

Joint Committee on Human Rights Counter-Terrorism and Border Security Bill 2018



Joint Committee on Human Rights

Counter-Terrorism and Border Security Bill 2018

Submission from Muslim Engagement and Development (MEND)

27th June 2018

1.0 Introduction

1.1 This submission from Muslim Engagement and Development (MEND) seeks to examine some of the potential human rights implications of the Counter-Terrorism and Border Security Bill, and in particular, the impacts on Muslim communities and individuals. It will specifically examine the Bill's introduction of a greater role for local authorities in the PREVENT/Channel process.

1.2 This submission concludes that increased powers under the Counter-Terrorism and Border Security Bill contravene the following articles of the Human Rights Act, 1998, and the European Convention on Human Rights (ECHR):

- **Article 9, Freedom of thought, belief and religion:** "The right to put your thoughts and beliefs into action. This could include your right to wear religious clothing, the right to talk about your beliefs or take part in religious worship."
- **Article 10, Freedom of expression:** "The right to hold your own opinions and to express them freely without government interference. This includes the right to express your views aloud".
- **Article 11, Freedom of association:** "the right to form and be part of a trade union, a political party or any another association or voluntary group."
- **Article 2 of the First Protocol, Right to education:** "Parents also have a right to ensure that their religious and philosophical beliefs are respected during their children's education."

1.3 Considering these potential violations to UK human rights commitments, it is imperative that the PREVENT strategy undergoes immediate independent review before the extending of its existing scope and powers can be considered.

2.0 Inadequate training and Article 9, Freedom of thought, belief, and religion and Article 2 of the First Protocol, The right to education

2.1 The Government presently has no clear working definitions of extremism, non-violent extremism, British Values, nor radicalisation. With roughly 600,000 WRAP-trained staff attempting to identify radicalisation with a view to tackling extremism, this lack of objective understanding causes confusion in PREVENT's application. If the duty were to be further extended amongst local authorities without suitable re-evaluation of the training procedures, this confusion will only be compounded.

2.2 At present, PREVENT delivery officers receive only 45-60mins of training to identify signs of radicalisation. Such basic training is only capable of generating a generic overview of what constitutes radicalisation. This creates an incomplete framework through which nurses, teachers, and other public body employees are required to attempt to identify signs of radicalisation.¹ Indeed, this lack of effective training was highlighted by the Home Affairs Committee who noted “We are concerned about a lack of sufficient and appropriate training in an area that is complex and unfamiliar to many education and other professionals, compounded by a lack of clarity about what is required of them.”²

2.3 The result is that those tasked with carrying out the PREVENT duty become reliant upon personal perceptions, bias, and popular stereotypes when assessing those considered to be at risk of radicalisation. Consequently, without sufficient training and understanding of minority communities, everyday normative practices of the Islamic faith, for example, wearing the hijab, can be seen as a sign of radicalisation. Indeed, there have been numerous cases where individuals have been falsely implicated as being at risk of radicalisation. Of the 6,093 individuals referred to PREVENT in 2016/17, 61% (3,704) were referred for Islamist extremism, while only 184 (4.9%) went on to receive CHANNEL support.³ There has been little analysis of the consequences of this 95% false referral rate, including the potentially stigmatising effect and a wide range of emotional impacts such as fear, anxiety, and isolation.

2.4 Taking the NHS as an example, a recent study conducted by Warwick University revealed numerous misguided referrals to PREVENT stemming from the NHS that had been made purely on a conjectural basis due to perceived religious practice. One referral involved "an Asian man" who was considered a risk because he was planning a "future trip to Saudi Arabia", which was interpreted by a healthcare as a cause for concern. In truth, the "Asian man" was planning a Hajj trip to the holy city of Mecca, a pillar of Islam which all capable Muslims are expected to complete at least once during their lifetime.⁴

2.5 This research also discovered that 70% of the respondents “were ‘likely’, or ‘very likely’” to refer someone for the “possession of Islamic/ Anarchist philosophy books”. The authors of the research thus concluded that “respondents are drawing their attitude from popular culture rather than official training or academic research”.⁵

2.6 Ultimately, this insufficient training results in individuals being referred to counter-terror apparatus purely on the basis of their religious belief and practice. Such a result is clearly in contravention of rights to freedom of thought, belief and religion.

2.7 Moreover, with the majority of referrals to PREVENT coming from the education sector (32% of all referrals in 2016/17),⁶ the impact of PREVENT in schools and on the learning and development of children is of primary concern. The previously discussed focus on religious practice and belief as an overwhelming factor influencing referrals is, therefore, highly significant as **Muslim parents feel prohibited from ensuring that their child’s religious and philosophical beliefs are respected, for fear that if their child were to overtly manifest their beliefs they would become at risk from referral to PREVENT and subsequent stigmatisation. Obviously, this is in direct conflict with Article 2 of the First Protocol, the right to education.**

¹ “E-learning – Prevent”, *Home Office*, accessed 01.02.2018, <https://www.elearning.prevent.homeoffice.gov.uk/>

² House of Commons, “Radicalisation: the counter-narrative and identifying the tipping point – Eighth report of Session 2016-17”, August 25, 2016, accessed June 20, 2018, <https://publications.parliament.uk/pa/cm201617/cmselect/cmhaff/135/135.pdf>

³ “Individuals referred to and supported through the Prevent Programme, April 2016 to March 2017”, Statistical Bulletin 06/18, *Home Office*, March 27, 2018, accessed 19.04.2018, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/694002/individuals-referred-supported-prevent-programme-apr2016-mar2017.pdf

⁴ Charlotte Heath-Kelly and Erzsébet Strausz “Counter-terrorism in the NHS EVALUATING PREVENT DUTY SAFEGUARDING IN THE NHS”, *Warwick University*, p. 26, accessed 11.06.2018, https://warwick.ac.uk/fac/soc/pais/research/researchcentres/irs/counterterrorisminthenhs/project_report_draft_60pp.pdf

⁵ *Ibid.*

⁶ “Individuals referred to and supported through the Prevent Programme, April 2016 to March 2017”, *Home Office*, Statistical Bulletin 06/18, March 27, 2018, accessed 11.06.2018, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/694002/individuals-referred-supported-prevent-programme-apr2016-mar2017.pdf

3.0 Exclusion of Muslim Voices and Article 10, Freedom of Expression, and Article 11, Freedom of Association

3.1 As stated by Maina Kiai, UN Special Rapporteur on the rights to freedom of assembly and association, PREVENT has “created unease and uncertainty around what can be legitimately discussed in public”.⁷ He goes on to argue that “the spectre of Big Brother is so large, in fact, that I was informed that some families are afraid of discussing the negative effects of terrorism in their own homes, fearing their children would talk about it at school and have their intentions misconstrued.”⁸

3.2 The use of PREVENT in university settings has particularly damaging consequences for freedom of expression and for Muslim student’s abilities to meaningfully engage within political discussions, organisations, and causes. In 2017, the National Union of Students (NUS) launched a report into the experience of Muslim students in British universities.⁹ The report concluded that “Prevent is a key issue for respondents’ ability to engage meaningfully with the structures of their institutions, unions and NUS, in particular around democratic engagement. It is particularly notable that being affected by Prevent has a negative impact on respondents’ engagement with political debates. This negative impact persists whether or not respondents articulated that fear around Prevent was the cause. This correlation demonstrates the chilling effect of Prevent”.¹⁰

3.3 The freedom to express ideas and explore arguments is integral to university missions to be centres of critical debate and learning. Indeed, universities’ duties in this respect are reflected in the Education Act 1986,¹¹ the Education Reform Act 1988,¹² the Human Rights Act 1998,¹³ and the Equality Act 2010.¹⁴ However, the PREVENT duty undermines these principles as speakers and topics of discussion become regulated. Moreover, Muslim students have reported a reluctance to engage with certain discussions due to a fear they will be referred to PREVENT. According to the NUS report, one-third of surveyed students reported being negatively affected by PREVENT. This included having been referred to authorities under the scheme, having organised events that were cancelled or significantly changed because of it (30% of those affected) or having disengaged from political debate specifically due to concerns around being reported under PREVENT.¹⁵ Furthermore, according to the findings, 43% of those who reported being affected by PREVENT felt unable to express their views or be themselves and 30% did not feel comfortable attending NUS events.

4.4 These implications of the PREVENT duty in excluding Muslim students from political debates is a clear violation of their rights to freedom of expression and association.

⁷ Damien Cayle. "Prevent strategy 'could end up promoting extremism'" The Guardian. April 21, 2016. Accessed March 17, 2017. <https://www.theguardian.com/politics/2016/apr/21/government-prevent-strategy-promoting-extremism-maina-kiai>.

⁸ Ibid.

⁹ "The experience of Muslim students in 2017-18", NUS, accessed 29.05.2018, https://nusdigital.s3-eu-west-1.amazonaws.com/document/documents/41267/29d43267ae2f2f0906450a27487fcd36/The_Experience_of_Muslim_Students_in_2017-18.pdf?AWSAccessKeyId=AKIAJKEA56ZWKFU6MHNQ&Expires=1527604654&Signature=5loqW0HKBdTFvKjCeSaU85FJpA%3D

¹⁰ Ibid.

¹¹ "Education Act 1986", available at <http://www.legislation.gov.uk/ukpga/1986/40>

¹² "Education Reform Act 1988", available at <http://www.legislation.gov.uk/ukpga/1988/40/contents>

¹³ "Human Rights Act 1998", available at <http://www.legislation.gov.uk/ukpga/1998/42>

¹⁴ "Equality Act 2010", available at <http://www.legislation.gov.uk/ukpga/2010/15/contents>

¹⁵ "The experience of Muslim students in 2017-18", NUS, accessed 29.05.2018, https://nusdigital.s3-eu-west-1.amazonaws.com/document/documents/41267/29d43267ae2f2f0906450a27487fcd36/The_Experience_of_Muslim_Students_in_2017-18.pdf?AWSAccessKeyId=AKIAJKEA56ZWKFU6MHNQ&Expires=1527604654&Signature=5loqW0HKBdTFvKjCeSaU85FJpA%3D