



NGO WRITTEN CONTRIBUTION FOR STATES PARTIES UNDER REVIEW - 140TH SESSION

# The United Kingdom's Implementation of the International Covenant on Civil and Political Rights (ICCPR)

SUPPLEMENTARY EVIDENCE FROM  
COMMUNITY POLICY FORUM

MARCH 2024

 Community Policy  
Forum



## **The United Kingdom’s Implementation of the International Covenant on Civil and Political Rights (ICCPR)**

### **NGO written contribution for states parties under review**

#### **140th Session**

### **Supplementary Evidence from Community Policy Forum**

**March 2024**

During an informal briefing with NGOs on 11th March 2024 in Geneva, The UN Human Rights Committee posed a number of questions for which they were seeking additional information. This supplementary evidence seeks to address some of those questions. Specifically, we aim to provide context to four key areas:

1. Closed material procedures.
2. Racial disparities and absences in data.
3. Hate crime.
4. The expansion of executive power.

Additionally, we would like to bring to the attention of the committee further recent developments that have gained increasing relevance in the last week since the informal briefing with NGOs. Specifically, we’d like to raise our concerns about the Government announcement last week of a new definition of ‘extremism’.

### **Redefining ‘extremism’.**

The official update to the definition of ‘extremism’ was announced last week,<sup>1</sup> alongside guidance for ‘principles of engagement’ directed at ensuring that government departments and officials “are not inadvertently providing a platform, funding or legitimacy to groups or individuals who attempt to advance extremist ideologies”.<sup>2</sup>

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<sup>1</sup> Department for Levelling Up, Housing and Communities . “Government Strengthens Approach to Counter Extremism.” GOV.UK, March 14, 2024. <https://www.gov.uk/government/news/government-strengthens-approach-to-counter-extremism>.

<sup>2</sup> Department for Levelling Up, Housing and Communities. “Government’s Principles of Engagement.” GOV.UK. GOV.UK, March 14, 2024. <https://www.gov.uk/government/publications/community-engagement-principles/governments-principles-of-engagement>.



A deeper understanding of the changes can be gleaned from our briefing '[The Muslim Target: Weaponising Extremism, Eroding Human Rights, and Silencing Dissent](#)'<sup>3</sup> which can also be found in [Appendix I](#) below. However, we wish to highlight to the committee the ways in which **the new policy directly infringes upon rights that are enshrined in Articles 18, 19, 21, and 26 of the ICCPR.**

'Extremism' has always been a nebulous concept within political discourse. As a subjective term, it is always for those who hold dominant political power to dictate what is outside of the political norm and therefore 'extreme'. Consequently, this is not the first time that accusations of extremism have been levied at those opposed to the government of the day. Moreover, these changes follow a pattern over the last several years of government-backed legislation and policies designed to circumvent judicial scrutiny, avoid accountability, undermine protest, and curtail the free speech of those that oppose its policy agendas. By expanding the already subjective understanding of 'extremism', there are legitimate concerns that these proposals follow a pattern of government attempts to undermine political opposition through curtailing the free speech and political participation of those who hold lawful non-majority opinions and activists that do not support the government agenda.<sup>4</sup> Recent years have already witnessed instances of non-violent groups being erroneously subsumed within counter-terror concerns, for example in 2020 Extinction Rebellion were included in a counter-terror policing guide entitled '*Safeguarding young people and adults from ideological extremism*'.<sup>5</sup>

According to the new definition, "Extremism is the promotion or advancement of an ideology based on violence, hatred or intolerance, that aims to:

1. negate or destroy the fundamental rights and freedoms of others; or
2. undermine, overturn or replace the UK's system of liberal parliamentary democracy and democratic rights; or
3. intentionally create a permissive environment for others to achieve the results in (1) or (2)."<sup>6</sup>

This is accompanied by a list of core behaviours, many of which are exceptionally broad and subjective. As but two examples:

- **"Subverting the way public or state institutions exercise their powers, in order to further ideological goals, for example through entryism, or by misusing powers or encouraging others to do so":** entryism is a particularly nebulous concept in this context and prone to misapplication. It is an accusation frequently

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<sup>3</sup> Community Policy Forum. "The Muslim Target: Weaponising Extremism, Eroding Human Rights, and Silencing Dissent – Community Policy Forum." [www.communitypolicyforum.com](http://www.communitypolicyforum.com), 2024. <https://communitypolicyforum.com/portfolio-item/the-muslim-target-weaponising-extremism-eroding-human-rights-and-silencing-dissent/>.

<sup>4</sup> Quinn, Ben. "An Appalling Direction': UK Activists Criticise Plans to Redefine Extremism." The Guardian, March 10, 2024. <https://www.theguardian.com/uk-news/2024/mar/10/an-appalling-direction-uk-activists-criticise-plans-to-redefine-extremism>.

<sup>5</sup> BBC News. "Extinction Rebellion: Counter-Terrorism Police List Group as 'Extremist' in Guide." BBC News. BBC News, January 10, 2020. <https://www.bbc.co.uk/news/uk-51071959>.

<sup>6</sup> Department for Levelling Up, Housing and Communities . "New Definition of Extremism (2024)." GOV.UK. GOV.UK, March 14, 2024. <https://www.gov.uk/government/publications/new-definition-of-extremism-2024/new-definition-of-extremism-2024#fn:3>.

levied against Muslims when they seek to exercise their democratic rights and participate on an equal footing in political life. Thus, when combined with existing structural Islamophobia embedded across the political sphere and within the UK's counter-terror apparatus, this definition is likely to unduly impact Muslim organisations and individuals that seek to encourage communities to become politically active and empower them to advocate for themselves through the democratic process.

- **“Consistent association with individuals or representatives of groups or organisations that have demonstrated behaviour in either aim 1 or aim 2 without providing critical challenge to their ideology or behaviour”**: this is an association fallacy. Firstly, there is no indication of how robust this ‘critical challenge’ must be to absolve someone of responsibility of guilt by association. Secondly, there are concerns about the process in which groups and individuals will be categorised as ‘extremist’. Guilt by association will ostracise organisations from civil society support who may have been erroneously branded as extremist.

Based on this definition, Michael Gove, the Secretary of State for Levelling Up, Housing and Communities is due to publish a list of organisations which, in his opinion, meet this threshold.<sup>7</sup> Furthermore, according to the government guidance on principles for external engagement, organisations and individuals who are captured in Gove's list are to be blocked from:

- Engagement with government ministers,
- Engagement with the Civil Service,
- Government funding,
- and being appointed to government advisory bodies and groups.<sup>8</sup>

While the list is yet to be published, Gove used parliamentary privilege this week to name several groups being targeted, including the Muslim Association of Britain, Cage, and MEND, as well as Patriotic Alternative and the British National Socialist Movement. A draft version of the statement is reported to also include Friends of al-Aqsa and 5Pillars.<sup>9</sup> The government has reportedly already internally acknowledged the likelihood of legal challenges,<sup>10</sup> and Muslim groups named by Gove have already invited him to repeat the claims outside of parliamentary privilege where he can be legally challenged.<sup>11</sup>

Indeed, the existing counter-terror apparatus, including the PREVENT Strategy (which this definition seeks to underpin), has been criticised across civil society, academia, and the

<sup>7</sup> Syal, Rajeev, Ben Quinn, and Daniel Boffey. “UK Ministers and Officials to Be Banned from Contact with Groups Labelled Extremist.” *the Guardian*. *The Guardian*, March 14, 2024.

<https://www.theguardian.com/world/2024/mar/14/ministers-and-officials-to-be-banned-from-contact-with-groups-labelled-extremist>.

<sup>8</sup> Department for Levelling Up, Housing and Communities. “Government's Principles of Engagement.” *GOV.UK*. *GOV.UK*, March 14, 2024.

<https://www.gov.uk/government/publications/community-engagement-principles/governments-principles-of-engagement>.

<sup>9</sup> Quinn, Ben. “From Left to Far Right, Which Groups Could End up on the UK Extremism List?” *The Guardian*, March 14, 2024.

<https://www.theguardian.com/politics/2024/mar/14/from-left-to-far-right-which-groups-could-end-up-on-the-uk-extremism-list>.

<sup>10</sup> Ungoed-Thomas, Jon. “Revealed: Legal Fears over Michael Gove's New Definition of ‘Extremism.’” *The Guardian*, March 9, 2024.

<https://www.theguardian.com/politics/2024/mar/09/revealed-legal-fears-over-michael-gove-definition-extremism#:~:text=The%20government%20has%20not%20confirmed,is%20not%20enshrined%20in%20law>.

<sup>11</sup> Ullah, Areeb. “Muslim Groups Challenge Gove to Name Them ‘Extremist’ outside of Parliament.” *Middle East Eye*, 2024.

<https://www.middleeasteye.net/news/muslim-groups-challenge-gove-name-them-extremist-outside-parliament>.

international community for its discriminatory application against Muslim communities.<sup>12</sup> By securitising Muslim faith and practice, PREVENT has mobilised structural Islamophobia and created a hostile environment wherein normative Islamic practice is often seen as suspect and Muslims are forced to adjust, negotiate, or withdraw from political participation for fear of being caught in its net. This new definition and accompanying engagement principles are, therefore, of particular concern for Muslim communities, especially in light of the government's existing commitment to the recommendations of the Shawcross Report that has been widely criticised<sup>13</sup> for its conclusions that Muslim-led civil society organisations should be viewed as 'extremist' and 'Islamist' for political activism in opposition to government policy and its subsequent recommendations a similar approach to dissolving organisations as has been seen in France.<sup>14</sup> Such an approach will create a political environment that effectively excludes Muslims from participating on an equal footing.

It is also important to note that the Muslim organisations already highlighted by Gove have not been contacted to discuss the concerns against them, nor defend against the accusations. There is great danger in a potential process that includes organisations on such an incendiary list, intimately damaging their reputations, livelihoods, and relationships across society, without providing an opportunity to respond. Additionally, as this is not a legal definition, it is concerning that this new definition and accompanying engagement principles can seemingly be applied without judicial oversight to bar lawful organisations from public life. Meanwhile, any avenues for appeal remain unclear. This raises questions about the appropriate use of unchecked executive powers.

### **Closed material procedures.**

In recent years, closed material procedures (CMP) have come under heavy criticism from legal and human rights experts across civil society, with particular **concerns that the current scope and usage of CMP are in conflict with Article 14 of the ICCPR, Article 6 of the Human Rights Act 1998 (HRA), and Article 13 of the European Convention on Human Rights (ECHR).**

As an overview of how CMP operates using immigration and nationality decisions as an example, the Home Office may make a decision (for instance deportation or nationality deprivation) on the basis of sensitive information about an individual's background, character, and associations that has implications for national security. If the individual (the 'applicant' or 'appellant' in such cases) seeks an appeal or judicial review of this decision, the Government may believe that disclosing the evidence upon which their initial decision was based is contrary to public interest (for example, if it may compromise an ongoing police investigation). In such cases, the Government will rely on CMP, which may involve either open or closed hearings. In a closed hearing, the applicant/ appellant as well as their legal representatives are excluded, with the secret evidence being heard in their absence. Instead, their interests are represented by a Special Advocate, which is a barrister who has been vetted by the Security Services. Usually, the claimant and their legal representatives

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<sup>12</sup> People's Review of Prevent. "PROP Report – Introduction – People's Review of Prevent." Peoplesreviewofprevent.org, 2022. <https://peoplesreviewofprevent.org/prop-report/>.

<sup>13</sup> Holmwood, John, and Layla Aithadj. "A Response to the Shawcross Report." www.peoplesreviewofprevent.org, March 2023. <https://peoplesreviewofprevent.org/wp-content/uploads/2023/06/response-to-shawcross-1.pdf>.

<sup>14</sup> Cossé, Eva. "French Court Confirms Dissolution of Anti-Discrimination Group." Human Rights Watch, September 27, 2021. <https://www.hrw.org/news/2021/09/27/french-court-confirms-dissolution-anti-discrimination-group>.

can initially meet with the Special Advocate, but once the Special Advocate has seen the closed material, the applicant/ appellant and their legal representatives can pass messages to the Special Advocate through the Special Advocates' Support Office, but the Special Advocate may no longer communicate with the applicant/ appellant or their legal representatives without permission from the other side.<sup>15</sup>

The core problem with CMP is summed up in the judgement of *Roberts (FC) (Appellant) v Parole Board (Respondents)*: "It is not to the point to say that the special advocate procedure is "better than nothing". Taken as a whole, the procedure completely lacks the essential characteristics of a fair hearing. It is important not to pussyfoot about such a fundamental matter: the special advocate procedure undermines the very essence of elementary justice. It involves a phantom hearing only."<sup>16</sup>

While there have been some developments to CMP since this judgement was handed down – primarily in the form of the Justice and Security Act 2013 (JSA) – *Justice* observes that the use of CMP remains "inherently unfair and is fundamentally inconsistent with the common law tradition of civil justice where proceedings are open, adversarial and equal. Their use across the justice system threatens both the right to a fair hearing and the accountability of the Government... CMP is inherently unfair – denying the right to be heard, the right to know the evidence against you, the right to confront one's accuser and the right to an adversarial hearing and equality of arms; secret evidence cannot be fully challenged and is inherently unreliable; CMP is undemocratic and prevents public transparency that justice is being done; CMP is damaging to the integrity of courts and the rule of law; and CMP can lead to inaccurate conclusions and a drop in professional standards which endanger security".<sup>17</sup>

There are questions about the equality of arms and the appropriateness of CMP in the adversarial format employed by UK Common law. An adversarial approach requires an equality of arms between parties; for which visibility of respective arguments is a key element in maintaining this equality. Within CMP, the excluded party's ability to effectively confront their opponent is severely diminished, with implications to the fairness of the administration of justice. Moreover, observers have also noted that, rather than a focused pursuit of the public interest, there is a pattern of the Government seemingly seeking to have as much material as possible to be held in closed, rather than only the narrowest of material that is strictly necessary. This has led to the Government being accused of treating CMP as an excessively adversarial tool, which results in extensive legal debates and prolonged proceedings that further impact the fair and effective administration of justice.<sup>18</sup>

Furthermore, in CMP cases, the court may hand down a closed judgement which is an inherent departure from fundamental rule of law standards of equality of arms and open justice. With significant parts of a court's reasoning being withheld from the public, non-state parties, and their legal representatives, this raises questions about the common law system of precedent and consistency in decision-making, with a risk that legal representatives,

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<sup>15</sup> Hill, Thomas. "Closed Material Procedures in Immigration Cases - Richmond Chambers." Richmond Chambers, March 24, 2023. <https://immigrationbarrister.co.uk/closed-material-procedures-in-immigration-cases/>.

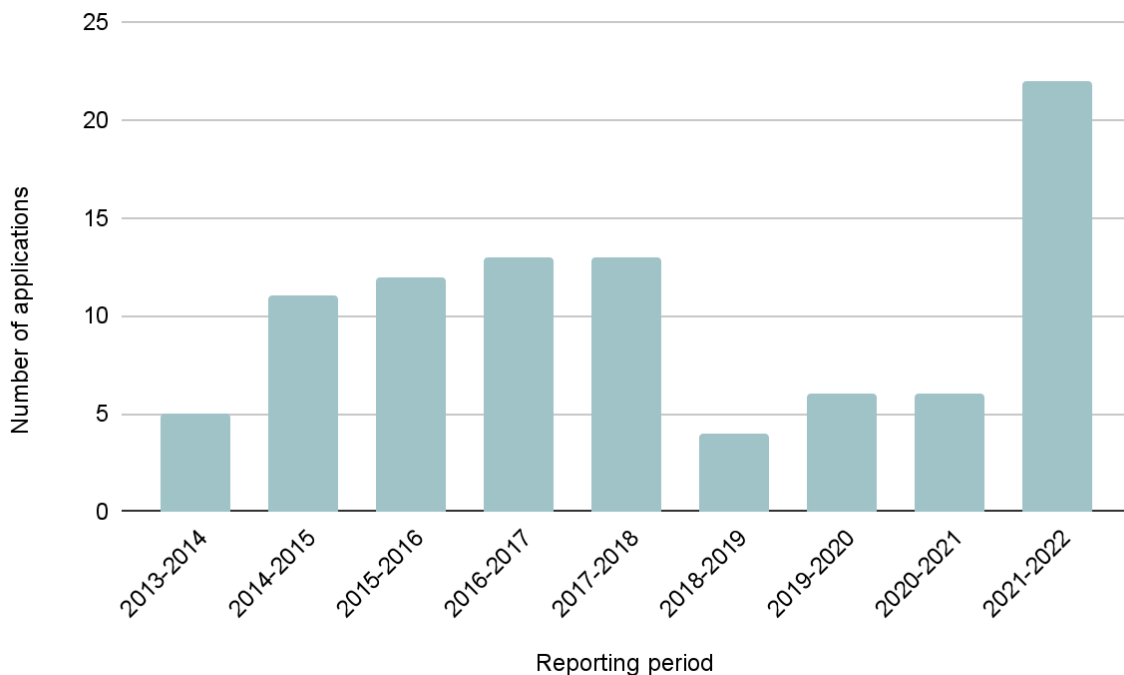
<sup>16</sup> Parliament. "House of Lords - Roberts (FC) (Appellant) v Parole Board (Respondents)." www.parliament.uk, 2024. <https://publications.parliament.uk/pa/ld200506/ldjudgmt/jd050707/robert-5.htm>.

<sup>17</sup> Breen, Maddy. "Review of Closed Material Procedure in the Justice and Security Act 2013 - JUSTICE." JUSTICE, July 6, 2021. <https://justice.org.uk/review-of-closed-material-procedure-in-the-justice-and-security-act-2013/>.

<sup>18</sup>Ibid

including Special Advocates, cannot make fully informed representations based on past decisions and practices.<sup>19</sup>

When the JSA was passed, the Government gave assurances that there would be a careful balancing of security and fair justice, meaning that the powers would not be used as a commonplace mechanism. However, in practice, perhaps due to a perceived lack of practicable alternative in the face of national security concerns, CMPs appear to have become “the predominant mechanism for dealing with allegedly sensitive security information”.<sup>20</sup> Thus, courts appear exceedingly open to accepting Government claims with markedly little scrutiny, leading to CMP becoming “normalised”<sup>21</sup> and their usage extending beyond the national security context.<sup>22</sup>



**Fig 1. Applications for a declaration that a CMP application may be made in proceedings during the reporting period 2013-2022.<sup>23</sup>**

<sup>19</sup> Ibid

<sup>20</sup> Nanopoulos, Eva. “European Human Rights Law and the Normalisation of the ‘Closed Material Procedure’: Limit or Source?” *The Modern Law Review* 78, no. 6 (2015): 913–44

<sup>21</sup> Galka, Weronika. “Closed Material Procedures at 25: Evaluating the ‘Normalisation’ of Closed Hearings in UK Judicial Proceedings.” *www.law.ox.ac.uk*, 2023.

[https://www.law.ox.ac.uk/sites/default/files/inline-files/OUULJ%2012th%20Edition\\_Closed%20Material%20Procedures%20at%2025-%20Evaluating%20the%20%20E2%80%98Normalisation%20%80%99%20of%20Closed%20Hearings%20in%20UK%20Judicial%20Proceedings.pdf](https://www.law.ox.ac.uk/sites/default/files/inline-files/OUULJ%2012th%20Edition_Closed%20Material%20Procedures%20at%2025-%20Evaluating%20the%20%20E2%80%98Normalisation%20%80%99%20of%20Closed%20Hearings%20in%20UK%20Judicial%20Proceedings.pdf)

<sup>22</sup> Allen, Fred. “Judicial Review and the Creep of Closed Material Procedures - R (on the Application of Haralambous) v Crown Court at St Albans and Another.” *Kingsley Napley*, February 2018.

<https://www.kingsleynapley.co.uk/insights/blogs/public-law-blog/judicial-review-and-the-creep-of-closed-material-procedures-r-o-n-the-application-of-haralambous-v-crown-court-at-st-albans-and-another>

<sup>23</sup> Ministry of Justice. “Use of Closed Material Procedure Reports.” *GOV.UK*, November 16, 2016. <https://www.gov.uk/government/collections/use-of-closed-material-procedure-reports>.

According to the Government's most recent annual report, in the year 2021-2022 there were 22 applications for CMP.<sup>24</sup> While these annual reports were introduced under the JSA to increase transparency surrounding the use of these powers, there are concerns that these reports remain inadequate for reliable external scrutiny due to their lack of detail and questionable accuracy.<sup>25</sup> Consequently, while it is worth noting that the figure for 2021-2022 is considerably higher than any year previously reported, considering the reliability of the data, it is difficult to derive any further meaningful analyses. Furthermore, especially considering the securitisation of Muslim communities and their overrepresentation within cases involving deportation, citizenship stripping, and national security concerns, additional transparency of data including the protected characteristics of claimants and defendants involved in CMP cases would allow scrutiny of any potential structural discrimination within their usage. Additionally, to our knowledge, the Government has not published its internal review process and data on the number of cases that are internally considered but are not included in its annual reporting as they are not taken forward. Publication of this information would assist in analysing the appropriateness of the use of these powers.

### **Racial disparities and absences in data.**

Another question raised by the Committee surrounded gaps in data surrounding racial disparities. In our mind, while there are multiple areas in need of address, our work with Muslim communities has highlighted significant absences of reliable data in four key areas:

- **PREVENT:** There are serious concerns about the way in which data is being recorded when it comes to PREVENT referrals. Recent FOIs have revealed that data surrounding individuals' race and religion were being recorded in a minority of cases,<sup>26</sup> with police in England and Wales failing to record the racial identity of nearly two-thirds of people referred to the strategy.<sup>27</sup> This situation makes accurate analysis of the equality implications of the strategy exceptionally difficult, if not impossible.
- **Nationality deprivation:** As mentioned in our original submission to the Committee, it is difficult to accurately assess the scale of the UK Government's usage of nationality deprivation powers and the protected characteristics of their targets due to its failure to disclose information in a timely manner and the lack of disaggregation of the data that is available. Data that is available has largely been achieved through the use of FOI requests.<sup>28</sup> This lack of transparency is especially concerning due to

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<sup>24</sup> Ministry of Justice. "Use of Closed Material Procedure Report: 25 June 2021 to 24 June 2022." GOV.UK. GOV.UK, January 11, 2024.

<https://www.gov.uk/government/publications/use-of-closed-material-procedure-report-25-june-2021-to-24-june-2022#:~:text=The%20Secretary%20of%20State%20is,to%20which%20the%20report%20relates>.

<sup>25</sup> Breen, Maddy. "Review of Closed Material Procedure in the Justice and Security Act 2013 - JUSTICE." JUSTICE, July 6, 2021. <https://justice.org.uk/review-of-closed-material-procedure-in-the-justice-and-security-act-2013/>.

<sup>26</sup> Ullah, Areeb. "UK: Rights Groups Call on Home Office to Investigate 'Haphazard' Collection of Prevent Data." Middle East Eye, 2023.

<https://www.middleeasteye.net/news/uk-rights-groups-call-home-office-investigate-haphazard-collection-prevent-data>.

<sup>27</sup> Syal, Rajeev. "Police Failed to Record Race of Nearly Two-Thirds of People Referred to Prevent." The Guardian, February 6, 2024.

<https://www.theguardian.com/uk-news/2024/feb/06/police-failed-to-record-race-of-nearly-two-thirds-of-people-referred-to-prevent>

<sup>28</sup> Rights & Security International. "Home Office Releases Number of People Deprived of British Nationality in 2019 and 2020 after Several FOIA Requests Made by RSI Were Refused." [www.rightsandsecurity.org](http://www.rightsandsecurity.org), March 4, 2019.

<https://www.rightsandsecurity.org/impact/entry/home-office-releases-number-of-people-deprived-of-british-nationality-in-2019-and-2020-after-several-foia-requests-made-by-rsi-were-refused>.



its limiting effects on public and parliamentary oversight, especially in light of the legislative expansion of the powers embodied by the Immigration Act 2014 and the Nationality and Borders Act 2022. It also makes it difficult to conclusively analyse the equality impacts of the application of these powers. However, due to the political nature of the powers and the lack of judicial and public oversight, there are significant concerns about the discriminatory application of the powers on Muslim and migrant communities. Indeed, the requirement for the subject of the powers to have the theoretical potential to become a national of another state means that they can only be applied to those with historical links to other countries. Investigations have shown that an estimated 41% of people from a non-White ethnic background in the UK are eligible potential targets of the powers, making them eight times more likely to be eligible than only 5% of people racialised as White.<sup>29</sup> Moreover, the public vilification of Muslim communities as security threats makes them unique targets for these powers, with Muslims constituting 16 of the 18 people known to be subject to such orders between 2003 and 2013.<sup>30</sup>

- **CMPs:** As previously mentioned, while the JSA introduced annual reports to increase transparency surrounding the use of CMP, these reports remain inadequate for reliable external scrutiny due to their lack of detail and questionable accuracy.<sup>31</sup> Moreover, as these reports do not include disaggregated data, it is difficult to analyse any potential discriminatory impacts, especially considering the securitisation of Muslim communities and their overrepresentation within cases involving deportation, citizenship stripping, and national security concerns.
- **Hate Crime:** Hate crime against Muslims can at times be difficult to categorise due to the intersection between racial and religious prejudice that frequently drives Islamophobia. This creates confusion in police recording of hate crime incidents. While official Home Office data indicates that Muslims experience the highest levels of religiously motivated hate crime (constituting 44% of the total religious hate crimes recorded by police between 2022-2023),<sup>32</sup> data on racially motivated hate crime is not disaggregated by religion. As such, it is difficult to analyse the extent to which Islamophobia is being subsumed within racial hate crimes. In theory, police forces are supposed to record Islamophobia as a separate category of hate crime to "enable police, prosecutors, councils and the communities they serve to have a better understanding of the prevalence of anti-Muslim hate crime and allocate resources accordingly".<sup>33</sup> However, community engagement with police forces indicates that this is not being done consistently (if at all) by forces across England and Wales.

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<sup>29</sup> Merwe, Ben van der. "Exclusive: British Citizenship of Six Million People Could Be Jeopardised by Home Office Plans." *www.newstatesman.com*. New Statesman, December 1, 2021.

[https://www.newstatesman.com/politics/2021/12/exclusive-british-citizenship-of-six-million-people-could-be-jeopardised-by-home-office-plans?mc\\_cid=d501f0a75a&mc\\_eid=UNIQID](https://www.newstatesman.com/politics/2021/12/exclusive-british-citizenship-of-six-million-people-could-be-jeopardised-by-home-office-plans?mc_cid=d501f0a75a&mc_eid=UNIQID).

<sup>30</sup> Rights & Security International | Institute on Statelessness and Inclusion. "Joint Submission to the Human Rights Council: 41st Session of the Universal Periodic Review." *www.rightsandsecurity.org*, March 31, 2022.

[https://www.rightsandsecurity.org/assets/downloads/FINAL\\_Joint\\_Submission\\_UPR\\_UK\\_Nationality\\_Deprivation.pdf](https://www.rightsandsecurity.org/assets/downloads/FINAL_Joint_Submission_UPR_UK_Nationality_Deprivation.pdf).

<sup>31</sup> Breen, Maddy. "Review of Closed Material Procedure in the Justice and Security Act 2013 - JUSTICE." JUSTICE, July 6, 2021. <https://justice.org.uk/review-of-closed-material-procedure-in-the-justice-and-security-act-2013/>.

<sup>32</sup> Hate Crime, England and Wales, 2022 to 2023 Second Edition, Home Office, October 5, 2023.

<https://www.gov.uk/government/statistics/hate-crime-england-and-wales-2022-to-2023/hate-crime-england-and-wales-2022-to-2023#police-recorded-hate-crime>.

<sup>33</sup> BBC News. "Anti-Muslim Crimes Get Own Category in Statistics." BBC News. October 13, 2015. <https://www.bbc.co.uk/news/uk-34511274>.

## Hate Crime.

As mentioned in our original submission to the Committee, the ongoing invasion of Gaza also has resulted in a rise of Islamophobic hate crimes across the UK. Labour MP, Naz Shah, has pointed towards a “600% rise in Islamophobic incidents in the UK, including both verbal and physical abuse, as well as vandalism, such as the dumping of a pig’s head at a proposed site of a mosque in Barnoldswick.”<sup>34</sup> Mosques have become particularly vulnerable to hate crime incidents with Acton Mosque vandalised three times in two weeks in October and November of 2023.<sup>35</sup>

According to the Islamophobia Response Unit, they have recorded significant increases in Islamophobic hate crime and discrimination in the months since October, with the majority of instances relating to Palestine.<sup>36</sup> They highlight that compared to the monthly average for the previous five months (May-September 2023), the IRU received a:

- 365% increase in reports in October.
- 325% increase in reports in November.
- 206% increase in reports in December.
- 206% increase in reports in January.
- And a 301% increase in reports in the first two weeks of February.

The IRU notes that these increases in reports have occurred despite the reluctance of Muslim communities to report, which has been exacerbated in recent months due to media and political demonisation of Muslim and Palestinian activists that has created distrust in the authorities.

The IRU further highlights two anonymised case studies of reports received in recent months:

- “Two survivors, both visibly Muslim, were taking their daily walk in a busy area in the South of the country. As they were crossing the road, a car initially stopped to let them pass, but then, unexpectedly, the driver deliberately struck them. The first impact knocked them down, with one survivor being knocked many metres into the air and the other dragged under the car. The survivor who was dragged under the car has over 10 extensive and very serious injuries. They are still receiving medical treatment, over a week after the incident.”
- “An assailant got on a train and sat down. The assailant then immediately spat in the direction of our client, who is visibly Muslim. The client ignored the spitting. The Assailant asked the client why they were ‘trying to be the bigger man’ and ignoring him. The assailant at this point hurled racial slurs. The second client, who is also

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<sup>34</sup> Solmaz, Mehmet. “British Lawmakers Slam Government for Not Tackling Rising Islamophobia.” *Anadolu Agency*. December 7, 2023. <https://www.aa.com.tr/en/europe/british-lawmakers-slam-government-for-not-tackling-rising-islamophobia/3076498>.

<sup>35</sup> Uddin, Shaheena. “Vandal Sprays Acton Mosque with Paint in Third Attack.” *Ealing Times*, November 8, 2023. <https://www.ealingtimes.co.uk/news/23909853.vandal-sprays-acton-mosque-paint-third-attack/>.

<sup>36</sup> Islamophobia Response Unit. “Press Statement: Islamophobia Response Unit - the Islamophobia Response Unit.” The Islamophobia Response Unit, February 28, 2024. <https://www.theiru.org.uk/data-shows-increase-in-islamophobia/>.

visibly Muslim, started recording. The assailant noticed this and came over to them. Within a moment he swung his left arm connecting right on Client 2's temple. At this point a fight ensued and the assailant grabbed the client by the hood and punched them 4 times on the face and a couple more on the chest. This then developed into a fight which other passengers managed to put a stop to, after one of the clients shouted 'why is everyone just watching?'"

## **The expansion of executive power.**

During the informal briefing, the Committee raised questions about the UK Government's attempts to bypass unfavourable court rulings by changing legislation, as has been the case with the Rwanda Bill and the Government's attempts to declare Rwanda a safe country to which asylum seekers may be deported. The Government has a reputation for demonising political and judicial opposition and has an established pattern of silencing opposition through a series of legislation and policies designed to expand unfettered executive powers, restrict judicial scrutiny, and undermine democratic principles. The aforementioned changes to the definition of extremism and accompanying guidance are but one example of these attempts.

Leading political figures in recent years have come into open public conflict with the judiciary. This has often involved high profile media attacks designed to undermine the public's confidence in the judiciary and paint it as politically tainted and actively working against the will of the people. Prominent examples include depictions of judges as "enemies of the people"<sup>37</sup> regarding rulings surrounding Brexit,<sup>38</sup> the controversy surrounding the unlawful advice of Boris Johnson<sup>39</sup> leading to the proroguing of Parliament,<sup>40</sup> the unlawful handling of PPE contracts during the pandemic,<sup>41</sup> and accusations of "activist lawyers" frustrating deportations.<sup>42</sup> These media attacks have laid the public relations groundwork for a series of legislation and policies designed to undermine judicial and political opposition. Beyond the Rwanda Bill, recent examples include:

- **The Police, Crime, Sentencing, and Courts Act 2022**, which severely obstructs the right to protest as a valuable tool of democratic engagement.<sup>43</sup>
- **The Elections Act 2022**, which enforces the use of compulsory photographic identification in Parliamentary elections, local elections in England, and Police and Crime Commissioner elections – a move that has been equated to voter suppression,

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<sup>37</sup> Botsford, Polly. "Why Judges Are Not 'Enemies of the People' - Legal Cheek." Legal Cheek, June 30, 2020.

<https://www.legalcheek.com/2020/06/why-judges-are-not-the-enemies-of-the-people/>.

<sup>38</sup> Boffey, Daniel. "Brexit: Lawyers Confront Liz Truss over 'Dangerous' Abuse of Judges." The Guardian, November 6, 2016.

<https://www.theguardian.com/politics/2016/nov/05/lawyers-war-liz-truss-over-abuse-judges-brexite-barristers>.

<sup>39</sup> The Secret Barrister. "Against the Law: Why Judges Are under Attack, by the Secret Barrister." The Guardian, August 22,

2020. <https://www.theguardian.com/books/2020/aug/22/against-the-law-why-judges-are-under-attack-by-the-secret-barrister>.

<sup>40</sup> Lyons, Kate. "'Who Runs Britain?' Papers Divided over Court's 'Damning Indictment' of PM." The Guardian, September 25, 2019. <https://www.theguardian.com/media/2019/sep/25/who-runs-britain-papers-divided-over-courts-damning-indictment-of-pm>.

<sup>41</sup> BBC News. "Covid: Matt Hancock Acted Unlawfully over Pandemic Contracts." BBC News. BBC News, February 19, 2021.

<https://www.bbc.co.uk/news/uk-56125462>.

<sup>42</sup> Dearden, Lizzie. "Government Attacks on Lawyers 'Undermine Rule of Law', Says Lord Chief Justice." The Independent, November 11, 2020.

<https://www.independent.co.uk/news/uk/politics/government-priti-patel-lawyers-activists-attacks-rule-law-b1720428.html>.

<sup>43</sup> Community Policy Forum. "Joint Letter: Police, Crime, Sentencing and Courts Bill – Community Policy Forum."

www.communitypolicyforum.com, 2022.

<https://communitypolicyforum.com/portfolio-item/joint-letter-to-parliament-about-the-police-crime-sentencing-and-courts-bill/>.

especially considering that the measures create barriers for groups that are less likely to vote for the Conservative Government.<sup>44</sup> A former government minister recently acknowledged that voter ID was an attempt to “gerrymander” elections for the Conservatives.<sup>45</sup>

- **The Nationality and Borders Act 2022**, which expands the Government’s power to unilaterally strip people of citizenship without giving them notice (which subsequently makes it more difficult for the individual to appeal such a decision).
- **The Judicial Review and Courts Act 2022**, which removes vital safeguards and “deprives people who have been wronged by the State of proper redress”.<sup>46</sup>
- **The Public Order Act 2023**, which imposes further restrictions on protests.<sup>47</sup>

Beyond these examples, despite the Government’s plans to replace the HRA with a *Bill of Rights* having been shelved, the process leading to the development of this bill is a good example of the use of legislation to undermine the ability of the judiciary to scrutinise executive power.

In December 2020, the Government set up the Independent Human Rights Act Review (IHRAR). The questions of the review were heavily focussed on the potential for the judiciary to be overstepping in its application of the HRA, thus undermining parliamentary supremacy, and the potential for the due regard afforded to rulings from the European Court of Human Rights to amount to undue foreign interference. However, when it published its final report, the IHRAR highlighted that the vast majority of the evidence received was supportive of the current functioning of the HRA.<sup>48</sup> On the same day that the IHRAR report was published – clearly aware that the findings of the review did not support its desired outcome – the Government published its own consultation paper,<sup>49</sup> laying out its proposals to replace the HRA with a *Bill of Rights*. As noted by observers including the Justice Committee<sup>50</sup> and chair of the IHRAR, Sir Peter Gross, the Government’s consultation paper bore very little relation to the IHRAR and it did not respond to the final report.<sup>51</sup> Nor did the consultation paper recognise the report by the Joint Committee for Human Rights (JCHR) that was published

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<sup>44</sup> Community Policy Forum. “Briefing: Photographic ID in UK Elections – Community Policy Forum.” Communitypolicyforum.com, 2024. <https://communitypolicyforum.com/portfolio-item/voter-id-briefing/>.

<sup>45</sup> Bienkov, Adam. 2023. “Jacob Rees-Mogg Says Voter ID was Attempt to ‘Gerrymander’ Elections for the Conservatives.” Byline Times, May 15, 2023.

<https://bylinetimes.com/2023/05/15/jacob-rees-mogg-says-voter-id-was-attempt-to-gerrymander-elections-for-the-conservatives/>

<sup>46</sup> Liberty. “LIBERTY’S BRIEFING on the JUDICIAL REVIEW and COURTS BILL for REPORT STAGE in the HOUSE of COMMONS,” 2022.

<https://www.libertyhumanrights.org.uk/wp-content/uploads/2019/12/Libertys-briefing-on-the-Judicial-Review-and-Courts-Bill-report-stage-HoC-Jan-22.pdf>

<sup>47</sup> Community Policy Forum. “Joint Briefing on the Public Order Bill for Report Stage in the House of Lords – Community Policy Forum.” Communitypolicyforum.com, 2023. <https://communitypolicyforum.com/portfolio-item/joint-briefing-public-order-bill/>.

<sup>48</sup> Secretary of State for Justice. “IHRAR the Independent Human Rights Act Review 2 2 0 1,” 2021.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1040525/ihrar-final-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040525/ihrar-final-report.pdf)

<sup>49</sup> Ministry of Justice. “Human Rights Act Reform: A Modern Bill of Rights.” GOV.UK, December 14, 2021.

<https://www.gov.uk/government/consultations/human-rights-act-reform-a-modern-bill-of-rights>.

<sup>50</sup> Justice Committee. “Response to the Government’s Consultation on Human Rights Act Reform,” March 8, 2022.

<https://committees.parliament.uk/publications/9259/documents/160201/default/>.

<sup>51</sup> Rozenberg, Joshua. “Raab’s Reforms under Attack.” Substack.com. A Lawyer Writes, March 31, 2022.

<https://rozenberg.substack.com/p/raabs-reforms-under-attack>.



only a few months before, and which similarly concluded that there “is no case for changing the Human Rights Act”.<sup>52</sup>

What followed was a highly problematic consultation process that was criticised for its inaccessibility to many of the most vulnerable who rely on the HRA.<sup>53</sup> This led the British Institute of Human Rights to conclude that the consultation had “failed to follow the Government’s own Consultation Principles”.<sup>54</sup> The Government further refused to publish the consultation responses. Instead, it published its response to the consultation submissions.<sup>55</sup> From reading the document, it appears that despite the vast majority of responses to the Government’s proposals being overwhelmingly negative, the Government dedicated itself to implementing the changes regardless.<sup>56</sup> As but two examples:

- It appears that 90% of respondents were against plans for introducing a permission stage making it harder for people to bring claims under the HRA. Despite this clear and considered opposition, the Government declared that it remained “convinced that introducing a permission stage is necessary”.<sup>57</sup>
- Likewise, 79% of respondents (in line with both the IHRAR and the JCHR) rejected the proposals to change Section 3 of the HRA. Again, against the findings of the IHRAR, the JCHR, and the Government’s own consultation, the *Bill of Rights* sought to repeal Section 3.

The Government’s refusal to meaningfully engage with the IHRAR, the JCHR, or even the responses of its own consultation led over 150 organisations to write to the Government demanding that the bill undergo proper pre-legislative scrutiny.<sup>58</sup> However, the Government used the existence of its flawed consultation as justification not to submit the bill for pre-legislative scrutiny.<sup>59</sup> As we stated at the time, “it is difficult to conclude that the Government’s public and expert engagement on this bill has thus been performed in anything other than bad faith.”<sup>60</sup>

Ultimately, the now shelved *Bill of Rights* was carefully calibrated to reduce judicial oversight and increase the Government’s powers to disregard human rights and avoid accountability.

<sup>52</sup> Joint Committee on Human Rights. “The Government’s Independent Review of the Human Rights Act Third Report of Session 2021-22 Report, Together with Formal Minutes Relating to the Report by Authority of the House of Commons and House of Lords,” 2021. <https://committees.parliament.uk/publications/6592/documents/71259/default/>.

<sup>53</sup> Community Policy Forum (@PolicyCommunity), “Proud to be signatories to a joint letter to the @HumanRightsCtte about the lack of appropriate resources and time for people with learning disabilities to respond to the UK Government’s proposed #HumanRightsAct reforms. Human rights belong to us all!” <https://bihr.org.uk/Handlers/Download.ashx?IDMF=8e2d763d-1439-4799-9a0c-19a3c77d53cc>, X, Mar 3, 2022, 4:45, <https://twitter.com/PolicyCommunity/status/1499425731902066689?s=20&t=27VntJwxJ49uizZhX-F6vw>

<sup>54</sup> British Institute of Human Rights . “Human Rights Act Reform: Nothing about Us, without Us.” www.bihr.org.uk, n.d. <https://www.bihr.org.uk/media/5xhpgvu3/process-briefing.pdf>.

<sup>55</sup> Ministry of Justice. “Human Rights Act Reform: A Modern Bill of Rights, Consultation Response.” GOV.UK. GOV.UK, June 22, 2022. <https://www.gov.uk/government/consultations/human-rights-act-reform-a-modern-bill-of-rights/outcome/human-rights-act-reform-a-modern-bill-of-rights-consultation-response>.

<sup>56</sup> Ibid

<sup>57</sup> Ibid

<sup>58</sup> Syal, Rajeev. “Raab Urged to Let Parliament Scrutinise Human Rights Act Replacement.” the Guardian. The Guardian, June 21, 2022. <https://www.theguardian.com/law/2022/jun/21/dominic-raab-bill-of-rights-human-rights-act-replacement-letter>.

<sup>59</sup> TheyWorkForYou. “Bill of Rights.” www.theyworkforyou.com, 2022. <https://www.theyworkforyou.com/wrans/?id=2022-06-06.13141.h>.

<sup>60</sup> Community Policy Forum. “Long Read Explainer: The Rights Removal Bill – Community Policy Forum.” www.communitypolicyforum.com, 2022. <https://communitypolicyforum.com/long-read-explainer-the-rights-removal-bill/>.

The entire process surrounding the bill reveals the Government's determination to force its objectives, regardless of due process, proper scrutiny and democratic engagement. Moreover, celebrations in the wake of the announcement that the bill was to be shelved were short lived. As feared, in failing to force through the bill as a single piece of legislation, the Government instead pursued the enforcement of the bill's most dangerous elements and provisions through a variety of different pieces of legislation, such as the Illegal Migration Act 2023.<sup>61</sup> Again, this is indicative of the Government's aggressive approach to securing its prerogatives, and willingness to use any means to achieve their goals.

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<sup>61</sup> Community Policy Forum. "Submission to the Joint Committee on Human Rights Inquiry into the Illegal Migration Bill – Community Policy Forum." Communitypolicyforum.com, 2023.  
<https://communitypolicyforum.com/portfolio-item/submission-jchr-inquiry-illegal-migration-bill/>.

## Appendix I:

# **The Muslim Target: Weaponising Extremism, Eroding Human Rights, and Silencing Dissent**

## **A briefing from Community Policy Forum**

March 2024

Earlier this week, Community Policy Forum published an interim [briefing](#) in light of [reports](#) indicating plans for Michael Gove to unveil a new government definition of 'extremism'. The official update to the [definition](#) has now been [announced](#), alongside [guidance](#) for 'principles of engagement' directed at ensuring that government departments and officials "are not inadvertently providing a platform, funding or legitimacy to groups or individuals who attempt to advance extremist ideologies".

With the plans now formally announced, the following is an updated briefing reflecting on the implications of these announcements. It remains our view that these changes represent an attack on civil liberties, human rights, and political freedoms. We conclude that:

- There has been an absence of public consultation or parliamentary scrutiny surrounding these changes, which can only result in damage for groups whose experiences have not been taken into account during the policy's development and raises questions about unchecked executive power.
- These changes must be understood as part of a long-standing pattern of government attempts to circumvent judicial scrutiny, avoid accountability, undermine protest, and silence its critics, with the impetus for these changes appearing to be a desire to enforce the recommendations of the Shawcross inquiry and dismantle Muslim and pro-Palestinian activism in particular.
- The nebulous concept of 'extremism' has been misunderstood and misused across the decades leading to untold harms and a misdirection of counter-terror focus.
- The influence of the Shawcross recommendations and the securitisation of Muslim organisations will have significant consequences for democracy, as well as exacerbating structural Islamophobia across society.
- While there remains little information about the establishment of a 'counter-extremism centre of excellence' there are questions to be asked about its intended remit, functioning, and transparency.
- As this is not a legal definition, it is concerning that this new definition and accompanying engagement principles can seemingly be applied without judicial oversight to bar lawful organisations from public life.
- The new policy directly infringes upon rights that are enshrined within the Human Rights Act 1998 (HRA), as well as the UK's international obligations under the

International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR).

## Understanding the changes.

The UK definition of terrorism to this point includes not only actions, but threats of action. As such, the risk of violence has become central in a shift towards increasingly proactive policing, the creation of pre-criminal spaces, and ultimately a heavy focus upon the supposed links between ‘radicalisation’, ‘non-violent extremism’, and ‘violent extremism’.

Since 2011, the definition of extremism includes “vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty, and mutual respect [for] and tolerance of different faiths and beliefs”.

According to the new [definition](#), “*Extremism is the promotion or advancement of an ideology based on violence, hatred or intolerance, that aims to:*

1. *negate or destroy the fundamental rights and freedoms of others; or*
2. *undermine, overturn or replace the UK’s system of liberal parliamentary democracy and democratic rights; or*
3. *intentionally create a permissive environment for others to achieve the results in (1) or (2).”*

This is accompanied by a list of core behaviours, many of which are exceptionally broad and subjective. As but two examples:

- **“Subverting the way public or state institutions exercise their powers, in order to further ideological goals, for example through entryism, or by misusing powers or encouraging others to do so”**: entryism is a particularly nebulous concept in this context and prone to misapplication. It is an accusation frequently levied against Muslims when they seek to exercise their democratic rights and participate on an equal footing in political life. Thus, as will be discussed further below, when combined with existing structural Islamophobia embedded across the political sphere and within the UK’s counter-terror apparatus, this definition is likely to unduly impact Muslim organisations and individuals (such as [MEND](#)) that seek to encourage communities to become politically active and empower them to advocate for themselves through the democratic process.
- **“Consistent association with individuals or representatives of groups or organisations that have demonstrated behaviour in either aim 1 or aim 2 without providing critical challenge to their ideology or behaviour”**: this is an association fallacy. Firstly, there is no indication of how robust this ‘critical challenge’ must be to absolve someone of responsibility of guilt by association. Secondly, as will be discussed, there are concerns about the process in which groups and individuals will be categorised as ‘extremist’. Guilt by association will ostracise organisations from civil society support who may have been erroneously branded as extremist.

Based on this definition, Michael Gove, the Secretary of State for Levelling Up, Housing and Communities is due to publish a list of organisations which, in his opinion, meet this



threshold. Furthermore, according to the government [guidance](#) on principles for external engagement, organisations and individuals who are captured in Gove's [list](#) are to be [blocked](#) from:

- Engagement with government ministers,
- Engagement with the Civil Service,
- Government funding,
- and being appointed to government advisory bodies and groups.

While the list is yet to be published, Gove used [parliamentary privilege](#) this week to name several groups being targeted, including the Muslim Association of Britain, Cage, and MEND, as well as Patriotic Alternative and the British National Socialist Movement. A draft version of the statement is reported to also include Friends of al-Aqsa and 5Pillars.

Concerningly, there has been a distinct lack of public consultation and no parliamentary debate on these proposals. Counter-terror is a vastly complicated and nuanced issue and the correct calibration of definitions is vital as it underpins and shapes the approach of the entire UK counter-terror apparatus. Therefore, without proper engagement with civil society, faith groups, and academic experts, any policy is in danger of striking an uneven balance between security and protecting the rights and freedoms of the public. As a result of the lack of consultation, the government has [reportedly](#) already internally acknowledged the likelihood of legal challenges when it is announced, and groups named by Gove have already [invited](#) him to repeat the claims outside of parliamentary privilege where he can be legally challenged.

## **Understanding the Political Context of the Proposals.**

These changes follow a pattern over the last several years of government-backed legislation and policies designed to circumvent judicial scrutiny, avoid accountability, undermine protest, and curtail the free speech of those that oppose its policy agendas. As but a handful of examples, the now shelved '[Bill of Rights](#)' emerged from attempts to limit the courts' abilities to act as a check on executive power in human rights cases. More recently, the Police, Crime, Sentencing and Courts Act 2022 and the Public Order Act 2023 [restrict](#) the right to peaceful protest. Meanwhile, the Economic Activity of Public Bodies (Overseas Matters) Bill is designed to [hinder](#) public advocacy for international human rights causes, with a heavy focus on restricting pro-Palestinian activism.

Indeed, in recent months, the use of these powers and their damage has been particularly felt in relation to pro-Palestinian advocacy. Activists have been caught up in the counter-terror apparatus, arrested, and demonised by government officials as 'extremists' and 'Islamists' participating in "[hate marches](#)". Gove himself has [warned](#) people that by participating in pro-Palestine marches, they could be "lending credence" to 'extremists' in an attempt to discourage support for the cause. Whilst Home Secretary, Suella Braverman wrote a letter to senior police officers in which she said that waving a Palestinian flag may be [criminalised](#) as a public order offence, highlighting attempts to crack down on non-violent political activism. Similarly, a group of pro-Palestinian protestors were [arrested](#) last November for "locking on" after they chained themselves together and blocked the entrance to the Bristol headquarters of Israeli arms company, Elbit - the first arrest of its kind since the Public Order Act became law last May.

There has also been a considerable [increase](#) in PREVENT referrals since 7 October, with Muslims that express solidarity with Palestine, including [schoolchildren](#), at particular risk of being referred for suspected radicalisation. Amnesty International's recent [report](#), 'This is the Thought Police', highlights that PREVENT has a discriminatory impact, especially on Muslim communities, and that referring people to PREVENT for non-violent political beliefs "interferes with the rights to freedom of expression and freedom of thought, conscience, and religion". As such, utilising PREVENT as a tool to suppress expressions of pro-Palestinian activism undermines our civil liberties and jeopardises the UK's compliance with its international human rights obligations.

According to both the introduction of the [definition](#) and the government's [press release](#), the changes have been made in response to "the pervasiveness of extremist ideologies in the aftermath of the terrorist attacks in Israel on 7 October" and a rise in anti-Semitic and Islamophobic hate crimes in the intervening months. While this superficially appears a balanced concern, it is difficult not to take into account the government's long standing hostility to addressing Islamophobia both within its ranks and across society.<sup>62</sup> With this in mind, one might be forgiven for being cynical of the government's motives, and in light of the aforementioned demonisation of pro-Palestinian activists, question the extent to which the new definition is in reality being pursued as a mechanism for introducing the recommendations of the Shawcross inquiry and curtailing Muslim and pro-Palestinian political activism.

Consequently, there has been legitimate [concern](#) across the political spectrum that this definition will be used to silence lawful non-majority opinions and activists that do not support the government agenda. Recent years have already witnessed instances of non-violent groups being erroneously subsumed within counter-terror concerns, for example in 2020 Extinction Rebellion were [included](#) in a counter-terror policing guide entitled '*Safeguarding young people and adults from ideological extremism*'.

Further questions of a political motivation underpinning these changes have emerged due to their coinciding with the run up to a general election. A joint [letter](#) signed by senior politicians and counter-terrorism experts, including three former Conservative Home Secretaries, has warned against the politicisation of the concept of extremism. It states, "in the run up to a general election it's particularly important that that consensus is maintained and that no political party uses the issue to seek short term tactical advantage."

Moreover, 'extremism' has always been a nebulous concept within political discourse. As a subjective term, it is always for those who hold dominant political power to dictate what is outside of the political norm and therefore 'extreme'. Consequently, this is not the first time that accusations of extremism have been levied at those opposed to the government of the day. Causes previously decried as 'extremist' have later been highlighted as positive radical movements that have resulted in the betterment of society (women's suffrage being one such example). We would argue that the focus should be shifted to the means by which groups advocate achieving their ends; specifically whether they advance violence in achieving their goals. What is at issue in the current debate is the closing down of public space for law abiding non-violent groups because they differ from the dominant political norm. A healthy functioning democracy should be robust enough to challenge dangerous

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<sup>62</sup> See Community Policy Forum's [report](#) to the UN Human Rights Committee for more information.

ideas through debate. Consequently, there is a problem not only with the updated definition of extremism, but the fact that such a subjective concept is capable of driving counter-terror policies, especially considering that such an approach is inherently focussed on people's thoughts, rather than their actions.

Ultimately, by expanding the already subjective understanding of 'extremism', there are legitimate concerns that these proposals follow a pattern of government attempts to undermine political opposition through curtailing the free speech and political participation of those who oppose their political agenda.

## **The Impact on Muslim Communities.**

The existing counter-terror apparatus, including the PREVENT Strategy (which this definition seeks to underpin), has been [criticised](#) across civil society, academia, and the international community for its discriminatory application against Muslim communities. By securitising Muslim faith and practice, PREVENT has mobilised structural Islamophobia and created a hostile environment wherein normative Islamic practice is often seen as suspect and Muslims are forced to adjust, negotiate, or withdraw from political participation for fear of being caught in its net. This new definition and accompanying engagement principles are, therefore, of particular concern for Muslim communities, especially in light of the government's existing commitment to the recommendations of the Shawcross Report that has been widely [criticised](#) for its conclusions that Muslim-led civil society organisations should be viewed as 'extremist' and 'Islamist' for political activism in opposition to government policy and its subsequent recommendations a similar approach to dissolving organisations as has been seen in [France](#). Such an approach will create a political environment that effectively excludes Muslims from participating on an equal footing.

It is noteworthy that of the organisations highlighted by Gove, five out of seven are Muslim. This hyper-focus on Muslim organisations belies the trends in the European picture of terrorism. According to the latest EUROPOL TE-SAT [report](#), of the 28 completed, failed and foiled terrorist attacks reported by member states in 2022, most were categorised as left-wing and anarchist (18), while the number of jihadist attacks (6) has fallen compared to previous years. Meanwhile, according to the Home Office's own [data](#), of the 645 PREVENT referrals that went on to be adopted as a Channel case between 2022-2023, "296 (46%) were for Extreme Right-Wing concerns, 115 (18%) were for Islamist concerns, and 103 (16%) were for those with a Conflicted ideology." Consequently, the preoccupation with Muslim organisations does not reflect the national picture.

Moreover, the involvement of Michael Gove in the development of these policies has been met with alarm amongst Muslim communities. Certainly, Gove has been criticised for a reputation of supporting anti-Muslim policies and associations and has even been [described](#) as 'extremist' himself. He is a founding member of the Henry Jackson Society, which has been [described](#) as a "threat to British democracy" and is renowned for its political attempts to exclude Muslims from public life. Gove himself has been [labelled](#) by journalist Peter Osborne as "the unsung commander-in-chief of the Islamophobes inside the Conservative party". Indeed, he was the government driving force behind the 'Trojan Horse' affair, that has been since [understood](#) to be an "anti-Muslim ideological concoction" and "a figment of neo-Conservative imagination." Concerningly, evidence of Gove's attitude towards and understanding of Muslim communities can be found in his book entitled *Celsius 7/7*, wherein

he highlights the threat of “Islamism” in Britain. In a review of his book the renowned historian William Dalrymple [wrote](#), “Gove’s book is a confused epic of simplistic incomprehension, riddled with more factual errors and misconceptions than any other text I have come across in some two decades of reviewing books on this subject. Many are mistakes of the most basic sort that even a little experience on the ground could have disabused him of.”

Consequently, the seemingly anti-Muslim and neoconservative attitudes that appear to be driving these changes capitalises upon the securitised scrutiny that is already placed upon Muslims and will ultimately serve to exacerbate structural and institutional Islamophobia across society.

## **Processes and Executive Power.**

According to the government [press release](#), the definition will be supported by the creation of a new “counter-extremism centre of excellence” in the Department for Levelling Up, Housing and Communities. The aim of this new unit will be to “provide leadership for the cross-government counter-extremism community, ensure consistent application of the definition and engagement standards, and take the lead on producing strategic assessments of extremism.” Little other information is available about the intended construction, remit, reporting mechanisms, and functioning of this new project, beyond the fact that it will take expertise from the Commission for Countering Extremism. However, what can be observed at this stage is:

1. While the unit is said to consist of ‘independent’ advisors, the government’s recent history of such appointments is of considerable concern. The [withdrawal](#) of Lord Carlisle as the independent reviewer of PREVENT after a legal challenge, the [appointment](#) of Robin Simcox to the Commission for Countering Extremism, and the current [controversy](#) surrounding the appointment of an anti-Muslim hatred advisor are but a handful of examples of a reputation for presenting highly politicised appointments as independent, especially on issues that pertain to Muslim communities.
2. Taking expertise from the Commission for Countering Extremism is also problematic. Indeed, the commission has been [exposed](#) as having intimate ties to far-right networks of racist and anti-Muslim hate groups, as well as [consulting](#) academics advocating far-right ‘Great Replacement’ theories.

It is also important to note that the Muslim organisations already highlighted by Gove have not been contacted to discuss the concerns against them, nor defend against the accusations. There is great danger in a potential process that includes organisations on such an incendiary list, intimately damaging their reputations, livelihoods, and relationships across society, without providing an opportunity to respond. Additionally, as this is not a legal definition, it is concerning that this new definition and accompanying engagement principles can seemingly be applied without judicial oversight to bar lawful organisations from public life. Meanwhile, any avenues for appeal remain unclear. This raises questions about the appropriate use of unchecked executive powers.



## The Impact on Human Rights and Civil Liberties.

The UK is obliged under the [HRA](#) and numerous international treaties, such as the [ICCPR](#), to protect and respect human rights. There are a number of concerns regarding how the new definition and accompanying engagement guidance may breach the UK's domestic and international human rights obligations:

- **Freedom of expression:** The freedom of expression is protected by Article 10 of the HRA and Article 19 of the ICCPR. As previously noted, Muslim and non-violent minority views will be particularly vulnerable to restriction under the reported proposals.
- **Freedom of association:** Article 11 of the HRA and Article 21 of the ICCPR protect the right to peacefully protest, hold meetings, and to form or be part of a trade union, a political party, or any other association or voluntary group. The principles of engagement combined with a definition that embeds a fallacy of association effectively squeezes lawful organisations out of political life and, with the government providing an example for the rest of society, encourages local authorities, funders, and public organisations to follow suit, thereby blocking impacted organisations from participation in all areas of public life.
- **Freedom of thought, conscience and religion:** The right to practise one's religion is protected by Article 18 of the ICCPR and Article 9 of the HRA. As previously mentioned, normative Islamic practices are already frequently considered suspect under the application of current counter-terror policies – a situation that these changes can only exacerbate. However, there is also potential for other minority religious views to also be at risk of censorship.
- **Protection from discrimination:** Both the HRA and the ICCPR contain explicit protections against discrimination on “any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” As discussed above, counter-terror strategies such as PREVENT have already been noted as promoting and embedding structural Islamophobia across society. With the enforcement of these changes and their primary target being Muslim and pro-Palestinian organisations, discrimination and structural inequalities can only deepen.

## Conclusion

As discussed throughout this briefing, there are already considerable concerns surrounding the current application of notions of ‘extremism’. This new definition and accompanying guidance, developed without parliamentary oversight and public consultation, raises new fears of government attempts to circumvent judicial scrutiny, avoid accountability, undermine protest, and silence its political opponents through the enactment of the highly contested Shawcross recommendations. While Muslims continue to be the primary targets of these securitised political manoeuvrings, all minority opinions that contradict government agendas are at risk. Ultimately, these changes have significant consequences for a healthy and functioning democracy and will only exacerbate structural Islamophobia across society.

Moreover, far from “[striking](#) a proportionate balance between protecting our democratic right to freedom of expression and belief, and not curtailing the civil liberties and rights of people in the UK, whilst safeguarding them and our democratic institutions against the wide-ranging harms of extremism”, this new policy directly infringes upon rights that are enshrined within the Human Rights Act 1998 (HRA), as well as the UK’s international obligations under the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR). If anything, removing democratic avenues for expressing grievances and engaging with minority concerns will be counter-productive as it has the potential for violence to become perceived as the exclusive way of having these grievances recognised. Instead, democracy and robust debate should be protected, strengthened, and celebrated. This cannot happen through divisive rhetoric and the politicisation of ‘extremism’.

Consequently, we urge the government to:

1. Withdraw the new definition of extremism and accompanying principles of engagement.
2. Reverse its commitment to the Shawcross recommendations and instead implement the [recommendation](#) of the People’s Review of PREVENT to withdraw the PREVENT strategy on the grounds that it is ineffective, disproportionate, and discriminatory.