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Forum

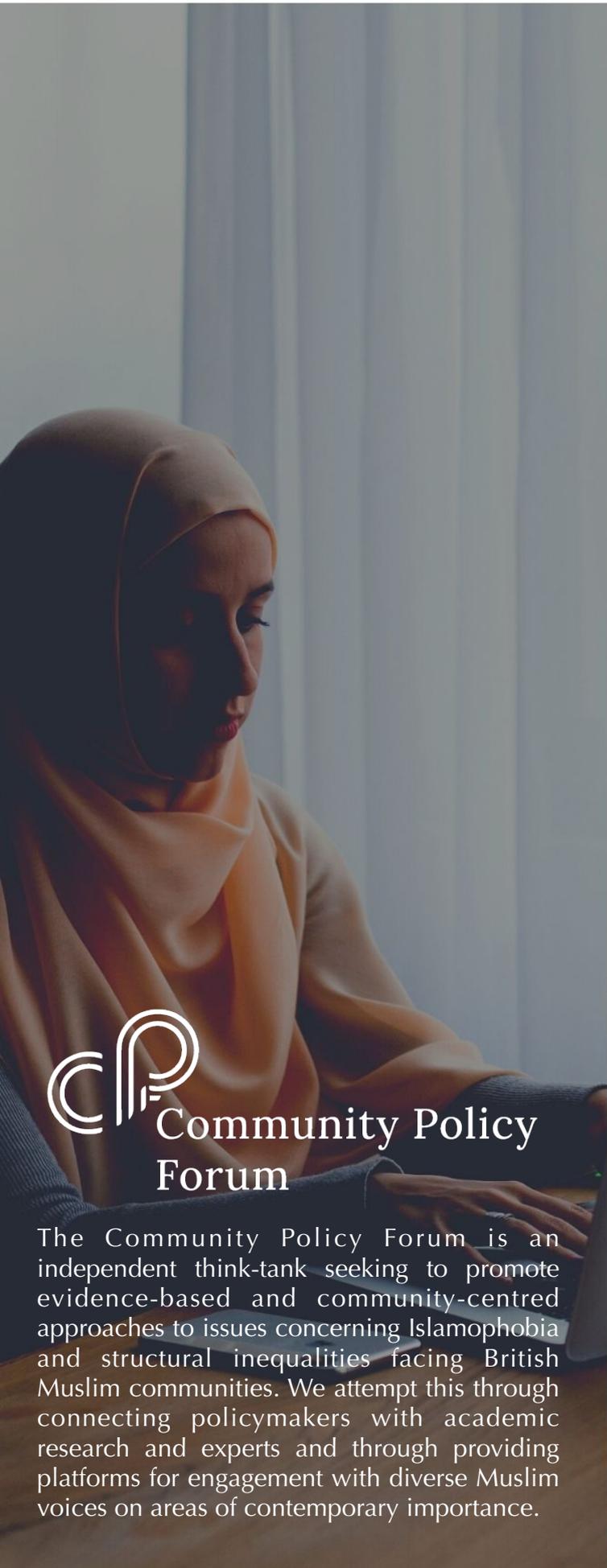


A REPORT FROM THE COMMUNITY POLICY FORUM

# **THE ONLINE SAFETY BILL:** WILL IT MAKE ONLINE SPACES SAFER FOR MUSLIM COMMUNITIES?

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MAY 2022



## Community Policy Forum

The Community Policy Forum is an independent think-tank seeking to promote evidence-based and community-centred approaches to issues concerning Islamophobia and structural inequalities facing British Muslim communities. We attempt this through connecting policymakers with academic research and experts and through providing platforms for engagement with diverse Muslim voices on areas of contemporary importance.

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## Executive SUMMARY

The Online Safety Bill represents the Government's pledge to make the UK "the safest place in the world to go online". To achieve this aim, the final bill must be fit for purpose in addressing the harms that currently impact all communities.

To that end, this report seeks to examine whether the bill in its current form will make online spaces safer for Muslim communities. **From analysis undertaken by the Community Policy Forum and by the academics and policy practitioners contributing to this report, the consensus is that the bill will have little to no tangible protective benefits for Muslim communities in the UK.**

This failure is largely due to:

1. The broad press exemption and Section 50's definition of a news publisher that will allow nefarious entities to establish themselves under this definition and circumvent regulation despite representing patterns of significant abuse and harassment against Muslim and other minority communities.
2. An exemption established in Section 49 for comments and reviews sections that appears illogical in light of the vast swathes of Islamophobic, anti-Semitic, homophobic, anti-trans, racist, and sexist content that can be found within newspaper and other comment sections.
3. The departure from the framework laid out by the Human Rights Act regarding how to balance the need to protect the freedom of expression when it comes into conflict with other rights.
4. The powers granted to the Secretary of State that risk politicising harms and raise questions as to the extent of Ofcom's ability to remain independent.

In highlighting these failures, contributors throughout this report note with concern that:

- Islamophobia is a rising phenomenon found in both online and offline spaces.
- Online content can contribute towards the process of rationalising and justifying the perpetration of hate crimes, the manifestation and expression of hostility and bigotry, and the increase of suspicion against Muslim communities, thereby impacting social cohesion and society as a whole.
- Instances of Islamophobia and inaccurate reporting in the press are frequently amplified in online spaces, have been capitalised upon

by far-right entities, and have also led to spikes in Islamophobic hate crime.

- The bill could see entities previously banned from social media platforms become re-established under the guise of the broad definition of a “news publisher” found in Section 50 and the requirements of the bill to protect content of journalistic and democratic importance.
- Comments sections that have traditionally been a “hotbed of harmful content” are not addressed in the legislation.
- Social media platforms have struggled to identify and tackle Islamophobic abuse in the past. In light of the vague definition of harms, it is unclear how the current bill will improve this situation.
- There are concerns that the bill’s focus on individual harms rather than categories of people may obscure the broad cumulative impact and manifestations of Islamophobia that often impact Muslim communities as a whole.
- Considering the powers granted to the Secretary of State and the Government’s history of failing to recognise Islamophobia, there is little confidence that their role would result in the introduction of genuine measures aimed at limiting its spread.

Ultimately, variables including the press exemption; the exclusion of comments sections; the failure of the bill to negotiate an effective balance between the freedom of expression and other rights; the lack of clarity surrounding the definition of harms; and the potential for politicisation of harms through the role of the Secretary of State all culminate in a piece of legislation that, far from offering to make the UK “the safest place in the world to go online” for Muslims, it will in fact maintain an uncomfortable status quo.

It is a status quo wherein there is little protection for Muslim communities from Islamophobic abuse online - risks that are exacerbated by a dysfunctional press regulation system and risks which have inevitable physical, emotional, and social consequences in the offline world.

**Unless otherwise stated, the recommendations in this report are those of the Community Policy Forum and may not necessarily reflect the views of every contributor. Likewise, the views of contributors are their own and may not be endorsed by every other contributor.**

## The Community Policy Forum's Recommendations

SECTION 50(2) OF THE BILL SHOULD BE AMENDED TO STIPULATE THAT RECOGNISED PUBLISHERS ARE DEFINED ONLY AS THOSE REGULATED BY AN APPROVED REGULATOR UNDER THE ROYAL CHARTER SYSTEM.

SECTION 49(2)E OF THE BILL SHOULD BE AMENDED TO OMIT THE EXEMPTION FOR COMMENTS AND REVIEWS ON PROVIDER CONTENT.

THE PROTECTION FOR CONTENT OF DEMOCRATIC IMPORTANCE FOUND IN SECTION 15 OF THE BILL SHOULD BE REMOVED.

THE ONLINE SAFETY OBJECTIVES SHOULD BE UPDATED TO INCLUDE EXPLICIT PROTECTION FOR HUMAN RIGHTS, IN LINE WITH THE HUMAN RIGHTS ACT AND THE EUROPEAN CONVENTION ON HUMAN RIGHTS.

PLANS TO DISMANTLE THE HUMAN RIGHTS ACT ARE SCRAPPED.

THE POWERS GRANTED TO THE SECRETARY OF STATE TO DIRECT OFCOM BE REMOVED, WITH THE SINGULAR EXCEPTION OF MATTERS RELATING TO NATIONAL SECURITY.

Almost three years ago, in 2019, the UK Government committed to making the UK “the safest place in the world to go online”; a pledge that has culminated in the Online Safety Bill.

The regulatory framework laid out by the Online Safety Bill charges Ofcom with holding online service providers to account in acting to reduce harm against their users. According to the House of Commons’ analysis of the bill, the key policy objectives include:

- Increasing user safety.
- Protecting freedom of speech.
- Enhancing the ability of law enforcement to tackle illegal content online.
- And improving society’s understanding of online harms.

The bill establishes harms duties upon user-to-user service providers (such as Twitter and Facebook), providers platforming search engines (e.g. Google), and providers publishing certain types of pornographic content. These duties include responsibilities to address illegal content, content that is harmful to children, and content that is legal but harmful to adults.

While the impetus of the bill to increase protection for online users is a welcome development, it contains problematic elements that will likely lead to confusion, inconsistencies, and gaps in protection, especially when it comes to Muslim and other minority communities.

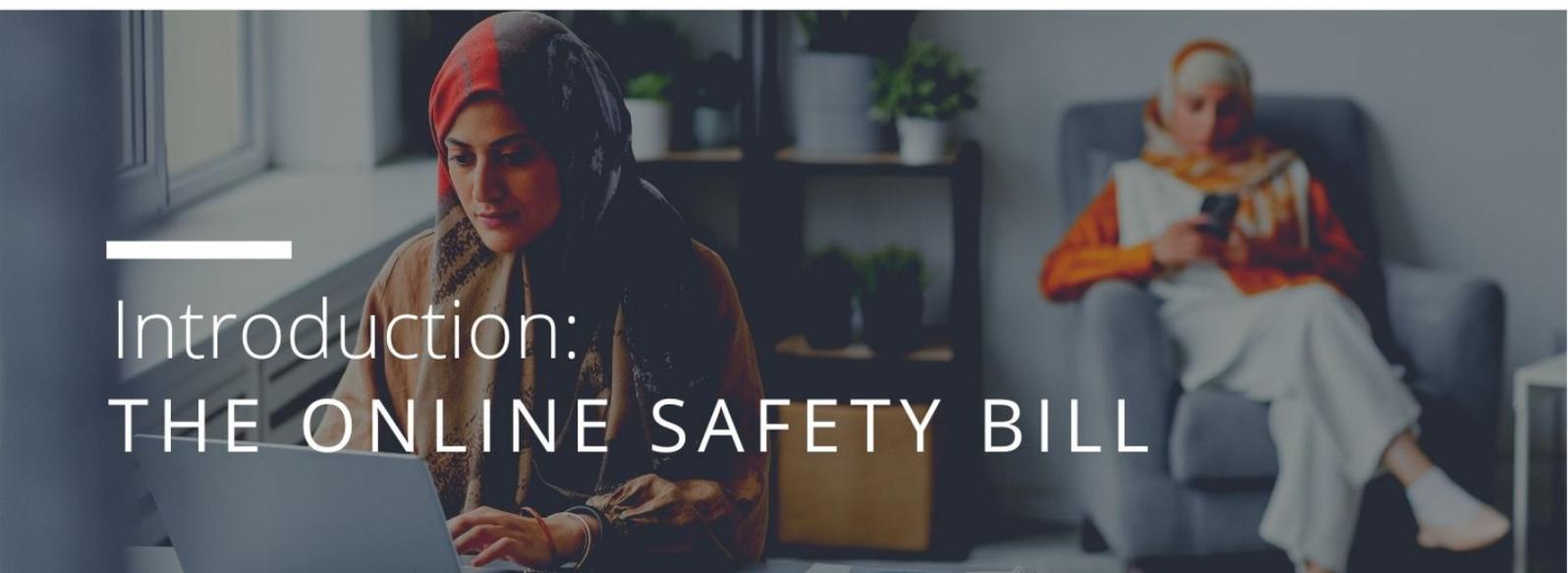
This report explores some of the key concerns of academics and policy practitioners working in the field of online spaces, the press, and inequalities facing Muslim communities.

Specifically, there are several key themes that emerge from this analysis:

1. The exemption provided by the bill for ‘news publishers’ risks exacerbating the harms already facing Muslim communities due to existing failures to properly support the regulatory framework established by the Royal Charter.
2. The position of the bill in excluding comments and reviews sections from regulation is inconsistent and does not address the immense harms to minority communities that are currently found therein.
3. The bill represents a notable departure from the framework established by the Human Rights Act when approaching issues of competing rights.
4. The powers granted to the Secretary of State risks politicising the regulatory framework embodied by the bill.

Ultimately, in initiating this report, the Community Policy Forum sought to answer the question, “will the Online Safety Bill make online spaces safer for British Muslim communities?” Unfortunately, the answer to this question is resoundingly in the negative. While the bill does possess the potential for positive change, in its current form it will do little to address abuses currently facing Muslims online.

This leads us to propose the key recommendations laid out on the previous page and in the conclusion of this report. However, **unless otherwise stated, the recommendations in this report are those of the Community Policy Forum and may not necessarily reflect the views of every contributor. Likewise, the views of contributors are their own and may not be endorsed by every other contributor.**



## Introduction: THE ONLINE SAFETY BILL



## Exemptions: THE PRESS AND COMMENTS SECTIONS

The Online Safety Bill carries explicit exemptions for news publishers and for comments sections on online platforms. It is important to understand how these mechanisms function within the bill.

### News Publisher Exemption

Section 49(2) excludes news publisher content originating from a “recognised news publisher” from regulation. A recognised news publisher is defined within Section 50(2) as a publisher which:

- Publishes news-related material - defined in Section 50(5) as news, information, or opinion about current affairs as well as gossip about public figures.
- Publishes material that is subject to editorial control and under a code of standards (the entity has an editor and that editor is subject to a code of practice - which can be written by the entity itself).
- Has an established complaints process.
- Has a registered office or business address in the UK.
- Publishes the name and address of the person or entity that controls the publisher.

Section 16 further enhances this exemption by establishing duties for service providers to actively protect content that is “generated for the purposes of journalism”. This includes specifying what procedures are in place to take into account the importance of the freedom of expression of journalistic content when handling complaints and applying sanctions against materials.

### Comments and Review Section Exemption

The bill concerns itself with user-to-user services on platforms such as Twitter or Facebook, where users can post content to be seen, engaged with, and responded to by other users. However, Section 49 of the bill notes that comments sections on websites, including comments in response to the comments of other users, will remain outside the scope of regulation. Consequently, this excludes newspaper comments sections from any form of regulation.

### Reasoning

The exemption of news publisher content and newspaper comments sections is a reasonable model if it rests upon the assumption that there are already robust and functioning mechanisms in place independent of the Online Safety Bill holding such content and publishers to account, thereby ensuring that journalistic standards are upheld. However, as the 2022 [report](#) from the Press Recognition Panel concludes, the UK is far from realising this standard. Consequently, without a functioning framework in place, Muslim and other minority communities will remain exposed to widespread press abuses and harms without recourse. While the Online Safety Bill has the potential to rectify this situation, it fails to do so in its current form.

# One Rule for Journalists

## NATHAN SPARKES

**HACKED**  
**OFF** *Campaign for a free + accountable press*

In July of last year both pride and disappointment swept over the country, as the England men's football team narrowly missed out on winning the Euros after an

impressive run which had defied expectations. Over the whole tournament, only in the final's penalty shootout had the team been bettered.

One website (which I shan't name, in case doing so inadvertently publicises it) offered its own analysis of why England lost the shootout:

*Of the five English penalty takers, two White players scored while three black players failed... Africans and Afro-Caribbeans might have many merits, performing well under pressure is not (on average) among them.*

This naked racism is exactly the sort of content you might imagine would be addressed under the Government's Online Safety Bill - legislation designed, according to the Government, to make the UK the "safest place in the world to be online".

But instead, the publisher of this comment is likely to become exempt from the provisions contained in the bill altogether.

Why?

Because of an irrational and dangerously broad exemption for all "recognised news providers" embedded into the bill.

### How to Become a Recognised News Provider

Any organisation which wishes to be exempt from regulation on social media need only meet a vague set of criteria to qualify for this exemption, under the terms of the bill as drafted.

Publishers must have a UK address, and the company and individuals responsible for it must be named. They must publish news (which can be "gossip"), which is put together by a team overseen by an editor.

The only other two criteria are that publishers must abide by are that they have a standards code and a complaints process, but there is no clarity on what either of these must entail.

The standards code might say that content must always be inaccurate, abusive, and harmful.

The complaints process could require complainants to set out their concerns on the back of a soggy napkin, and then to screw it up and throw it into the bin.

Any number of extremist, hateful, and damaging publishers could instantly become recognised news providers, and thus able to spread hatred with impunity on social media.

This is bad policy – but there is an easy fix.

There is a system of regulation which is recognised in law for print and online news publishers. If this exemption required publishers to be members of such a regulator, the most dangerous and harmful outlets would be shut out of it.

That's what the bill says for broadcast media; to benefit from the exemption you have to be regulated.

National newspapers might criticise this approach, because although most newspapers are now

subject to an independent regulator, none of the national press submits to such oversight.

But national newspapers' refusal to be regulated should not be a Government concern when approaching this bill. The primacy concern should be to see that the public are protected from Islamophobes, antisemites, misogynists, and others who would commit harm on social media.

Narrowing the exemption to regulated entities achieves this and would bring the provisions on print and online media into line with the terms of the exemption already in place for broadcast media. The Government should do that, regardless of how the national press feel about it.

The Government should not promote the interests and wishes of the largest newspapers at the expense of protecting the public from abuse.

Parliament must stand up for the interests of the public and fix this flawed and dangerous exemption by limiting it to regulated titles.

### **Comment is Free**

Another area of concern in the bill is newspaper comment sections. These benefit from a total exemption, despite the fact they are a hotbed of harmful content.

From conspiracy theories to personal abuse, these parts of newspaper websites are packed with online harms – and are accessed by millions of readers every day.

The Sun newspaper website, for example, reaches around 7 million people per day. After the rapper Wiley posted antisemitic tweets in the summer of 2020, the newspaper was quick to criticise Twitter's slow response. They were right to do so. Twitter failed to fully remove the racist tweets for 48 hours – an appallingly slow response time to such damaging and harmful content.

Meanwhile, antisemites were commenting on the Sun's website under its coverage of the tweets with holocaust-denial and well-known antisemitic conspiracy theories of world domination.

It took the Sun a full five days to remove them.

In other cases of hatred posted on comment sections, the time taken to address such posts has been even longer. Xenophobic and racist slurs against Chinese people remained live under articles about Coronavirus for months in some cases.

There is another easy fix to this flaw in the bill. The exemption for content posted in response to

provider content – which takes comment sections out of the scope of the bill – should not apply where the platform is a news provider with a high turnover.

An amendment to this effect would ensure that large newspapers, with their extraordinary reach, are required to manage and address hateful content on their comment sections.

### **One Rule for Journalists...**

Finally, the duty to protect “journalistic content” is ambiguous and open to exploitation. Platforms themselves must determine who is able to qualify as a “journalist”, and whomever is fortunate enough to qualify will benefit from special treatment. This includes additional protections for what they post, and an expedited appeals process.

Dozens of far-right characters, with records of Islamophobia, antisemitism and other forms of racism have been rightly banned by Twitter and other platforms over the years (albeit, perhaps not enough). But under the terms of this duty, those characters are likely to claim to be journalists and seek to see their accounts restored.

There is also a similar duty to protect content of “democratic importance” – which is likely to be exploited in the same way.

Aside from giving extremists an opportunity to reclaim their suspended social media accounts, it's not clear what these duties achieve. They are both ambiguously drafted and do not compel any specific regulatory action.

If the Government are determined to keep a duty to this effect in the bill, they should keep only one of them, limit its application to regulated outlets (print, online, or broadcast) and apply a public interest test on the content in question (as recommended by the Joint Committee which scrutinised the draft bill).

### **Summary**

The Online Safety Bill's effect in tackling the hatred and abuse faced by Muslims will be limited. But any good that it does do will be fundamentally undermined by the glaring loopholes introduced by provisions designed to protect the national press from being affected by the bill in any way.

These loopholes must be addressed if the bill is to make any progress in tackling Islamophobia and other forms of online harms.

# A Focus too Narrow and an Exemption too Broad

## DR BEN WHITHAM

It is a well-documented fact that Islamophobia has been a fast-growing and pervasive form of racist abuse and discrimination in the UK for more than two decades,[1] and that there have been particularly sharp increases in recent years.[2] The All-Party Parliamentary Group on British Muslims, following a lengthy inquiry and in consultation with a wide range of stakeholders, defined Islamophobia as ‘a type of racism that targets expressions of Muslimness or perceived Muslimness’.[3] People targeted by Islamophobic abuse and discrimination (whom, as the definition suggests, are not always Muslim) may be perceived as Muslim in relation to a wide range of supposedly identifying features, including ‘visible markers of “race” - skin colour and clothing’ and other cultural markers including perceived ‘Muslim’ names.[4]

UK Census data in 2011 revealed that more than 2.5 million British people identified as Muslim – 4.4% of the population and the country’s largest religious minority. When Census 2021 data is released later this year, it is anticipated that it will show significant growth in the UK’s Muslim population over the intervening decade. It is of critical importance that government and regulators properly protect the rights of this large section of British society to live free from abuse and discrimination.

### Online Islamophobia through ‘Social’ Media Platforms

The Online Safety Bill aims to regulate online ‘user-to-user services’, defined as ‘an internet service by means of which content that is generated directly on the service by a user of the

service, or uploaded to or shared on the service by a user of the service, may be encountered by another user, or other users, of the service’.[5] This definition clearly includes all major online ‘social’ media platforms (for example: Facebook, Twitter, Instagram, YouTube, TikTok).

Social media is consistently cited as a key source of Islamophobic abuse and discrimination in research with British Muslims.[6] Despite social media corporations’ efforts at self-regulation, social media networks remain key forums in which expressions of Muslimness and perceived Muslimness (both among social media users and in wider society) are targeted for abuse and discrimination. In this respect, the government’s proposal to regulate such online spaces is welcome. However, there are at least two limitations to the proposed legislation in this regard:

- A. The Bill is somewhat narrowly focused on ‘illegal content’ as defined in Section 52. While such content may include Islamophobic abuse and discrimination – in the form of racist or religious hate crime offences, the use of threatening words or behaviour, or malicious communications, for example – it is already incumbent upon providers to prevent the sharing of such content precisely because it constitutes a criminal offence. With regard to racist content in general, and Islamophobic racist content in particular, social media corporations have failed to adequately identify abuse and discrimination as threatening, as inciting racial or religious hatred, and as potentially criminal. It is not clear how the proposed legislation would

improve this situation and better protect expressions of Muslimness or perceived Muslimness in UK public life.

- B. The Bill exempts ‘recognised news publishers’. This is of particular concern for the reasons outlined under the next section of this paper, below.

### Online Islamophobia through ‘Traditional’ Media Platforms

In addition to social media, ‘traditional’ media, including newspapers and broadcasters – often through digital platforms (e.g. websites and apps) – remain a key domain in which people experience Islamophobic abuse and discrimination.[7] The exemption from the bill’s purview of such media as ‘recognised news publishers’ is therefore of concern. Research with British Muslims has found that Islamophobic tropes (depicting niqab or burqa-wearing Muslim women as ‘letter boxes’ and ‘bank robbers’, for example) published in print and online editions of newspapers are often directly invoked in racist incidents of ‘street abuse’.[8] Readers’ comments sections and message boards on the online versions of newspapers’ stories, meanwhile, act as ‘user-to-user services’ that facilitate the sharing of content that often includes Islamophobic abuse and discrimination. For example, an older news story still displayed on the Daily Mail’s ‘MailOnline’ website[9] addresses ‘polygamy’ and, according to its headline, ‘how Muslim men can exploit the benefits system’ (this is a harmful Islamophobic racist trope about British Muslims as ‘benefit scroungers’ that recent research has shown is connected to a range of abuse and discrimination, including street abuse and potentially violent hate crimes[10]). The ‘top rated’ user comment, with 1,391 ‘up votes’, which consequently appears immediately beneath the story, describes Islam as a ‘disgusting religion’, and is preceded by the editorial claim from MailOnline that ‘The comments below have been moderated in advance’. In other words, traditional media and ‘recognised news publishers’ like the Daily Mail may be at least as responsible for the sharing of abusive, harmful, and potentially criminal content as social media platforms. For the Bill to exempt such service providers from regulation would therefore be inadequate.

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# Islamophobic Tropes and their Impacts

## RIZWANA HAMID



**CENTRE FOR  
MEDIA MONITORING**

The following is an extract from the Centre for Media Monitoring's submission to the House of Commons Public Bill Committee.

Despite its deniers, Islamophobia is real and impacts Muslim communities all over Britain. The Equality and Human Rights Commission found that 70% of Muslims had experienced religious based prejudice in 2017,[1] whilst a Census 2021 report from the Home Office reported that almost half of recorded religious hate crimes were targeted against Muslims.[2] Although the media cannot be held directly responsible for the actions of those who commit hate crimes online or offline, it is important to note that the majority of Britons polled believe that "the media" is to blame for the prejudice Muslims face in daily life in Britain.[3] The Muslim Council of Britain's polling of British Muslims also found that 74% of respondents identified the media's portrayal of Muslims as the most important issue in terms of Islamophobia. This aligns with research by the University of Cambridge which concluded that mainstream media reporting about Muslims is contributing to an atmosphere of rising hostility toward Muslims in Britain.[4] Centre for Media Monitoring's own evidence base shows that almost 60% of the coverage of Muslims & Islam by online publishers is negative.[5]

With stiff competition online, the rise of fake news, populism and growing anti-Muslim sentiments both in the UK and across the West, certain sections of the media have resorted to employing click bait practices to attract eyeballs and thus increase circulation and revenue. While it is generally understood that unregulated internet blogs and communities share fictitious beliefs and stories, mainstream news platforms are expected by the general public, and particularly their respective readerships, to be both reliable and

accountable. Unfortunately, common tropes about Islam and Muslims which once occupied the dark corners of the web now overflow onto the platforms of mainstream media and in political discourse online.

### Common Tropes

The media can be viewed as both a symptom, and in some cases, an active participant, of a wider anti-Muslim industry which is gaining precedence in British politics and society. Their common message is that Muslims are generally a threat to Western societies, and that this threat is harboured by individual British Muslims. This is reinforced by conspiratorial claims about the "Islamisation" of Britain (18% of people polled believe that Muslim immigration to this country is part of a bigger plan to make Muslims a majority of this country's population [6]), so-called no-go areas where Shariah law operates (a false trope believed by over a third of British people[7]) as well as abundant endorsements of anti-Muslim spokespersons. The significance of these conspiracies appearing on reputable and authoritative news platforms is that they are translated from fringe ideas into legitimised theories.

Commentator Rod Liddle is a prominent purveyor of such tropes, and commonly employs stereotypes and racist language referring to Muslims as "savages"[8] with "stunted IQ's"[9], and to "Islamic countries" as "hellholes".[10] He describes Islamophobia as "entirely rational" and writes the suggestion to pay "Muslim immigrants not to come here". While Liddle expresses the anxiety of a numerical takeover by immigrants within Europe, The Times columnist, Melanie Phillips, promotes a fear of an ideological takeover. In 2009 she wrote in The Spectator: "The Islamists, or jihadis, are intent upon snuffing out individual freedom and imposing a totalitarian regime of submission to religious dogma which erodes and then replaces British and Western

Values”.<sup>[11]</sup> Later in the same article, Phillips writes: “Support for the BNP would plummet if the political mainstream were to limit immigration, denounce cultural Islamic imperialism, and refuse to give one inch to sharia law, saying no to polygamy, sharia finance, sharia courts and all attempts to set up a parallel Islamic society in Britain.”<sup>[12]</sup>

The fact that the television presenter Jeremy Clarkson and Melanie Phillips appear in the manifesto of the white supremacist, Anders Breivik who murdered 77 people in Norway, and in turn, Brenton Tarrant, who harnessed the power of social media to livestream the massacre of 51 Muslim worshippers in two mosques in Christchurch, said he took inspiration from Breivik and the “Great Replacement Theory” just shows how far reaching a journalist’s words can be, however unintended they might be.

## Impact

A report by the University of Leicester highlights the impact of mainstream politics and reporting by stating that: “Politicians and media fuel hate crime in Britain.”<sup>[13]</sup> No better example exists than the comments made by the current Prime Minister’s controversial Telegraph column in August 2018 which compared veiled Muslim women to “letterboxes” and “bank robbers”.<sup>[14]</sup> In the week after the article was published, hate crime incidents rose by 375 per cent.<sup>[15]</sup> In the following weeks, 42% of street attacks referenced Boris Johnson or his words. Online abuse repeated the same words or incorporated them into pictures and memes that were then sent to Muslims online. A report examining the impact of online and offline anti-Muslim hate crime on individuals and communities said: ‘Participants described living in fear because of the possibility of online threats materialising in the ‘real world’.<sup>[16]</sup>

Despite the high standards in British journalism, CfMM’s evidence has shown that the most basic of journalistic principles are often not adhered to when it comes to Muslims and Islam. Furthermore, when establishment publications give credence to far right tropes, these are picked up by Islamophobic organisations like Britain First, The English Defence League and anti-Muslim individuals like Stephen Yaxley-Lennon (AKA Tommy Robinson), Pamela Geller, Paul Watson and Laura Loomer to mention a few and amplified on social media - reaching millions of people in the digital space worldwide.

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## Content OF DEMOCRATIC IMPORTANCE

Section 15 of the Online Safety Bill imparts a duty upon service providers to protect the free expression of content of democratic importance. However, the definition provided for content of democratic importance is exceptionally vague. Section 15(6) defines such content as content that "is or appears to be specifically intended to contribute to democratic political debate in the United Kingdom or a part or area of the United Kingdom."

Regardless of the laudability of an intention to protect free and democratic expression, the failure of the bill is its lack of engagement with existing inequalities that pervade online spaces and prevent many groups from engaging in democratic debates on an equal footing. There is a notable lack of recognition of the role of hatred, abuse, harassment, and discrimination which have been shown by [studies](#) to exclude women and minority groups, thereby inherently threatening democratic principles.

Meanwhile, the broad scope of the a definition provides a heightened potential for abuse, with many forms of discrimination and harassment (especially against minorities and stigmatised or scapegoated communities) being framed as part of legitimate political debate. At the same time, the broad definition also raises concerns that a two-tier approach to entitlement to free expression could be applied, with politicians and journalists (including staunchly anti-Muslim figures and self-styled 'journalists', for example Tommy Robinson) being given significant lenience in comparison with ordinary citizens. This is especially concerning for Muslim communities as it is precisely these figures that often represent speech that carries the greatest harm and a reach that far exceeds the average user.

The bill's attempt to prioritise the freedom of expression is consequently unreflective of the harms landscape.

Instead, the bill should take its lead from the approach established by the Human Rights Act 1998. The protections afforded by the Human Rights Act provide enhanced protection for the freedom of expression, whilst acknowledging that it is a qualified right. Therefore, it provides a clear process for ensuring that any restriction is lawful, necessary, and proportionate to achieving a legitimate aim - such as the aim of protecting the rights of others. In this case, there is an unavoidable need to balance freedom of expression with the need to protect minority communities from discrimination and barriers to their equal enjoyment of rights and freedoms.

The key to this protection is *balancing* freedom of expression, rather than *prioritising* it.



# A Bill which has Nothing Positive to offer Muslims

## PROFESSOR JULIAN PETLEY

When the Online Harms White Paper[1] was published in April 2019, some expressed the hope that it might provide a degree of protection against the negative, inaccurate and hostile manner in which Muslims and Islam have been represented online, not least in the online editions of papers such as the Express, Mail, Sun, Telegraph and Times. However, by the time that the Online Safety Bill[2] was published on 17 March 2022 any such hope had evaporated. The following discussion explains why the bill has nothing positive to offer Muslims, and indeed could even endanger their right to express themselves.

That certain newspapers have a consistent record of hostility towards Muslims and Islam is an incontestable matter of record.[3] In 2011 the edited collection *Pointing the Finger* summarised the themes that dominate national UK press coverage of Muslims and Islam both in papers' printed editions and online, and as absolutely nothing has changed for the better in this respect, they bear repeating here:

- The dominant view is that there is no common ground between the West and Islam, and that conflict between them is accordingly inevitable.
- Muslims in Britain are depicted as a threat to traditional British customs, values and ways of life.
- Alternative world views, understandings and opinions are not mentioned or are not given a fair hearing.
- Facts are frequently distorted, exaggerated or oversimplified, and sometimes even invented.
- The tone of language is frequently emotive, immoderate, alarmist or abusive.
- The coverage is likely to provoke and increase feelings of insecurity, suspicion and anxiety among non-Muslims

- The coverage is at the same time likely to provoke feelings of insecurity, vulnerability and alienation among Muslims, and in this way to weaken the government's measures to reduce and prevent extremism.
- The coverage is unlikely to contribute to informed discussion and debate among Muslims and non-Muslims about ways of working together to maintain and develop Britain as a multicultural, multifaith democracy.
- The coverage is unlikely to help diminish levels of hate crime and acts of unlawful discrimination by non-Muslims against Muslims.

Indeed, there is now convincing evidence that, on occasion, hostile coverage has actually led directly to episodes of hate crime. For example, on 5 August 2018 the then Foreign Secretary Boris Johnson published a column in the *Sunday Telegraph* in which he referred to veiled Muslim women as "ridiculous" and as looking like "letter boxes" and "bank robbers". In the week before Johnson's comments, an advocacy NGO had received only eight reports of attacks on Muslims in the street, but in the week following the article this jumped to 38, an increase of 375%. The numbers dropped to eleven in the subsequent week and six in the next. Of the 38 incidents reported in the week following the column's publication, 22 were directed at women who wore the niqab or engaged in other veiling practices. And between 5 and 29 August, in 42% of the incidents the attackers referenced Johnson and/or the language used in his column.[4]

When accused of stirring up anti-Muslim hatred in the wake of attacks perpetrated by Muslims, such as the murder of Fusilier Lee Rigby in May 2013 or the Borough Market murders in June 2017, newspapers automatically claim that they are not responsible for any anti-Muslim revenge attacks

that follow. Entirely typically, they accuse their critics of shooting the messenger – conveniently ignoring, of course, the frequently inflammatory and abusive tone of their articles. But no such excuse, however threadbare, is open to the Sunday Telegraph for publishing Johnson’s diatribe. This was not a news story reporting any specific event involving Muslims in Britain, and, like so many op-ed pieces in the daily press, would appear to be simply a calculated insult to Muslims and published without the slightest concern for its possible, indeed likely, consequences.

Of course, anti-Muslim racism is hardly confined to sections of the UK national press – parts of the online world, and especially social media, are awash with it. But what is too often overlooked is that the origins of many of the stories circulated there lie in sensational and highly inaccurate (when not downright false) stories in certain British national newspapers. Thus, for example, when the Express, 29 May 2016, ran an article headed “Theresa May Says Many Britons ‘BENEFIT GREATLY’ from Sharia Law”, which, by selective quotation, seriously distorted what she actually said, this sparked off 90,000 indignant exchanges on social media lambasting what she’d allegedly said.[5]

Similarly, on 11 January 2017, the Sun, Express and MailOnline alleged that a Muslim gunman had run amok in a Spanish supermarket. Their tenor can be gleaned from the headline of the MailOnline story: “Gunman Screaming ‘Allahu Akhbar’ Opens Fire in Spanish Supermarket While Wearing ‘Suicide Vest’ Filled with Gasoline and Gunpowder”. This was shared 19,000 times on social media, and the MailOnline’s breaking news tweet was retweeted hundreds of times. Amongst the pages on which the MailOnline story was shared were those of the far-right group Britain First and supporters of the anti-Muslim Dutch politician Geert Wilders, while the Express article was cross-posted on the blog of Pamela Geller, an American anti-Muslim commentator, and quoted at length by the US site Jihad Watch. But as The Spain Report, 12 January, pointed out, both the Spanish police and the supermarket chain which owned the shop where these events allegedly took place confirmed that the man did not shout “Allahu Akhbar”, was not wearing a “suicide vest”, and had no terrorist links. Instead, the incident involved a local man with what the police described as “decreased mental faculties”. Admittedly, both the Sun and the Mail did change

their stories after the truth emerged, and the Express took down its story altogether. However, by this time the story had already gone viral globally, and the damage had been well and truly done.[6]

None of the categories of regulated content delineated by the Online Safety Bill will capture the kind of anti-Muslim articles noted above. In spite of the Public Order Act 1986 and the Racial and Religious Hatred Act 2006 such material is not currently deemed illegal, and will not fall under the anyway highly problematic “legal but harmful” heading.

Meanwhile, Sections 53-5 of the Bill give the Secretary of State for Digital, Culture, Media and Sport worryingly wide executive powers to designate, in secondary legislation, specific categories of content that meet the broad definition of harm contained in Section 187(2), namely ‘physical or psychological harm’. Moreover, the bill suggests that such harms will be understood as involving matters such as “exposure to self-harm, harassment and eating disorders”[7] – in other words, harms conceived primarily in terms of harms to individuals and not to categories of people. And it is hardly likely that a government that has resolutely denied the extent of anti-Muslim racism in the UK, including in its own ranks,[8] would introduce measures aimed at limiting its spread.

Indeed, given the extraordinarily wide definition of terrorism in the Terrorism Act 2000, and the way in which it has been used against Muslims who were not engaged in terrorist activity, such as Samina Malik[9] and Rizwaan Sabir,[10] there is every reason to fear that that an over-zealous Ofcom and/or an internet service provider understandably nervous of accidentally infringing the new safety regulations might well err on the side of caution when it comes to deciding if certain kinds of online material produced by Muslims are illegal. Indeed, given that, even as things currently stand, we haven’t the slightest idea of what online material is being removed routinely by or at the behest of shadowy and unaccountable bodies such as the Metropolitan Police Counter Terrorism Command (SO15)[11] or the Counter Terrorism Internet Referral Unit (CTIRU),[12] this is an entirely reasonable fear.

One of the main reasons why the kind of anti-Muslim material which is the subject of this discussion will not be affected by the Online

Safety Bill is quite simply that websites of what it defines as news publishers will not fall within its remit. This is the direct result of a ferocious lobbying campaign[13] during the run-up to the bill by the newspaper industry.

In order to be exempt from the Bill, a news publisher has to do little more than show that it is 'subject to a standards code' and 'has policies and procedures for handling and resolving complaints'. In the case of most British papers, this simply means being signed up to IPSO, which has repeatedly been shown to be largely supine. In particular, it needs to be borne in mind here that the clause of the Editors' Code (which IPSO enforces) which relates to discrimination has been quite deliberately drawn up in such a way as to exclude complaints about articles dealing with anything other than individuals (which is very much in line with the way in which the bill also conceives of harm as harm to individuals). Thus it states:

- The press must avoid prejudicial or pejorative reference to an individual's race, colour, religion, sex, gender identity, sexual orientation or to any physical or mental illness or disability.
- Details of an individual's race, colour, religion, gender identity, sexual orientation, physical or mental illness or disability must be avoided unless genuinely relevant to the story.

And in its adjudications IPSO has made it clear that it applies this clause only to individuals making complaints about words directed specifically at them, and that it will not entertain complaints about the use of inflammatory language about categories of people.[14] This led to IPSO Chair Sir Alan Moses being taken apart by the Home Affairs Select Committee when he revealed to general incredulity and derision that in a year in which IPSO received 8,148 complains under clause 12, it upheld precisely one.[15]

Furthermore, section 49(2) of the bill specifically exempts what many would regard as the most poisonous and hate-filled sections of online national titles, namely "comments and reviews on provider content". Meanwhile Section 51(2) makes it abundantly clear that whilst search engines will have a duty to protect the public from exposure to allegedly harmful material, this duty does not extend to content present on the website of a "recognised news publisher", or content that reproduces or links to a full article that emanates from such a publisher. Thus, quite extraordinarily, the bill requires that a search engine must take

steps to address people's exposure to material which is deemed harmful, unless that material first appeared on the website of a newspaper.

What, then, should those concerned about the representation of Muslims and Islam conclude from the Online Safety Bill? Mainly that it has very little to offer those who might be tempted to believe that the harmful contents which it intends to banish from the online world will include the kinds of material highlighted within this discussion.

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Powers granted  
**TO THE  
SECRETARY OF  
STATE**

Under Section 187 of the bill, harm is defined as physical or psychological harm arising from the nature of content or its dissemination such that it increases the likelihood of an individual harming themselves or others. This exceptionally broad definition is compounded by the wide scope afforded to the Secretary of State to designate priority content that is legal but harmful to adults through secondary legislation, as well as their role in the drafting of the Ofcom code of practice, and their ability to revise the online safety objectives.

Section 12(5) of the bill requires the prescribed risk assessment duties to take into account “priority content that is harmful to adults which particularly affects individuals with a certain characteristic or members of a certain group”. However, beyond children, these groups have not been stipulated. Consequently, the lack of clarity surrounding the specific types of harm that will be covered exposes a potential for certain forms of harm to be overlooked.

While there is scope for certain harms to be overlooked, in light of the considerable role of the Secretary of State, there is also scope for political over-reach and a distortion of priority harms categories in line with contemporary Government interests. Thus, there is a real danger that these categories could be potentially expanded to include content that is simply hostile to the Government and its policies.

This is a particularly poignant concern in light of large swathes of ongoing legislation and legislative proposals that appear tailored to limit scrutiny, reduce governmental accountability, and suppress political opposition. Indeed, the recent Police, Crime, Sentencing and Courts Act, the Nationality and Borders Act, the Elections Act, the Judicial Review and Courts Act and plans to reform the Human Rights Act all appear to echo this intention.

As a result, attention should be paid to the Secretary of State’s control over Ofcom and whether its independence can be fully assured under the conditions outline within the bill.



# A flawed bill leaving Muslims exposed to psychological, emotional and physical harm

## DR CHRIS ALLEN

The Online Safety Bill seeks to deliver the Government's manifesto commitment to making the UK the safest place in the world to be online while at the same time ensuring freedom of expression is defended. For this reason, the Bill will no doubt be of interest to Britain's Muslims given the levels of hostility, bigotry and hate directed towards them the past two decades. In the online spaces in particular, research has shown how Muslims – both individually and communally – have been regularly and routinely attacked, encountering bullying, harassment and threats of offline violence among various others.[1]

### Bad News for Muslims in Britain

News content reinforcing negative and stereotypical tropes about Muslims and Islam pre-date the proliferation of online content. This was evident in research commissioned by the Greater London Authority in 2007, when over 90% of news stories relating to Muslims or Islam in Britain's print media were found to be negatively framed: disproportionately centring on the violent 'threat' both are perceived to pose.[2]

Having recently analysed 48,000 online news articles from 34 different news publishers, the Centre for Media Monitoring found that around two thirds (60%) of online news content continued to associate Muslims and Islam with negative and stereotypical characteristics or behaviours.[3]

### An Exemption for Some of the Worst offenders

Despite the Bill's scope, it is unlikely to bring about any change as regards negative and stereotypical news content in the online spaces. This is because the content published by news

publishers will be exempt of the bill's regulation. So too will the social media accounts of news publishers and any online search results which republish its content. A similar exemption will also apply to 'below-the-line' comments (those posted below an online article or similar) on news publisher websites. Given it is common to find highly explicit and overtly Islamophobic comments in the 'below-the-line' spaces of news content relating to Muslims and Islam, the latter exemption is particularly disappointing. In combination with the other exemptions, the bill will have no impact whatsoever: news publishers continuing to publish, share and duly disseminate negatively and stereotypically informed news content about Muslims and Islam.

According to the bill, all news publishers and site owners will be required to remove all forms of 'illegal disinformation', which for example directly incites or advocates the use of violence. As regards the type of disinformation typically circulated about Muslims and Islam, while much of this is grossly – and deliberately – inaccurate very little would likely meet the criteria for being illegal. As such, there would be no requirement under the bill for any such content to be duly removed, thereby resulting in no real change being evident from how things are now.

### A Spectrum of Harms

In isolation, it is easy to diminish if not overlook the very real harms these and other types of online content cause. As research shows, such harms are broad and take in the psychological, emotional and physical. As regards the psychological and emotional, these include feelings of anxiety, fear, depression and marginalisation among others.[4]

As regards the physical, while an individual piece of online content cannot be held responsible for a person's actions upon reading it; it can contribute towards the process of rationalising and justifying the perpetration of hate crimes. Likewise, this equally applies to the manifestation and expression of hostility and bigotry. At a time when the number of hate crimes in the UK are at record levels.[5] the potential for physical harm cannot be underestimated. So too is there potential for social harm: provoking and increasing feelings of suspicion among non-Muslims about Muslims while simultaneously provoking the same among Muslims. Social harm can also be seen across a range of socio-political issues including belonging, cohesion and security among others.

Somewhat surprisingly, not only is harm acknowledged in the bill but so too is its conception and understanding resonant with how harms are evidenced in existing research and set out previously. In the context of the bill, Section 187 agrees that harm can be physical or psychological and has the potential to arise from the nature of online content, the dissemination of that same content or the manner of that dissemination. Expansively framed, the bill goes on to state that harm ensues when online content results in an individual doing or saying something harmful to another individual or when it increases the likelihood of them doing so. Importantly, the bill adds that this might be due to an individual's characteristics or membership of a group, being Muslim or part of a Muslim community for instance.

### **New Thinking Needed**

Given the clear overlap between the bill's conception and understanding of harm and the evidence of harms encountered by Muslims and their communities, one might expect the impact of the bill to be significant. That this runs counter to the consideration undertaken here - albeit limited - is therefore as surprising as it is perplexing. While there is no clear explanation for this, one might point not to the conception and understanding underpinning the bill, but more so its application and implementation. As a result, questions have to be asked about the potential effectiveness of the bill. Not only is this likely to result in Britain's Muslims - like other minority communities - being sceptical about the likelihood of the bill making the online spaces safer but so too are they likely to have very real reservations about the situation deteriorating even

further. That few have listened to Britain's Muslims reservations about a range of other socio-political issues in recent years, the same is likely to ensue regarding the bill. If the bill is, as it would appear, flawed, then now is the time for additional thinking and any necessary reworking. Any failure to do so will mean that only when the bill is passed into legislature will its strengths - and importantly, weaknesses - be known. For Britain's Muslims, that may be too late.

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The Online Safety Bill represents an opportunity to vastly improve the harms landscape that Muslim communities currently face in online spaces. However, as the analysis throughout this report demonstrates, due to the broad definitions, exemptions, and disproportionate rights calibration applied in the bill, it is unlikely to offer much, if any, positive change for British Muslims if Parliament fails to incorporate significant amendments.

### **The News Publisher Exemption**

For the benefit of a functioning democracy, protecting news publishers and ensuring the freedom of expression is a worthwhile endeavour. However, it rests upon the assumption that the current framework for press regulation is capable of robustly and independently holding the press to account. Unfortunately, and as confirmed by the Press Recognition Panel, the current system is riddled with inconsistencies, complaints systems are convoluted, and ultimately the system is failing to protect the public.

Meanwhile, the broad definition of a recognised news publisher found under Section 50 exposes considerable potential for malicious entities to establish themselves as recognised ‘news publishers’ and remove themselves from meaningful regulation.

This is especially concerning for Muslim communities considering the evidence shown throughout this report that the press are not only responsible for significant disinformation, stereotyping, and prejudicial narratives regarding Muslim communities, but that these stories are also being capitalised upon by far-right platforms and other groups and individuals for the explicit purpose of inciting hatred against Muslims.

However, if amendments are made to Section 50’s definition of a news publisher in order to bring the bill in line with the Royal Charter, the Online Safety Bill could represent a significant step in strengthening journalistic standards by:

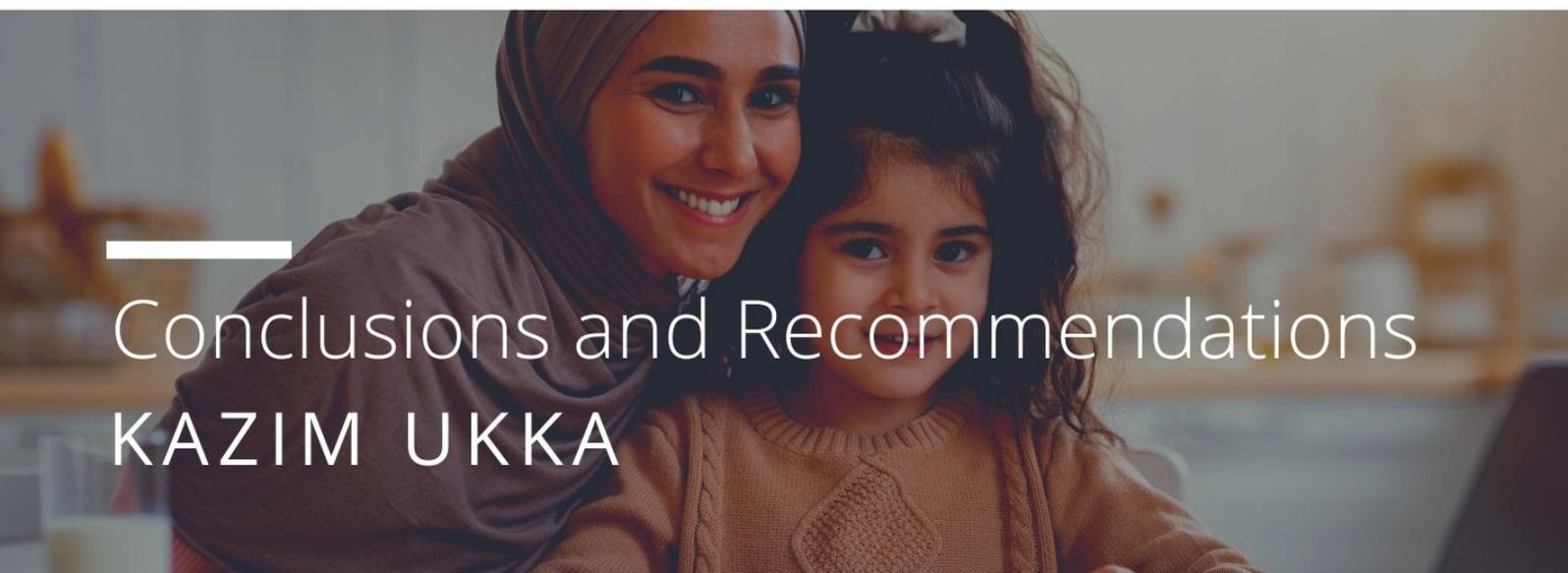
1. Providing an incentive to national newspapers to become members of an approved regulator under the Charter system.
2. Bringing online and social media news publishers under the Royal Charter.

Not only would such a move inhibit some of the worst sources and drivers of Islamophobic abuse both online and in the print press, but it would also contribute to tackling the drivers of Islamophobic hate crime and discrimination in all areas of public, social and economic life.

It is therefore essential that Section 50(2) of the bill be amended to stipulate that recognised publishers are defined as those regulated by an approved regulator under the Royal Charter System.

### **The Comments Section Exclusion**

As repeatedly observed throughout this report, excluding comments and reviews sections from regulation does not address the immense harms to minority communities that are currently found with such arenas. This is especially so considering the fact that comments sections on newspaper websites function in the same way as conversational spaces on other online platforms that are subject to regulation under the bill. Moreover, it is within newspaper comments sections specifically that some of the most egregious forms of Islamophobia can be found, as well as instances of rampant anti-Semitism, homophobia, racism, anti-trans rhetoric, and sexism.



Conclusions and Recommendations  
KAZIM UKKA

It is for this reason that Section 49(2)e must be omitted from the bill.

### **A Departure from the Human Rights Act Framework.**

Ultimately, one of the primary challenges that the Online Safety Bill seeks, and unfortunately fails, to navigate is how to protect freedom of expression, while simultaneously protecting online users from abuse and harassment. Throughout the bill, there appears to be a pattern of attempting to prioritise the right to freedom of expression over other rights. This approach is especially visible in the exemption afforded to content of “democratic importance”.

The approach of creating a hierarchy of rights is one that is destined to fail as minority groups, and in this case Muslims, will consistently lack protection. The Human Rights Act is carefully calibrated to ensure that there is an emphasis on balancing rights so that there is sufficient nuance in handling instances where different rights find themselves in conflict.

It is this framework found within the Human Rights Act that should be the basis upon which the Online Safety Bill is built as it provides the most robust mechanism for balancing conflicting rights and ensuring that any restriction is lawful, necessary, and proportionate.

However, in light of the Government’s plans to dismantle the Human Rights Act, Parliamentarians must first defend this essential piece of legislation that safeguards everyone’s rights across society. They must also ensure that the Online Safety Bill is fully embedded within the framework established by the Human Rights Act through updating the online safety objectives to specifically include protection for human rights in line with the Human Rights Act and the European Convention on Human Rights.

### **The Powers Granted to the Secretary of State**

The powers granted to the Secretary of State risk politicising the regulatory framework embodied by the bill. In particular, the powers surrounding the designation of priority content, their role in the drafting of the Ofcom code of practice, and their ability to revise the online safety objectives raise serious questions regarding whether the independence of Ofcom can be ensured.

Consequently, the powers granted to the Secretary of State to direct Ofcom must be removed, with the singular exception of matters relating to national security.

## **The Community Policy Forum's Recommendations**

SECTION 50(2) OF THE BILL SHOULD BE AMENDED TO STIPULATE THAT RECOGNISED PUBLISHERS ARE DEFINED ONLY AS THOSE REGULATED BY AN APPROVED REGULATOR UNDER THE ROYAL CHARTER SYSTEM.

SECTION 49(2)E OF THE BILL SHOULD BE AMENDED TO OMIT THE EXEMPTION FOR COMMENTS AND REVIEWS ON PROVIDER CONTENT.

THE PROTECTION FOR CONTENT OF DEMOCRATIC IMPORTANCE FOUND IN SECTION 15 OF THE BILL SHOULD BE REMOVED.

THE ONLINE SAFETY OBJECTIVES SHOULD BE UPDATED TO INCLUDE EXPLICIT PROTECTION FOR HUMAN RIGHTS, IN LINE WITH THE HUMAN RIGHTS ACT AND THE EUROPEAN CONVENTION ON HUMAN RIGHTS.

PLANS TO DISMANTLE THE HUMAN RIGHTS ACT ARE SCRAPPED.

THE POWERS GRANTED TO THE SECRETARY OF STATE TO DIRECT OFCOM BE REMOVED, WITH THE SINGULAR EXCEPTION OF MATTERS RELATING TO NATIONAL SECURITY.



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**Unless otherwise stated, the recommendations in this report are those of the Community Policy Forum and may not necessarily reflect the views of every contributor. Likewise, the views of contributors are their own and may not be endorsed by every other contributor.**



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