



**GOVERNMENT'S
RESPONSE TO COVID-19:
HUMAN RIGHTS IMPLICATIONS**

Muslim engagement
& development

mend

The Joint Committee on Human Rights' inquiry into the Government's response to COVID-19: human rights implications

A Submission from Muslim Engagement and Development (MEND)

July 2020

MEND's contribution to the inquiry

This submission from Muslim Engagement and Development (MEND) to the Joint Committee on Human Rights' inquiry into the Government's response to COVID-19: human rights implications seeks to explore the Government's approach the COVID-19 pandemic in the context of their strategy's compliance with human rights.

MEND is a community-funded organisation that seeks to encourage political, civic, and social engagement within British Muslim communities through empowering British Muslims to interact with political and media institutions effectively. Our approach to achieving this involves a combination of community engagement (through education, community events, local campaigns to encourage voting etc.) and advocacy work (involving victim support, submissions to parliamentary inquiries, media analysis, election resources, briefings etc.).

Considering MEND's expertise in the human rights and civil liberties of minority communities, we feel that we can provide valuable insights into the unintended consequences of the Government's COVID response for Muslim and BAME communities. As such, MEND hopes that our recommendations may provide guidance the Joint Committee on Human Rights in approaching the issues surrounding the human rights of minority communities at this fraught time.

What steps need to be taken to ensure that measures taken by the Government to address the COVID-19 pandemic are human rights compliant?

While there is no doubt that public health and the right to life are of paramount importance at this time, care must be taken to mitigate the conflict between the Government response to the pandemic and the overall preservation of human rights and civil liberties. Indeed, as the United Nations' Office of the High Commissioner for Human Rights observed when the pandemic broke, emergency measures to this crisis should not be abused to suppress human rights.¹

History has shown that derogating from civil rights and liberties amid crisis has catastrophic consequences,² as such, lessons must be learned about the consequences of suppressing civil liberties. Certainly, people across the world rely upon their civil liberties as a means of protection against oppression. Therefore, any erosion of human rights and civil liberties must be met with caution and a full understanding of the potential lasting impacts. Consequently, minority communities need assurances that in this time of crisis, their civil liberties are not compromised.

Perhaps the best way to ensure this is through transparency. The Home Office and other Government departments must regularly publish statistics and reports regarding detailed

¹ "OHCHR | COVID-19: States Should Not Abuse Emergency Measures To Suppress Human Rights - UN Experts". 2020. Ohchr.Org. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25722&LangID=E>

² "Reichstag Fire Decree – United States Holocaust Memorial Museum". 2020. Ushmm.Org. <https://www.ushmm.org/learn/timeline-of-events/1933-1938/reichstag-fire-decree>.

demographics of those who are impacted by these measures, whether this be regarding police stops, the economic impacts of lockdown measures, the consequences for education, or a variety of other areas in which individuals are likely to be affected.

What will the impact of specific measures taken by the Government to address the COVID-19 pandemic be on human rights in the UK? And which groups will be disproportionately affected by measures taken by the Government to address the COVID-19 pandemic?

The Coronavirus Act affords extraordinary police powers which have the potential to lead to gross abuse and neglect of human rights. The Act contains provisions for police, immigration officers, and public health officials to arrest people deemed infectious, and consequently place them in isolation and sent to be tested, or else face a fine of up to £1,000. As noted by Liberty, this has the potential to infringe on a person's right to liberty under Article 5 of the European Convention of Human Rights.³

The Coronavirus Act also permits for biological samples to be forcibly taken from people by the relevant authorities.⁴ For an example of how damaging such a power can be, we can look at the collection of such data under Schedule 7 of the Terrorism Act 2000. Schedule 7 powers enable DNA to be taken from someone who has not been arrested or even suspected of having committed any offence. This was held by the European Court of Human Rights, in the 2019 case of *Beghal v The United Kingdom*, to violate a person's right to respect for their "private and family life" under Article 8 of the European Convention of Human Rights.⁵

A recent report from *Liberty Investigates* has highlighted how these emergency powers may have subsequently been used to disproportionately target BAME communities, with 22% of fines being issued to 15.5% of the population, resulting in BAME individuals being 54% more likely to be fined under coronavirus rules than their white counterparts.⁶

Even under ordinary circumstances, minority communities are disproportionately subject to policing measures. The most recent Government data on stop and search between April 2018 and March 2019 suggests that the current stop and search rate for people of Asian and mixed ethnicity is 11 in every 1,000 people; for Black people it is 38 in every 1,000; while for white people it is just 4 in every 1,000.⁷ According to StopWatch, in 2018/19 in London, Asians and people from mixed ethnic backgrounds were searched at approximately 1.5 times the rate of their white counterparts.⁸ This accepted reality led a cross-party group of MPs to write to the Home Secretary, Priti Patel, warning that ethnic minorities must not be unfairly targeted by police forces in the exercise of their powers to enforce the Coronavirus lockdown.⁹

In the daily lives of most people, the police are perhaps the most visible representation of the state. As such, the relationship between minority communities and their local police is reflective of the relationship between communities and the state. Therefore, trust and understanding are critical in building healthy communities. This is especially pertinent at times such as these when people look to the police and the state to ensure their safety and protection. As the global rise of the Black Lives Matter movement attests, it is imperative that the Government commit to investigating institutional and structural racisms that permeate every level of society, including throughout our criminal justice system.

³ Liberty. 2020. "Liberty's Briefing On The Coronavirus Bill". <https://www.libertyhumanrights.org.uk/wp-content/uploads/2020/03/Libertys-Briefing-on-the-Coronavirus-Bill.pdf>.

⁴ "Coronavirus Act 2020". 2020. Legislation.Gov.Uk. <http://www.legislation.gov.uk/ukpga/2020/7/schedule/21/enacted>.

⁵ *BEGHAL V. THE UNITED KINGDOM* - 4755/16 (Judgment : Remainder Inadmissible : First Section) [2019] ECHR 181 (28 February 2019)". 2019. Bailii.Org. <https://www.bailii.org/eu/cases/ECHR/2019/181.html>.

⁶ "Metropolitan Police Stop And Search Statistics | Your Area". 2020. *Stopwatch*. <http://www.stop-watch.org/your-area/area/metropolitan>.

⁷ "Stop And Search". 2020. *Ethnicity-Facts-Figures.Service.Gov.Uk*. <https://www.ethnicity-facts-figures.service.gov.uk/crime-justice-and-the-law/policing/stop-and-search/latest#by-ethnicity>.

⁸ "Metropolitan Police Stop And Search Statistics | Your Area". 2020. *Stopwatch*. <http://www.stop-watch.org/your-area/area/metropolitan>.

⁹ Simons, Ned. 2020. "Police Must Not Unfairly Target Ethnic Minorities During Lockdown, Mps Warn". *Huffingtonpost.Co.Uk*. https://www.huffingtonpost.co.uk/entry/coronavirus-lockdown-police-emergency-powers_uk_5ea0785c5b6486d0819a21?ncid=APPLENEWS00001&gucounter=1.

As such, the Home Office and police forces must commit to a thorough and continuous monitoring of the use of emergency powers by police during the pandemic, as well as to the development of long-term strategies to address disproportionate applications of stop and search powers through both training and increased diversity within police forces themselves. Meanwhile, MEND calls upon the Government to commit to investigating structural Islamophobia throughout the criminal justice system.

Another area of specific concern for minority communities is the impact upon the education of BAME students. Muslims have the youngest age profile of all religious groups in the UK,¹⁰ with 33% aged fifteen or under and 48% below the age of twenty-five.¹¹ Meanwhile, Muslims account for 9% of babies and toddlers aged 0-4years old.¹² The Census 2011 indicates that the overall Muslim population in England and Wales is 4.8%, while the Muslim youth population between 18-24 constitutes 6.2% of the general youth population within that age category. Therefore, policy development and implementation must be sensitive to the needs of Muslim families.¹³ The introduction of policies that has been necessitated by the current pandemic are of no exception. Due regard must be paid to the potential for untested strategies to disproportionately impact Muslim communities.

Muslims have been shown to suffer from the highest levels of overcrowding¹⁴ and remain concentrated in some of the most deprived local authorities.¹⁵ Overcrowding is a particularly important factor in the ability for children to study at home even outside of the current COVID-19 crisis. However, in light of the pandemic we currently face, it is inevitable that children will find it increasingly difficult to achieve an optimal environment to focus on their studies. The link between the overrepresentation of BAME communities in deprived areas and access to educational resources is thus an issue that must be considered. Particularly in light of the need to access lessons online, amenities such as a laptop for each child and reliable Wi-Fi are beyond the means of many families.

Therefore, in light of the inevitable economic impacts of the COVID-19 pandemic, the Government must learn the lessons of previous austerity measures and ensure that any further strategies do not further exacerbate the disproportionate burdens of economic measures on BAME families and their children. Increasing these disproportionate burdens will only hamper aspirations of social mobility and equality across society.

Meanwhile, students who were due to sit their final GCSE, AS, or A-Level exams this summer have been told that their results will now rest with the predicted grades issued by their teachers that are predicated upon their assessment of the students' performance in class thus far.¹⁶ However, the implementation of this policy requires safeguards against the disadvantaging of vulnerable groups, especially with regards to the potential infiltration of unconscious biases into how grades are calculated. Unconscious bias amongst teachers based in stereotypes has been shown to hinder the development of students from minority backgrounds. As observed by the Social Mobility Commission regarding Muslim students, "low expectations by some teachers, including placing Muslims students in lower or middle sets, and a lack of encouragement to take challenging subjects, have a negative impact on the

¹⁰ "Ethnicity and religion by age," Office for National Statistics, accessed June 07, 2017, <https://www.ons.gov.uk/aboutus/transparencyandgovernance/freedomofinformationfoi/ethnicityandreligionbyage>.

¹¹ "British Muslims in Numbers A Demographic, Socio-economic and Health profile of Muslims in Britain drawing on the 2011 Census," Muslim Council of Britain (MCB), accessed June 07, 2017, <http://www.mcb.org.uk/muslimstatistics/>.

¹² Ami Sedghi, "Is it true there is a startling rise in the birthrate of British Muslims?" The Guardian, January 10, 2014, <https://www.theguardian.com/news/datablog/2014/jan/10/rise-british-muslim-birthrate-the-times-census>.

¹³ Open Society Institute, "Muslims in the UK: Policies for Engaged Citizens," Open Society Foundations, 2005, <https://www.opensocietyfoundations.org/reports/muslims-uk-policies-engaged-citizens>.

¹⁴ "Race Disparity Audit Summary Findings from the Ethnicity Facts and Figures website", Cabinet Office, October 2017 (revised March 2018), accessed 15.05.2018, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/686071/Revised_RDA_report_March_2018.pdf

¹⁵ '2011 Census Data On Nomis,' 2011 Census - Nomis - Official Labour Market Statistics, accessed May 12, 2017, <https://www.nomisweb.co.uk/census/2011>.

¹⁶ Turner, Camilla. 2020. "Teachers Warned Over 'Unconscious Bias' Amid Fears That Ethnic Minority Children Will Get The Wrong Grades". *The Telegraph*. <https://www.telegraph.co.uk/news/2020/04/30/teachers-warned-unconscious-bias-amid-fears-ethnic-minority/>.

confidence of young Muslims which in turn limits their educational aspirations and attainment.”¹⁷

Meanwhile, as existing studies have indicated, unconscious biases held by teaching professionals can result in students from minority and disadvantaged backgrounds being predicted lower grades than they are perhaps capable of achieving. As observed by Professor Kalwant Bhopal, the director of Birmingham University’s Centre for Research in Race and Education, “there’s a lot of evidence to show that there are stereotypes around particular types of students, so their predicted grades are lower, and when they do the exam they do better than their predicted grade...students who are from white, middle-class, affluent backgrounds will do very well from these predicted grades, especially those from private schools.”¹⁸ Indeed, studies have demonstrated that roughly 1,000 high-achieving students from disadvantaged backgrounds have their grades under-predicted each year.¹⁹

In the context of the current crisis, immediate action must be taken. MEND thus calls upon the Government and the Department for Education to:

- **Ensure that plans regarding the examinations and grades awarded to students take account of the potential infiltration of unconscious bias.**
- **Examine the impacts of deprivation on the ability of children to progress with their studies, particularly during the lockdown period, and propose strategies to provide additional support to such families.**

How MEND can assist parliamentarians, policymakers, and community stakeholders

- Providing briefings, information, analysis, and expertise on issues impacting Muslim communities.
- Arranging opportunities for parliamentarians, policymakers, and community stakeholders to engage with their local Muslim communities.
- Conducting research within Muslim communities.
- Connecting parliamentarians, policymakers, and community stakeholders to other local stakeholders.

If MEND can be of any assistance to your work, please feel free to contact info@mend.org.uk

¹⁷ “The Social Mobility Challenges Faced By Young Muslims”, 2017. *Assets.Publishing.Service.Gov.Uk*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/642220/Young_Muslims_SMC.pdf

¹⁸ Weale, Sally, and David Batty. “Fears That Cancelling Exams Will Hit BAME and Poor Pupils Worst.” *The Guardian*. Guardian News and Media, March 19, 2020. <https://www.theguardian.com/world/2020/mar/19/fears-that-cancelling-exams-will-hit-black-and-poor-pupils-worst>

¹⁹ Wyness, G (2016), ‘Predicted grades: accuracy and impact’, University and College Union, London