modood, Muslims and the Politics of Difference, *Political Quarterly*, Vol.74(1), 2003, pp.100-115.

⁷⁰⁵ See Standing Committee A of the Race Relations Bill, House of Commons, Hansard, 29 April and 4 May 1976.

⁷⁰⁶ See *Mandla v Dowell Lee* [1982] UKHL 7; and *Seid v Gillette Industries Ltd* [1980] IRLR 427.

⁷⁰⁷ See *Tariq v Young EOR Discrimination Case Law Digest No. 2*; *Crown Supplies v Dawkins* [1993] ICR 517; and *Lovell-Badge v Norwich City College* (Case No. 12506/95/LS Dec 1999).

racial equality law but also good relations work – and particularly at the CRE in terms of its grant making work to promote good relations between persons of different racial groups under s44 of the RRA76. The overall message and result, then, despite what could be seen as pursuing the multiculturalism model, was a search for integration through colour, ethnicity and culture, but somewhat shy of religion, and arguably the consequent marginalisation and alienation of certain UK minority groups identified more by religion from mainstream society, and even from the Commission for Racial Equality, who had a specific duty to ‘promote good relations between persons of different ... groups’. The angst of young British Muslims leading up to the Northern cities disturbances, and the disturbances themselves, served as a wake-up call to the negative impacts of the race relations bias with its poor account of religion and religious identity in anti-discrimination and integration work. This wake-up call was not only the drive behind a specific literature on Muslims and integration, to be discussed below, but also a new panoply of initiatives at the Home Office under a new Community Cohesion Unit, again as discussed in Chapter 2, and in many ways also assisted the development of the equality legislation on grounds of religion and belief, an important component towards the integration of Muslims in Britain.

If the story of British Muslim integration has been set back by the inadequacies of integration theories, and exclusion in practice even where the theory may have accommodated them, then there is at least one more factor that has contributed to this set back – that of political responsibility, will and drive, and calculations. It would appear that, starting in 2001, whilst on the one hand, after the northern cities disturbances, there were discussions and initiatives to redress the impact of the secularism and race relations biases in anti-discrimination, equality and good relations (or more generally, integration) thinking and work, on the other hand, the political will to drive this remained weak. One reason for this is perhaps that the political class, even on the left of centre, still did not accept the responsibility for British Muslim integration in the same way as it did by this stage for some other groups.⁷⁰⁸ Thus, any failure on any indicator of integration with

⁷⁰⁸ Of course, there are parallels here that can be drawn with other groups – for example, the earlier experiences of the African-Caribbean community. However, it would appear that after the Scarman, Swan and Macpherson reports governments were willing to take greater responsibility for the integration of Black communities, based on race identity, as opposed to the Muslim community, based on religious identity. See: L. Scarman, *The Brixton Disorders – 10-12th April 1981*, London: HMSO, 1981; M. Swann, *Education for All – Report of the Committee of Enquiry into the Education of Children from Ethnic*

regards to British Muslims was not so much a failure of government policy and delivery, but still the failure of Muslim values, culture and politics – for example, the educational underachievement of Muslim children could still be explained by the values in Muslim homes, the underemployment of Muslim women could still be explained by ‘a cultural deficit’ and the disaffection of Muslim youth could still be explained by the impact of international geopolitics on young British Muslims.⁷⁰⁹ In each case, the greater part of the responsibility for that indicator of integration was shifted from the government and the public sector to the Muslim community. However, more than shifting the burden of the responsibility for integration, what has perhaps set Muslim integration back the furthest is successive governments deliberate disregard for British Muslim integration. Thus, after 9/11, there have been numerous developments introduced by governments that have ran completely opposite to very basic integration objectives – whether in terms of liberty, equality or fraternity.

Indeed, the approach from the government, after the atrocities of 9/11 and 7/7, was to side step or minimise any focus on the root causes of radicalisation and terrorism, and thereby to seek to absolve any responsibility it may have for the integration of Muslim youth, and to prioritise ideological Islamism as the main cause of the atrocities – thus, shifting the greater weight of the responsibility for such integration work onto the British Muslim community. It also then pursued its security agenda with such disregard for British Muslim integration that it not only created another ‘suspect community’, to be suspected by many parts of both the state and its institutions and wider society,⁷¹⁰ but also further alienated some Muslim communities, and particularly their youth. The Home Secretary at the time, the Rt Hon David Blunkett MP, stated that in light of the threat from

Minority Groups, London: HMSO, 1985; and W. Macpherson, The Stephen Lawrence Inquiry Report, op. cit.

⁷⁰⁹ See, for example: T. Phillips, Fairness and Freedom – The Final Report of the Equalities Review, London: HMSO, February 2007, p.69; and L. Bell and J. Casebourne, Increasing Employment for Ethnic Minorities – A summary of research findings, London: National Audit Office, May 2008, p.13, para.58. For a counter-approach to the cultural deficit thesis, see: L. Buckner et al, Moving on up? Ethnic Minority Women and Work, Manchester: Equal Opportunities Commission, Winter 2007.

⁷¹⁰ The term ‘suspect community’ was first coined by Paddy Hillyard in 1993, in relation to the Irish experience in the UK, also grounded in a difference of religious identity. For a debate on the application of this phrase to Muslim communities, see: C. Pantazis and S. Pemberton, From the ‘Old’ to the ‘New’ Suspect Community – Examining the Impacts of Recent UK Counter Terrorism Legislation, *British Journal of Criminology*, Vol.49(5), 2009, pp.646-66; Restating the Case for the ‘Suspect Community’ – A Reply to Greer, *British Journal of Criminology*, Vol.51(6), 2011, pp.1054-62; S. Greer, Anti-Terrorist Laws and the United Kingdom’s ‘Suspect Muslim Community’ – A Reply to Pantazis and Pemberton, *British Journal of Criminology*, Vol.50(6), 2010, 1171-90.

international terrorism the right to liberty had to be rebalanced with the needs of security.⁷¹¹ Hazel Blears MP, the Minister of State for Policing, Crime Reduction and Counter-Terrorism at the Home Office at the time, then added that Muslims in particular should expect to experience the impact of this rebalancing, saying: ‘It means that some of our counter-terrorism powers will be disproportionately experienced by people in the Muslim community – there is no getting away from this fact ... That is the reality – I do not think it should go unsaid’.⁷¹² The Government response to 9/11 and 7/7, therefore, not only created a suspect ‘public enemy within’ with less liberty and rights, one that was now a fair game for any that wanted to take an aim at it with their animosity, but by so doing it also let loose a prolonged wave of Islamophobic hates crimes that undermined the work on building a greater sense of British Muslim belonging, allegiance and loyalty that was being built up through addressing the secularism and race relations biases in the anti-discrimination, equality and good relations thinking and work towards the fraternity element of integration. This appeared to be, and continued to be, the case even when counter-terrorism and community cohesion were under the same Minister, as for example when they were under Hazel Blears MP, when she was a Minister at the Home Office, and subsequently, when she was Secretary of State at the DCLG. The two streams of work were undertaken in silos under two units, for example, Prevent and Faith & Cohesion Unit respectively, within the same Directorate – though some overlap was eventually recognised by John Denham MP, as Secretary of State for Communities, as discussed in Chapter 5. The negative impact of such counter-terrorism work on integration has subsequently been explored in several significant studies.⁷¹³

If for assorted reasons, as described above, British Muslim integration has not progressed as well as it might have done, what is its current status – how integrated is the Muslim community in British society today? This question allows us to briefly explore two further matters before moving onto the final and substantive part of this chapter – an analysis of

⁷¹¹ Home Office, Counter-Terrorism Powers: Reconciling Security and Liberty in an Open Society, February 2004.

⁷¹² R. Ford and S. Tandler, Hazel Blears says police will target Muslim community, *The Times*, 2 March 2005.

⁷¹³ See, for example, M. Hickman et al, Social Cohesion and the Notion of ‘Suspect Communities’ – A study of the experiences and impacts of being ‘suspect’ for Irish communities and Muslim communities in Britain, *Critical Studies on Terrorism* Vol.5(1), April 2012, pp.89-106; T. Choudhury and H. Fenwick, *The Impact of Counter-Terrorism Measures on Muslims in Britain*, op. cit.; T. O’Toole et al, *Balancing Tolerance, Security and Muslim Engagement in the United Kingdom – The impact of the ‘Prevent’ agenda*, *Critical Studies on Terrorism*, Vol.5(3), October 2012, pp.373-89.

the impact of the New Labour initiatives in the policy domains of equality and security on the integration of British Muslim communities. These two matters are: integration measurement tools and the specific literature on British Muslim integration. On integration measurement tools, it is fair to say that, generally speaking, they are still very basic. One of the earliest attempts to develop such a tool was from the Council of Europe.⁷¹⁴ However, that project ran into the ground because of the difficulties involved in the endeavour. Since then, there have been several other attempts, both at the European level and in the UK, that are worth considering here – each of these have had a slightly different focus vis-à-vis the three principles of liberty, equality and fraternity.

The main EU effort in this area started with the European Racism and Xenophobia Network (RAXEN) Project under the European Monitoring Centre on Racism and Xenophobia (EUMC). The network consisted of National Focal Points (NFPs) which monitored racism and xenophobia in each of the EU member states. The NFPs provided an annual report to the EUMC, which then used that information to provide the EU and its member states with objective, reliable and comparable data on racism and xenophobia in order to help them take appropriate action, and to produce its own annual report on the state of racism and xenophobia across the EU, as well as to commission comparative studies in its five priority areas of housing, education, employment, racial violence and legislation. RAXEN faced many problems, particularly in terms of collecting good quality data consistently across the EU member states – not only because of the theoretical and practical problems involved in such a task but also because of the numerous legal and bureaucratic difficulties involved in doing this across the different EU contexts. The result was, therefore, only very basic high level and headline data.

An equally significant problem from the perspective of this study is that the data collected was only on the basis of race and not religion, and therefore, significant assumptions and approximations had to be made where the data was used to discuss the integration of Muslims. Recognising this, the EUMC did commission separate studies on anti-Semitism and Islamophobia, based on the RAXEN data and other sources – but again these studies were limited by their data sources and the geography they could cover. The EUMC was

⁷¹⁴ See: M. Werth et al (eds.), *Measurement and Indicators of Integration*, Directorate of Social and Economic Affairs, Strasbourg: Council of Europe, 1997.

absorbed into the EU Fundamental Rights Agency (FRA) in 2007, and since 2011, RAXEN has been replaced by FRANET, which provides data and information to FRA not just on race, but also other discrimination strands and fundamental rights more generally. In December 2007, FRA launched the European Union Minorities and Discrimination Survey (EU-MIDIS) with the support of RAXEN, the first primary survey of immigrant and ethnic minority people in all 27 EU member states at the time. The survey involved face-to-face interviews of 23,500 immigrant and ethnic minority people and 5,000 people from the majority population living in the same areas as the minority people interviewed in 10 member states. From 2009, FRA published various reports based on the survey – including one on Muslims, but this did not include a Muslim sample from the UK.⁷¹⁵

Separately, in November 2014, in close cooperation with the European Commission and other relevant stakeholders, FRA launched a new project on migrant integration – to develop a new set of rights-based indicators based on previous work on common integration indicators, which were to include structural indicators on relevant legal and policy provisions reflecting commitments to existing human rights standards, process indicators on relevant measures and actions reflecting specific efforts made, and outcome indicators showing the level of actual enjoyment of rights by ‘right holders’. The data for the indicators was collected through desk research in 2015-16. The analysis and results from this work, as produced in a report in March 2017, focus on integration strategies and action plans, non-discrimination and equality work (especially in education and employment), societal and political participation, and other aspects of social inclusion and cohesion.⁷¹⁶ Yet, the report appears to be stuck with structural and process indicators, and says very little on the outcome indicators.

The report outlined the key problem the project faced – the differences in the guiding principles, measures and means of monitoring and evaluation used across the EU to reflect national specificities and legal and administrative traditions – the same reason that caused the Council of Europe project to run into the ground 20 years earlier. The report

⁷¹⁵ FRA, EU-MIDIS Data in Focus, Report 2 – Muslims, May 2009. Note that in December 2014, FRA launched EU-MIDIS II, for face-to-face interviews with 26,000 people of immigrant or ethnic minority background – so far, however, it has only published a report on the Roma from that survey.

⁷¹⁶ See: FRA, Together in the EU – Promoting the participation of migrants and their descendants, Luxembourg: Publications Office of the European Union, March 2017.

noted that over the past 10 years, member states representatives had discussed the problem in the network of the National Contact Points on Integration, coordinated by the European Commission but the issue remained. It informed, however, that the European Commission announced in its June 2016 Action Plan on integration that the network will be upgraded into a European Integration Network, with a stronger coordination role and a mutual learning mandate. The EUMC had expended much effort in seeking to harmonise methods and practices of data collection across the EU, but many EU countries stymied progress to avoid international scrutiny of their integration work. Based on the experiences of the EUMC, the European Commission initiated a Proposal which would allow ‘the systematic production of harmonized Community statistics’, with a long-term view towards an EU-wide benchmarking system to improve the knowledge around and the socioeconomic integration of immigrant and ethnic minority communities.⁷¹⁷ However, the European Commission’s proposal has already been in the pipeline for more than a decade, has received considerable opposition from many EU member states, and is unlikely to materialise anytime soon. In the meantime, the difficulty of measuring Muslim integration is described by one academic as follows: ‘An examination of data on the situation of Muslims in the Netherlands, Germany, France and Britain provided in this paper finds that these data are neither comparable between nations, nor sufficient to benchmarking “Muslim integration” according to criteria being drawn up at the national and European levels’.⁷¹⁸

Aside from the major European institutional initiatives, the other most significant initiative at the European level is the Migrant Integration Policy Index (MIPEX). Established by the British Council, the Foreign Policy Centre and the Migration Policy Group, in 2004, to assess the policies to integrate migrants in the EU-15 at the time,⁷¹⁹ the Index has since grown tremendously, such that when it compiled its fourth major report in 2015,⁷²⁰ it was reporting on all 28 EU member states, as well as Australia, Canada, Iceland, Japan, South Korea, New Zealand, Norway, Switzerland, Turkey and

⁷¹⁷ European Commission, Proposal for a Regulation of the European Parliament and of the Council on Community Statistics on Migration and International Protection, Brussels, COM (2005) 375 final – 2005/0156 (COD), 14 September 2005.

⁷¹⁸ See: P. Jackson, *Measuring Muslim Integration in Europe*, Democracy and Security, Vol.5, 2009, pp.223-48.

⁷¹⁹ L. Citron and R. Gowan, *European Civic Citizenship and Inclusion Index*, Brussels: British Council, 2005.

⁷²⁰ For the latest report from the Index, see: T. Huddleston et al, *Migrant Integration Policy Index*, Brussels: CIDOB and MPG, 2015.

the USA, using 167 indicators to evaluate and compare what these governments were doing to promote the integration of migrants in eight policy areas – permanent residency, family reunion, access to nationality, education, labour market mobility, health, political participation and anti-discrimination more generally – as benchmarked with standards for best practice set by Council of Europe Conventions and EU Directives. From the perspective of this research, however, MIPEX still had two significant limitations. Whilst it claimed to identify and measure integration outcomes, the focus was still on convincing states to put the basic machinery in place to undertake integration and to do it in such a way that the impact of the work can be measured. More importantly though, the Index treated all migrants as one category and so it did not provide any segregated information on how groups within that category were doing in comparison to each other, and it did not provide any information specifically on Muslims.

The work at the European level was ‘brought home’ to the UK, contextualised and further developed by the Home Office – starting with a commission of work in 2002 on developing a framework for measuring the integration of refugees. The impetus for this work was the Full and Equal Citizens report in 2001, which indicated several areas where refugee integration needed to be encouraged but did not specify what exactly it meant by integration or how it should be done.⁷²¹ The development of the framework started with qualitative studies to determine what factors were important for refugees themselves when it came to feeling integrated in society.⁷²² The framework that then evolved identified the key factors that contribute to the integration of refugees, organised them under 10 policy domains, and under each of these, developed 10 indicators – mostly adapted from the earlier Council of Europe’s work on categories of integration,⁷²³ though some were based on already existing data furnished by government surveys, such as the Citizenship Survey (see above), whilst others focused attention on areas where existing data collection practices needed to be broadened to encompass additionally relevant data. The intention of the framework was to develop a common understanding of integration that could be used by those working with refugees and to provide a means of measuring integration which was relatively flexible and adaptable enough to be easily utilised for

⁷²¹ Home Office, Full and Equal Citizens, London: IND Communications Team and Home Office Communication Directorate, 2001.

⁷²² See, for example: A. Ager and A. Strang, The experience of integration – A qualitative study of refugee integration in the local communities of Pollokshaws and Islington, London: Home Office, 2003.

⁷²³ M. Werth et al (eds.), Measurement and Indicators of Integration, op. cit.

practical purposes on a local basis. It also needed to be one that could be easily used for data collection and sharing of good practice, but also for the development and honing of policy at a higher level. Through several iterations, the framework mapped the multiple ways ‘integration’ as concept is defined and used, identified the gaps in the existing theoretical and methodological approaches towards integration; reviewed the potential indicators available; and selected the most appropriate from them that could help to assess the integration of refugees both as individuals and communities.⁷²⁴ The final framework was actually an excellent product that addressed the three key principles of liberty, equality and fraternity, and may have been tweaked so that it could be applied not just for newly arrived migrant communities but also more settled communities.⁷²⁵ However, in a context of sharp divisions between ‘integration’ work targeting migrants and ‘cohesion’ work targeting more settled communities, in government and beyond,⁷²⁶ the framework was lost when addressing the integration issues of settled Muslim communities.

On the settled minority communities side, the Home Office commissioned instead the Citizenship Survey – also known as the Communities Study. The survey was first commissioned in 2001 and was subsequently undertaken every 2 years.⁷²⁷ It was a household survey, conducted face to face via computer technology, with a representative core sample of 10,000 adults in England and Wales and an additional boost sample of 5,000 ethnic minority and 1,200 Muslim participants to ensure that the views of these groups were robustly represented. From 2007, it ran as was a continuous survey, allowing the provision of headline findings on a quarterly basis. The survey sought to provide the evidence base for the governments work in communities, covering the issues of local community, identity and social networks, race and religion, civic engagement and volunteering, community cohesion and (violent) extremism – amongst other longer-term and one-off headings. The data gathered from the survey was used for monitoring the

⁷²⁴ S. Castle et al, *Integration – Mapping the Field*, London: Home Office, 2001; A. Ager et al, *Indicators of Integration – A Conceptual Analysis of Refugee Integration*, Report to the Home Office, London: Michael Bell Associates, 2002; A. Ager and C. Eyber, *Indicators of Integration – A Review of Indicators of Refugee Integration*, Report to the Home Office, London: Michael Bell Associates, 2002.

⁷²⁵ See: A. Ager and A. Strang, *Indicators of Integration – Final Report*, London: TSO, 2004; *Understanding Integration – A Conceptual Framework*, *Journal of Refugee Studies*, Vol.21(2), 2008, pp.166-91.

⁷²⁶ Note that the integration work targeting migrants was undertaken by the Home Office, but the cohesion work targeting settled communities was transferred to the DCLG in 2006, at which point the divisions grew sharper.

⁷²⁷ Note that the survey was transferred to the Department for Communities and Local Government just after it was set up in 2006.

impact of existing policies and delivery, informing new policies, and planning future delivery. The multi-layered approach of the survey allowed issues to be understood from different angles and in much greater depth, such as the issue of identity and belonging, and a deeper understanding of the ‘complex interplay’ between various demographic characteristics and social attitudes – thus, enabling more informed and sophisticated responses. However, the survey was very expensive, side stepped where the evidence did not suit political agendas and priorities – and eventually it was discontinued by the Coalition Government in 2011.

The final tool that ought to be considered here is the suite of equality, human rights and good relations measurement frameworks developed pursuant to s1.12 of the Equality Act 2006 by the Equality and Human Rights Commission, working with GEO, ONS and the Scottish and Welsh Governments. The frameworks were informed by the capability approach developed by Amartya Sen, the international human rights framework, and a wide consultation with those deemed most at risk of discrimination and disadvantage. They address structures, processes and outcomes.⁷²⁸ The purpose of these frameworks is to set the baseline and then to measure progress in each of these areas. The frameworks broadly mirror the three principles of liberty, equality and fraternity; between them they cover 10 domains – life, health, physical security, education and learning, standard of living, productive and valued activities, individual, family and social life, identity, expression and self-respect, participation, influence and voice, and attitudes; and, as much as possible the data collected is broken down by age, disability, ethnicity, gender, religion or belief, sexual orientation and socio-economic group.⁷²⁹ The data collected through this design of the frameworks allows the relative position of each group to be compared with the others and for progress to be monitored and made over time. The stated aim of the frameworks is to help all groups move towards a society in which ‘institutions and individuals respect diversity of people and their goals, address their different needs and situations, and remove barriers that limit what people can do and can be’. Towards such ends, the original stipulation in s.12 was that the Commission would produce a review

⁷²⁸ For overview information on the frameworks, see: EMF Briefing Note – Developing the Equality Measurement Framework, Selecting the Indicators. For more detailed information on how the indicators that inform the EMF were selected, see: S. Alkire et al, Developing the Equality Measurement Framework – Selecting the indicators, London: EHRC, July 2009.

⁷²⁹ For more details on the methodology deployed see: Equality and Human Rights Commission, How Fair is Britain? The first Triennial Review Executive Summary, London: EHRC, October 2010.

report on the UK's state of health with regards to equalities, human rights and good relations every three years – however, this was later amended to every 5 years.⁷³⁰ The frameworks are, therefore, the best tool so far for measuring the integration of British Muslims.⁷³¹ Its key limitation, however, is that it does not produce its own primary data but relies on other data-gathering tools (eg, the Citizenship Survey) and existing data-sets to populate the frameworks. From the perspective of this study, however, the frameworks still cannot measure the specific impact of a specific set of initiatives on a specific group or show how some initiatives might affect the impact of others – which is what this study seeks to do.

The final part of this section of this chapter is to consider the current specific literature on British Muslim integration. Interestingly, whilst the dominant models of integration may not have accounted for Muslim integration, in theory and/or in practice; governments may not have given sufficient attention to it; and the tools for measuring integration may have been variously deficient for measuring Muslim integration – but perhaps also because of all these reasons – there is now a separate and very large body of literature on Muslims and integration, driven by the large numbers of Muslims in the UK and Europe, their visibility and the marked differences they bring to society. The New Labour years, in particular, witnessed this explosion in this more specific literature on or relating to Muslim integration – both at the UK level⁷³² and the European level, particularly regarding France and Germany.⁷³³ This explosion of literature was useful to gain comparative insights from situations across European countries, who were also members

⁷³⁰ As a result of s.12(4)(b) Equality Act 2006 being substituted by ss.64(2) and 103(2) of the Enterprise and Regulatory Reform Act 2013.

⁷³¹ Note that the suite of frameworks was recently brought together into a single framework: EHRC, Measurement framework for equality and human rights, London: EHRC, October 2017.

⁷³² See, for example: T. Modood, *Multicultural Politics – Racism, Ethnicity and Muslims in Britain*, Edinburgh: Edinburgh University Press, 2005; *Still Not Easy Being British – Struggles for a multicultural citizenship*, Stoke on Trent: Trentham Books, 2010; *Multicultural Citizenship and Muslim Identity Politics*, *International Journal of Postcolonial Studies*, Vol.12(2), 2010, pp.157-70; N. Meer et al, *Embodying Nationhood? Conceptions of British National Identity, Citizenship and Gender in the 'Veil Affair'*, *The Sociological Review*, Vol.58(1), February 2010, pp.84-111; N. Meer, *Citizenship, Identity and the Politics of Multiculturalism – The Rise of Muslim Consciousness*, Basingstoke: Palgrave MacMillian, 2010; W. Ahmad and Z. Sardar (eds.), *Muslims in Britain – Making Social and Political Space*, Abingdon: Routledge, 2012.

⁷³³ See, for example: H. Hellyer, *Muslims of Europe – The 'other' Europeans*, Edinburgh: Edinburgh University Press, 2009; J. Laurence, *The Emancipation of Europe's Muslims – The State's Role in Minority Integration*, Princeton, NJ: Princeton University Press, 2012; R. Taras (ed.), *Challenging Multiculturalism – European Models of Diversity*, Edinburgh: EUP, 2013; M. Burchardt and I. Michalowski (eds.), *After Integration – Islam, Conviviality and Contentious Politics in Europe*, Berlin: Springer, 2014; R. Pauly, *Islam in Europe – Integration or Marginalization?* Abingdon: Routledge, 2016.

of the EU and signatories to the European Convention on Human Rights but had different approaches to Muslim integration. This more specific literature essentially falls into three inter-related parts – each, perhaps somewhat neatly, speaking to one of the three core principles in relation to integration – liberty, equality and fraternity. Firstly, in common with the rest of Europe, some of this literature has focused on the integration of Muslims as migrant communities with language difficulties and religious/cultural differences – some aspects of which challenge European values and norms, eg, circumcision, female genital mutilation, headscarves, halal meat, arranged/forced marriage and honour crimes (both against the family and religion).⁷³⁴ A second part of this specific literature, following the disturbances in the cities in the north of England in the Spring/Summer of 2001, has focused on the integration of second generation ethnic minority communities (particularly Pakistanis and Bangladeshis) excluded from the mainstream by socio-economic factors resulting from neglect, disadvantage and discrimination in particular policy domains – eg, housing, health, education, employment, participation in public life and the criminal justice system.⁷³⁵ The third part of this literature has risen out of surveys and polls that have explored second and third generation British Muslim attitudes to belonging and loyalty to the UK, particularly in the wake of the atrocities of 9/11 and 7/7.⁷³⁶ However, there remains a dearth of, and significant gaps in, research and literature

⁷³⁴ See, for example: T. Asad, *Formations of the Secular – Christianity, Islam, Modernity*, California: Stanford University Press, 2003; J. Cesari, *When Islam and Democracy Meet – Muslims in Europe and in the United States*, Basingstoke: Palgrave MacMillan, 2004; J. Fetzer and J. Soper, *Muslims and the State in Britain, France and Germany*, Cambridge: Cambridge University Press, 2005; H. Becher, *Family Practices in South Asian Muslim Families – Parenting in a Multi-Faith Britain*, Basingstoke: Palgrave Macmillan, 2008; J. Bowen, *Why the French Don't Like Headscarves – Islam, the State and Public Space*, Princeton NJ: Princeton University Press, 2008; S. Spencer, *The Migration Debate*, Bristol: The Policy Press, 2011; M. Farrar et al (eds.), *Islam in the West – Key Issues in Multiculturalism*, Basingstoke: Palgrave Macmillan, 2012.

⁷³⁵ See, for example: T. Choudhury, *Muslims in the UK: Policies for engaged citizens*. Budapest: Open Society Institute. 2005; L. Fekete, *Integration, Islamophobia and Civil Rights in Europe*. London: Institute of Race Relations, 2008; M. Malik, *Anti-Muslim Prejudice: Past and present*, Abingdon: Routledge, 2010; P. Weller et al, *Religion or Belief, Discrimination and Equality – Britain in Global Contexts*, London: Bloomsbury, 2013.

⁷³⁶ See, for example: The Pew Global Attitudes Project, *The Great Divide – How Westerners and Muslims View Each Other*, Washington DC: Pew Research Centre, 22 June 2006; J. Esposito and D. Mogahed, *Who Speaks for Islam? What a Billion Muslims Really Think*, New York: Gallup Press, 2007; A. Heath et al, *The Political Integration of Ethnic Minorities in Britain*, Oxford: Oxford University Press, 2013; DfE, *Youth Cohort Study & Longitudinal Study of Young People in England – The Activities and Experiences of 19 Year Olds in England in 2010*, London: DfE, 7 July 2011; J. Scourfield et al, *The Intergenerational Transmission of Islam – Evidence from the Citizenship Survey*, *Sociology*, Vol.46(1), 2012, pp.91-108; ComRes, *Muslim Poll – 26 January-20 February 2015*, London: BBC Today Programme, 25 February 2015; ICM, *Survey of Muslims – 25 April-31 May 2015 and 5-7 June 2015*, London: Channel 4, April 2016; Survation, *Islamic Identity and Community Relations Survey – 18-20 November 2015*, London: The Sun, 20 November 2015; R. Ford and N. Lowles, *Fear and Hope 2016 – Race, Faith and Belonging in Today's England*, London: Hope Not Hate, 2016; ComRes, *Islamic Caliphate Survey – 22-24 April 2016*,

that explores the impact of specific policy initiatives on the integration of British Muslims – against each other and against the overall integration of British Muslims. The rest of this chapter will focus on the impact of the New Labour equality and security legal and non-legal initiatives, discussed in earlier chapter, on the integration of Muslims – particularly in relation to each other. There is some open source literature on the impact of some of the initiatives already, particularly from the domain of security.⁷³⁷ The next section will build on this and provide a fuller account from other sources accessed by this research. In the concluding chapter, this fuller account will be discussed against the overall picture of British Muslim integration as gleaned from the surveys and polls mentioned and cited above.

The impact on the integration of British Muslims

This chapter has so far considered the dominant theories and models on integration and their adequacy with regards to the integration of Muslims. Modood suggests that perhaps no single model is appropriate for any community – and this would certainly ring true here.⁷³⁸ Thus, even with the multiculturalism model, which is perhaps the best fit for Muslim integration, it is by no means a perfect fit. There may still be stubbornly lingering questions that persist: for example, in terms of the principle of Liberty, can it allow the practice of homosexuality and polygamy equally; in terms of the principle of Equality, can it, in light of the cases of *Ladele*, *Bougnaoui* and *Achbita*,⁷³⁹ accommodate religion in public life on par with other strands and worldviews, eg, homosexuality and radical

London: Ahmadiyya Muslim Youth Association (UK), May 2016; M. Frampton et al, *Unsettled Belonging – A survey of Britain’s Muslim communities*, London: Policy Exchange, November 2016.

⁷³⁷ D. McGhee, *The End of Multiculturalism? – Terrorism, Integration and Human Rights*, Maidenhead: Open University Press, 2008; M. McGovern, *Countering Terror or Counterproductive? Comparing Irish and British Muslim Experiences of Counter-Insurgency Law and Policy*, Lancashire: Edge Hill University, 2010; M. Hickman et al, ‘Suspect Communities’? Counter-Terrorism Policy, the Press, and the Impact on Irish and Muslim Communities in Britain, Institute for the Study of European Transformations, London Metropolitan University, July 2011; T. Choudhury and H. Fenwick, *The Impact of Counter-Terrorism Measures on Muslims in Britain*, London: Equality and Human Rights Commission, 2011; T. O’Toole et al, *Taking Part – Muslim Participation in Contemporary Governance*, op. cit.; C. Husband and Y. Alam, *Social Cohesion and Counter-Terrorism – A Policy Contradiction?* Bristol: The Policy Press, 2011.

⁷³⁸ T. Modood, *Anti-Essentialism, Multiculturalism and the ‘Recognition’ of Religious Groups*, op. cit.; T. Modood and J. Dobbernack, *A Left Communitarianism? What about Multiculturalism?* Soundings, Vol.48, Summer 2011, pp.54-64.

⁷³⁹ In *Ladele v London Borough of Islington* [2009] EWCA Civ.1357; 2013 ECHR 37, the ECtHR ruled that religious beliefs on sexual orientation may not be accommodated in the workplace even if there is no direct harm or loss; in the cases of *Asma Bougnaoui v Micropole* (Case C-188/15) and *Achbita v G4S Secure Solutions* (Case C-157/15), the ECJ ruled that hijab can be banned from the work place if it is part of a neutrality policy.

secularism, or will religion always be a poor cousin to them; and in terms of Fraternity, can it, in light of the current security challenges to the UK, accommodate within it not just cultural diversities, but also theo-political allegiances and loyalties – eg, to the Catholic Church, World Jewry/State of Israel or the Muslim Ummah, so that integration and security policies talk to and not pass each other? However, for the purposes of this study, going with what is currently available, it is accepted here that, of the four models described by Modood, the multiculturalism model is perhaps the most appropriate for Muslim integration.⁷⁴⁰

The last section also briefly discussed the lack of genuine interest by governments generally to integrate Muslims as Muslims,⁷⁴¹ their tendency towards shifting responsibility for this to Muslim communities (thus, effectively, tending towards integration as a one-way process albeit with some recognition of group difference), and their disregard for Muslim integration when other political calculations have been at stake. Additionally, this chapter has also explored the tools so far available for measuring integration, their adequacy for measuring Muslim integration, and their limitations in terms of what this study is seeking to achieve – to measure the impact of specific sets of initiatives specifically on British Muslim integration and how some of these initiatives might have affected the impact of others. Finally, the last section concluded with a discussion on the current specific literature on British Muslim integration, what that covers and the gaps this study seeks to fill.

⁷⁴⁰ Note that early in the course of this study the present author suggested exploring a new model that he called integralisation or integralism that he felt may be more appropriate in discussing the integration of Muslims. The starting position was that a paradigm shift was required towards a new model characterised by ‘integration with integrity’ on all sides, which would commence with all parties starting from their own terms and respectfully negotiating with those of others towards proactively contributing to and buying into new meta-narratives focused on ‘the common good’ – the process allowing in particular, from the British Muslim perspective, frank dialogical exchanges on liberty of values and their manifestations (whether arising from religious sources or otherwise), equality of accommodation of those manifestations in the public space, and multiple identities, allegiances and loyalties, including theo-political ones, without pre-existing frameworks of domination and expectations of uniformity and conformity towards a particular preconceived vision of fraternity. However, work on developing that model and applying it to this study was set aside due to the amount of time that would take – which would not have been possible within the timeframe of this study, but it is one that the author hopes to return to at some point.

⁷⁴¹ This clearly requires explanation: the point being made here is that whilst governments, and especially New Labour governments, have undertaken initiatives that have benefitted Muslims, these have not usually been benevolently targeted at Muslims qua Muslims. Two examples may help to illustrate this: the first is the way in which New Labour’s area regeneration work helped inner-city Muslim communities – this work was not targeted at Muslim as Muslims, Muslims just happened to be living in those areas; the second is the range of equality initiatives discussed in this thesis – these were not gifted to Muslims, but were on the whole either externally imposed (eg, by the EU) or hard won through political calculations.

In light of these discussions in this chapter so far, this section of the chapter will use Modood's conception of the multiculturalism model, supplemented with the working definition of multiculturalism adopted in the introduction of this thesis and the definitions of the three core principles in relation to integration from Taylor,⁷⁴² to assess what impact the New Labour initiatives discussed in the previous four chapters, and the Muslim engagement with them, had on British Muslim integration. The task is best illustrated graphically as in the table below. The assessment of each initiative or group of initiatives, together with the Muslim engagement with them, in relation to Modood's core principles of integration is undertaken with data from all the limbs of the three-part methodology for this research discussed in the introduction – open source literature, archive material and semi-structured interviews. However, it is due to the limitations of the first two limbs in this respect that the third limb was designed into this research, and therefore, the focus of this assessment is very much on the data from the semi-structured interviews undertaken for this study. In all, 16 such interviews were undertaken with a range of Muslim actors from both the national and local levels – from community activists and leaders to specialist campaigners and lobbyists to academics and community advisors.

To address concerns around such a qualitative approach,⁷⁴³ the data from these interviews has been derived through a very rigorous process of note-taking and methodically checking the notes against recordings of the interviews and streaming them through the grid below to produce the data required for analysis. The method was essentially a discourse analysis method – though without the use of any software. The expectation was not to secure data on every juncture between the initiatives and the principles of integration – this would not have been possible, but neither would it have been desirable. Instead, the expectation was to develop an overall picture, from a range of significant correlations, of the impact of New Labour on British Muslim integration. The picture that emerges is a very rich, 'thick' and nuanced one of the impact of New Labour's legal and non-legal equality and security initiatives on the integration of British Muslims – at least as perceived from the perspectives of some of the key actors in Muslim communities

⁷⁴² These core principles may be conceived and interpreted in diverse ways. However, Taylor's conception of them in his investigation of the relation between the secular state and faith seemed the most appropriate for the purpose of this study. See: C. Taylor, *The Meaning of Secularism*, *The Hedgehog Review*, Vol.12(3), Fall 2010, pp.8-22.

⁷⁴³ As discussed in: A. Bryman, *Social Research Methods*, Oxford: Oxford University Press, 2012, Ch.3 and 7.

during the New Labour years, some of whom were directly involved in championing or responding to these initiatives.⁷⁴⁴ If there was an initial assumption that the equality and counter-terrorism initiatives would be running in opposite directions in terms of their integration impact on British Muslim communities – that the equality initiatives would prove to be helpful to integration, whereas the counter-terrorism ones a hindrance – the data from the interviews provide us with a much richer set of perspectives beyond this starting point.

		MULTICULTURALISM		
		<i>Integration is a multi-way process, engaging individuals and communities, to recognise, negotiate and align their differences in relation to their mutual demands for liberty/rights, equality/equity and fraternity/solidarity.</i>		
		Objects of Policy - Individuals and groups marked by ‘difference’, especially their treatment by discriminatory practices of state and civil society, and societal ideas, especially of ‘us’ and ‘them’.		
New Labour Initiatives	British Muslim Engagement	Liberty - <i>the freedom of belief and conscience, such as in the free exercise of faith.</i> Members of minorities should be free to assimilate, mix and match or cultivate group membership in proportions of their own choice.	Equality - <i>the idea that no faith takes on a privileged status in relation to another.</i> In addition to anti-discrimination the public sphere must accommodate the presence of new group identities and norms.	Fraternity - <i>the demand that all ‘spiritual families’ be recognised, heard and accommodated, most specifically in shaping the political identity of society.</i> Citizenship and national identity must be remade to include group identities important to minorities as well as majorities; the relationship between groups should be dialogical rather than one of domination or uniformity.
Initiative 1				
Initiative 2				
Initiative 3				
Initiative 4				
Initiative 5				
Initiative 1				
Initiative 2				
Initiative 3				
Initiative 4				
Initiative 5				
Initiative 1				
Initiative 2				
Initiative 3				
Initiative 4				
Initiative 5				
Initiative 1				
Initiative 2				
Initiative 3				
Initiative 4				
Initiative 5				

⁷⁴⁴ On this idea of a ‘thick’ description, see: C. Geertz, *The Interpretation of Cultures – Selected Essays*, New York: Basic Books, 1973.

The legal provisions to promote non-discrimination and equality

One interviewee observed that New Labour ‘opened the door to religion, and particularly to Muslims, to attract inner city votes, but had no plans to introduce religious discrimination legislation and resisted this for as long as it could’.⁷⁴⁵ Some of the interviewees observed that New Labour did not actually concede to religious discrimination legislation until it was forced to by an EU Directive – even though all its own research was suggesting that it needed to; and did not take it as far as it did because it wanted to or because of Muslim pressure, but because of the drive behind sexual orientation rights and protection and the pressures to harmonise across all equality strands.⁷⁴⁶ Notwithstanding how it was derived, there was a semblance of agreement among the interviewees that the legal provisions introduced by New Labour to promote non-discrimination and equality on grounds of religion or belief was ‘potentially’ helpful to the integration of British Muslim communities into wider society. This was particularly strongly articulated by those most closely involved in campaigning and lobbying to secure them.⁷⁴⁷ They observed that the end result on religious discrimination legislation was part of ‘the most significant development in equality legislation for more than 20 years’; that the Equality Act 2010 was ‘a very principled and comprehensive Act of Parliament’, ‘of constitutional importance’ and ‘perhaps one of the best of its type in the world’; and that the legislation definitely helped with integration, because it ‘conveyed a powerful message to Muslims and society at large the intent to protect and promote freedom of religious belief and practice’; ‘addressed much of the grievance around an iniquitous [mono/multi-ethnic faith communities] anomaly that had developed in race discrimination legislation through the case of Ahmad⁷⁴⁸ where the judges did not follow Mandla’; and, in being developed alongside other strands that together affected the whole

⁷⁴⁵ Interviewee 8.

⁷⁴⁶ Point made by Interviewee 9, Interviewee 11 and Interviewee 16. For the research referenced, see: P. Weller et al, *Religious Discrimination in England and Wales*, London: Home Office, February 2001; B. Hepple and T. Choudhury, *Tackling Religious Discrimination – Practical implications for policy-makers and legislators*, London: Home Office, February 2001.

⁷⁴⁷ Interviewee 1, Interviewee 13 and Interviewee 14 – indeed, they had also previously argued that not extending equality legislation to Muslims would have the impact of alienating them from the state, its institutions and British life – see the FAIR, BMRC and MCB submissions already cited. Note, however, that apart from these warnings around the possible consequences of not extending the equality legislation to Muslims, there was little more in the archives accessed for this research on the impact of the religious equality legislation on the integration of British Muslims – as compared to the impact of the counter-terrorism legislation.

⁷⁴⁸ *Ahmad v Inner London Education Authority* [1978] QB 36.

population, ‘confirmed solidarity with the rest of the nation’. They also argued that at a very basic level, the legislation ‘brought equality rights home’ to Muslims in a very practical way. One explanation of this is that Art.9 of the ECHR provided a ‘vertical right’ to religion – ie, the state was prohibited from denying its citizens the right to choose and live by a religion of their choice. However, it did not prevent other citizens from discriminating against them on the basis of that choice – that is, it did not provide a ‘horizontal right’ to allow the practice of a minority religion or belief free from discrimination secured through the vertical right.⁷⁴⁹ By introducing religious equality legislation horizontal rights were ‘made real’ and ‘truly brought home’ – people could practice their chosen religion or belief system without fear of discrimination, and where there was discrimination, redress could be sought in the courts.⁷⁵⁰ They argued that even if the legislation only provided formal equality, it started the process of religious literacy both in Muslim communities and public policy that is required to start building and achieving more substantive equality.⁷⁵¹ For those involved in these developments, they resulted in greater feelings of equality both with citizens from the majority community, who perhaps did not require such legislation by virtue of their majority status and societal dynamics, norms and practices being set around their needs, and with citizens from other minority groups who were already protected under other provisions – eg, the Jews and Sikhs who were protected under the race provisions. This recognition of the rights and liberties of Muslims, and legislation against discriminating on such grounds, also sent out a powerful signal that Muslims were now accepted as part of the national fraternity, as ‘one of us’. From this perspective, the provisions hit all three elements of the criteria for integration.

Not all the interviewees, however, were as enthusiastic about the legal provisions and their integration impact. For many the provisions looked good on paper but were not matched in reality. One interviewee described it as ‘nice symmetrical window dressing’ that people did not access because of the rise in Islamophobia and the corresponding loss of trust and confidence in the state and its institutions.⁷⁵² Another interviewee described it as ‘illusory’ – in that some of it (for example, the incitement legislation) had no teeth

⁷⁴⁹ D. Harris et al, *Law of the European Convention on Human Rights*, London: Butterworths, 1995.

⁷⁵⁰ Interviewee 9 made the same points without using the vertical and horizontal rights language.

⁷⁵¹ Interviewee 2 also emphasised this point.

⁷⁵² Interviewee 5 – note that this viewpoint is further developed in: S. Ameli and A. Merali, *Environment of Hate – The New Normal for Muslims in the UK*, London: Islamic Human Rights Commission, 2015.

in practice and other provisions were not effectively implemented (for example, the public sector equality duty on religion and belief). He felt that for much of the legislation to be effective and to have an integration impact, a real effort was required to embed the legislation – which required further detailed work on implementation policies and processes. This point on embedding was made by others in different ways: one said that the provisions remained superficial and did not deal with deeper issues of religion, race and class discrimination; another said the provisions were too removed from the people and they did not know about them or could not access them; and another said that the average Muslim at least knew about the CRE, but this could not be said about the EHRC because the institutional developments were just a cost cutting exercise and had little impact on the ground.⁷⁵³ One interviewee felt that there was little impact overall, except in the workplace, where he felt that there was a very big impact – but he qualified this by saying that this was not because of the moral case for religious equality or the legal provisions alone, but because of the business case, ie, diversity added to profits. He felt that the business case could be made in other areas of equality, for example, the delivery of goods, facilities and services – the value of the minority or Muslim pound – but it hadn't been made as effectively. Another interviewee questioned whether the real difference made in the workplace was on the back of a case built on religious diversity and equality provisions or on race diversity and equality provisions. Both interviewees commenting on the workplace, however, agreed that New Labour had achieved a big difference for Muslims in the workplace, and Muslims on the whole felt this more inclusive experience – and perhaps this was also because the employment legislation on grounds of religion was the least contested and had the longest time to embed.⁷⁵⁴ In terms of overall integration impact of the equality legal provisions, one interviewee summed it up as: “I think Muslims felt ‘acknowledged as citizens’ but not ‘accepted as complete equals’ or ‘warmly welcomed to the fraternity’; another suggested that ‘they felt they belonged here but not accepted’.⁷⁵⁵

Some interviewees argued that the fact that Muslims had to fight so many battles in the courts of law, politics and media, over such a long period, to get the religion and belief

⁷⁵³ These points about embedding and access were made by Interviewee 7, Interviewee 5, Interviewee 12 and Interviewee 15, respectively. Others who made the point about embedding but did not elaborate further included Interviewee 13, Interviewee 2, Interviewee 4 and Interviewee 3.

⁷⁵⁴ The two interviewees commenting on the workplace were Interviewee 11 and Interviewee 12.

⁷⁵⁵ Phrases used by Interviewee 4 and Interviewee 5, respectively.

equality legislation, reinforced this feeling of ‘grudging acknowledgement’ but not ‘warm acceptance’. Several commented that this resistance to legislation persisted even though ‘the need for it was so obvious’; Muslims were not asking for anything more than what was already granted to other ethnic minority communities and some religious minority communities in Britain, and all religious minority communities in Northern Ireland; and Muslims were only asking for ‘fairness and not favours’.⁷⁵⁶ Two interviewees observed that the resistance resulted in the legislation coming in dribs and drabs ‘after much drama on each occasion’ – on several occasions the opposition parties threatening that such legislation could be reversed in the event of a change in Government – and commented that this did not leave Muslims feeling much wanted. They further observed that even after all the drama Muslims were still not protected equally, at exactly the same level as some other minority groups – for example, Jews and Sikhs. Muslims still did not have the same level of protection from either incitement to religious hatred or harassment in the delivery of goods, facilities and services. They commented that there was still a little way to go in terms of achieving basic rights and liberties for British Muslims and complete parity with other British citizens – and viewed from this perspective, the provisions were perhaps not as integrating as they might have been.⁷⁵⁷ Several interviewees offered explanations for this struggle to win the legislation. One interviewee explained that the challenge for Muslims was that as a predominantly working class minority group they were inclined to the Left, but the Left has historically had some deep-seated antipathy towards religion, no less towards Islam, and with a growing Muslim consciousness, this was not an easy agenda for the Left to deliver.⁷⁵⁸ Others noted that the problem was at least partially with the Muslim leadership at the time: a mix of poor intellectual and leadership capacity; to misplaced focus – an overriding pre-occupation with free-speech

⁷⁵⁶ These points were made by Interviewee 9, Interviewee 5, Interviewee 6, Interviewee 7 and Interviewee 8. Several referenced the book by this same title: S. Khan, *Fairness Not Favours – How to Reconnect with British Muslims*, London: Fabian Society, 2008. Interviewee 16 emphasised this point in particular, in the context of Muslim faith schools – where some argued that such fairness would only further feed ‘parallel lives’ and ‘delayed integration’. He argued that it was critical for integration in all its limbs – as a right, for equality and towards a pluralist fraternity. He noted, however, that New Labour moved much quicker on Muslim faith schools than it did on religious discrimination legislation. Interviewee 9 and Interviewee 7 contrasted the Muslim experience with Sikh and Jewish experience, where all protection and rights were extended in one go on the back of one court case with regards to each of those communities.

⁷⁵⁷ Points made by Interviewee 6 and Interviewee 7. Note that at the time of the interviews, both were working for MEND and their arguments appear to be in line with the experience and work of the organisation as a whole.

⁷⁵⁸ Point made by Interviewee 12. Note that Interviewee 13 suggested that this antipathy from the left/progressive liberals was also evident in terms of counter-terrorism legislation which affected mostly Islam and Muslims – most Liberals said very little about this throughout most of the 2000s.

issues and the criminal law (eg, blasphemy, vilification/hate speech and incitement) at the expense of focusing on civil anti-discrimination law; to ‘a shortage of resources to fight a good fight where power is not given but has to be taken’.⁷⁵⁹ There was some defence of the Muslim leadership – with sympathy for protecting Muslims from physical attack over promoting equality, but many agreed that Muslims may have been better served in the long term with a greater focus on arguing for their freedoms and rights, than on restricting those of others.⁷⁶⁰ Some interviewees suggested that whilst some might see the struggle as overshadowing the wins, the process itself was integrating.⁷⁶¹

Interestingly, some interviewees observed that whilst Muslims were critical about the impact of the legislative provisions – as providing mostly formal and not substantive equality, the more equality legislation that was coming through on grounds of religion and belief, the less accepted Muslims were beginning to feel not just by the state, its organs and functionaries, but also in wider society. They argued that the great political and media fanfares around the dribs and drabs of religion and belief equality legislation unleashed a continuous stream of backlashes against Muslims in wider society. One noted in particular the impact of all the drama around the incitement to religious hatred legislation, which had to be brought to Parliament four times before it was passed without any teeth. Some sections of wider society perceived that the legislation was a result of political correctness and equalities gone too far, and that Muslims were now to be given special treatment and privileges. In practice, this was a message not only promoted by the far right, but also mainstream secularists like the National Secular Society, and even some Christian groups, for example, the Evangelical Alliance, who wanted more presence of religion in the public domain – but it would seem not of the Muslim type.⁷⁶² This not only resulted in greater Islamophobia and anti-Muslim prejudice and hatred, but also greater anti-equality and anti-human rights feelings, and a backlash against diversity and

⁷⁵⁹ Points made by Interviewee 15, Interviewee 13, Interviewee 11, Interviewee 16 and Interviewee 12.

⁷⁶⁰ Limited support given to leadership case by Interviewee 7; alternative argued by Interviewee 15 and Interviewee 13 amongst others.

⁷⁶¹ Argument made by Interviewee 14, Interviewee 1, Interviewee 7 and Interviewee 16 – the latter argued, however, that the process was particularly integrating for the leadership and those involved in campaigning and lobbying for the legislation, but they had failed to carry ordinary Muslims with them on this journey and hence the difference in outlook on the integration impact of achieving the legislation. Interviewee 7 argued that the process helped the Muslim leadership move from a ‘patronage mentality’ to a ‘citizen mentality’.

⁷⁶² These points were made by Interviewee 5, Interviewee 6 and Interviewee 8. The opposition of some Christian groups is discussed in more detail in Chapter 2.

multiculturalism more generally.⁷⁶³ This was particularly the case towards the end of the 2000s, when it became a core part of populist politics - to which New Labour occasionally pandered, but which the Conservatives particularly played to in order to return to power.⁷⁶⁴ With such a backlash against British Muslims as a result of the religion and belief equality legislation, some Muslims observed, therefore, that the legislation also had a polarising impact alongside any integration impact – though none of the interviewees suggested that overall Muslims would have been better off in terms of equality or integration without the legislation.

Several interviewees suggested that Muslims viewed considerable hypocrisy in the development of the religion and belief equality provisions. It seemed Britain, its institutions and public, were fine in the 21st century to extend equality provisions to race, gender, disability, sexual orientation, age and even some religious groups, for example, Sikhs and Jews – the only group they had a problem with extending the provisions to were Muslims.⁷⁶⁵ Some felt hypocritical arguments were being used to deny Muslims rights and liberties, when those same arguments were not used against other minorities, or were simply not borne out from experience – for example, there is no valid reason not to extend harassment provisions in goods and services to Muslims in mainland Britain as it is already extended to some faith communities in Britain and to all faith communities in Northern Ireland.⁷⁶⁶ Some interviewees argued that the hypocrisy and procrastination caused so much delay in the introduction of the religion and belief legal provisions that by the time they were introduced the counter-terrorism narrative of Muslims as a suspect community was already so strong that any integration impact from the equalities provisions was drowned out by the alienation impact from the counter-terrorism provisions.⁷⁶⁷ One interviewee suggested that there was some hypocrisy on the Muslim

⁷⁶³ See the studies on this commissioned by the Equality and Diversity Forum: K. Bell et al, *Public Attitudes to Human Rights – A Review of the Literature*, London: EDF, May 2012, and *Public Attitudes to Human Rights – Data Synthesis Report*, London: EDF, May 2012; M. Berry et al, *Who is Right about Human Rights – Media, public and political discourses and public understandings*, London: EDF, March 2012; YouGov, *Valuing Human Rights – What do people think and how can this be changed*, London: EDF, June 2012 .

⁷⁶⁴ Point made by Interviewee 6.

⁷⁶⁵ Interviewee 9, Interviewee 11 and Interviewee 5.

⁷⁶⁶ Interviewee 5 and Interviewee 14. For Tufyal Choudhury's more detailed work on this see: B. Hepple and T. Choudhury, *Tackling Religious Discrimination*, op. cit.; F. Dossa and T. Choudhury, *Religious Discrimination in the Delivery of Goods, Services & Facilities*, op. cit.

⁷⁶⁷ Interviewee 2, Interviewee 15, Interviewee 3, Interviewee 5 and Interviewee 6. Interviewee 2 added that there were also other factors to drowning out the equality agenda – eg, the Muslim focus on foreign policy issues like the war in Iraq.

side as well – they wanted rights and equality for Muslims but not for some other minorities, for example, sexual orientation minorities. She gave credit to the MCB for supporting inclusion of sexual orientation in the provisions on goods, facilities and services in the Equality Act 2006 and suggested that there had been significant gaining of equality literacy on all sides which eventually allowed the equality legislation to progress in the way it did and that this in itself was a huge demonstration of integration from all sides, where integration is seen as a multi-way process.⁷⁶⁸

The non-legal measures to promote non-discrimination and equality

Generally speaking, there was limited awareness and knowledge amongst the interviewees about the non-legal initiatives introduced by New Labour to promote race and religious equality. Several interviewees pointed out, however, that some very important non-legal equality initiatives were missing from this research.⁷⁶⁹ In their view, some of the most important New Labour non-legal equality initiatives included the question on religion in the 2001 Census, the public funding of Muslim faith schools and the extending of chaplaincy provisions to Muslims. The 2001 Census question on religion was of course critical to understanding the facets and depths of discrimination and inequalities faced by British Muslims – as Muslims. The first faith focused analysis of the Census data produced by the ONS confirmed in very clear terms what had so far been deduced about British Muslim socio-economic inequalities from ethnicity focused data.⁷⁷⁰ Importantly, however, the Census question led to a religion question also being included in a number of other important surveys – for example, the Labour Force Survey and the Citizenship Survey, and the findings together on British Muslims were subsequently of critical importance for making the case for extending the legal provisions on non-discrimination and equality on grounds of religion and belief to the delivery of goods and services, as well as extending the public sector equality duty to religion and belief.⁷⁷¹ Two interviewees thus referred to the religion question in the Census as ‘a game

⁷⁶⁸ Argument made by Interviewee 13.

⁷⁶⁹ Interviewee 1, Interviewee 8, Interviewee 12, Interviewee 14 and Interviewee 16.

⁷⁷⁰ For the ONS report see Census 2001: National Report for England and Wales, London: TSO, 2001, pp.121-61.

⁷⁷¹ Point made by Interviewee 13 and Interviewee 14 – who both relied on these sources for their work on the equality provisions. Note also how these sources were used by organisations like FAIR, BMRC and FaithWise in all their submissions on the various equality provisions, which have been discussed in earlier chapters.

changer' in understanding Muslim inequalities, campaigning and lobbying for change and for driving policy.⁷⁷² The public funding of Muslim faith schools was perhaps the single most important domestic campaign issue for British Muslims at the turn of the millennium.⁷⁷³ One interviewee noted that its delivery by New Labour was perhaps the single most integrating measure – for, firstly, it very positively and proactively provided Muslim parents the right to have their children educated in accordance with their religious beliefs – as under the ECHR,⁷⁷⁴ secondly, it signalled very clearly that the Muslim right to the provision of education within its religious ethos was to be respected, funded and allowed to flourish alongside rights already enjoyed by their Christian and Jewish counterparts; and thirdly, it signalled equally clearly that Muslims had finally been accepted into the European Abrahamic family.⁷⁷⁵ Extending the chaplaincy provisions in universities, hospitals, prisons and the armed forces to Muslims was equally important for Muslim integration. It not only signalled the right to religious accommodation and meeting of religious needs within key state and public institutions, but also for the first time employed Muslim practitioners of faith, at the public expense, for the accommodation of the religious needs of Muslims – something that until this point had been reserved only for the Established Church, and 'the extension of which to Muslims was felt to be rights, equality and fraternity extended to them at an extraordinary level'.⁷⁷⁶ Overlooking the Census question on religion was, of course, an oversight in this research. However, this research was concerned with the legal and non-legal tools for equality and not specific equality initiatives and issues in different policy domains, and it was on this basis that the other two initiatives were not included in this study.

Several interviewees suggested that the most likely reason for the interviewees lack of awareness of the non-legal provisions included in this research was that the British

⁷⁷² Interviewee 1 and Interviewee 14 – for further illustration of their point, see: S. Hussain and J. Sherif, *Minority Religions in the Census – The Case of British Muslims*, *Religion*, Vol.44(3), June 2014, pp.414-33; S. Ali, *British Muslims in Numbers – A Demographic, Socio-Economic and Health Profile of Muslims in Britain drawing on the 2011 Census*, London: MCB, January 2015.

⁷⁷³ Interviewee 1, Interviewee 8, Interviewee 15 and Interviewee 16.

⁷⁷⁴ European Convention on Human Rights, Protocol 1, Article 2.

⁷⁷⁵ These points were made by Shamim Miah, who has written extensively on this subject – see, for example: S. Miah, *Muslims, Schooling and the Question of Self-Segregation*, Basingstoke: Palgrave Macmillan, 2015.

⁷⁷⁶ Points emphasised by Interviewee 9, who advised on chaplaincy issues at the Ministry of Defence. For a more detailed account on the role of chaplaincy in the integration of British Muslims, see: S. Gilliat-Ray et al, *Understanding Muslim Chaplaincy*, Aldershot: Ashgate, 2013.

Muslim community was still stuck on first base.⁷⁷⁷ The first base was to achieve the first generation of equality rights, that is ‘equality of treatment’, through getting the legislation right. The Muslim community leadership spent so much time trying to achieve this first-generation equality rights that it simply did not have the capacity to get onto the second-generation equality rights of ‘equality of opportunity’ or the third-generation equality rights of ‘equality of outcome’.⁷⁷⁸ Some felt it was important to focus on the first base of religious equality and to get it right, for three reasons: the first and simple reason, that it is very difficult to get beyond it if it is not there; secondly, because if it is not right more time will be wasted in the future in returning to get it right; and thirdly, and perhaps more critically – in light of the learning from other strands (ie, gender, race and disability), because it was important to give the first base time to settle, embed and build a strong narrative around it before moving onto the next phase of mainstreaming work. One interviewee felt that if religious equality mainstreaming was forced too early it could be counter-productive – resulting in a backlash of resentment. He pointed out that mainstreaming work in the older strands started at least 20 years after the initial legislation in each of those strands.⁷⁷⁹ Two interviewees stated that one of the problems with the Muslim leadership narrowing the Muslim identity to only a religious identity too early was that they lost interest in the considerable and very sophisticated work being done in mainstreaming race equality at every level, despite the official rhetoric against multiculturalism from time to time. One interviewee argued that too much focus on formal religious equality at the expense of substantive equality meant that ‘Muslims were always the poor cousins left at the door’.⁷⁸⁰

With great insight, however, several interviewees observed that whilst the organised Muslim community leadership was stuck on achieving equality legislation to provide formal equality, which sometimes only produced a compliance culture where people abided by the law only so much as to avoid legal action, others on the ground, particularly Muslim equalities experts and activists, who were able to keep their identities open or able to see the different opportunities in the different strands, were already actively

⁷⁷⁷ Interviewee 13, Interviewee 11, Interviewee 9, Interviewee 15 and Interviewee 8.

⁷⁷⁸ For more on these different generations of equality rights see S. Fredman, ‘Equality: A New Generation?’, *Industrial Law Journal*, Vol.30, No.2, pp.145-88. See also: M. Aziz, *Envisioning Religious Equality in Britain over the Next Ten Years*, op. cit.; *Equality & Diversity in Modern Britain – The Muslim Perspective*, op. cit.

⁷⁷⁹ Interviewee 1, Interviewee 10 and Interviewee 14 – the latter in particular emphasising the third point.

⁷⁸⁰ Points made by Interviewee 13, Interviewee 12 and Interviewee 9 respectively.

pursuing multi-strand approaches in sophisticated ways, using a combination of gender, race and religion provisions to access rights and opportunities way beyond first generation equality rights, even as Muslims.⁷⁸¹ One key reason for this was that there was far better evidence bases for, and greater literacy on, race and gender equality in almost all sectors than on religion and belief equality. The interviewees observed in particular that after the Macpherson Inquiry and Report, there was a big push to get beyond the compliance culture in race equality. A public-sector race equality duty was introduced through the Race Relations (Amendment) Act 2000, but also many other non-legal initiatives were introduced to really move race equality forward.⁷⁸² These initiatives, as we noted in chapter 3, included strengthening the Race Equality Unit at the Home office and the work of the CRE, but also mainstreaming and embedding race equality work through inspectorate regimes and other strategic partners; evidence based evaluation and policy development; targets and outcomes based performance measures like PSA targets; public procurement; and systems of rewards and interventions. They explained that it was not just the far right at this stage that was using race as a surrogate for religion, but Muslims were benefiting from such surrogacy, or conflation of race and religion, too. At least two interviewees suggested that, in fact, the average Muslim at that time was still, in many cases, more confident to argue their case on grounds of race than religion.⁷⁸³ Some interviewees noted that this ‘positive conflation’ or surrogacy took place especially in three particular contexts: firstly, where race essentially meant Muslims – for example, the Bangladeshis in Tower Hamlets or Pakistani communities in some northern cities; secondly, where Muslims were advising around, contributing to, developing, or leading on race equality strategies – which was happening as we have already noted right up to Cabinet Office level; and thirdly, where public authorities were being forward thinking about the direction of travel of equalities and harmonising provisions for the new strands of religion or belief, sexual orientation and age with provisions they were required to put

⁷⁸¹ Interviewee 13, Interviewee 11, Interviewee 12, Interviewee 16 and Interviewee 2. See also: The Ethnic Minority British Election Study, 2010, and A. Heath et al, *The Political Integration of Ethnic Minorities in Britain*, Oxford: Oxford University Press, 2013, which suggest that Muslims are more likely to report racial discrimination than religious discrimination. One reason for this may be that they feel the protection against racial discrimination is more extensive and easier to access than religious discrimination.

⁷⁸² See: Home Office, *Improving Opportunity, Strengthening Society – The Government’s Strategy to increase Race Equality and Community Cohesion*, London: Home Office, 2005. For progress on this study, see: T. Cante, *Improving Opportunity, Strengthening Society – A third progress report on the Government’s strategy for race equality and community cohesion*, Vol.2, *Race Equality in Public Services – Statistical Report*, Department for Communities and Local Government, February 2009.

⁷⁸³ Interviewee 3 and Interviewee 4

in place for the old strands of race, gender and disability.⁷⁸⁴ These interviewees argued that in undertaking race equality work in these contexts, particularly in relation to Pakistani and Bangladeshi communities, religious accommodation and equality was also being systematically (even if unofficially) incorporated and delivered. The interviewees gave several examples of doing this or seeking to do this in practice themselves – for example, in developing strategies, codes and guides at the Cabinet Office, Audit Commission, CRE and ACAS, and developing diversity work at the Arts Council, for example, the Arts and Islam 2004 project.⁷⁸⁵ One interviewee added that such religious equality work, through the surrogate of race, sometimes went beyond the private sector – through public procurement, to the private and third sectors, which were just as keen on the equality business case.⁷⁸⁶ Many of the interviewees agreed that this work, through race as a surrogate for religion, had a significant impact on Muslim integration in terms of all three aspects of rights, equality and solidarity. There was almost unanimous agreement, however, that what failed Muslims most in this mainstreaming and embedding work was the CRE and its successor, the EHRC, and particularly the leadership of the two organisations.⁷⁸⁷

One interviewee arguing the surrogacy point elaborated further that mainstreaming and embedding equalities, particularly in the public sector, generally had a great integration impact on the targeted communities. Equality at this level was tangible whenever one was in contact with the institutions of the state and all public organs – whether in the context of employment or in the enjoyment of goods, facilities and services. Further, the equality provision at the point of receipt was not a blind equality, the same for all, but an equality designed for the particular needs of the individual and the groups they may identify with.

⁷⁸⁴ Points made by Interviewee 11, Interviewee 12 and Interviewee 10. The latter added that there was other mainstreaming and embedding work being done from the Cabinet Office that has not been covered in this research – for example, race equality leadership and championing work being undertaken by Ministers and Permanent Secretaries, pay-related targets and performance management on race, and active efforts to scout, recruit and promote minorities at the highest levels.

⁷⁸⁵ See, for example: Audit Commission, *The Journey to Race Equality – Delivering Improved Services to Local Communities*, London: Audit Commission, January 2004; M. Malik and S. Khan, *A Response to the CRE Consultation on a Draft Statutory Code of Practice on the Duty to Promote Race Equality and a Draft Guide for Public Authorities*, London: FAIR, December 2001; Commission on British Muslims and Islamophobia, *A Response to the CRE Consultation on a Statutory Code of Practice on the Duty to Promote Race Equality*, London: Uniting Britain Trust, December 2001 – both the latter two documents are available in the FAIR Files.

⁷⁸⁶ Interviewee 11.

⁷⁸⁷ For an interesting read on how Trevor Phillips, Chair of CRE and then EHRC, moved from being friendly to hostile towards Muslim communities, see: C. Allen, *The Death of Multiculturalism – Blaming and Shaming British Muslims*, *Durham Anthropology Journal*, Vol. 14(1), Summer 2007.

This was rights, liberties and equality at a far deeper level – one offered when the minority group in question had not only been accepted by the fraternity of the nation, but when that fraternity also wanted this group to do just as well as the rest of the nation and flourish, particularly if that group was starting from a point of disadvantage.⁷⁸⁸ Some interviewees were less certain, however, that the same impact had been achieved with British Muslims. The mainstreaming and embedding of their equality rights and needs had not been ‘offered’ to them as Muslims – in the world of identity politics the offer was to racial groups, which did not cover their religious identity and needs. Muslims, and those well-intended towards them, made the best of the provisions available for Muslim equality needs, but the status quo did not make them feel that they had been accepted.⁷⁸⁹ They suggested that in some cases it may in fact have had the opposite effect: it left some Muslims resentful that the equality needs of other racial and religious groups was being squarely met head on but they had to use surrogacy and ‘camouflage games’ in order to acquire their rights. One interviewee described this as ‘the fag end of the third way reserved for Muslims’. Other concerns expressed about the surrogacy approach were that occasionally it created resentment within Muslim communities, as under the 16+1 race categorisation system, developed in the 1970s, not all Muslim ethnic minority groups were recognised – thus, for example, Bangladeshi and Pakistani women could make certain equality demands that Moroccan, Turkish or Somali women could not; and that mainstreaming work mostly benefitted those already engaged in the public sector or public life.⁷⁹⁰ Two interviewees argued, however, that whilst achieving rights and liberties through a surrogate is not the same as achieving them through one's primary identity, the enjoyment of such rights and liberties did have a positive effect – by embedding ‘equality as culture’, even if it left some feeling they were still not completely accepted for who they are. They argued that these rights and liberties were real, rather than just some abstract right not to be discriminated against in some equality law, which they either did not know about or was too difficult for them to access.⁷⁹¹

⁷⁸⁸ Interviewee 13.

⁷⁸⁹ Interviewee 9, Interviewee 11, Interviewee 2 and Interviewee 12. On this point of nonrecognition, misrecognition and correct recognition, see also: C. Taylor, *The Politics of Recognition*, in A. Gutmann (ed.) *Multiculturalism – Examining the Politics of Recognition*, Princeton: Princeton University Press, 1994, p.25; and I. Young, *Justice and the Politics of Difference*, Princeton: Princeton University Press, 1990, chapter 2.

⁷⁹⁰ Interviewee 12, Interviewee 4 and Interviewee 7 respectively.

⁷⁹¹ Interviewee 11 and Interviewee 12.

The legal provisions to promote security and counter terrorism

With regards to the counter-terrorism legislation, some interviewees observed that what many Muslims forget is that the Terrorism Act 2000, at the core of the legal provisions in this area, was not brought in to address terrorism by Muslims – it was the accumulation and consolidation of legislation to address terrorism related to Ireland. Any suggestion, therefore, that the existing counter-terrorism legislation was brought in specifically to target Muslims is inaccurate.⁷⁹² Some interviewees stated that some Muslim organisations and leaders had themselves argued for additional legislation, particularly in relation to concerns around Muslim extremist preachers and Muslim extremism on the internet. They had argued that such extremism was radicalising young Muslims, was undermining British Muslim integration (especially in terms of its third limb of fraternity/solidarity) and causing divisions in society. Often, however, they were told that the government had to balance these concerns with those around freedom of expression.⁷⁹³ Almost all the interviewees agreed, however, that the main problem with the counter-terrorism legislation was not around some of the legislation itself, but around how the narrative to justify it (and subsequent additional legislation) had been reworked, developed and communicated after the atrocities of 11 September 2001 in the US, and particularly after the atrocities of 7 July 2005 in London. The very ideological narrative of ‘us’ and ‘our’ way of life being under threat from ‘them’ Islamist (heard by many as Islamic and Muslim) terrorists, as espoused by the then Prime Minister, Tony Blair, and adopted by many of his Cabinet Ministers, made the ‘war on terror’ a ‘war on Islam and Muslims’.⁷⁹⁴ This demonised and made the British Muslim community as a whole a ‘suspect community’, and with each piece of legislation – the threat exaggerated with worst case scenarios to justify that legislation, and further exaggerated the more contentious the legislation (eg, on pre-charge detention or glorification) – the suspicion against the community was heightened, ever increasing the level of Islamophobia in British society and creating a less deserving British Muslim community in terms of rights, equality and solidarity in the popular imagination. Thus, although most of the legislation itself actually

⁷⁹² Interviewee 15, Interviewee 13 and Interviewee 14.

⁷⁹³ Interviewee 1 and Interviewee 9 explained that the MCB had approached the government on several occasions, particularly during the time of the Rt Hon Charles Clarke MP as Home Secretary, to express these concerns. Interviewee 13 and Interviewee 15 suggested that it was not just the MCB leaders who quietly sought and supported such legislation to challenge extremism, many of the other Muslim leaders did too – in light of the damage a very small minority of preachers were causing.

⁷⁹⁴ Point strongly made by Interviewee 14 and Interviewee 5, but supported by many of the interviewees.

affected only a relatively small number of Muslims, the narrative and the resulting Islamophobia affected almost all British Muslims, and in many significant ways.⁷⁹⁵

Most Muslims, however, do not make this distinction between terrorism legislation and the narrative built around it by New Labour. Thus, many Muslims and others saw the legislation as the single most important impediment and barrier to British Muslim integration.⁷⁹⁶ The interviewees suggested that this was for different reasons, but mainly because of how the government was seen to be colluding with the media and public discourse which resulted in depicting the Muslim community initially as a suspect community and then ‘the enemy within’; the draconian nature of the additional counter-terrorism legislation primarily targeting Muslims and how they were implemented; and how the government responded to Muslims raising these concerns.⁷⁹⁷ Taking these in reverse order, several interviewees stated that Muslims had advised and warned, and subsequently provided evidence to the New Labour governments, on the obvious disintegration impact of the counter-terrorism legal provisions from quite early on.⁷⁹⁸ Indeed, the IHRC and FAIR had warned as the Anti-Terrorism, Crime and Security Bill 2001 was going through Parliament that its disproportionate targeting of Muslims would be ineffective and counter-productive; and the Arani submission to the Newton Committee emphasised the enormous negative impact on British Muslims from the way the 2000 and 2001 Acts were being implemented, not just in terms of fostering Islamophobia in the general public – particularly through the media fanfare involved in many raids, where those arrested were subsequently released without any charge or media notice – but also in terms of alienating Muslims from the British mainstream.⁷⁹⁹ The Arani submission made a robust case on the counter-productivity of the Acts and their implementation, and as mentioned in Chapter 4, the strength of feeling against the Acts

⁷⁹⁵ Argument articulated by Interviewee 11, Interviewee 14, Interviewee 15 and Interviewee 8 amongst others.

⁷⁹⁶ See, for example: European Monitoring Centre on Racism and Xenophobia (EUMC), *Muslims in the European Union – Discrimination and Islamophobia* Vienna: Fundamental Rights Agency of the European Union, 2006, p.3 – which warns that ‘anti-terrorism security measures risk disrupting the task of integrating Muslim communities in EU member states’.

⁷⁹⁷ Points particularly strongly made by Interviewee 5, Interviewee 11 and Interviewee 8.

⁷⁹⁸ Interviewee 1, Interviewee 9, Interviewee 5 and Interviewee 8 amongst others.

⁷⁹⁹ See: IHRC, *Briefing – Emergency Legislation Violates Human Rights Standards*, London: IHRC, 14 November 2001; FAIR, *The Muslim Submission on the Anti-Terrorism, Crime & Security Bill* (Submission No.3), London: FAIR 2001; Arani & Co. Solicitors, *Submission to Privy Council Review of the Anti-Terrorism & Security Act 2001*, accessible online at – http://www.aranisolicitors.com/articles_privy.html.

and some of their key provisions were compellingly reflected in the Newton Report, forcing the Home Office to issue a discussion paper entitled Counter-Terrorism Powers: Reconciling Security and Liberty in an Open Society. Significant parts of the responses from Muslim organisations to the Home Office discussion paper reiterated the counter-productive impacts of both the 2000 and 2001 Acts. One response recalled that Churchill had famously stated: ‘Those who refuse to learn the lessons of history are condemned to repeat its mistakes’.⁸⁰⁰ The responses variously suggested that the Government was doing just that: in Northern Ireland, anti-terrorism measures were developed to deal with political violence – the measures were counter-productive, only increased the alienation of those targeted, provoked more violence and prolonged the conflict.⁸⁰¹ Now the Government was doing exactly the same thing again with international terrorism and British Muslims in mainland Britain. One interviewee observed that New Labour listened to the voice of neither history or the Muslims on how it pursued its counter-terrorism agenda – instead it treated these Muslim voices as part of the problem and side-lined them almost till the end.⁸⁰²

On the individual counter-terrorism provisions, one interviewee observed that many of the most draconian provisions did not affect most British Muslims, for example, the proscription and internment provisions. Another interviewee observed that many of the proscribed organisations were Kurdish and affected few British Muslims and the internment provisions affected only a small group of foreign nationals. The control and freezing orders were very sparingly used and the incitement provisions did not ultimately succeed in court.⁸⁰³ However, both these and other interviewees agreed that even the least used provisions had considerable negative integration impact on British Muslims. For example, the new internment provisions in the 2001 Act was used against only 17 foreigners, and interestingly, the archives accessed for this research were actually quite thin on those detained under the 2001 Act. The MCB file on the Belmarsh detainees for example was remarkably thinner than its files on those detained in Guantanamo Bay or

⁸⁰⁰ F. Ansari, *Terror in the Name of Anti-Terrorism – The UK in 2004*, London: IHRC, November 2004.

⁸⁰¹ For parallels in and learnings from the Irish situation, see: B. Walter, *The Irish Community – Diversity, Disadvantage and Discrimination*, London: Runnymede Trust, 1993; B. Feeney, *Sinn Fein – A Hundred Turbulent Years*, University of Wisconsin Press, 2002, as quoted in M. O’Connor and C. Rumann, *Into the Fire – How to avoid getting burned by the same mistakes made fighting terrorism in Northern Ireland*, *Cardozo Law Review*, Vol.24, p.1680; P. Donovan, *Are Muslims becoming the new Irish?* *The Muslim News*, 28 May 2004.

⁸⁰² Point particularly strongly made by Interviewee 5, but also by several others.

⁸⁰³ Points made by Interviewee 15 and Interviewee 6.

fighting extradition to the US. When this was raised with some of the interviewees, there were several interesting responses. Some suggested that for at least some of those detained in Belmarsh there was ‘no love lost’ amongst the Muslim leadership. The MCB had previously already discussed with Home Secretaries the need to address extremism in communities and on the internet because of their impact on some British Muslim youth – only to be told by the authorities that under free speech laws there was not much the authorities could do about them. For some of these extremist preachers now to be detained by the authorities – it may not have appeared altogether a terrible thing to these same Muslim leaders. It certainly sent a powerful message to other preachers that such rhetoric and behaviour would not be tolerated, and free speech and expression had to be calibrated.⁸⁰⁴ Two interviewees suggested that it was always easier to speak out against another Government than one’s own – for two reasons: firstly, any serious fall out with one’s own government could have further repercussions for individuals, organisations and perhaps even the community as whole; and secondly, advocacy on this agenda had to be measured against advocacy and possible gains on other issues and in other areas, for example, on the equality agenda or in terms of the representation of Muslims in diversity and inclusion drives and Muslim needs in mainstreaming and embedding work.⁸⁰⁵ Others suggested more innocent explanations. Several interviewees suggested that this was to be expected: those held in Guantanamo Bay or fighting extradition to the US were British citizens with families in the UK putting pressure on the MCB – and the MCB was responding to its constituents. Those held in Belmarsh were foreign nationals and not with the same roots in British Muslim communities. Some suggested that the Belmarsh cases were being fought through the courts with the support of powerful NGOs and less needed to be done by Muslims, whereas movement on the Guantanamo Bay cases required the exercise of discretion by the Home Secretary and this needed political pressure from Muslim organisations like the MCB.⁸⁰⁶ However, all 17 interned under the 2001 Act were Muslims, and even those expressing concern about certain extremist preachers were fundamentally against such discriminatory internment. For many this became a totemic symbol of the unequal treatment and injustice that Muslims could now expect in Britain.⁸⁰⁷ Further, the conditions that these Muslim detainees were held in,

⁸⁰⁴ Points made by Interviewee 13, Interviewee 11, Interviewee 15, Interviewee 1 and Interviewee 2.

⁸⁰⁵ Interviewee 15 and Interviewee 14.

⁸⁰⁶ Interviewee 1, Interviewee 9, Interviewee 8, Interviewee 6 and Interviewee 14.

⁸⁰⁷ See: House of Commons Home Affairs Committee, *The Government’s Counter-Terrorism Proposals – First Report of Session 2007-8, Vol.2*, London: The Stationery Office, 2007.

described as ‘bordering on the disgraceful’, meant that this was a significant point for the loss of trust and confidence in, and alienation from, the state for many British Muslims, and therefore, hugely damaged British Muslim integration at all levels.⁸⁰⁸ FAIR thus accused the Government at the time of double standards – on the one hand, condemning indefinite detention of suspected terrorists in Guantanamo Bay, but on the other, doing the same in Belmarsh.⁸⁰⁹

Some interviewees stated that another set of provisions, on incitement and glorification, considered to be ineffective by some, actually had an acute impact on some sections of the British Muslim community. Combined with the provisions on proscription and internment, these provisions sowed great fear and apprehension particularly in some Arab and other smaller ethnic minority Muslim communities – and especially amongst leaders of these communities, who were afraid to speak because they did not want to draw attention to themselves, but more importantly, their organisations, members and wider congregations, as somehow condoning or supporting terrorism.⁸¹⁰ Some Muslim leaders worried that the chill effect was pushing many discussions out of the public domain, and worried about young Muslims engaging in extremist discourses out of hearing and sight.⁸¹¹ The chill effect sometimes operated in very practical ways – for example, some parents started changing the names of their children and naming new-borns with English sounding names like Adam or Sarah. It also interfered with both religious belief/practice and identity/solidarity – for example, some Shias felt apprehensive about openly commemorating Karbala as it is about glorifying martyrdom against injustice, and some Arabs, Pakistanis and others worried about making collective duaa (supplication) after the regular prayers, and particularly after the jummah prayers on Fridays, for the oppressed in places like Palestine and Kashmir and the shaheeds (martyrs) that had given

⁸⁰⁸ Interviewee 3, Interviewee 5, Interviewee 12 and Interviewee 1. Note that this description of the prison conditions is from FAIR; lawyers for the detained and Home Office medical experts described the conditions as ‘barbaric’ and ‘concrete coffins’ – see: UK terror detentions barbaric, *The Observer*, 20 January 2002. Note also the report by Amnesty, which concluded that the conditions of detention amounted to ‘cruel, inhuman or degrading treatment’ – *Rights Denied: The UK’s Response to 11th September 2001*, London: Amnesty International, September 2002.

⁸⁰⁹ *Democracy’s chance*, *Guardian*, 27 June 2004. See also: FAIR, *Counter-Terrorism Powers: Reconciling Security and Liberty in an Open Society – A Muslim Response*, London: FAIR, July 2004.

⁸¹⁰ Interviewee 3 argued that this was more so after the deportation of Abdul Hakim Belhadj to the Gaddafi regime. For more information on the Belhadj case, see: Human Rights Watch, *Delivered into Enemy Hands – US-led Abuse and Rendition of Opponents to Gaddafi’s Libya*, New York: Human Rights Watch, 2012, p.98; and Open Society Justice Initiative, *Globalizing Torture – CIA Secret Detention and Extraordinary Rendition*, New York: Open Society Foundation, 2013, pp.36 and 114.

⁸¹¹ Point made by Interviewee 5, Interviewee 8 and Interviewee 15.

their lives to these causes. The interviewees suggested that Muslims could no longer say or do some things that others could – eg, Jack Straw MP could glorify Mandela, but for a Muslim to glorify Imam Hussain or Umar Mukhtar raised more questions. One of them commented that it was ironic that Muslims were often seen as ‘the enemies of free speech’, but it was the Muslim civil society that was being denied free speech.⁸¹²

A few interviewees also expressed concerns around the ‘hanging threat of proscription’, associated offences, and the impact on charities from unsubstantiated allegations of funding terrorism – they felt these provisions made the community very cautious and defensive.⁸¹³ In its response to the Home Office discussion paper in 2004, the IHRC noted that all the charities investigated for terrorism under the new provisions at the time were Muslim – wasting their money and time, without any notable findings. The IHRC further noted that there was profound fear in the Muslim charitable sector that fundraising for causes such as Chechnya and Palestine, or even for humanitarian relief work, may be seen as ‘passive’ support for terrorism. In a number of cases, funds had been frozen, which meant that those charities were no longer able to function properly, and stigma continued to be associated with them even after investigations were concluded – leaving these charities only the choice of either closing down or restarting. There were even cases of charity workers being harassed, leading to low morale in the sector.⁸¹⁴ All of this made work in the Muslim charities sector immensely difficult and left an air of strong resentment and alienation against the state. Some interviewees noted that one of the biggest issues for Muslim charities and Muslim organisations generally, since the introduction of the counter-terrorism finance provisions, was having their accounts closed by high street banks – and noted not just the sheer frustration with the banks but also the alienation from the state and society this causes.⁸¹⁵ Thus, several interviewees suggested that whilst the proscription, internment, terrorist finance and incitement provisions did not on the whole affect the majority of ordinary British Muslim citizens and organisations directly, they did have significant indirect impact – everyone knew someone or some

⁸¹² Points made by Interviewee 12, Interviewee 3, Interviewee 8, Interviewee 6 and Interviewee 5.

⁸¹³ Interviewee 4, Interviewee 5 and Interviewee 11.

⁸¹⁴ Note, for example, the case mentioned in the IHRC response to the Home Office discussion paper of a man in Bradford, who was arrested and released without charge after 36 hours, though his charity’s funds were still frozen and the charity was placed under investigation; or the case of the man in London, who was arrested and detained, released without charge after 6 days, but whose passport was still retained and only returned on a visit to his home when he was also asked to be an informer – his charity’s funds (intended for orphans and the poor) were still not released at the time of the IHRC’s response.

⁸¹⁵ Interviewee 3, Interviewee 5, Interviewee 8 and Interviewee 14.

organisation that had been affected or undergone a very bad experience, leaving Muslims generally feeling targeted, resentful and alienated.⁸¹⁶

Many interviewees observed that there were some provisions that were quite clearly and widely used against Muslims – and impacted not just foreign Muslim nationals and organisations, but also British Muslims and settled Muslim communities.⁸¹⁷ One key set of provisions highlighted in the Muslim responses to the Home Office discussion paper, as having particularly counter-productive impacts and therefore receiving particular attention from Muslims, were the policing and border control provisions in the 2000 Act. FAIR noted in its response to the Home Office discussion paper that under s.41, the police were allowed to arrest someone without a warrant if they suspected them of being a terrorist – they were not required to state the grounds for suspicion, and once arrested a suspect could be held for 48 hours (instead of the 36 hours for normal arrests), which could then be extended for up to a maximum of 14 days. It noted further the observation by Gareth Peirce, a prominent lawyer in this area of law, that ‘these symbolic arrests [had] little effect in suppressing terrorism but a large effect on the perception of the Muslim community’.⁸¹⁸ The interviewees were almost unanimous, however, that the most significant counter-productive impacts were from s.44 stops and searches. Muslim responses to the Home Office discussion paper had already noted that these stop and searches often led to gross violation of rights to privacy under Art.8 of the ECHR, and Imran Khan, lawyer for the Lawrence family, had commented that such ‘[s]top and search [was] an ineffective tool to deal with crime as only a small proportion (less than 10%) of stops lead to any criminal prosecution. Weighed against this is the harm it causes to the Muslim community in terms of trust and confidence, the process should be abolished’.⁸¹⁹ Similarly, Khurshid Ahmed, then Commissioner at the CRE, stated the following about the s.44 provisions: ‘... there is tremendous disquiet within the community ... it has given licence to racist and religious bigots employed within the security services to unleash a form of terror on innocent people up and down the country ... the community has the responsibility to co-operate with security agencies to ensure our own safety – but the way

⁸¹⁶ Interviewee 4, Interviewee 6 and Interviewee 14.

⁸¹⁷ Interviewee 1, Interviewee 9, Interviewee 5, Interviewee 7, Interviewee 15, and Interviewee 14. See also: Human Rights Watch, *Without Suspicion – Stop and Search under the Terrorism Act 2000*, New York: Human Rights Watch, 2010.

⁸¹⁸ Stated in a meeting held with FAIR on 4 June 2004.

⁸¹⁹ Stated in a meeting held with FAIR on 13 July 2004.

to get that co-operation is not by terrorising people and by allowing, without accountability, some within [the] agencies to peddle their race hate among the communities'.⁸²⁰ There was a widespread belief at that time, subsequently confirmed in significant research (as discussed in Chapter 4), that the powers under s.44 were being widely abused as they did not require reasonable suspicion, and that this discredited the fight against terrorism, alienated Muslims, and stoked Islamophobia and Islamophobic hate crimes.⁸²¹ Many, like Iqbal Sacranie and Khurshid Ahmed, either directly or indirectly, compared s.44 with how the 'sus' laws were often disproportionately used against Irish and Black communities in the past, sometimes resulting in widespread rioting, like in Brixton.⁸²² The MPA observed that the use of s.44 resulted in 'powerful evidence' of 'hugely negative impact' on community relations.⁸²³ Most of the interviewees in this research agreed with this, and in hindsight could only reaffirm those sentiments – that the s.44 provisions and their implementation had a particularly negative impact on British Muslim integration, with reference to all three of its limbs. Many of the interviewees also expressed concerns around the impact of Sch.7. One interviewee noted that initially the limited number of formal complaints under it was seen as an indicator of the 'remarkable docility with which passengers for the most part submit to police questioning'.⁸²⁴ However, subsequent work by FOSIS and MSF, and research by others, suggested that the lack of complaints concealed the profound anger and resentment that British Muslims felt from their experiences of Sch.7.⁸²⁵ For Muslims such stops 'raise[d] painful questions about how they are seen and positioned by others', and they experienced shock, hurt and confusion from the failure of the state to see them as 'respectable, moderate, law-abiding and contributing members of society'.⁸²⁶

Some interviewees suggested that it was not so much the impact of individual provisions but the impact of the provisions collectively as implemented by all the responsible

⁸²⁰ As quoted in: UK Extremism Threat Growing, BBC News Online, 23 April 2004.

⁸²¹ Confirmed by the FAIR Community Survey: The Impact of Counter-Terrorism Powers on the Muslim Community in Britain – see: <http://www.fairuk.org/docs/Counter-Terrorism%20Survey.pdf>.

⁸²² The sus (or suspicion) law formed part of the Vagrancy Act 1824, which was repealed in 1981.

⁸²³ Metropolitan Police Authority, Report of the MPA Scrutiny on MPS Stop and Search Practice, May 2004.

⁸²⁴ Interviewee 14 quoting: D. Anderson, *The Terrorism Acts in 2011*, op. cit., p.115.

⁸²⁵ Interviewee 14 and Interviewee 7. See also: T. Choudhury and H. Fenwick, *The Impact of Counter-Terrorism Measures on Muslims in Britain*, London: Equality and Human Rights Commission, 2011.

⁸²⁶ L. Blackwood et al, I know who I am, but who do they think I am? Muslim perspectives on encounters with airport authorities, *Ethnic and Racial Studies*, Vol.36(6), 2013, pp.1090-1108.

authorities that concerned them.⁸²⁷ With the overarching government narrative to justify the provisions being seen by Muslims as so strongly ideological, it was inevitable that the government would be accused of institutional Islamophobia, and that the agencies implementing the provisions would be accused of that too. The IHRC had already described the ATCSA 2001 as symbolic of the ‘institutional Islamophobia’ that existed in the UK. It further suggested that the 2001 Act sought to create a shadow system of justice for Muslims, and the institutional Islamophobia underlying this could be ‘detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and [religious] stereotyping which disadvantage’ Muslims.⁸²⁸ In fact, the IHRC was clear in its claim at that stage that institutional Islamophobia was not just at the Government level, but also permeated at the level of the police, MI5 and Special Branch in their dealings with Muslims – as was evident to them in the dawn raids, stops, searches and interrogations, and even more mundane interactions at the time, eg, in the taking of statements.⁸²⁹ IHRC further claimed that Muslims were being targeted even when they were the victims of crime – treated as suspected terrorists even where they had just experienced crimes against them.⁸³⁰ Very starkly, IHRC warned at the time that history had shown on many occasions – from Nazi Germany to Bosnia and Rwanda – that the demonisation of any ethnic, racial or religious community was the first step towards a tragic destination. Though none of the interviewees were as stark as the IHRC, some did wonder about the ultimate destination of the trend in the counter-terrorism legislation where the logic appeared to them ‘to hit Muslims with a big enough

⁸²⁷ Interviewee 6, Interviewee 15, Interviewee 11 and Interviewee 5.

⁸²⁸ IHRC was clearly drawing parallels between institutional Islamophobia and institutional racism as defined in: W. Macpherson, *The Stephen Lawrence Inquiry Report*, London: Home Office, 1999, para.6.34.

⁸²⁹ One of the most shocking incidents at the time was of the police placing a gun against the head of a 10-year-old and threatening to blow his head off. Other worrying examples included the experiences of Mudassar Arani, a Muslim solicitor representing suspects; heightened security including tanks and troops at Heathrow airport for Eidul Adha in 2003; and associating the niqab with terrorism on a Met poster – see: IHRC, *Submission to the Home Office in response to the Discussion Paper ‘Counter-Terrorism Powers: Reconciling Security and Liberty in an Open Society’*, London: IHRC, August 2004.

⁸³⁰ Note the case of X, a Moroccan Muslim student who was brutally assaulted on his way to Friday prayers by four men, in June 2004, leaving him unconscious and resulting in a coma and paralysis to his left side. On the evening of the attack, Police confiscated all of X’s belongings from his lodgings, some of which was not returned for almost two months. Police questioned X’s family and friends regarding his religious and political beliefs and practices and showed little interest in catching the perpetrators. The case is detailed in the IHRC response. In the interviewee with Arzu Merali, Director of Research at IHRC, for this study, she drew a distinction between institutional Islamophobia (unintended accretion over time) and institutionalised Islamophobia (more consciously developed) – and suggested that Muslims may on occasion have even experienced the latter. She was certainly clear that the former had become the new norm for Muslims, as argued in her book: S. Ameli and A. Merali, *Environment of Hate – The New Normal for Muslims in the UK*, op. cit. She cited that in 1999 45% of Muslims said they had experienced Islamophobia, but that this had risen to 80% in 2004.

hammer, a bigger one than the last if that did not work, to discipline them and to bring them into line'. They suggested that this approach so far had not helped to solve the problem but only helped to recruit for the extremists; the problem was made all the worse by criminalising and silencing critical voices of this approach; and that with ears closed and less critical voices, the approach had helped New Labour walk from the frying pan into the fire, from jihadi young men joining Al-Qaida to jihadi young brides and families joining the Islamic State.⁸³¹

Some interviewees argued that the agencies responsible for implementing the provisions made matters worse by how they implemented them.⁸³² This was again highlighted in the Muslim responses to the Home Office consultation paper in 2004 – that the counter-terrorism provisions together, and particularly by virtue of how they were being implemented by the responsible authorities, were at the heart of disenfranchisement, alienation and disaffection, especially amongst British Muslim youth. FAIR's response drew on survey data on the impact of the counter-terrorism legislation on these communities.⁸³³ The survey revealed discriminatory implementation of the counter-terrorism legislation – with a disproportionate number of Muslims having been targeted by the legislation. Participants felt that Government thinking and language in this area was inherently discriminatory – as illustrated by the Government consultation paper with its immense focus on AQ-inspired terrorism to the exclusion of other forms of terrorism. Crimes committed by Muslims were profiled as 'Muslim crimes' by the government, the media and others, whilst the same crimes were not associated with other religions when committed by their adherents.⁸³⁴ Participants felt that such thinking and language fuelled prejudice against Muslims and Islamophobia. This in turn alienated Muslims from wider society, created a siege mentality amongst Muslims and a culture of fear, suspicion and insecurity, resulting in loss of positive co-operation and useful intelligence from the Muslim community to fight international terrorism. The survey, thus, raised huge questions as to the effectiveness and impact of the counter-terrorism legislation. The

⁸³¹ Points made by Hasan Mahamdallie, Interviewee 7 and Interviewee 3.

⁸³² Interviewee 5, Interviewee 11 and Interviewee 9.

⁸³³ FAIR Community Survey, *op. cit.*

⁸³⁴ On the point of 'Muslim crimes', see: Campaign Against Criminalising Communities (CAMPACC), *Terrorising Minority Communities – The Use and Abuse of Anti-Terrorism Powers*, Submission to the Privy Council Review of the Anti-Terrorism, Crime and Security Act 2001 (ATCSA 2001), London: CAMPACC, August 2003; P. Baker et al, *Discourse Analysis and Media Attitudes – The Representation of Islam in the British Press*, Cambridge: Cambridge University Press, 2013.

provisions collectively and their implementation ‘securitised the Muslim community’ and perpetuated an ‘us’ and ‘them’ binary, with the ‘them’ relegated to a parallel and inferior criminal justice system and treated as second class citizens. The binary served only as a recruitment sergeant for AQ on the one hand, and the far right on the other, just as previously for the IRA and the Loyalists.⁸³⁵ More than a decade later, some of the interviewees reflected on whether this was a case of ‘institutional Islamophobia’ or ‘institutionalised Islamophobia’, questioning whether the government had actively contributed to Islamophobia rather than it just unwittingly accruing over time, and whether, if the government had done things differently, Britain may have avoided the level of disenfranchisement, alienation and disaffection that ultimately led to home-grown terrorism and the carnage of 7/7, significant numbers (including young women) being radicalised and joining organisations like Al-Qaida, and later, the Islamic State, and committing other terrorist activities in the UK and abroad.⁸³⁶

Some interviewees suggested that what was perhaps most damaging for Muslim integration was how the government was seen to be colluding with the media and public discourse to wittingly or unwittingly popularise the narrative of ‘the Muslim threat’. The Muslim responses to the Home Office consultation paper in 2004, and particularly the MCB response, argued that the governments targeting of Muslims had opened a new floodgate of unremitting attacks against them, particularly by the media and the far right – and, at least in the case of the media, it appeared that the Government was facilitating this incessant attack. The MCB suggested that in early 2003 there was a Government policy to draw media attention to anti-terror campaigns, as there clearly appeared to be in the US.⁸³⁷ Certainly, the Government and public authorities had by this point abandoned the long standing practice of ‘neither confirming, nor denying media speculation into ongoing investigations’,⁸³⁸ and it appeared that this approach was now part of the national

⁸³⁵ Points made by Interviewee 8 and Interviewee 7.

⁸³⁶ Interviewee 3, Interviewee 5, Interviewee 6 and Interviewee 15.

⁸³⁷ This would appear to have been confirmed by Martin Bright, then Home Affairs Editor of The Observer – see: Imprisonment without Trial – Terror, Security and the Media, Evidence to the Special Immigrations Appeal Commission (SIAC) hearing on 21 July 2002.

⁸³⁸ Note, for example, the Prime Minister’s statement on 7 January 2003, just after seven men had been arrested in North London in anti-terror raids: ‘[the arrests show] this danger is present and real and with us now and its potential is huge’ – see: Terror Police find Deadly Poison, BBC News Online, 7 January 2003; and the Home Secretary’s statement on 27 November 2003, just after the arrest of Sajid Badat: ‘[Badat posed] a very real threat to the life and liberty of our country’ – see: Al-Qaeda suspect arrested in Gloucester, The Guardian, 27 November 2003. Such comments as these would previously have been

counter-terrorism strategy designed ‘to disrupt’ and unsettle terror cells within the community – and therefore, the highly publicised sweeps of arrests, not necessarily designed to lead to charges, but to foster a climate of fear in ‘suspect communities’ to deter new recruits from those communities with the message that ‘terror will be fought with terror’, and to show the public, the voters, that the government was taking action. But the approach was based on extremely simplistic analysis – ‘the threat is *Islamic*; therefore, the target of the strategy must be *Muslims*’ – and was extremely counter-productive. It further stigmatised, terrorised, alienated and disaffected Muslims, a community critical to addressing the threat of terrorism – and though not solely responsible for the solution, vital to it. The IHRC suggested that in some cases, it indeed appeared that the Government had given the media the green light to disregard the Contempt of Court Act 1981⁸³⁹ and was even complicit in the contempt of court that characterised the very sensationalist coverage of ‘terrorist’ arrests that followed.⁸⁴⁰ For its part, the IHRC suggested, with its appetite whetted by the government, the media then continued to be unbalanced and sensationalist on ‘Islamic extremists’ – with ever more distorting headlines and lengthier coverage based on ‘anonymous sources’ and ‘secret intelligence’, covering the many stopped and searched, raided and arrested, and questioned and detained, but providing little or no coverage at all or any apology for what then followed – which was that most of the suspects were released without charge or acquitted. In reality, of the 500+ arrests from the introduction of the 2000 Act to the Muslim responses to the Home Office consultation paper in 2004, only 15 (less than 3%) had been convicted, and out of these only 3 (less than 1%) were Muslim, two of whom had been given leave to appeal – the other 12 convictions were of racists and loyalists.⁸⁴¹

viewed as contempt of court and breach of the Press Code, as once remarks such as these have been openly made by individuals of such status in society it is difficult to see how a fair trial could follow.

⁸³⁹ The Contempt of Court Act 1981 was designed to prevent journalists from prejudicing juries and thereby denying the accused the right to a fair trial. ‘Evidence’ of guilt could not be broadcast until it had been tested by a court of law and ‘truth’ was no defence. If the publication created ‘a substantial risk that the course of justice in the proceedings in question ... [would] be seriously impeded or prejudiced’, those responsible were strictly liable as interfering in the course of justice regardless of intent to do so (ss.1-2). Note, for example, the resignation of Colin Myler, Editor of the Sunday Mirror, following a contempt verdict against the paper for publishing information which caused the collapse of the trial of two Leeds United footballers – see: *A.G. v Mirror Group Newspapers Ltd* [2002] EWHC 907. Note, however, how the Daily Mail goes unchallenged when it prints on its front page on 27 April 2004: ‘The Wife Who Kept Suicide Bomber’s Secret’ – alongside a picture of a suicide bomber’s widow smiling with the caption reading: ‘Accused: Tahira Tabassum sought a place in paradise’. This was the beginning of her ten-week trial at the Old Bailey, in which she was acquitted of all the charges.

⁸⁴⁰ Nick Cohen, How to stitch up a terror suspect, *The Observer*, 12 January 2003.

⁸⁴¹ See: House of Commons Home Affairs Committee, *Terrorism and Community Relations – Sixth Report of Session 2004-5*, Vol.1, London: The Stationery Office, 2005, p.19.

However, from the media coverage of these arrests it appeared to the public that Muslim terrorists were crawling all over Britain.⁸⁴² The media developed its own thesis, language and images for stereotyping Muslims as the problem, or ‘the enemy within’ – an approach that further attacked, stigmatised and incited fear and hatred of entire Muslim communities.⁸⁴³ The media even attacked Muslim solicitors representing ‘suspected terrorists’ – though would not do the same to non-Muslim solicitors representing the same suspects.⁸⁴⁴ If the cost of some of the new anti-terrorism provisions were huge to some individual Muslims, the cost of this media demonisation, or trial by the media – where it acted as judge, jury and executioner, was huge to the Muslim community as a whole.

The IHRC claimed that this collusion with the media was not restricted to Government but spread across the different organs of the state, including the police and intelligence services, who regularly fed the media ‘to construct distorted and alarmist pictures of spectacular threats’.⁸⁴⁵ The Muslim organisations appeared to collectively agree that this collusion was at the heart of the rise of Islamophobia in Britain at the start of the 21st century. The MCB argued that the Government had made Islamophobia acceptable by how it had framed counter-terrorism legislation, pursued its implementation and portrayed it in the media and public discourse. It stated that 76% of respondents in its survey felt that Islamophobia had been heightened by the Government and media partnership.⁸⁴⁶ People inevitably internalise messages repeated in political, media and public discourse, develop attendant prejudices, and treat groups in the same way as the state. Paddy Hillyard described this as the process by which a ‘suspect community’ is created.⁸⁴⁷ The MCB thus argued that the Government-media collaboration was

⁸⁴² See, for example, the Mori poll for the Financial Times as reported in: Terrorism tops public concern, *The Guardian*, 20 August 2004.

⁸⁴³ See, for example, the series of venomous Islamophobic articles by ‘Will Cummins’, subsequently revealed as Harry Cummins, Press Officer for the British Council – The Tories must confront Islam instead of kowtowing to it, *Sunday Telegraph*, 18 July 2004; Muslims are a Threat to our Way of Life, *Sunday Telegraph*, 25 July 2004. See also Anthony Browne, The Triumph of the East, *The Spectator*, 24 July 2004.

⁸⁴⁴ See, for example, The Sun’s article on Muddassar Arani: £200k Right Hook, 9 Feb 2004.

⁸⁴⁵ L. Fekete, Anti-Muslim Racism and the European Security State, *Race & Class*, Vol.46(1), 2004.

⁸⁴⁶ MCB, Government Discussion Paper: Counter-Terrorism Powers: Reconciling Security and Liberty in an Open Society – A response from the Muslim Council of Britain, para.73, pp.30-31. Note, however, that other than on terrorism, the MCB thought that the Government handled Muslim issues quite sensitively – see para.74 of its response to the Home Office consultation paper.

⁸⁴⁷ See P. Hillyard, *Suspect Community – People’s Experience of the Prevention of Terrorism Acts in Britain*, Pluto Press, 1993; *The ‘War on Terror’ – Lessons from Ireland*, European Civil Liberties Network, 2005. The notion that Muslims are a ‘suspect community’ is extensively explored in: C. Pantazis and S. Pemberton, From the ‘Old’ to the ‘New’ Suspect Community – Examining the impacts of recent UK counter-terrorist legislation, *British Journal of Criminology*, Vol.49(5), 2009, pp.646-66; G. Mythen et al,

responsible for whipping up the populist prejudice against Muslims; for providing an unprecedented boost to Islamophobia in public life; and for feeding the Far Right. FAIR claimed that this had further increased hostilities towards Muslims, with 80% of respondents in its survey having witnessed Islamophobia since 9/11 and 68% feeling that they were perceived or treated differently after 9/11 for ‘siding with the terrorists’.⁸⁴⁸ The Muslim organisations collectively suggested that the inevitable consequence of this level of institutional and populist Islamophobia was greater loss of confidence and trust,⁸⁴⁹ disenfranchisement, siege mentality and alienation of Muslims,⁸⁵⁰ and a complete polarisation of society. Several interviewees underscored the effect of this Government-media collusion with one summarising it as ‘demonisation, followed by disenfranchisement, followed by resentment and disaffection, followed by further demonization – and the cycle just went on ...’.⁸⁵¹

The concerns, advice and warnings articulated by Muslim organisations in their responses to the Home Office consultation paper in 2004 were repeated again in the aftermath of the 7/7 bombings, as the Government rushed to make political gains with further and tougher counter-terrorism rhetoric and more draconian legislation – much of which would never have been possible to enact. The IHRC thus argued that talk about extending the provisions of the Terrorism Act 2000 to cover non-violent ‘extremists’, or in other ways ‘clamping down’ on ‘extremism’ (Prime Minister) and ‘unacceptable behaviours’ (Home Office), or producing a ‘database’ or ‘list’ of ‘extremists’ (Foreign and Home Office), or stripping citizenship from naturalised citizens (Prime Minister) was simplistic and unworkable, disingenuous and irresponsible, and very worrying simply on the grounds that there was no legal definition of extremism or unacceptable behaviour, and it could therefore only be applied subjectively, resulting in further closing down of free speech and injustices or perceptions of injustices faced by Muslims, leading to further

‘I’m a Muslim, but I’m not a terrorist’ – Victimization, risky identities and the performance of safety, *British Journal of Criminology*, Vol.48(6), pp.736-54.

⁸⁴⁸ Participant in FAIR survey.

⁸⁴⁹ Demonstrated, for example, by 39% of Muslims feeling there was no point in complaining to the police (MCB Survey) and, despite 300+% rise in s.44 stops and search, no corresponding rise in complaints to the IPCC (Victims of police are urged to speak out, *Eastern Eye*, 27 August 2004). See also: Desire to integrate on the wane as Muslims resent ‘war on Islam’, *The Guardian*, 16 March 2004.

⁸⁵⁰ Note IHRC’s warning that if the effects of discriminatory legislation and institutionalised Islamophobia do not abate, they could lead to non-cooperation with the authorities; new disturbances like the northern cities disturbances in 2001; and be the recruiting sergeant for home grown terrorism and the ‘road to creating martyrs against the West’s crusade against Islam’.

⁸⁵¹ Point made by Interviewee 3, Interviewee 5, Interviewee 6, Interviewee 8 and Interviewee 9.

radicalisation and extremism.⁸⁵² Some felt that the 7/7 bombings were used at the time by others to leverage their own positions and to settle other ideological and geo-political issues.⁸⁵³ The IHRC suggested that what constitutes ‘extremist behaviour’ should be decided by communities and society through mature discussions and debates, not by the government or the police. The IHRC further argued that there was no evidence to suggest that places of worship were being used to foment violent extremism, such notions were based purely on prejudice and Islamophobia, and talk of ‘closing extremist mosques’ suggested that the Government could not differentiate between individual responsibility and blanket criminalisation – even as the prosecution in a trial at the time, in which a number of defendants had an association with the Finsbury Park Mosque, emphasised that thousands of law-abiding persons worshipped at that mosque weekly, and thereby avoided criminalising the mosque and punishing its congregation in their entirety.⁸⁵⁴ The IHRC’s fear was that the definition of places of worship could, subsequently, easily be extended to include many other places of gathering, eg, community centres and faith schools – effectively making it possible to close down all venues where issues of politics and religion are discussed and debated, amounting to an indefensible criminalisation of thought, conscience and belief. Such measures were never contemplated during the period when Britain was being subjected to a relentless bombing campaign by the IRA. Beyond the specific provisions initially threatened, the IHRC also commented on the general approach of the Government in the aftermath of the 7/7 bombings. It considered the Prime Minister’s presenting of the London bombings as an ideological attack on ‘our way of life’, by people who have been allowed for too long to come to this country without fully accepting ‘our values’ and who abuse ‘our generosity’, as denoting Muslim extremism as markedly different to far-right extremism – and as such, very divisive and a blank cheque to the far right. Despite claims to the contrary, of differentiating ‘decent, law abiding Muslims’ from extremists, the wider Government discourse, and particularly how the

⁸⁵² These points were variously reiterated by several interviewees, particularly Interviewee 5 and Interviewee 15.

⁸⁵³ Note, for example, how the Prime Minister, in his speech to the Labour Party national conference that July, equated Islamic extremism with ‘barbaric ideas’ in these terms: ‘They demand the elimination of Israel; the withdrawal of all Westerners from Muslim countries, irrespective of the wishes of people and government; the establishment of effectively Taleban states and Sharia law in the Arab world en route to one caliphate of all Muslim nations’. Many Muslims at the time and at least one interviewee in this research asked why specifically the Israel point in this context?

⁸⁵⁴ Note also, as pointed out by the IHRC (in its response on Places of Worship), that the proposal to close places of worship was rejected outright by the community taskforce handpicked by the government to assist it in tackling ‘extremism’.

intents and sentiments were then implemented – eg, disengagement with the largest Muslim organisations, including the MCB, suggested that ‘the rules of the game’ had indeed changed – from targeting suspects within the Muslim community to suspecting the community as a whole, whatever the sugar coating.⁸⁵⁵ The greatest threat to the UK, the IHRC perceived, was from the Government’s refusal to conduct an honest debate on the causes of terrorism; the poisoned and counter-productive discourses on the ‘war on terror’ and the ‘war on Islamic extremism’; and the scapegoating of human rights and multiculturalism – and so long as this was the case, a patronising approach to ‘integration’ would not solve the problem.

Several interviewees reflected specifically on the integration impact of the legal provisions to promote security and counter terrorism on British Muslims. One interviewee thought it was astonishing how arrogantly and high-handedly New Labour behaved towards British Muslim communities having dragged the country into an illegal war in Iraq – and ironic that it was often the Tories who had to restrain them on draconian law and order provisions. Another interviewee commented that the atrocities of 11 September 2001 and 7 July 2005 caught Muslims, and especially Muslim leaders, as ‘rabbits in the headlight’ – ill-equipped and helpless to deal with the political, policy and media frenzy.⁸⁵⁶ Many interviewees observed that the counter-terrorism provisions, and particularly the discourses around them, generated a lot of divisive fear in both the general public and especially in British Muslim communities – one commenting that the fear encouraged communities to turn inwards and become insular, and fed racism and bigotry in some White working class communities and strengthened orthodox and conservative groups, views and practices in some Muslim communities.⁸⁵⁷ Several interviewees suggested that ‘the whole approach by the government was so wide-net with such an extensive drag’, from the framing and narrative around the provisions to their formulation and implementation, that it was bound to impact innocent people.⁸⁵⁸ In terms of Muslim communities, two interviewees quipped that it was as if ‘every Muslim was carrying the securititas virus’ and the government was trying to ‘put a copper in every Muslim head’.

⁸⁵⁵ See, in particular, point 3 of the IHRC response to the Government consultation on ‘Places of Worship’ – consultation released on 6 Oct and IHRC response circulated on 10 November 2005.

⁸⁵⁶ Points made by Interviewee 12 and Interviewee 11 respectively.

⁸⁵⁷ Interviewee 12.

⁸⁵⁸ Interviewee 5, Interviewee 8, Interviewee 6, Interviewee 7, Interviewee 11, Interviewee 15 and Interviewee 14.

One suggested that you cannot control one group in a free society with a Stalinist framework and provisions without breeding resentment. Another expressed particular concern around the precursor offences and the profiling of Muslims, discriminately limiting (albeit indirectly) in very practical ways what was possible for Muslims to do in routine everyday life.⁸⁵⁹ Many summarised that the overall experience of British Muslims as a result of the counter-terrorism legislation has been one of second class citizenship – the provisions collectively painted Muslims as the enemy within, reduced their rights and access to redress, and did so discriminatorily. Most interviewees concluded that this was very damaging to their sense of integration into British society – on any and all of the limbs of liberty, equality and fraternity.⁸⁶⁰

The non-legal measures to promote security and counter terrorism

As with the legal provisions on counter-terrorism, there is a significant body of critical literature on the non-legal measures to promote security and tackle terrorism.⁸⁶¹ However, several interviewees argued Prevent was understandable as a policy response, because it is not possible to address terrorism by law and order alone, particularly when it has a home-grown element. They argued that vulnerable young people needed guidance and support so as not to fall prey to radicalisation and violence, that this needed to be a sensitive, well-calibrated approach, and that just ‘a bigger sledgehammer of the law’ would not solve the problem.⁸⁶² Two interviewees thought that Prevent was actually a very important programme for Muslims: it drew government attention to Muslim communities, gave Muslims access across government and came with a significant budget – sensibly implemented and received, the potential for some important work with Muslim communities to assist their integration into wider British society was huge.⁸⁶³ Most of the interviewees, however, felt that a golden opportunity to get Prevent right was lost by the

⁸⁵⁹ Points made by Interviewee 7, Interviewee 12 and Interviewee 14.

⁸⁶⁰ Points particularly emphasised by Interviewee 11, Interviewee 5, Interviewee 8, and Interviewee 15.

⁸⁶¹ See for example: A. Kundnani, *Spooked – How not to Prevent Violent Extremism*, London: IRR, October 2009; *The Muslims are Coming! Islamophobia, Extremism and the Domestic War on Terror*, London: Verso, 2014; and *A Lost Decade – Rethinking Radicalisation and Extremism*, London: Claystone, 2015; P. Thomas, *Between Two Stools? The Government’s Preventing Violent Extremism Agenda*, *The Political Quarterly*, Vol.80(2), 2009, pp.482-92; *Failed and Friendless – The UK’s Preventing Violent Extremism Programme*, *British Journal of Politics and International Relations*, Vol.12(3), 2010, pp.442-58; *Responding to the Threat of Violent Extremism – Failing to Prevent*, London: Bloomsbury, 2012; J. Birt, *Promoting Virulent Envy? The RUSI Journal*, Vol.154(4), 2009, pp.52-58.

⁸⁶² Interviewee 3, Interviewee 7, Interviewee 16, Interviewee 8.

⁸⁶³ Points made by Interviewee 13 and Interviewee 14.

Government through its poor handling of the Preventing Extremism Together Working Groups (PETWGs). For them, Government tried to instrumentalise the PETWGs for its own purposes and ‘lost the plot’ from that point onwards. Many recalled that the PETWGs were genuinely broad-based, with representatives from all sections of the British Muslim communities, who started the work with enormous good will. Many participants in the PETWGs believed that this might be an opportunity for a fresh start and an alternative discourse on counter-terrorism to the one around the legal provisions. However, by the reporting stage of the Working Groups, it had become very clear to many participants that the Government was not interested in an alternative discourse or approach to Pursue or Prevent. The PET process left many Muslims feeling let down, believing that the Government was only interested in its own agenda and not in what might actually address the problem of radicalisation, extremism and terrorism based on evidence.⁸⁶⁴

The interviewees together expressed many overriding and specific problems with Prevent. Many suggested that despite government platitudes about Islam being a religion of peace and most British Muslims being law-abiding citizens, the core of Prevent was driven by the same Blairite ideological outlook as Pursue, rooted in US neo-con politics – a politics supported by an unholy alliance of right wing supremacists, evangelical fundamentalists, hawkish Zionists and pro-Israelis and the strongly anti-religious Left, that collectively saw Islam and the Muslim world as the main threat to Western values, culture and interests.⁸⁶⁵ One interviewee suggested that this ideological outlook was transposed from the US by Prime Minister Tony Blair MP and ‘normalised across much of New Labour – especially the Blairites’; another described Prevent as ‘the soft face and approach of the war on terror, aka Islam and Muslims ... part and parcel of the same security and disciplining agenda’; and two others suggested that ‘Prevent was instrumentalised to achieve through executive and administrative prerogative what could not be achieved through Pursue and counter-terrorism legislation’. Others felt the starting point for Prevent was again ‘the suspect community’, illustrated by the fact that the funding for it was initially based on demography rather than evidence. They felt this was the wrong analysis and point of departure.⁸⁶⁶ For most of the interviewees, discussions to

⁸⁶⁴ Points strongly made by Interviewee 6, Interviewee 7, Interviewee 14 and Interviewee 15 amongst others.

⁸⁶⁵ Interviewee 3, Interviewee 7, Interviewee 11, Interviewee 5 and Interviewee 8.

⁸⁶⁶ Points made by Interviewee 12, Interviewee 5, Interviewee 9, Interviewee 11 and Interviewee 15.

extend Prevent from violent extremism to non-violent extremism, as first introduced by Prime Minister Blair just after the atrocities of 7 July 2005, presented particular problems. For many, this involved ‘an undefined and unlimited tail to Prevent’, resulting in suspecting and hurting the wrong Muslims, Government and Prevent losing credibility among the critical mass of Muslim communities – and ultimately, resulting in the complete toxification of Prevent. Some interviewees observed that New Labour did not formally extend Prevent to non-violent extremism as the Coalition government did, but nonetheless it routinely adopted that extension in practice wherever it could.⁸⁶⁷

For a number of interviewees, imbued with this ideological outlook, Prevent had several other fundamental problems. Firstly, it focused only on the symptoms. One interviewee suggested that it was almost as if the government was afraid to look at the causes because it might reveal some home-truths. Several interviewees reiterated how frustrating it was for Muslims engaged in the PETWGs process who almost unanimously called for an inquiry into the root causes of radicalisation and terrorism, only for the government to refuse without an adequate explanation.⁸⁶⁸ Secondly, and allied to the first, government then took a very top-down approach to developing the Prevent programme and rolling it out. It analysed the problem as primarily radicalisation through Islamism; developed the solutions within the confines of its ideological narrative – which were centred around depoliticisation of Islam and self-reform of Muslims where they conflicted with Western interests; and offered them to Muslims to fall in line with. Those who supported them were ‘good Muslims’ and those who disagreed with the analysis or the proposed solutions were ‘bad Muslims’, suspected of sympathy with Islamism and to the Islamist cause.⁸⁶⁹ Several interviewees said that the approach was very blame-pinning and not problem-solving, directive and not collaborative, and very much ‘you are with us or against us’.⁸⁷⁰ The main problem with the government's approach, explained some interviewees, was that a lot of Muslims instinctively just did not agree with the government's shallow analysis – they wanted to go beyond just tackling the symptoms. However, instead of listening to this majority voice in Muslim communities, the interviewees further

⁸⁶⁷ Points made by Interviewee 14 and Interviewee 15 amongst others.

⁸⁶⁸ Interviewee 1, Interviewee 6, Interviewee 14 and Interviewee 15.

⁸⁶⁹ Interviewee 6, Interviewee 14, Interviewee 5 and Interviewee 15. On the point of ‘tacit support’, see in particular: S. Sagar, *Pariah Politics – Understanding Western Radical Islamism and What Should be Done*, Oxford: OUP, 2010, p.214.

⁸⁷⁰ Interviewee 3 and Interviewee 6.

explained, the third key problem with Prevent was that the Government tried to contain, marginalise and silence this voice by empowering and stage managing as ‘the Muslim voice’ a minority that agreed with the government for various sectarian, party-political or personal interests.⁸⁷¹ One interviewee commented that silencing critical friends does not lead to good policies. In fact, the result was that this uncritical minority was quickly discredited in Muslim communities, the government's sinister ploys were revealed, and Prevent did not help to stem radicalisation but only made matters worse. Most interviewees agreed that by pushing discussions around the root causes under the carpet and trying to silence dissenting critical voices, the government left those discussions in the hands of extremists – resulting in going from the first incidence of home-grown Muslim terrorism on British soil in 2005 to jihadi brides and families to more frequent incidences of terrorism.⁸⁷² Almost all the interviewees agreed that to effectively address Muslim radicalisation, extremism and terrorism, government needed to pursue a more honest, bottom-up, collaborative, targeted and problem-solving approach starting with the root causes as suggested by the PETWGs – eg, hate crimes, socio-economics and British foreign policy. The approach needed to engage, listen, encourage and support, not to dictate; it needed less clash of civilisation style ideology, political posturing and impositions.⁸⁷³

Many interviewees felt that the simplistic ‘good Muslim/bad Muslim’ divide of Muslims was damaging to Muslim communities because it was very divisive. The ‘good Muslims’ were engaged by government, given funds and resources, given access to the government machinery, invited to government events and allowed to share public platforms with government ministers and senior officials. One interviewee commented that the problem with both the Cohesion and Prevent strategies was that it was ‘as if the clocks had been turned back a hundred years, to a typical colonial mentality of the Empire times – if you behaved like a brown sahib or uncle tom should, imbibing the master and doing the master’s bidding, you were trusted as the house ni**er; if you did not, you were an ungrateful native to be suspected’. Another suggested that the colonial master was still

⁸⁷¹ Point made by Interviewee 9, Interviewee 6, Interviewee 5, Interviewee 12, Interviewee 15 and Interviewee 8. Many suggested that the MCB was a particular victim of this, and that this was a bad idea and not needed.

⁸⁷² Points made by Interviewee 8, Interviewee 7, Interviewee 5 and Interviewee 15.

⁸⁷³ Interviewee 3, Interviewee 6, Interviewee 5, Interviewee 14, Interviewee 15, Interviewee 4, Interviewee 11 and Interviewee 12.

on the civilising mission with his ‘British values’, to civilise the native to serve the master's interest, where the ethnic must not question the master’s ethics, interests or conduct’. One said that the Government was not listening to or interested in critical voices, but its own echo chamber amplified by ‘rent a Muslim voices’. Another interviewee claimed that it was ‘typical counter-insurgency tactics with an enemy within – divide, dominate, discipline and defeat’.⁸⁷⁴ Many of the interviewees suggested in various ways that integration is a two-way process, Prevent could have helped in this, but by instrumentalising Prevent in the way government did, it not only failed to help integrate Muslim communities into wider British society, but left deep divisions in the Muslim community itself.⁸⁷⁵ Some suggested that this resulted in several different responses in British Muslim communities. Firstly, those supporting the government’s approach to Prevent, whether for sectarian, party political or personal reasons became the mouth piece for articulating the Government line and why it was the right approach – often saying what the government could not say for political reasons and calling out ‘the bad Muslims’.⁸⁷⁶ In return, they were pampered in every way. The second group felt extremely uneasy with the strong ideological turn in the government; and with the idea that any criticism of the West, when there was much to legitimately criticise, should be seen as disloyal citizenship and siding with the terrorists. It did not accept that an ideological war against Islam and Muslims, allowing only an Islamic practice compliant with Western values and interests, was the way forward. It, therefore, vociferously called out the West and its governments on their double standards and misdemeanours. A third group was somewhere in between, benefitting from government access and funding but less vociferous on issues that would either upset government or large sections of Muslim communities. This group sometimes accepted some things as inevitable, was sometimes intimidated into certain positions and sometimes jumped onto convenient bandwagons. A fourth group, which sought to be problem solving, believed that the only way of addressing the problem was to work with all groups in order to address the deeper issues at hand. This was the group with perhaps the most creative ideas and projects, but got

⁸⁷⁴ Points made by Interviewee 8, Interviewee 16, Interviewee 11, Interviewee 6 and Interviewee 12 respectively.

⁸⁷⁵ Interviewee 12, Interviewee 6, Interviewee 14 and Interviewee 9 – the latter suggesting that even the Charity Commission, with its Faith and Social Cohesion Unit, and the Unit’s drive to register faith organisations, was instrumentalised for New Labour’s counter-terrorism agenda.

⁸⁷⁶ One interviewee highlighted the role of organisations like the Sufi Muslim Council and the Quilliam Foundation in this respect and commented on the damage they did to both Prevent as a strategy and Muslim communities.

squeezed out the quickest as the situation became more and more polarised, and therefore, correspondingly more difficult to work in. But perhaps the largest group at this stage was still the silent majority of Muslims, who did not fall into any of these groups.⁸⁷⁷

Many interviewees recognised that the individual streams of work, programmes and projects under Prevent had significant potential to do good: to give a voice to the marginalised in Muslim communities, to raise issues that needed addressing and to build capacity to address those issues – all of which may have helped to integrate British Muslim communities into wider society.⁸⁷⁸ However, many also felt that realising that potential was dependent on the ideological investment in projects, who was running them and how they were delivered. Many felt that some very good projects started well, but were instrumentalised for the government's own ends and executed badly. For example, MWAG and YMAG were much needed projects to give Muslim women and youth a voice, but lacked legitimacy and authority in Muslim communities and were ultimately seen as imposing a leadership because their members were hand-picked by government without any term limitations, they were not developed organically from the bottom up but imposed with government drafted terms of references, and they stopped reflecting the majority Muslim experience and views;⁸⁷⁹ RICU was an important project to address the 'cognitive opening' gap amongst the Muslim youth in the formation of their identity, as highlighted in the Choudhury paper discussed in Chapter 5, but ended up being seen as a government propaganda machine;⁸⁸⁰ and Channel was an important project for guiding and supporting vulnerable young Muslims away from radicalisation, but came to be associated with spying, having too big a drag, inefficiency and stigmatising Muslims – violating ideas of liberalism and cherished values which CONTEST was set up to protect.⁸⁸¹ Some observed that where the projects were developed and delivered by those trusted in Muslim communities, they received more traction. Thus, for example, the ICE project was relatively well received in Muslim communities and has since been adopted by iSyllabus, an organisation rooted and respected in the Muslim community; the imam training work was seen as valuable and has since been replicated, enhanced and

⁸⁷⁷ These divisions were mostly clearly marked out by Interviewee 5, Interviewee 11 and Interviewee 15, though others also made similar observations albeit not in as much detail.

⁸⁷⁸ Interviewee 1, Interviewee 2, Interviewee 9, Interviewee 14 and Interviewee 15.

⁸⁷⁹ Interviewee 6, Interviewee 12, Interviewee 8 and Interviewee 15.

⁸⁸⁰ Interviewee 14 and Interviewee 15.

⁸⁸¹ Interviewee 15 and Interviewee 8.

institutionalised by various Muslim community initiatives, for example, the Cambridge Muslim College; and the contextualising theology work, though very sensitive was seen by many Muslim leaders as sufficiently arms-length from government and genuinely seeking answers for the right reasons – albeit that there were some uncertainties about the work in some quarters at different points in the life of the project and it was not given the chance to imbed or filter down.⁸⁸² Some interviewees observed that there were other organisations and initiatives that stood or withered based on government attention and/or funding – for example, the Radical Middle Way (RMW), the Mosques and Imams National Advisory Board (MINAB), the British Muslim Forum (BMF) and the Sufi Muslim Council (SMF). They commented that the former two were respectable and did some good work, but the latter two were quickly written off in significant sections of Muslim communities as only serving sectarian, party political or personal interests – and that they were actually very damaging to the Government's and Prevent's credibility as a result.⁸⁸³

Reflecting specifically on the integration impact of the non-legal provisions to promote security and counter terrorism, or Prevent, on British Muslims, many interviewees reiterated again that many of the provisions had significant potential to do good, but the instrumentalisation of Prevent eventually made it very toxic, and seen as just as bad, if not worse, than the most draconian legislation proposed.⁸⁸⁴ One interviewee observed that Pursue was seen as being based on an exaggerated threat, it infected Prevent, which was overdone and poorly implemented, and helped to fulfil the government's own constructed prophecies. Another interviewee felt that much of the work under Prevent could have been done outside it – securitising all work with Muslim communities was a mistake and resulted in pushback. One interviewee commented that it was as if no lessons had been learnt from Northern Ireland and the 30-40 years of literature on the subject – this was not a new problem, it was not a Muslim problem as such, it did not need to be addressed differently but treated just like any other terrorism, it did not need to be made into a clash of civilisations. The interviewee suggested that by making it a Muslim issue, Islam vs the

⁸⁸² Interviewee 14 and Interviewee 15 – note that the latter described his own experience of being involved in Contextualising Islam in Britain Parts 1 and 2, as being drawn to them despite being critical of the direction of Prevent because he thought they were good worthwhile projects initiated by people he trusted; however, by the report writing stage of Part 2, he was concerned by the reducing space for free thought and genuine contribution and had practically withdrawn.

⁸⁸³ Interviewee 3, Interviewee 6, Interviewee 11, Interviewee 8, Interviewee 9 and Interviewee 15.

⁸⁸⁴ Interviewee 6, Interviewee 14, Interviewee 9 and Interviewee 15.

West or one set of values or way of life threatening or seeking to dominate another, it not only created resentment amongst Muslims, but also against Muslims in wider society, which just magnified when Muslims were then made to own the problem to access resources to tackle it – reaffirming their status as a suspect community.⁸⁸⁵ Other interviewees suggested that it was a mistake to close the door on Muslim organisations, who may have been immensely valuable partners in the fight against terrorism, because they disagreed with the government on its analysis and approach – it left them feeling the unequal and unjust might of the state, which only engendered further unnecessary resentment by them and their wider constituencies.⁸⁸⁶ Another interviewee suggested that the ideological toxicity and the fall out with key Muslim organisations resulted in a ‘racial state vs suspect community’ dichotomy, and though many Muslim organisations and individuals made the best of the situation, it is difficult not to notice the impact of this dichotomy on all Prevent projects. The dichotomy also made it rife for far-right and Muslim extremisms to prosper – which was not congenial for two-way integration.⁸⁸⁷ Most interviewees thus concluded that, overall, Prevent did not assist in integration – whether in terms of exercising freedom of religion, equality with other citizens or fraternity in acceptance of difference, either by the state or the rest of the nation. Interestingly, one interviewee commented that ‘Prevent was not preventing extremism but only trying to get Muslims to accept unequal citizenship’. However, whilst many interviewees stated that Prevent was regressive and needed re-thinking and rebranding, most agreed that it paved the way for some dynamic Muslims to engage at every level of the system.⁸⁸⁸

The overall impact on the integration of British Muslims

Several interviewees made a very important observation.⁸⁸⁹ They suggested that in terms of British Muslim integration on the grounds of rights and liberties, non-discrimination and equality, and solidarity and fraternity during the New Labour years in government,

⁸⁸⁵ Points made by Interviewee 13, Interviewee 6 and Interviewee 14 respectively.

⁸⁸⁶ Interviewee 6, Interviewee 5, Interviewee 12, Interviewee 4, Interviewee 15 and Interviewee 8.

⁸⁸⁷ Interviewee 16.

⁸⁸⁸ Points collectively made by Interviewee 15, Interviewee 8, Interviewee 7 and Interviewee 12.

⁸⁸⁹ There was significant concurrence in this observation between Interviewee 3, Interviewee 5 and Interviewee 6. Others alluded to similar observations in parts though perhaps not as succinctly. Note, however, that Interviewee 3 expressed considerable reservation about the term integration – he felt that it problematised groups and was impossible to measure.

there were possibly three broad phases. The first phase spanned between New Labour's entry into power in 1997 to the disturbances in northern cities and the atrocities of 11 September 2001. During this period, the 'good times' – multiculturalism, diversity and equality were celebrated and were a 'springboard' and 'platform' for much 'optimism' with 'hope in the air'. There was a lot of discussion around institutional racism and racial equality coming out of the Macpherson inquiry and report. Religious discrimination as experienced by Muslims was not recognised at this point, and there was considerable resistance to do so – for different reasons by different actors: the White elite, mostly because of the public-private distinction; Blacks and Indians (Hindus and Sikhs), so as not to dilute the race agenda and lose resources; and Christians, not wanting to lose their primacy and privileges of being the established religion. However, Muslims were also indirectly benefitting from this substantive racial equality discourse and agenda – which strengthened criminal law through the Crime and Disorder Act 1998 and the civil law through the Race Relations (Amendment) Act 2000.⁸⁹⁰ Muslims were also being informally recognised by Government as an important stakeholder, through for example its relation with the Muslim Council of Britain (MCB), and formally through facilitating the MCB's attendance at important symbolic national events, eg, Remembrance Sunday.⁸⁹¹ Muslim equality needs were also being recognised in some key developments at this time – eg, the funding for faith schools and the expanding of chaplaincy services.⁸⁹² Other initiatives were also being put in place that would help the equality argument in the long term – eg, the Home Office research on religious discrimination through Derby and Cambridge universities, the Census question on religion and the EU Directive on discrimination in employment and training.⁸⁹³ All of this, along with how the race equality duty was to be implemented on the ground was indeed very positive. Muslims felt that the wind was beginning to change for the better – slowly but surely their rights and liberties would also be recognised and accommodated, on a par with the majority population and other minority communities, and ultimately, they would also be accepted as part of the greater national fraternity. The positive atmosphere superseded stories about

⁸⁹⁰ Point particularly emphasised by Interviewee 11, Interviewee 2 and Interviewee 12.

⁸⁹¹ Interviewee 2, Interviewee 9 and Interviewee 1.

⁸⁹² See: N. Meer, *Citizenship, Identity and the Politics of Multiculturalism*, op. cit., Chap.5; M. Ali and S. Gilliat-Ray, *Muslim Chaplains – Working at the Interface of 'Public' and 'Private'*, W. Ahmed and Z. Sardar (eds.), *Muslims in Britain – Making Social and Political Space*, London: Routledge, 2012.

⁸⁹³ Interviewee 1, Interviewee 13 and Interviewee 14.

Muslim terrorism internationally or attacks on Muslim beliefs and practices in the media or public discourse.⁸⁹⁴

The second phase was between the northern cities disturbances/atrocities of 11 September 2001 and the atrocities of 7 July 2005. During this period, the tide began to change in many ways. There was a greater assertiveness on the part of Muslims for the British Muslim experience of Islamophobia to be recognised and addressed but also a greater problematisation of Muslims as a ‘parallel’ and/or ‘suspect’ community. It resulted on the one hand in more structured relations with the state and greater formal equality for Muslims in line with progress being made on equalities and human rights more generally – the Human Rights Act 1998, various equality Acts and provisions and the Equality and Human Rights Commission.⁸⁹⁵ However, the neo-conservative geo-political ideological war on Muslims was already underway which demanded that international Muslim assertiveness be quashed and so too any Muslim citizens that identified themselves with that assertiveness. A single narrative was already being developed around the threat to Western values, way of life and interests from Muslim extremists and terrorists in order to counter an AQ single narrative which the West itself helped to construct and articulate. That narrative was also being used domestically to articulate the need for ever more draconian counter-terrorism legislation, which would not only erode Muslim civil liberties but also create a very dark discourse on British Muslims: that they enjoyed the best of Britain but were ungrateful; that they lived parallel lives in ghettos, did not want to integrate and demanded that their values and norms be accepted, even privileged; and that ultimately they wanted to take over Britain – in short, they were ‘the fifth column’ or ‘enemy within’, disloyal to Britain and its interests and quietly supporting international terrorism inspired by AQ.⁸⁹⁶ This ideological narrative and discourse on Muslims had its impact on the development of equalities and human rights – the recipients being divided into the deserving and the undeserving, and Muslims were certainly the undeserving. In fact, so undeserving that anything benefitting Muslims – human rights, equalities and the multiculturalism approach as a whole – was also beginning to be attacked. This

⁸⁹⁴ Interviewee 1 and Interviewee 3. For a more academic positive reading of this period, see also: T. Modood, *Still Not Easy Being British*, op. cit., pp.11-12; What is Multiculturalism and what can it learn from Interculturalism, in *Interculturalism versus Multiculturalism – The Cattle-Modood Debate*, Ethnicities, Vol.16(3), 2016, pp.480-89.

⁸⁹⁵ Interviewee 3, Interviewee 5, Interviewee 6 and Interviewee 15.

⁸⁹⁶ Points variously made by Interviewee 8, Interviewee 11, Interviewee 6 and Interviewee 15.

development on Muslims as a parallel and suspect community and this turning of the tide on Muslim equalities gained force in populist politics and in the mind of ordinary British citizens as can be seen in the rise of votes for the far right. This was immensely alienating for British Muslims, not integrating, at least with regards to the third aspect of integration, acceptance into the fraternity of the nation.⁸⁹⁷

The third phase started with the London bombings on 7 July 2005. The government and other anti-Muslim actors pounced on the bombings to reinforce the ideological single narrative and negative discourses on Muslims they had already been developing – bringing them into the mainstream of politics from the edges. It intensified not just the suspect community approach towards Muslims, but an attack on multiculturalism as a whole, from both the political right as well as the left. Some of the interviewees suggested that the attacks on multiculturalism was actually just a coded attack on Islam and Muslims. The atmosphere became very difficult to advance Muslim assertiveness and equality – and those advocating for this were left shouting from the side-lines of public life, as illustrated by the PET Working Groups experience.⁸⁹⁸ Fortunately, the Equality Act 2010 delivered the religion and belief public sector equality duty – but it had to be done very quietly, was small in the scheme of things and never actually implemented by New Labour, and not properly since.⁸⁹⁹ There were other issues of equality and ‘double-standards’ that simply could not be addressed – for example, trading laws to accommodate Muslim needs on Fridays like Jewish and Christian needs were accommodated over the weekend, provisions that allowed Jews to fight abroad but not Muslims, proscription of Muslim extremist groups but not Jewish or Hindu extremist groups; and Muslim imams and preachers being denied visas or called out for their views on homosexuality, but not orthodox rabbis, or the Pope when he was received on a state visit to the UK in 2010.⁹⁰⁰ With the eclipsing of the equalities agenda for Muslims during this period, and the thickening of the attacks on human rights and multiculturalism, the burden of addressing British Muslim integration needs through structural, programme and delivery changes in the public sector shifted to a focus almost exclusively on the rising

⁸⁹⁷ Points made by Interviewee 14, Interviewee 6 and Interviewee 15.

⁸⁹⁸ Interviewee 11, Interviewee 5, Interviewee 1, Interviewee 2 and Interviewee 6. For a good summary of the attacks on multiculturalism and a response, see: T. Modood, *Remaking Multiculturalism after 7/7*, OpenDemocracy, 29 September 2005.

⁸⁹⁹ Interviewee 14.

⁹⁰⁰ Points mentioned by Interviewee 3, Interviewee 8, Interviewee 11 and Interviewee 5.

security agenda – on counter-terrorism policies, legislation, implementation and practices. One interviewee suggested that this was a period of rise for Britain’s own neo-con hawks, including ‘Blue Labour hawks’ inside government, like Paul Richards under Hazel Blears MP, Communities Secretary, and outside, like those at Policy Exchange. In fact, some parts of New Labour were so hawkish that it was sometimes the right rolling back the attempted excesses of the left, such as on pre-charge detention and control orders.⁹⁰¹ Other interviewees observed that in this phase, the government also moved from a more consultative to a more directive mode, where Muslim communities were less able to shape policies even though there were more formal structures for their engagement and more resources available to them from government sources: ‘Muslims were more involved in appearance, but less in substance’ – the purpose of the government’s ‘rent a Muslim’ engagement approach being to ‘decentre the authentic and legitimate Muslim voice’, to ‘discipline and condition the Muslim mind and communities’ and to ‘dictate to and stage manage a new Muslim voice in its support’. This was a deeply patronising approach that developed a deep distrust in government and public institutions amongst intelligent young Muslims who saw through this very quickly.⁹⁰² Another interviewee observed that during this phase the old structures and organisations in Muslim communities, for example, the MCB, weakened and ‘the Muslim voice’ was now represented by a very splintered group of rising individuals – for example, Salma Yacoob, Maajid Nawaz, Sayeeda Warsi and Mehdi Hasan.⁹⁰³ Many interviewees commented that this third phase was a particularly damaging time in terms of multiculturalism in Britain and British Muslim integration.⁹⁰⁴

Several interviewees made the comparison that the equality legislation and provisions protected and benefitted all Muslims, but relatively few Muslims knew much about them; on the other hand, most Muslims felt the impact of the counter-terrorism legislation although it actually directly affected only a relatively small number of them. They

⁹⁰¹ Interviewee 5, Interviewee 6, Hasan Mahamdallie and Interviewee 8.

⁹⁰² Points particularly strongly made by Interviewee 6 and Interviewee 15 amongst others.

⁹⁰³ Interviewee 16.

⁹⁰⁴ Note Modood’s more nuanced position on the three phases: there was clearly a positive equality-integration phase; this was followed by terrorism in the name of Islam, leaving government little option but to take action against such terrorism, which inevitably impacted the equality-integration drive; but, on the whole, government let the multiculturalism perspective in the circumstances gradually become marginal as it developed its security agenda against the continuing terrorism – and thus, the multiculturalism agenda suffered at the hand of a pincer movement between the jihadis and the neo-cons. See: T. Modood, A Defence of Multiculturalism, *Soundings – A Journal of Politics and Culture*, 2005, p.62-71.

reiterated that more than the equality or security legal provisions or their implementation, what impacted most Muslims utmost was the relentless political and media discourse on Muslims as ‘a problem community’, ‘the fifth column’ or ‘the enemy within’. Thus, every Muslim felt targeted whatever the actual impact of the implementation of the provisions. The political and media discourse also severely poisoned the ordinary public discourse on and interactions with Muslims, and with Prevent specifically focussing on Muslims, it was a perfect storm towards deeper layers of resentment, alienation and polarisation.⁹⁰⁵ One interviewee, interviewed more recently, after the recent spate of terrorist attacks in Manchester and London, suggested that the result is a worse situation today than the early 2000s, with possibly more Muslim and right wing extremists and smaller but more frequent retaliation terrorist attacks – and this is not a positive trend for the future. He added that violent attacks against Muslims, including acid and knife attacks have increased dramatically, and at the same time there are more cases of new problems like jihadi brides and families.⁹⁰⁶ Overall, therefore, though some of the interviewees argued that New Labour started with a great promise of equality for and integration of British Muslims, this was not delivered fast enough. It was delivered in dribs and drabs, always too little too late, such that few knew or benefitted from them. To produce a culture of equality and to embed integration required something more – particularly, mainstreaming work on grounds of religion and belief through a public-sector equality duty, PSA targets, inspectorate regimes, public procurement and other incentive and intervention measures. Unfortunately, the public-sector equality duty came only at the end of the new Labour years in government, was never implemented by New Labour – and the rest was never even seriously considered.⁹⁰⁷ For some interviewees, New Labour, just like old Labour, was also often caught between its values and populist politics – eg, in terms of liberty vs crime and security; equalities vs sentiments around immigration; and solidarity vs losing the working-class vote. Some suggested that this resulted in many mixed messages – giving with one hand and taking with another, for example, freedom of religious expression vs glorification offences and a post-Macpherson approach to policing vs s.44

⁹⁰⁵ Interviewee 1, Interviewee 2, Interviewee 3, Interviewee 11, Interviewee 14 and Interviewee 15.

⁹⁰⁶ Points made by Interviewee 7 – similar points were also made by Interviewee 9 and Interviewee 11 in earlier interviews. For reports on the sharp rise in Islamophobia, see: A. O’Neill, *Hate Crime, England and Wales – 2016-17*, Statistical Bulletin 17/17, London: Home Office, 17 October 2017; I. Awan and I. Zempi, *We Fear for Our Lives – Offline and Online Experiences of Anti-Muslim Hostility*, London: Faith Matters, 12 October 2015; R. Roberts, *Hate crime targeting UK mosques more than doubled in past year* Independent, 8 October 2017.

⁹⁰⁷ Points made by Interviewee 1, Interviewee 13, Interviewee 14 and Interviewee 11.

and Sch.7 stop and searches – which simply shifted the focus of bad policing from Blacks to Asians/Muslims.⁹⁰⁸ The interviewees were almost unanimous, however, that generally speaking the international war on terrorism and domestic counter-terrorism legislation were disastrous for British Muslim integration. The single narrative and negative discourses to justify them were so strong that they undermined and sometimes even completely drowned out whatever else that may have produced any integration impact – and made many Muslims feel that they don't belong here. The discourse of ideal or good citizen vs illegal or failed citizen, where Muslims could at best be tolerated citizen, left many Muslims very alienated.⁹⁰⁹

Some interviewees argued, however, that despite serious concern and perhaps even some fear across Muslim communities, those feeling completely disenfranchised and alienated were still in a minority and very much on the fringes of Muslim communities, and that despite all setbacks and difficulties, the stronger undercurrent for the vast majority in Muslim communities, for those woven into British society, was still a strong sense of belonging as a right, even if not through feelings of acceptance by the state and some sections of society at large. One interviewee suggested that this undercurrent was a natural progression by virtue of the length of Muslim presence in Britain, and the fact that for many Muslims, Britain has been their only home. Another interviewee suggested that even where such alienation spills into violence, it does not necessarily mean a disowning of the country and society, but could simply be the expression of a desperate voice which feels that it is not otherwise being heard.⁹¹⁰ Several suggested that this resilience against the suspect community narrative and in favour of identifying with and belonging to Britain as a right resulted in two further responses from the Muslim community.⁹¹¹ The first was that many British Muslims started identifying with what was variously described as 'the far left', 'the politics of dissent', 'an alliance of rejects' and 'the coalition of minority resistance movements'. Several interviewees felt that this response contributed to the anti-war coalition after the invasion of Iraq, and subsequently, to the re-emergence of a strong far left. Some interviewees felt that this 'growing of the fraternity' on the left,

⁹⁰⁸ Interviewee 2 and Interviewee 12.

⁹⁰⁹ Point made by Interviewee 14 – on this discourse of citizenship, see also: B. Anderson, *The Good, the Bad, and the Ugly – Citizenship and the Politics of Exclusion*, lecture delivered at the Chicano Latino Research Center, 10 June 2016.

⁹¹⁰ Points made by Interviewee 8, Interviewee 14, Interviewee 16 and Interviewee 7.

⁹¹¹ This point about identifying with and a sense of belonging to Britain is discussed in more detail in the next chapter.

with Muslims integrating into dissent politics there, was in itself a form of integration into British society – ‘British by dissent and participating in organised dissent’.⁹¹² However, most argued that this ‘oppositional movement’, ‘coalition of the dissenting’ and ‘politics of reactiveness and the rejects’ has neither helped solidarity within Muslim communities or deeper solidarity with the wider British public. In fact, some felt quite strongly that it had only created deeper polarisation and divisions in society as a whole – driving camps further from the centre-ground of British politics to the extreme right and left respectively. They felt that with Muslims supporting the extreme left, they were not only sharpening their differences with mainstream society and delaying their integration into the moderate middle ground of Britain but harming that cohesive middle, so important for a cohesive society tolerant of its minorities. Others felt that the far left had used Muslims in a very cynical way – not to integrate but to challenge US power in the Middle East. One interviewee argued that even if joining the far left could be seen as integrating into the political spectrum of Britain, this was not the way to integrate into the values and socio-economics of Britain. He suggested that what was required was a model of ‘twin toleration’: the state not to interfere in theology but allow value pluralism, and in return, faith communities to accept moderate secularism.⁹¹³

Several interviewees observed a second and more paradoxical response: that for many Muslims, ‘the politics of resistance’ of joining the far left was a ‘maturing into integration process’ – where, having been caught in the headlights and on the back foot due to what was thrown at them, and lacking the infrastructure, resources and expertise for it, they lurched to the far left but subsequently came of age and started moving back towards those that remained closer to the centre.⁹¹⁴ The interviewees observed that ‘integration is not always a linear process’, but this maturing process meant that Muslims learnt to sharpen their focus on rights they have and those they don’t, and on how to resist policies, laws and practices whilst still staying within the mainstream of politics – that is how to pursue their objectives through more sophisticated use of the democratic processes, for example, evidence-based policy work and political lobbying of government, use of

⁹¹² Interviewee 6, Interviewee 16 and Interviewee 3.

⁹¹³ Points made by Interviewee 5, Interviewee 12, Interviewee 9, Interviewee 13, Interviewee 8 and Interviewee 15 amongst others. For a discussion on this idea of ‘twin toleration’, see: A. Stepan, Religion, Democracy and ‘Twin Toleration’, *Journal of Democracy*, Vol.11(4), 2000, pp.37-57.

⁹¹⁴ Interviewee 6, Interviewee 7 and Interviewee 16 – the latter gave Salma Yaqoob as an example, who led the Respect Party from 2005-12, but stood as a more centrist independent candidate at the last general election.

parliamentary processes, working with delivery agencies like the police, civil society partnerships and campaigns, and as a last resort through complex legal challenges. One interviewee described how this maturing process helped to roll back the two-tier criminal justice system facing British Muslims that started with the Anti-Terrorism, Crime and Security Act 2001. This more mature approach has resulted in many achievements as have already been noted in earlier chapters, from policy changes to changes in the law, and therefore, a more sophisticated integration.⁹¹⁵ It has also meant that the Muslim presence emerging in decision making is less tokenistic and a more deeply-rooted organic, integrated and confident voice. These efforts also helped to build alliances in and outside Muslim communities and helped Muslims to see that British society will understand Muslim positions if it is explained to them.⁹¹⁶ Not all the interviewees, however, were confident that this second response has been realised yet. One interviewee suggested that there was very poor leadership in Muslim communities and what concessions from government were achieved were more the work of organisations like Liberty, Amnesty, Justice, Human Rights Watch and others than Muslims. Another observed that the Muslim leadership was overly concerned with foreign policy issues, sectarian differences and turf-wars, resulting in, for example, the MCB's unfortunate position on the Holocaust Memorial Day.⁹¹⁷ One interviewee concluded with a sad reflection on how the younger generation of Muslims may have internalised the counter-terrorism legislation – such that they were not asking 'why do we need this legislation, but how do we tweak it'.⁹¹⁸

⁹¹⁵ Points made by Interviewee 7 and Interviewee 16.

⁹¹⁶ Interviewee 4, Interviewee 7 and Interviewee 5.

⁹¹⁷ Interviewee 11 and Interviewee 9 respectively.

⁹¹⁸ Interviewee 5.

Chapter 7: Conclusion

This study set out to examine and understand the impact of New Labour on British Muslim integration. It sought to do this through three main research questions. First, by critically tracing and assessing the genesis, development and substance of a wide range of New Labour policy initiatives and provisions of particular significance to British Muslims. Second, by examining British Muslim engagement with the development of these initiatives and provisions – how they influenced or responded to and thereby shaped or reshaped them, considering in particular the nature and quality of the arguments and engagement. And third, by considering the integration impact of these initiatives and provisions, and the engagement around them, on British Muslim communities through the perceptions Muslim community leaders, activists and advisors at the time. This conclusionary section seeks to summarise the findings with regards to these questions in this study, and to identify areas of further work and new lines of enquiry.

Findings and reflections on the main questions

The key policy initiatives

This research focused on critically tracing and assessing the genesis, development and substance of a wide range of New Labour policy initiatives of particular significance to British Muslims in two specific policy domains – equality and security. These initiatives were further sub-divided into legal and non-legal provisions and measures. The legal provisions in the domain of equality included those on aggravated offences, incitement to religious hatred, discrimination in employment and training, discrimination in the delivery of goods, facilities and services, and the public-sector equality duty. Those in security included provisions on the definition of terrorism, stop and search, proscription, indefinite detention, freezing of assets, control orders, pre-charge detention, glorification of terrorism and incitement to terrorism, and fingerprints and DNA samples. The non-legal measures in equality included a faith communities unit in Government, a non-departmental public body (or a commission) working on religious discrimination, work with and through inspectorates, public sector agreement targets, work on public procurement, and a system of rewards and interventions for equalities work on grounds

of religion or belief. Those in security included the key intelligence, research and communications initiatives, some community engagement and leadership initiatives, a few educational, awareness and de-radicalisation initiatives, some theological initiatives, local work initiatives, and initiatives at specific sites of radicalisation. Whilst undertaking the research on the specific provisions and measures, reflecting on them, and reflecting on the study as a whole – particularly the interviews, several conclusions have come to the fore. First, that whilst the initiatives chosen for the study were on the whole about right, there were some important omissions. The most important of these omissions was the work around the inclusion of the religion question in the 2001 Census. Though much has already been written on the genesis and substance of this key development, and the Muslim engagement with it, this study would have greatly benefitted from a consideration of its impact on the integration of British Muslims.⁹¹⁹

The second reflection is that the initiatives were not on the whole intended to specifically privilege or punish Muslim communities. The research reveals that this point applies to both equality and security. In terms of equality, though the legal initiatives in particular were driven by Muslim communities, they never sought to privilege Muslim communities alone in any way but always emphasised parity with and for other protected minorities. Thus, for example, when the campaign was to extend the definition of race to include religion, this was always argued in terms of including all mono and multi-ethnic religious communities into the definition of race, and not just the mono-ethnic ones as defined by case law. When the campaign switched to developing a separate equality strand, that of religion or belief, it was on the basis of seeking parity and harmonising with other equality strands recognised in UK law. The legal and non-legal initiatives, provisions and measures that came out of the campaign, therefore, applied to people of all religions and beliefs. This was different to some provisions in the past which only applied to some religious groups – for example, Christians and Jews. With regards to security, there was a widespread feeling in Muslim communities that initiatives were specifically targeted at Muslims. However, the research for this study shows that most of the legal provisions in

⁹¹⁹ For accounts of the campaign for the religion question in the Census, see: J. Sherif, *A Census Chronicle – Reflections on the Campaign for a Religion Question in the 2001 Census for England and Wales*, *Journal of Beliefs & Values*, Vol.32, 2011, pp.1-18; L. Francis, *Religion and Social Capital – The Flaw in the 2001 Census in England and Wales*, in P. Avis (ed.), *Public Faith? The State of Religious Belief and Practice in Britain*, London: SPCK, 2003, pp.45-64; J. Dixie, *The Ethnic and Religious Questions for 2001 – Research and Responses, Patterns of Prejudice*, Vol.32, 1998, pp.5-14.

counter-terrorism in the UK have their roots in UK legislation long before any attention turned to terrorism committed by Muslims in the West. These were consolidated in the Terrorism Act 2000, again before legislative attention turned to terrorism in the name of Islam and Muslim causes. This said, it would be naïve to suggest that the counter-terrorism legislation post 9/11 was not in some ways targeted at Muslims, even if mostly in terms of implementation. However, significant parts of this new body of counter-terrorism legislation have now been repealed, particularly where they have been shown to be discriminatory towards Muslims; or modified so that they no longer impact Muslim communities alone. The whole of Prevent has also been modified so that it applies just as much to far right extremism as it does to Muslim extremism. It could also be argued here that the security provisions as they currently stand apply less to Muslims *as* Muslims as compared to where present threats are perceived to be located.

A third reflection and/or conclusion is that the distinction between legal and non-legal initiatives was a useful one, for it provided a number of insights – for example, the intrinsic limitations of the law to effect social change,⁹²⁰ how those limitations may be addressed through certain non-legal measures, and the importance of understanding the dynamics between the legal and non-legal initiatives in each policy area to achieve optimal results. In the case of equality, the legal provisions provided a formal threshold for society, but in themselves were insufficient to imbed equality on grounds of religion. However, as one interviewee very astutely observed they are a very important first step for the actual embedding work to begin, which must not be rushed if a backlash is to be avoided. Sometimes, however, the distinction is not particularly watertight – for example, the public sector equality duty is a legal provision that plays a very important embedding

⁹²⁰ For a detailed discussion on the intrinsic limitations of the law to effect any area of social change, see: L. Lustgarten, Racial Inequality and the Limits of Law, *The Modern Law Review*, Vol.49, 1986, pp.68-85. The limitations of unfamiliarity with the law; ‘one shot’ individuals seeking redress against well-resourced ‘repeat player’ defendants; the lack of support organisations and/or their incompetence; defects in the law itself (both linguistic/substantive and procedural) and defendants taking maximum advantage of them; culturally insensitive and unsympathetic tribunals and judges operating in hostile climates; the ineffectiveness of remedies; and the law only imposing minimum standards which ultimately just result in a compliance culture – all mentioned in this article, are all discussed in this thesis. The more general limitations of individuation of legal action and remedy where both the cause and impact of the offending action or omission are group based; and judges being subservient to the assumptions, values and constraints of the common law, hostile to sharing judicial functions with administrative organs of the state, unwilling to take into account group disadvantage and a ‘Brandeis brief’ approach, as in the US, and reluctant to proactively drive social policy change themselves – are less well covered in this thesis, but have come to the fore in reflecting on it. However, the remedial provisions for the limitations of the law that Lustgarten suggests (Government mainstreaming, public procurement and positive action) are all thoroughly discussed in this thesis under Chapters 2 and 3.

function. It did, however, come almost a decade after the first pieces of equality legislation on grounds of religion and is yet to be meaningfully implemented. In the case of security, the non-legal measures had the real possibility of both making the legal provisions more acceptable but also softening their implementation and ultimately making them less draconian and less required. However, to some extent New Labour squandered these possibilities for more ideological and short term political gains. The sub-divisions into legal and non-legal provisions and measures, however, help to see more clearly the role, limitations and implications of each as a policy lever as compared to the other both within a policy domain and across different policy domains, as well as compared to other levers available to government. Unfortunately, in the case of New Labour and Muslims, there does not seem to have been any big picture thinking in terms of how these different policy domains and levers may have been co-ordinated in order to provide the best integration experience for British Muslim communities. Often the domains and levers operated in silos – sometimes complementing the work in other silos but just as often also undermining that work. One key learning from this research, therefore, is that, going forward, in dealing with such complex challenges as promoting integration whilst countering radicalisation and terrorism, there must be a suitably nuanced government response in terms of the right mix and timing between different policy domains and levers.

Another significant reflection and conclusion is that the research design for this study should perhaps have included a third policy domain – that of area regeneration. The obvious reason for not including a third policy domain was that it would make the study too big. However, on undertaking the research thus far, and on reflection, it may have been included on a number of grounds, and two in particular: firstly, it would have been fairly easy to fit into the architecture of the research design, in that it would have been simple enough to identify the key legal and non-legal initiatives in this policy domain as introduced, developed and implemented by New Labour; and secondly, though it may have been more difficult to research Muslim engagement in these initiatives at the national level, where this study on the integration impact of New Labour's equality and security initiatives on British Muslims has highlighted a slight dichotomy – that of the interviewees for this study suggesting that the initiatives included in this study on the whole alienated Muslims whilst polling data over the last 15 years suggests that there was

actually a strong undercurrent towards British Muslim integration in this time – the inclusion of this additional policy domain may have shed further light on and helped to reconcile this dichotomy. Implicit in this is, of course, the suggestion that the area regeneration initiatives may have had a great integration impact on British Muslims, one that outweighed the negative impact of the security provisions and measures in a way that the equality initiatives did not. However, this suggestion has not been proven in this study, but the inclusion of those additional initiatives in this study may have helped to test this suggestion. The dichotomy highlighted here is further discussed below, but perhaps one smaller point needs to be made here – the third policy domain suggested here is not the same as that suggested by O’Toole and others, as discussed in the introduction; it is a much smaller subset of that suggestion and an identifiable policy domain in its own right.⁹²¹

British Muslim engagement

With regards to examining British Muslim engagement with the development of these initiatives – how they influenced or responded to and thereby shaped or reshaped them, this has already been done to some extent at the end of each of chapters 2-5, but there is some value in bringing it all together here for some further reflections. From the research undertaken for this study, it is clear that the British Muslim engagement with the development of the provisions on non-discrimination and equality on grounds of religion or belief was extensive. This engagement was mostly bottom-up – that is, British Muslims taking the initiative to engage the government and/or the policy making and legislative process on an agenda very important to them. It was initiated and undertaken by a wide range of actors with a broad spectrum of motives, including representative organisations like the MCB, but also specialist advocacy organisations like FAIR and BMRC, speaking for or on behalf of Muslim communities. It also included faith leaders and representatives in their personal capacity, as well as individually successful Muslims in politics and the Civil Service, who felt called to respond in particular circumstances – for example, on the public sector equality duty in the Equality Act 2010. Mostly, these actors were driven by

⁹²¹ For the suggestion by O’Toole and others, see: T. O’Toole et al, *Taking Part – Muslim Participation in Contemporary Governance*, op. cit., and as discussed in the introduction to this thesis. Area regeneration on the other hand, as suggested here, was a self-contained (as much as that is possible) policy domain for new Labour, led by the DCLG and its predecessors.

their own initiative, sometimes in competition and occasionally in co-operation with each other. However, throughout the development of the provisions on equality on grounds of religion or belief, British Muslims often worked with others beyond the Muslim community – through ad hoc alliances with other civil society organisations and non-departmental public bodies, through existing networks, and through forming longer-term powerful new coalitions and forums. In some cases, the initiative was taken by government or a third party but subsequently driven by Muslims; in other cases, government initiated processes where the Muslim community was strongly represented. This activism within the British Muslim community, alliance building and partnership work in wider civil society, and engagement with a continuum of government actors and roles – including politicians at various levels, civil servants and public officials, various consultation and advisory fora established by the government and its organs, and advisors at different levels – certainly bore considerable fruit. Thus, whilst it is true that much of the equality legislation in the 2000s may not have been at all possible without the vision and energy of veteran campaigners from some of the other equality strands and human rights, it is equally true that this legislation would not have been extended to the extent it was on the ground of religion or belief without the vigilance, energy and constructive participation of British Muslims. Working in consonance on the whole, on their own terms but also with others, they made it possible for New Labour to deliver – and in the end, it delivered much of the equality legislation demanded by the Muslim community, though there still remained the inconsistencies in the provisions on harassment in goods, facilities and services and incitement between mono-ethnic and multi-ethnic faith communities.

In terms of British Muslim engagement with the development of the non-legal measures on equality on grounds of religion or belief, the research suggests that British Muslims were mostly responding to the development of initiatives in this area, in relative contrast to their engagement with the legal initiatives where they took a much more initiating and leading role. In examining the non-legal measures, the research revealed that they often derived from and/or were driven by a third party, whether another faith community or a separate equality strand, resulting in very different dynamics between the different parties involved as compared to initiatives deriving from the Muslim community or the government. Thus, in terms of institutional arrangements, for example, it was a very

important initiative for, and seeded and developed by, the churches – particularly the established church, the Church of England. Church representatives, involved in developing this initiative, had their own ideas about what the Faith Communities Unit should be and what work it should do – and though significant Muslim organisations and individuals, as part of organised religion and networks as well as in individual capacities, engaged with it extensively and intensively, in the end it was far from what they needed and wanted, and over time became relatively irrelevant to their core needs, and at times even a hindrance. In the process, however, it did sharpen the Muslim understanding of what those needs were in terms of machinery of government so that they could find them elsewhere in Whitehall, in this case the WEU/GEO. In the case of a single equality body, this was clearly initiated and driven by government, even if responding to demands from various quarters including Muslims. Various Muslim organisations engaged significantly in the development of the CEHR/EHRC, albeit mostly through a small group of individuals who were also trusted by other faith and belief groups. Muslims achieved what they wanted in this body on paper, but in reality, it has delivered little for Muslims since its inception. It has been timid on counter-terrorism and human rights issues; very cautious on equality in relation to religion and belief, eg, on incitement, harassment and reasonable accommodation; and shy on fully elaborating its results from its reviews of the UK's state of health with regards to equalities, human rights and good relations – often hiding religious inequalities behind race inequalities. With regards to the non-legal tools for the promotion of equality, the research found that British Muslim engagement with them was weak. The fact that religion was included in later PSAs was more as a result of Muslim assertiveness elsewhere and more generally, and cross strand work, than direct Muslim involvement with their development. Similarly, there was very little Muslim engagement on the work around promoting equality through public procurement or government rewards and sanctions. However, perhaps the overall outcome on non-legal tools is the best that the Muslim community might have achieved – for in focusing its limited resources in securing the public sector equality duty on grounds of religion, and working with and leaving to other strands better resourced to build in the non-legal tools into the general scope of the positive duty, it has left open the possibility that the impact to be achieved through those tools may still be achieved in the future through better use of the positive duty on grounds of religion – when the Muslim community has the ability to do so.

In relation to the development of the key legal provisions to prevent terrorism and promote security, these were of course mostly derived from and driven by government. In examining the patterns of engagement with these initiatives, it is clear that the engagement was mostly undertaken by Muslim community and human rights organisations, and less by faith networks as compared to the equality policy domain. Individuals, whether as faith leaders or representatives also played a lesser role, though there were some exceptions. It is also clear that British Muslim organisations were mostly responding to the developments, mostly by virtue of their own initiative. The response, however, was characterised by two elements: first, it was far more defensive; and second, the response and the resulting engagement, partnering with other civil and human rights organisations, targeted much more the different organs of the legislature (Parliament) and judiciary (the courts) than just the executive (Government) – the focus being very much to stop, change or overturn the governments initiatives. The research indicates that British Muslim engagement in the security policy domain was very limited before 2001, but picked up very fast after 9/11, when this became an important arena for them for engagement and lobbying. In this engagement, Muslim organisations generally accepted that there was a threat to the UK from international terrorism – and terrorism generally should be condemned and challenged by all. The government’s position was that protecting British citizens’ freedom to live and go about their lives without fear of terrorism is more important than the civil liberties of suspected terrorists. However, Muslim organisations generally disagreed that the governments approach, its legal provisions and their implementation were the best way to address the threat of terrorism. They believed that the threat of terrorism should not be used as a pretext to infringe human rights, but rather that any legislative response to terrorism should adhere to the following principles: it must be necessary and proportionate bearing in mind powers already available under the ordinary criminal and civil law of this country; the language of the provisions must be clear and certain – particularly where the definition of terrorism was not, but was instead politically loaded, conceptually confusing and lacking an wide acceptance; there must be adequate safeguards and mechanisms of accountability incorporated into the response to ensure that powers are not open to abuse – such safeguards being particularly necessary for confidence building in ethnic and religious minority communities towards law enforcement agencies; and any new measures adopted must be carefully circumscribed within and limited to the exceptional situation that

justifies them – ie, they must not be too broad or disproportionate to national security or law and order needs. They also argued that where new powers are intended to be permanent and are not time-limited by sunset clauses, in view of the gravity of these powers and their implications for individual civil rights, they should only be adopted after extensive consultation and parliamentary scrutiny, and not in such haste; existing provisions should be given a chance to bed before new ones are rushed through; and before substantial new powers are given to law enforcement agencies, careful consideration must be given to the background they are being introduced in. They believed that arbitrary powers were likely to lead to miscarriages of justice – and would only make matters worse. Though it may not have appeared so at the time, British Muslim engagement with the proposed and final legal security provisions, coupled with the principles from which they lobbied, though slow to start, bore tremendous impact and results over time. The arguments they presented were rich, and working with others – sometimes even the media, but mostly other civil society human rights organisations – on many occasions they were able to either get the government to concede at the Bill stage or overturn or modify the law through case law in the courts. Sometimes, working with law enforcement agencies, they were able to modify practice on the ground. Some of the provisions were ineffective, and in some cases these provisions have died their own death. In some cases, however, the provisions remain, are detrimental to Muslim communities, but little progress has been made to change them.

In the case of how British Muslims engaged with the key non-legal measures to prevent terrorism and promote security, which New Labour openly proclaimed as being specifically targeted at Muslim communities, the research shows that Muslims generally were perhaps more engaged with these initiatives than any other set of initiatives under the equality and policy domains. It would appear that in the pursuit of Prevent the Government sought extensively to engage all parts, actors and roles in British Muslim communities. The approach was to Muslim communities as a whole – though in practice this was often limited to engaging with those that government thought would echo its position on theo-ideological factors being the primary cause of international terrorism. To its credit, however, New Labour took on board a suggested distinction at the time between the organised Muslim community and the wider Muslim community – and the various advisory boards were as much an attempt to get beyond the normal gate-keepers

to the community as any other objectives sought through them, and thereby to directly engage views and voices who may not be involved in organised British Islam. But initiating, developing and engaging faith based organisations and networks, in light of the capital and benefits they bring, remained very important to New Labour. There was also an emphasis on engaging individual faith and community leaders in their own right, both informally on a one-to-one basis and more formally through the various advisory groups. Almost uniquely in this area, however, New Labour also engaged an array of in-house employed and contracted Muslim Advisors in different departments and agencies, at both policy and delivery levels, over and above the regular Muslim civil servants working in this area. The result of this extensive engagement initiated by Government was engagement of British Muslims on almost every aspect of Prevent. In addition, there was engagement initiated by members of or organisations from the Muslim community – sometimes to join the bandwagon of Prevent to access resources, even if in some cases not in complete agreement with the Governments approach; but sometimes also to criticise and critique the governments approach and provisions. In these cases of engagement, the target included political party officials, politicians at various levels, civil servants and public officials, consultations and advisory fora established by the government and its organs, advisors at different levels, and concrete initiatives and projects – but also the wider parliamentary system and other organs of public life, for example, the media. The impact of this extensive engagement of British Muslims in the development and delivery of Prevent was very mixed. There was little impact in terms of the intelligence work – even security cleared Advisors found this work hard to access, but clearly more impact in terms of research, guidance and communications work – though this was often overshadowed and overrun by a top-down ideological narrative and agenda from No.10. There was significant engagement on government-community relations and identifying and developing new leadership to represent views and voices in Muslim communities previously excluded. However, this raised its own problems with Muslims pushing their personal, group and sectarian agendas. Some voices argued for engaging with ‘credible leadership’ who had influence over the ‘critical mass’ of the Muslim community and access to its ‘hardest-to-reach’ parts, and eventually gained some acceptance in government. However, this was very late in the day in terms of New Labours time in Government – and the work was almost frozen, and the learnings lost, with the new Coalition Government. There was far more impact with the theological

initiatives – primarily because New Labour had been convinced that the work needed to be done but Government could not be seen as leading on theological work, dictating what Muslim theology should look like or how its ministers should be trained. This allowed resources and space for Muslims to develop the work more organically – and that work continued in the Muslim community even after New Labour left office and the Coalition Government disbanded this work because it felt that theological initiatives were not for the Government to undertake. The educational and awareness raising work was again mostly developed organically through Muslim communities. Funding for this work after the new Coalition Government came to office seems to have been diverted to communications work with unfortunate consequences – the educational work has returned to poor resourcing and the communications work is distrusted in Muslim communities, toxifying the Prevent brand as a whole. The deradicalization work, especially the Channel project, appears to have had less input from Muslim communities, was received with some suspicion from the start – and that seems to have only grown over time. The impact on local and sites of radicalisation work has been mixed. Where the work was in the communities through community organisations, of course, Muslims shaped that work – however, three points seem to emerge from this work: first, in some cases the quality of this work was poor; secondly, to some extent local organisations were playing the system, ie, presenting the work in Prevent language but doing what they wanted to do anyway; and third, it resulted in considerable divisiveness in Muslim communities – not dissimilar to that played out at the national level. Where the work has been more focused on sharpening the institutional and organisational machinery to deliver Prevent, there has been less obvious engagement of and impact by British Muslims. However, at least two initiatives stand out in the sites of radicalisation work, where Muslims have been significantly involved and have had significant impact – the Campus Lokahi project and the Prevent work in prisons.

British Muslims then, were engaged by Government and others, and themselves engaged Government and others, in diverse ways under the different policy domains and their sub-levels. The impact of this engagement varied from very significant to not significant at all. One key reflection that comes out of this research, however, is that just as there does not seem to have been any big picture thinking by New Labour in terms of how the different policy domains and leverages may have been co-ordinated in order to provide

the best integration experience for British Muslim communities, there was no real big picture thinking on the part of British Muslims in terms of how they may pursue their needs and demands from the government. Where the PET Working Groups were let down by the Government, they may have regrouped themselves and carried on working towards and from a higher level agenda in a more co-ordinated way, but this did not happen. Instead, they splintered again and returned to their more parochial ways of working, with all the limitations that involved.

Integration impact on British Muslim communities

As already noted, this study raises a dichotomy. At the start of this study, the author's assumption was that the equality and counter-terrorism initiatives would be running in opposite directions in terms of their integration impact on British Muslim communities: that the equality initiatives would prove to be helpful to integration, whereas the counter-terrorism ones a hindrance. The data from the interviews, however, provided a much richer set of perspectives beyond this starting point, but on the whole suggested that the interviewees felt that overall the positive integration impact of the equality provisions were drowned out by the negative impacts of the Pursue and Prevent initiatives, particularly the very ideological and forceful narratives around them. Overall then, the suggestion is that the initiatives included in this study together had a more negative impact on British Muslim integration than a positive one. However, the polling data over the last 15 years, whilst again very rich and nuanced, suggests that on the whole there was actually a strong undercurrent towards integration in British Muslim communities during this time.⁹²²

The British Muslim population has a younger age profile than the rest of the population – 33% aged 15 or under as compared to 19%; and similarly, 4% aged 65 or over as compared to 16%. Thus, the median age in the UK is 40, but 25 amongst British Muslims. Religion plays a very important part in the lives of most Muslims in Britain, perhaps more important than for others – 94% of all adult Muslims from the main ethnic minority groups said their religion was extremely or very important to them; not a single adult

⁹²² K. Kaur-Ballagan et al, *A Review of Survey Research on Muslims in Britain*, London: Ipsos MORI, Feb 2018.

Muslim respondent said it was not important at all – and 79% of Muslim 13-14 year olds said religion is very important to the way they live their life. Most Muslims claim to be regularly religiously active, either in private prayer or in collective acts of worship – for example, 53% say that they do religious activities on their own or in congregation at least five times a day.⁹²³ The 2011 Census does not provide measures for English language proficiency by religion, but looking at the two largest ethnic groups, ie, Pakistanis and Bangladeshis born outside the UK, the data shows that 67% of Pakistanis and 77% of Bangladeshis said that English is not their main language, 4% and 6% respectively said they cannot speak English at all – but 44% and 47% respectively said that they were proficient in English. Compared to the rest of the UK, Muslims have lower employment rates: 20% compared to 35% in full time employment. This may be attributed to the younger age profile and higher percentage of Muslims in education (13% compared to 5%) – however, 7% of Muslims are unemployed, compared to just 4.0% for the UK as a whole. Education levels among Muslims are slightly lower than the UK population as a whole – 26% have no qualifications as compared to national average of 14%. However, education is very important to Muslims – 55% say education is very important compared to 35% of Christians. Thus, Muslim parents’ aspirations for their child’s educational achievement are higher than other parents in England – 66% thought it ‘very likely’ that their child would go on to university compared to 38% of non-Muslim parents; and 56% of Muslim children thought it likely that they would go to university compared to 38% of non-Muslim children.⁹²⁴ With such a young age profile and high aspiration for education, the hope is a strong flow towards greater integration.

In terms of liberty, as one of the key elements of integration, the polling data suggests that though, on the one hand, 60% of Muslim 17-19 year olds in England agreed that there is too little respect for religion and religious values in Britain today, and 47% of Muslims

⁹²³ See: Ipsos MORI, Citizenship Survey, 2010-2011, London: DCLG, 2012; A. Heath et al, *The Political Integration of Ethnic Minorities in Britain*, Oxford: Oxford University Press, 2013 – based on the 2010 British Election Study (post-election cross-section survey of 3,075 GB resident adults aged 18+) and the Ethnic Minority British Election Study (1,140 GB resident Muslims aged 18+ belonging to defined minority ethnic groups and not living in low-penetration areas); and C. Baker et al, *Longitudinal Study of Young People in England – Cohort 2, Wave 1*, London: DoE, November 2014 – 1,347 Muslim and 11,721 other subjects aged 13-14, interviews with young people and their parents in 2013.

⁹²⁴ Office for National Statistics (ONS), 2011 Census, London: ONS, 2011; Ipsos MORI, Citizenship Survey, op. cit. See also: T. Modood, *Ethnicity, Muslims and Higher Education Entry in Britain, Teaching in Higher Education*, Vol.11(2), 2006, pp.247-50; and N. Khattab and T. Modood, *Accounting for British Muslim’s Educational Attainment – Gender Differences and the Impact of Expectations*, *British Journal of Sociology of Education*, published online on 11 April 2017.

overall said prejudice against Islam makes it hard to be a Muslim in Britain, on the other hand, 94% of Muslims feel that they are able to practise their religion freely in Britain.⁹²⁵ Indeed, most Muslims in England and Wales, like most of the rest of the population, are reasonably satisfied with life in general, even if feeling that there is a gap in terms of what they expect from life, or that things were not as good as they used to be.⁹²⁶ The vast majority of Muslims believe Islam is compatible with the British way of life, even if 56% of the public thought Islam was not compatible with British values and only 28% thought it was.⁹²⁷ Also, younger Muslims and those born in the UK are more likely than older Muslims and those born abroad to support full integration with non-Muslims in all parts of life. Views are divided, however, on the extent to which Muslims want their religious values to be reflected in the schools to which they send their children, and a very small minority of Muslims express support for the introduction of Sharia law in some form in Britain.⁹²⁸ On the other hand, Muslims are a great deal more likely than most citizens to express trust in Britain's democratic institutions, and like the public, they are more likely to trust their local council than Parliament. Further, whilst there is some cynicism towards political parties and public officials – 76% of Muslims say that they are satisfied with the way that democracy works in this country. Also, whilst interest in politics among Muslims is lower, the reasons for not voting among young Muslims are no different to non-Muslim young people, and interest increases when thinking specifically about a general election, such that Muslims under 35 are more likely to vote in a general election than non-Muslims of the same age group. Indeed, political participation is seen as an important and worthwhile exercise – 86% of Muslims agreed that it is every citizen's duty to vote in an election compared to 77% of the public as a whole. Also, despite feeling that their political

⁹²⁵ See: Department for Education (DfE), Longitudinal Study of Young People in England – First Cohort (born in 1989-90), Wave 5 (interviews in June-October 2008), London: DfE, 2008 – 1,404 Muslim and 8,676 other subjects, interviews with young people and their parents; ComRes, Muslim Poll – 26 January-20 February 2015, London: BBC Today Programme, 25 February 2015 – interviews with 1,000 Muslims aged 18+, by telephone, 26 January-20 February 2015; and ICM, Survey of Muslims – 25 April-31 May 2015 and 5-7 June 2015, London: Channel 4, April 2016 – ICM Survey of Muslims for Channel 4: interviews with 1,081 Muslims aged 18+, conducted face-to-face across Great Britain on 25 April-31 May 2015, and with a nationally-representative control group of 1,008 adults aged 18+ by telephone on 5-7 June 2015.

⁹²⁶ Ipsos MORI, Citizenship Survey, *op. cit.*; A. Heath et al, The Political Integration of Ethnic Minorities in Britain, *op. cit.*

⁹²⁷ ComRes, Muslim Poll, *op. cit.*; ComRes, Islamic Caliphate Survey – 22-24 April 2016, London: Ahmadiyya Muslim Youth Association (UK), May 2016 – 2,012 GB adults aged 18+ years, interviewed online 22-24 April 2016. Note very similar results in: YouGov, The Sun Survey Results, London: The Sun, 2015 – 1,641 GB adults aged 18+ interviewed online on 22-23 March 2015; and R. Ford and N. Lowles, Fear and Hope 2016 – Race, Faith and Belonging in Today's England, London: Hope Not Hate, 2016 – 4,015 GB adults aged 18+ years, interviewed 1-8 February 2016.

⁹²⁸ ICM, Survey of Muslims, *op. cit.*; ComRes, Muslim Poll, *op. cit.*

influence is limited, Muslims are not more negative about the efficacy of political activism – believing by 60% to 12% that being active in politics is a good way to get benefits for groups that people care about, like pensioners or the disabled. Thus, Muslims aged 18-24 are significantly more likely than any other age group to participate in different forms of political activism. However, many Muslims also took the view that political activity was onerous – 41% felt that it took too much time and effort to be active in politics and public affairs and only 21% took the contrary view.⁹²⁹ Finally, 93% of Muslims agreed that the law should always be obeyed – and 94% said that they would report it to the police if they knew someone in the local community was planning an act of violence. However, there was some sympathy for the use of violence in certain circumstances, and 7% of Muslims supported the objectives of the Islamic State compared to 2% of the national population. But more than half of Muslims believed that it is their responsibility to condemn Al-Qaida and ISIS inspired terrorism – although three-quarters of the public stated that Muslim communities needed to do more in response to the threat of Islamic extremism.⁹³⁰

In relation to equality, the polling data shows that many Muslims in Britain feel that there is prejudice and mistrust against them, and also that prejudice against Muslims is increasing – 40% thought that religious prejudice had increased over the past five years, whilst only 10% thought that it had decreased, compared to the 29% of Muslims that said that racial prejudice had increased over the same 5 years whilst 18% said that it had decreased. Three in five of the public also believed that there was more religious prejudice against Muslims than there was five years ago. One in four Muslims said that they had personally experienced discrimination and this is higher among Muslim graduates and younger Muslims. Three in five of the general public agree that religious discrimination is a serious problem for Muslims in Britain – and among 18-24 year olds this rises to three

⁹²⁹ Ipsos MORI, Citizenship Survey, *op. cit.*; A. Heath et al, *The Political Integration of Ethnic Minorities in Britain*, *op. cit.*; Institute for Social and Economic Research (ISER), *Understanding Society – UK Household Longitudinal Study 2014-16 (Wave 6)*, Colchester: University of Essex, 2016 – study included 1,963 adult Muslims; Department for Education (DfE), *Longitudinal Study of Young People in England – First Cohort (born in 1989-90), Wave 7 (interviews in May-October 2010)*, London: DfE, 2010 – 1,156 Muslim and 7,210 other subjects, interviews with young people and their parents; ICM, *Survey of Muslims*, *op. cit.*

⁹³⁰ ComRes, *Muslim Poll*, *op. cit.*; ICM, *Survey of Muslims*, *op. cit.* R. Ford and N. Lowles, *Fear and Hope 2016*, *op. cit.*; Survation, *Islamic Identity and Community Relations Survey – 18-20 November 2015*, London: The Sun, 20 November 2015 – interviews with 1,003 GB resident Muslims aged 18+, interviewed by telephone on 18-20 November 2015.

in four. Muslims are also much more worried about being a victim of crime than average. One in five Muslims said harassment is a very or fairly big problem, and one in four worried about being physically attacked.⁹³¹ However, the majority of the public believes that Muslims should not be viewed negatively because of the actions of a few – 78% believe that extremist views and actions conducted in the name of Islam by a minority of Muslims has an unfair impact on the perceptions of all Muslims, and the same percentile agree that it is wrong to blame an entire religion for the actions of a few extremists. Correspondingly, 63% of Muslims disagree that most British people don't trust Muslims, 51% disagree that prejudice against Islam makes it very difficult being a Muslim in this country and 49% disagree that Britain is becoming less tolerant of Muslims – and whilst one third of Muslims believe that the government is not doing enough to protect them, 60% think it is doing about the right amount, and seven or more in ten feel they are treated fairly by the government, the courts and the police.⁹³² However, there remains a significant minority of Muslims who believe that they do not get the same life opportunities as others.⁹³³

With regards to fraternity or solidarity there is some conflict of values – orthodox views in relation to gender roles and homosexuality are still strong, with 45% of Muslim men and 33% of Muslim women still agreeing that wives should always obey their husbands, and 52% of Muslims still disagreeing that homosexuality should be legal in Britain and only 18% agreeing that it should be legal.⁹³⁴ However, this aside, and despite 46% of British Muslims living in the most deprived areas in the UK, the vast majority of Muslims are satisfied with their local area as a place to live, and on balance are more positive than the public as a whole that their local area has improved over the past few years. There is a strong sense of attachment to the British identity among British Muslims – 90% of them

⁹³¹ Ipsos MORI, Citizenship Survey, op. cit.; ICM, Survey of Muslims, op. cit.; A. Heath et al, The Political Integration of Ethnic Minorities in Britain, op. cit.; R. Ford and N. Lowles, Fear and Hope 2016, op. cit.; J. Hargreaves, Half a Story? Missing Perspectives in the Criminological Accounts of British Muslim Communities, Crime and the Criminal Justice System, British Journal of Criminology, Vol.55(1), 2015, pp.19-38.

⁹³² ComRes, Islamic Caliphate Survey, op. cit.; R. Ford and N. Lowles, Fear and Hope 2016, op. cit.; ComRes, Muslim Poll, op. cit.; Ipsos MORI, Citizenship Survey, op. cit.; A. Heath et al, The Political Integration of Ethnic Minorities in Britain, op. cit.; DfE, Longitudinal Study of Young People in England – First Cohort, Wave 5, op. cit.; Ipsos MORI, Citizenship Survey, op. cit. See also: T. Modood, Multiculturalism, Cambridge: Polity Press, 2013, p.138.

⁹³³ A. Heath et al, The Political Integration of Ethnic Minorities in Britain, op. cit.; DfE, Longitudinal Study of Young People in England – First Cohort, Wave 5, op. cit.

⁹³⁴ ICM, Survey of Muslims, op. cit.

saying that they feel a part of British society and belonging to their local area. The vast majority of Muslims feel there is respect for different ethnic groups in their local area, and a majority of them feel positive about the community spirit in their area, as do the rest of the public. Thus, there is widespread support among Muslims to mix with people from different backgrounds, with 96% of Muslims saying that they socialised with individuals from different racial or religious backgrounds at least once in the past month compared to 77% of Christians and 78% of the overall population. Also, younger Muslims and graduates are more likely to volunteer than older groups or non-graduates, about the same as the wider population, and have more ethnically diverse friendship groups, and most Muslims participate in traditional British cultural practices, such as sending Christmas cards and presents, and wearing a poppy for Remembrance Day. This mixing, volunteering and sense of commonality with other Britons is strongest amongst young Muslims and graduates from the UK; and interestingly, the more British Muslims feel they have in common with other Muslims the more they also feel they have in common with other Britons, and with others of their ethnic group. The result is that 95% of Muslims said that they feel a loyalty to Britain.⁹³⁵

In light of this polling data over the last 15 years then, as discussed here, how might the dichotomy mentioned above be explained. Several explanations may be offered here. First, that the equality initiatives discussed in this study have actually had greater integration impact than the interviewees generally believed, and that this positive impact was not drowned out by the negative integration impact of the security initiatives to the extent that they perceived. Certainly, some of the polling data mentioned already reflects this position – for example, 60% of Muslims think that the government is doing enough to protect them and more than 70% feel they are treated fairly by the government, the courts and the police. Second, that whilst the campaign by the Muslim community leadership eventually focused on equality on grounds of religion, at the local, regional and even national level, Muslim individuals and groups continued to pursue their equality needs through other equality strands and provisions wherever that has been possible – for example, through race and gender provisions. Through this approach, whilst it may not

⁹³⁵ ONS, 2011 Census, op. cit.; A. Heath et al, *The Political Integration of Ethnic Minorities in Britain*, op. cit.; Ipsos MORI, *Citizenship Survey*, op. cit.; ICM, *Survey of Muslims*, op. cit.; ISER, *Understanding Society – UK Household Longitudinal Study 2014-16*, op. cit.; ComRes, *Muslim Poll*, op. cit. See also: T. Modood, *Multiculturalism*, op. cit., pp.184-85.

have been ideal and may have left many gaps, most Muslim equality needs were nevertheless sufficiently met to produce the general positive attitudes in Muslim communities as shown in the polling data. This position is supported by some of the interviewees observations in this regard, as well as some data that suggests that wherever possible Muslims preferred to pursue their equality needs through race rather than religious equality provisions.

Third, that the equality policy domain discussed in this study essentially covered only the structures and tools required for furthering substantive equality in other policy domains. However, work was already being undertaken in those policy domains that were having an enormous impact on the lives of Muslims. One such policy domain of particular importance in this respect was that of area regeneration. Under New Labour, 88 of the most deprived areas were identified in the UK and very large-scale regeneration was undertaken in these areas. As 46% of all UK Muslims at the time lived in these areas, they benefited immensely from this regeneration work – in terms of better housing, health, education, employment, engagement in public life and other key areas of their needs. This work was not undertaken on grounds of race or religious equality – but just in terms of general equality in society, but the tremendous benefit to Muslims from this work must have also had a significant positive impact on their integration into UK society. This again is reaffirmed in the polling data as already mentioned – for example, 90% of Muslims felt a sense of belonging to their local area and to British society. In other policy domains, equality provisions on grounds of religion were already being made even without the equality structures and tools. For example, in the education policy domain New Labour made a political decision to fund Muslim schools on par with Christian and Jewish schools long before any equality provisions on grounds of religion or belief. Similarly, chaplaincy provisions were extended to Muslims in several policy domains, including criminal justice, health, education and defence without significant reference to formal equality provisions on grounds of religion or belief. Other equality and diversity provisions were also being made organically in other policy domains, usually because of user needs rather than any equality demands – for example, in the health policy domain.

These substantive provisions, directly benefiting Muslim individuals and communities would have had significant positive integration impact not accounted for in this study or

by the interviewees, which explains the positive data on Muslim integration above, and thus, the dichotomy raised by this study. Perhaps the best explanation for the dichotomy, however, is that it is a result of a combination of these explanations – that whilst the positive integration impact of the equality initiatives discussed in this study was somewhat overshadowed by the negative integration impact of the security initiatives discussed here, this was not to the degree generally perceived by the interviewees in this research – and even if it was, this was significantly reversed by the integration impact of other equality developments during the New Labour years, not least race equality developments and substantive equality developments in other policy domains even without the formal equality provisions and measures on grounds of religion and belief.⁹³⁶

Further work and new lines of inquiry

The above reflections and conclusions suggest four areas for further work and new lines of inquiry. Firstly, more work on how British Muslims engaged, and could engage further, with the provisions and measures in the other equality strands – particularly race and gender; what benefits this brought and could bring to Muslims; and how these impacted and could further impact their integration in terms of liberty, equality and fraternity.⁹³⁷ Race and religious equalities for British Muslims are in many ways inseparable, it is unfortunate that the British Muslim leadership at some point during the New Labour era swayed so much away from the race agenda to a new religion agenda – and, indeed, British Muslims have much to gain from restoring an equilibrium of working in tandem in these to equality strands. Also, as women make up approximately half of the Muslim

⁹³⁶ Perhaps one other point could be made here: that the empirical data presented in this chapter appears also to be at a slight variance with other specific literature on British Muslim integration – in that the latter, covering different dimensions of integration (eg, social, cultural, political, economic, geographical, etc.), provides a very mixed picture of British Muslim integration. Thus, for example, Bisin et al, mention how research suggests that Muslims are integrating politically but not culturally – see: A. Bisin et al, Are Muslim Immigrants Different in Terms of Cultural Integration? *Journal of the European Economic Association*, Vol.6(2/3), Apr-May 2008, pp.445-56 (Proceedings of the Twenty-Second Annual Congress of the European Economic Association). This echoes research on other faith communities – eg, research on Jewish communities, which suggests that they are more politically, professionally and economically integrated than residentially, socially and culturally. This difference in the different dimensions of British Muslim integration, not within the scope of this study – which is focused on political integration, may also partially explain the dichotomy between the perceptions of Muslim leaders and actual quantitative data as presented here.

⁹³⁷ Note, in this respect, Runnymede Trust's most recent report on Islamophobia, on the 20th anniversary of its first report on Islamophobia: F. Elahi and O. Khan, *Islamophobia – Still a challenge for us all*, London: Runnymede, 2017, which tries to realign Islamophobia with racism and racial discrimination.

population, Muslims also have much to gain from understanding and working through the gender equality agenda alongside race and religion.

Secondly, more detailed work in each of the three streams towards integration – liberty, equality and fraternity. In terms of liberty – more detailed work on the right to religious belief and practice, the right to free speech, and the impact of counter-terrorism discourses and measures. With regards to equality, more detailed work on substantive equality provisions in specific policy domains – housing, health, education, employment, engagement in public life, and criminal justice – whether or not prompted by religious equality provisions and measures. In relation to fraternity or solidarity, more detailed work on Muslim social attitudes and public attitudes towards Islam and Muslims – and how these attitudes may be improved. Additionally, more detailed work on how deterioration or improvements in the individual aspects of each of these limbs affects the other aspects across the limbs and the overall integration of British Muslim – particularly in domains where such work is currently very thin. Such further work and understanding of what works in terms of British Muslim integration could also assist in the third area for further work.

The third suggested area for further work, and perhaps the most important for the funders of this PhD study, is in mainstreaming and embedding the equality provisions and measures on grounds of religion and belief – particularly in the public sector, but wherever possible, also extending this to the private and voluntary sectors. As one interviewee in the research for this study pointed out, this took approximately 20-30 years to achieve with race, gender and disability with the help of dedicated commissions. Whilst New Labour mirrored the race, gender and disability legal provisions in the religion and belief strand, it barely started the work in terms of mainstreaming and embedding religion and belief equality through, for example, inspectorate regimes or procurement work, and very little progress has been made in this regard since its departure from government. One way of speeding up the mainstreaming and embedding of religion and belief equality would be to focus on implementing the public sector equality duty for religion and belief to the same level as race and gender. This would require a significant amount of further work in this area on top of the first two areas of further work. It would require leadership on this in government and commitment in Whitehall for its effective implementation.

The final suggested area for further work is monitoring, measuring and enforcing – that is, the EHRC playing a more effective role with regards to the needs of Muslim communities. If these four areas of work could be undertaken, and in particular, they could result in the public sector equality duty being robustly applied to all areas of security and counter-terrorism work, this could greatly inform the integration work with regards to British Muslims and enhance their integration into British society.

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Appendix 1 – Muslim Groups and Sub-Groups

Group		Sub-Group
Key Personalities and Influences	Key attributes/ideas of Group/Movement	
1. Shi'ism		
<ul style="list-style-type: none"> - Centred on the veneration of the Prophets household (Ahlul Bayt), particularly Ali ibn Talib, the Prophets cousin and son-in-law - Initially, the split with Sunnis is over leadership. Ali was the 4th Caliph, but Shias believe he should have been 1st – split entrenched with the murder of Hussein, son of Ali, at Karbala - Shia theology consolidated by Imam Jafar al-Sadiq, great grandson of Hussein and the 6th Shia Imam - Currently 3 main branches based on differences in the succession of the Imams – the Zaidis (split after 4th Imam, Zainul Abedin), Twelvers (split after 6th Imam, Jafar Sadiq) and Ismailis (split into Bohras and Nizaris/Agha Khanis after 17th Imam, Mustali) – thus, slightly different theologies as well - Most well-known personality today is the late Ayatollah Khomeini - Form the majority population in Iran, Iraq, Yemen, Azerbaijan and Bahrain, and a significant presence in Lebanon and Pakistan 	<ul style="list-style-type: none"> - Give Imamate (Ali and some of his descendents in succession) precedence over Caliphate - All believe that the Imams were divinely appointed (nass/wali) and had special spiritual and political authority over the community (imamah) - The Twelvers and Ismailis believe that the imams were omniscient (<i>ilm-e-ghaib</i>) and infallible (ismah) – hence approach to Hadith, 2nd source of Shariah, is different - The Twelvers also believe in the occultation of the last imam/Mahdi and intercession (tawassul) 	<p>Esoteric Shiism: focus is on the spiritual legacy of the Imams and Islam, the salvation of the individual – eg, Seyyed Hossein Nasr</p> <p>Modernist Shiism: focus is on subjecting Islamic standards of reasoning to modern standards so as to contextualise Islam in the modern world as a contributory force – eg, as in the work of Abdolkarim Soroush</p> <p>Communitarian Shiism: legacy of past persecutions, focus is on the protection and welfare of defined and tightly-knit communities – eg, the Khojas and Ismailis</p> <p>Revivalist Shiism: different levels of preoccupations with the Shariah state with differences regarding the role of the clergy – note for example the Khoei/Sistani v Khomeini debates</p> <p>Purist Shiism: the literalist trend in Shiism – note for example the Akhbaris v Usulis debate</p> <p>Jihadi Shiism: Hold firm to the Shia belief that jihad is an essential pillar of Islam – eg, various factions in Iraq, and also the Hisbollah</p>
2. Sufism		
<ul style="list-style-type: none"> - Hasan al-Basri, (d. 110AH/ 728CE) – key link between Ali and most Sufi lineages – except the Naqshbandi order which goes back to Abu Bakr - Bayazid Bistami (d. 874CE) and Mansur al-Hallaj (d. 922) – early exponents of the ‘intoxicated’/ ‘ecstatic’ forms of Sufism 	<ul style="list-style-type: none"> - Not so much a separate denomination as an aspect of Islam - Emphasis is on giving up the desire for worldly goods and wealth, controlling the ego towards selflessness and purity of the heart, and seeking 	<p>Perennialist Sufism: promote the essential unity of faiths and see different religions as different routes to salvation and ultimately to the same Being – eg, Schuon, Nasr, Lings and Eaton</p> <p>Ascetic/Ecstatic Sufism: legacy of Hallaj/Arabi, focus is on personal unity with God through the heart – leading to a life of seclusions, devotions and mystical experiences</p>

<ul style="list-style-type: none"> - Abu Hamid al-Ghazali (d. 1111CE) - most significant Sufi of the consolidation period – elevated Sufism in mainstream Islam - Abu Madyan Shu'ayb (d.1198 CE) – critical link to prominent Western orders – including the Shadhili, Murabitun, 'Alawi and Burhani orders - Ibn Arabi (d.1240) – controversial but dominant influence after the C13thCE - Jalaluddin Rumi (d. 1273) – founder of the Mevlevi order and the most well read today - The founders of other orders prominent today – the Chisti, Qadiri, Suhrawardi, Bektashi, Naqshbandi, Nimatullahi and Tijani orders 	<p>closeness with God through an inner spiritual life</p> <ul style="list-style-type: none"> - Allegiance to a Shaykh and Order is a vital part of Sufism 	<p>Khidma Sufism: belief that Godliness is to be found in excellence (ihsan) of services to others – a key proponent of this is the Gulen Movement, represented in the UK by the Dialogue Society</p> <p>Populist Sufism: the focus is on communal rites and rituals, annual events like the mawlid and the gaining of intercession by the more saintly – eg, the Barelvis</p> <p>Shariah Sufism: focus is on personal spirituality and piety often strictly following a school of thought/law – eg, followers of Keller, Hanson and Winters</p> <p>Jihadi Sufism: the doctrine on jihad is strong – thus, most anti-colonial struggles were led by Sufis, as is the current war in Chechnya</p>
3. Barelvism		
<ul style="list-style-type: none"> - Shaykh Ahmed Riza Khan of Bareilly (d.1921) - founded the Barelvi movement in 1880 to defend contemporary traditionalist Islamic/Sufi beliefs and practices from the criticisms of reformist movements - Barelvis make up about a third of the Muslim population in the Indian subcontinent and the UK - In Britain they are represented by the British Muslim Forum 	<ul style="list-style-type: none"> - Belief that the Prophet Muhammad was created from light (nur) and is omniscient (<i>ilm-e-ghaib</i>), omnipresent (hazir/nazir) and omnipotent (<i>mukhtaar kul</i>) - Practice of the faith is characterised by salutations to the Prophet, public celebration of the Mawlid (birthday of the Prophet), visitations to the tombs/shrines of saints and seeking their intercession - Followers tend to give allegiance to Shaykhs known as 'Pirs' 	<p>Traditional Barelvism: focus on communal rites and rituals, annual events like the mawlid and the gaining of intercession by the more saintly – with very heavy emphasis on allegiance to a Pir – eg, most PakBang&India Barelvism, incl. BMF</p> <p>Political Barelvism: focus is on mobilising a following towards a party political purpose, usually towards the Islamisation of the state – eg, the interplay between Sheikh Tahirul Qadri, Minhajul Quran and the Pakistan Awami Tehreek</p> <p>Sectarian Barelvism: where the self-definition is with regards to an opposition to others – can lead to thakfir (proclamation of apostasy) and violence, as in Pakistan</p> <p>Jihadi Barelvism: political and sectarian Barelvism infused with a strong doctrine of jihad and martyrdom</p>
4. Salafism		
<ul style="list-style-type: none"> - Imam Ahmed bin Hanbal (d.855), founder of 1 of 4 prominent Sunni schools of thought – the most literalist. Pushed back against the influence of the Rationalists/Greek philosophy in Islam – 	<ul style="list-style-type: none"> - Takes a literalist approach to both Islamic theology and law – sharply differing with larger schools of thought, eg, Hanafis, who 	<p>Modernist Salafism: a tendency to critique Salafi beliefs and practices by the modern standards of a secular liberal democracy – eg, JIMAS. Also, a tendency towards Sufism within a more literalist approach</p>

<p>results in consolidation of Hanbali Theology across the Sunni schools but imbeds Literalist v Rationalist tensions in Sunni Law,</p> <ul style="list-style-type: none"> - Imam Ibn Taimiyyah (d.1328) – troubled by the Mongol invasions and Muslim weakness, seeks a purification of the faith by a return to 1st 3 generations and expounds on their key beliefs/ practices - Imam Ibn Abdulwahhab (d.1792), rejected taqlid (blind following), and concerned by Muslims’ weakness in their faith, campaigns against certain Sufi/traditional practices and for the re-enactment of the hudood law (penal code) and an ‘Islamic state’ – Saudi Arabia - Petro-Dollar Salafism – initially state friendly, but anti-state streaks post 1st Gulf War, with moderate push-back since Riyadh bombings. Helps spread Salafism internationally 	<p>draw a distinction between theology/ rituals and social transactions, allowing reasoning in the latter if not the former</p> <ul style="list-style-type: none"> - Dogmatic doctrinal positions on certain beliefs and practices of the 1st 3 generations - Tawhid (anti Ashari), Shirk and Bidah (anti-Sufi), Risalah and Khilafah (anti Shia), Jihad and Al-Wala wal-Bara (anti hostile non-Muslims) and Taqlid (anti madhabi) - Aspire for an Islamic state that implements the Shariah literally and propagates the faith (dawah) 	<p>Ahle-Hadith (Indian) Salafism: generally socially conservative in outlook, but mostly apolitical and community welfare orientated – eg, Green Lane Mosque and its 50 affiliated mosques</p> <p>Urban Salafism: characterized by its high ratio of converts, esp. from inner-city African-Caribbean background. Whilst more literal/conservative than the above 2 groups, the strand still retains interest in the common good – eg, Brixton Mosque’s work on de-radicalisation</p> <p>Sururi Salafism: a more politicized and perhaps also more inward looking strand, but still non-violent – eg, Al Muntada in Parsons Green</p> <p>Jami Salafism: perhaps the most conservative/isolationist in the UK, hot on excommunication – eg, Salafi Publications</p> <p>Jihadi Salafism: strong doctrine on both defensive and offensive jihad – eg, Al-Qaeda</p>
5. Deobandism		
<ul style="list-style-type: none"> - Shah Waliullah Al-Dehlevi (d.1762CE) - contemporary of Ibn Abdulwahhab and studied in Makkah/Madinah in the same decade (1730s) if not at same time. Specialised in Hadith and brought the textual approach to India – but his contributions to Islamic economics/ welfare state suggests that he could not be defined by that approach alone. He is considered to have given inspiration to 4 separate movements in India – the Ahle Hadith (Indian Salafism), the Deobandi, the Modernist and the Revivalist movements - Maulanas Muhammad Qasim Nanautvi (d.1880) and Rashid Ahmad Gangoli (d.1905) – sought to reconcile the Waliullah tradition with the situation of Indian Muslims after the 1857 Mutiny. In particular, sought an alternative approach to dealing with colonialism than direct 	<ul style="list-style-type: none"> - Emphasis on preserving/‘cleaning up’ faith from ‘deviant practices’ and bringing Sufism back within Shariah - Mission to protect ordinary Muslims from falling back into Hinduism and the onslaught of European modernism by strengthening their Islamic identity through educating them in their faith and culture - Aspiration to provide a generation of Muslim scholars/leaders able to cope with current challenges, including colonialism - To foster nationalism and national unity by 	<p>Nadwa Deobandism: Sufi/ textual orientation but with modernist leanings – as illustrated by Nadwas ties with Oxford Centre for Islamic Studies</p> <p>Madani Deobandism: accepts, operates in and seeks to assist the secular state to succeed – so long as there is freedom of religion and Muslims have access to equality and justice – eg, Mahmood Madani’s work</p> <p>Sahranpuri Deobandism: more inward looking and conservative than above, but still a ‘live and let live’ approach and some streaks widening to the common approach. Led by Sheikh Motala, it controls about 80% of Deobandi infrastructure in the UK, incl. approx 20 seminaries</p> <p>Tablighi Jamaat: probably the largest Islamic movement, it targets Muslims to better their rituals and spirituality, but is socially conservative/isolationist</p> <p>Revivalist Deobandism: supported the creation of Pakistan as an Islamic state –</p>

confrontation – set up a network of darul uulooms, starting with Deoband in 1867, for the religious, educational and socio-cultural revival of Indian Muslims	promoting Hindu-Muslim unity and a united India	represented in the UK by the Jamiatul Ulama Britania Jihadi Deobandism: most removed from origin – espouses the Islamic state and defensive jihad, eg, Taliban
6. Modernism		
<ul style="list-style-type: none"> - Sayyid Jamal al-Din al-Afghani (d.1897) – a founder of Islamic Modernism – another response to the 1857 Mutiny. Believed that a British India threatened the Muslim world per se; Muslims could prevent European onslaught and regain former glory, but only by adopting modern thinking, institutions, sciences and technology; and this could be achieved through practical theology and pan-Islamic unity. Afghani’s work continued through Abduh (d.1905) and Rida (d.1935) – who aligned the thoughts with more traditional Islam, but by giving the sources a rationalist reading to respond to changing times/contexts - Sir Sayyid Ahmed Khan (d. 1898) – founder of the Aligarh movement, culminating in the Aligarh Muslim University, though critical of the British for the 1857 Mutiny, nonetheless, saw the future of Indian Muslims within and as a loyal part of the British Empire and sought a synthesis between Islam and modernity - Recent revival of Islamic modernism by Muslims educated/living in the West – but move away from domination/hegemony theology to liberation/pluralism theology – eg, Fatema Mernissi and Tariq Ramadan 	<ul style="list-style-type: none"> - Seeks Muslim revival through modernising Islam, particularly Islamic reasoning, so as to respond to developments in modern sciences – natural/technological /human/social - Claims a more progressive/reformist version of Islam through ijthad (independent legal reasoning using the primary sources) - Contextualises faith to be more applicable to modern pluralist societies by promoting the spirit of the message rather than literal textual readings of the Quran - Promotes democratic governance, human rights, women's rights, rights for minorities and other freedom and justice causes 	<p>Liberal Modernism: seeks to replace traditional Islamic reasoning with modern reasoning either by imposition or reading in, eg, gay rights groups</p> <p>Pluralist Modernism: a more recent development arising out of Muslims living/educated in the West, that emphasises liberation/pluralism theology over domination/hegemony theology – eg, City Circle and CIB</p> <p>Traditional Modernism: the earlier tendency to only borrow as much modernism from the West as is necessary to revive Islam/Muslims to challenge the West’s domination of the Muslim world and its hegemony more generally.</p> <p>Radical Modernism: belief in direct action to secure rights and fight injustices – as in the lyrics of the pop group, Fun-Da-Mental</p>
7. Revivalism (Islamism)		
- Imam Hasan Al-Bana (d.1949CE) - Brought up a Sufi but politicised after the 1919 Revolution against British rule. Set up the Muslim Brotherhood in 1928 to address the issues of the day and bring change	- Strong emphasis on God as Sovereign and the establishment of an Islamic state – achieved through the	<p>Post Revivalism: No longer supports a power-based approach to Islamic state, only values-based, pursued through procedural secularism – eg, ISB/AKP</p> <p>Pluralist Revivalism: usually in organisations/arrangements not solely</p>

<p>(ultimately an Islamic state). Great ideologue and organiser – in just over 10 yrs attracts 1/2m active members to MB in Egypt alone and organisation goes on to become one of the largest Islamic revivalist movements ever. MB initially allows violence and then rejects it – leading to radical splinter groups</p> <ul style="list-style-type: none"> - Sayyid Qutb (d.1966) – initially a moderate Revivalist but becomes more radical in prison. Some of his later ideas are rejected by the MB - Maulana Abul Ala Mawdudi (d.1979) - troubled by the fall of the Caliphate in 1924, the British presence in India and the ascendancy of Hindus at Muslim expense. Founded the Jamaat-e-Islami in British India in 1941 as a religious political movement to promote Islamic values/practices. Post partition, JI splits along national boundaries – Mawdudi led JI Pakistan into the 70s and worked to turn it into an Islamic state 	<p>implementation of the Shariah</p> <ul style="list-style-type: none"> - Belief that the Islamic state is underpinned by 3 principles: tawhid (oneness of God), risala (prophethood) and khilafa (caliphate) - Belief that the Islamic state should be achieved through a gradual social and cultural revolution within the law – not through force - Tendency to seek the above through ‘Islamising modernity rather than modernising Islam’ (V Nasr) - Belief that Muslim rights/interests are best protected by Islamic state 	<p>controlled by revivalist groups, where there is a mosaic of views – where revivalists influence but are also influenced and change, eg, MCB</p> <hr/> <p>Traditional Revivalism: includes the parent organisations of the Revivalist movement, MB and JI, and also some of the legacy organizations in the UK, UKIM, IFE and MAB. They still espouse the Islamic state in theory, but have mostly given up the idea in practice – as unachievable and unworkable</p> <hr/> <p>Radical Revivalism: still believes in ‘Muslim’ as political identity and establishment of Islamic state, and continues to work towards this, eg, HT</p> <hr/> <p>Jihadi Revivalism: allows jihad/force to defend Muslims or establish the Islamic state – eg, HAMAS and radical MB breakaways</p>
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Appendix 2 – Table of Interviewees

Available on request