

COUNTER-TERRORISM POWERS

Reconciling Security and Liberty in an Open Society: Discussion Paper

A MUSLIM RESPONSE

JULY 2004

F · A · I · R
FORUM AGAINST ISLAMOPHOBIA & RACISM

**Al-Khoei Foundation
The Muslim College**

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PREFACE

ABOUT THE FORUM AGAINST ISLAMOPHOBIA AND RACISM

The Forum Against Islamophobia and Racism (FAIR)¹ is an independent charitable organisation that works to promote a multi-faith, multi-cultural Britain, where all people, including Muslims, are valued for the positive contributions they make to society whilst protected from all forms of stereotyping, discrimination, harassment and violence.

FAIR strives to promote a more balanced understanding of the contributions and concerns of the Muslim community in Britain. It seeks to challenge Islamophobia at all levels of British society by monitoring Islamophobia, challenging discrimination, lobbying for policy and legislative change, and encouraging good relations amongst all communities.

FAIR has submitted responses in the past on issues of immigration and asylum (Secure Borders, Safe Haven), equality and diversity (implementing the Race and Employment Directives), employment, (Employment Status in relation to Statutory Employment Rights), religion (The Religious Offences Bill 2002) and to anti-terrorism (FAIR submission on the Review of the Anti-Terrorism Crime and Security Act 2001).

ABOUT AL-KHOEI FOUNDATION

Al-Khoei Foundation (The Foundation) is an international Islamic charitable institute that engages in initiatives and sponsors a variety of development, health and educational projects. The Foundation has centres in London, Swansea, Manchester, New York, Montreal, Islamabad, Bangkok and Paris. It also runs nationally recognized independent schools in London and New York which implement the local National Curricula subject to regular official inspection.

The Foundation works on three levels: local, national and international. On the local level, the Foundation runs a number of educational and social projects, especially for youth, women and the elderly. For example, The Foundation has negotiated literacy classes with the local North West London College for elderly people of minority Arab communities. It organises Scouts outings for young people and exchange-trips between its schools. It contributes to local environmental projects, such as Agenda 21 at Brent Council, London, and is a member of the Arts, Libraries and Education Committee of the council. The Foundation promotes understanding, tolerance and respect among peoples across cultures, ethnicities, races and religions.

¹ www.fairuk.org

ABOUT THE MUSLIM COLLEGE

The Muslim College is a Postgraduate institution training leaders for the modern world. It produces specialists in the academic study of Islam and specialists in communication and training for Imams.

The Muslim College aims to offer a programme of study that is of an academic standard comparable to that of other institutions of higher education in Europe and the UK, and to ensure that the programme of study is coherent and provides a stage-related learning experience. The Muslim College views the Muslim heritage as a common treasure and encourages the cause of mutual respect and understanding between various Muslim communities.

The Muslim College seeks to inform Muslims about other faiths in the hope that understanding will lead to harmony, and is a committed Muslim institution, which though employing modern methods of learning and research, is faithful to the message of Islam.

ACKNOWLEDGEMENTS

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Iram Janjua
Samar Mashadi
(FAIR)

July 2004

EXECUTIVE SUMMARY

1. Following the events of 11th September 2001, the UK Government passed through new anti-terrorism legislation, namely the Anti-Terrorism, Crime and Security Act 2001 (ATCSA 2001). ATCSA 2001 was designed to give the State exceptional powers to deal with extraordinary circumstances; however, the legislation was passed without sufficient parliamentary scrutiny.
2. The ATCSA 2001 continues to receive widespread condemnation from civil liberties and human rights organisations and grass-root communities who have expressed their reservations about the legislation's validity, the proportionality of the measures taken, the subsequent curtailing of civil liberties and the little regard paid to the democratic process in the legislation's implementation.
3. We believe that whilst it is necessary to address the heightened threat of terrorism posed to national security, there has been a serious failure to balance the measures to counteract this threat with the preservation of civil liberties within a liberal democracy.
4. After having reviewed the findings of Lord Newton in his report on the review of the ATCSA 2001 (Privy Council Review Committee Anti-Terrorism, Crime and Security Act 2001 Review: Report December 2003), FAIR conducted a survey of the Muslim community across the UK². The FAIR Survey gathered information on the impact of the Counter-Terrorism legislation on the Muslim community. The findings of the Survey go towards forming our response to the Government's 'Counter-Terrorism Powers Discussion Paper: Reconciling Security and Liberty in an Open Society' (Discussion Paper).
5. Our response to the Government's Discussion Paper, examines the key sections under the provisions of the Counter-Terrorism legislation which we consider to have a direct and negative impact on the Muslim community. These sections relate to powers under Part 4, and the extended powers granted to the police under Part 10 of the ATCSA 2001.
6. Our response will also focus on additional areas of concern which have been expressed by members of the Muslim community in the Survey. These additional areas of concern include the high profile sweeping arrests across the country, house raids which have been carried out under the legislation, and security checks at airports. The response will also highlight the media's reaction to the Government's Counter-Terrorism powers and the Government's perception of the threat.

² 'FAIR Community Survey: Counter-Terrorism Powers Impact on the Muslim Community in Britain'. Hereafter 'Survey'. See appendix A.

7. One of the concerns we expressed in our previous submission to the ATCSA 2001 Review,³ was that the legislation would be used in a discriminatory manner against the Muslim community. Results from FAIR's Survey reveal that a disproportionate number of Muslims have been and continue to be targeted by the Counter-Terrorism legislation.
8. The Discussion Paper consistently refers to 'Al-Qaida terrorism', 'suicide bombings' and threats from 'foreign nationals'. By choosing to highlight the terrorist threat the UK faces from Al-Qaida and 'associated groups', the Government is alienating the Muslim community from whom it needs support in its efforts to combat the threat of terrorism, and is fuelling prejudice against that community amongst the rest of the population.
9. The Government's efforts must be focused on how we can combat terrorism by using existing legislation and mechanisms of the Criminal Justice System rather than introducing new and disproportionate measures which have an adverse affect on the Muslim community.
10. The majority of Muslims in Britain recognise that fundamental to the English legal system are notions of equity, fairness and justice which are manifested in the legal system. Adherence to these principles must therefore be of the utmost importance in order to build the confidence and trust of the Muslim communities, many of whom feel criminalised and marginalised by the Counter-Terrorism legislation. This undermines the belief that Britain is a fair and equitable society as the legislation has continuously been used in a discriminatory manner to target the Muslim community.
11. We acknowledge that it will take time to minimise the negative effect of the ATCSA 2001 on the Muslim Community, and as such, we support a process of repeal or change for its amendment. Simultaneously, we urge that any amendments and/or changes made to the legislation are carried out in active consultation with the Muslim community across the country.
12. Part 4 continues to be the most controversial power under the ATCSA 2001, requiring the UK to be the only State in Europe to derogate from fundamental rights under the European Convention on Human Rights (ECHR). We support the view of Liberty⁴ in their briefing on the Anti-terrorism debate which states that:

“any attempt to continue this derogation should be subject to intense scrutiny by Parliament.”⁵

13. Those who have been detained, despite having had no specific charges laid against them, are being held in unsatisfactory conditions alongside those who are charged or

³ Anti-Terrorism, Crime and Security Act 2001 Review: A Submission from FAIR, May 2003.

⁴ Liberty is one of the UK's leading human rights and civil liberties organisations.

<http://www.liberty-human-rights.org.uk/>

⁵ Urgent briefing Anti-terrorism Debate, Liberty Submission, February 2004.

have been convicted of serious crimes. The continued detention of individuals in this way strongly compromises the mechanisms of accountability and safeguards, which are meant to ensure that the measures contained within ATCSA 2001 are proportional and circumscribed within the context of the situation which may give rise to their implementation.

14. The processes leading to the detention of 'suspected terrorists' are unclear and based upon 'suspicion' and definitions of terrorism that are generally undefined in the international, legal and political context, and therefore open to discretion which can be abused.
15. The definitions of 'terrorism' in section 1 of the Terrorism Act 2000 (TA 2000) and 'terrorist' in section 21(2) of the ATCSA 2001 includes those who 'support or assist' terrorists. However, such terminology remains vague and undefined and can ultimately be applied to a wide range of activities wherein a connection to 'terrorism' or 'terrorist' activity may be wrongly assumed.
16. The Government claims that it is essential to detain such 'suspected terrorists' without charge. However, though only non-British nationals can be detained indefinitely in the UK, arrests of UK nationals continue. The Special Immigration Appeals Commission (SIAC) argues that:

"it is impossible to see how the separate treatment of foreigners, following derogation from the ECHR, can be regarded as other than discriminatory on the grounds of national origin".⁶

We support the view of Lord Newton that any new legislation should:

"deal with all terrorism, whatever its origin or the nationality of its suspected perpetrators..."⁷

17. Recently, the Attorney General, Lord Goldsmith, condemned the detention of 'suspected terrorists' at Guantánamo Bay.⁸ Despite the readiness of the Government to confront President Bush on Guantánamo, the British Government remains unwilling to condemn the indefinite detention of 'suspected terrorists' at Belmarsh prison and other high security detention centres across the UK.
18. The general fairness of the review and appeals process in the SIAC vis-à-vis disclosure and discussion of 'closed' information is questionable. The use of such evidence in private hearings results in an inequality of arms between the detainee and the State.

⁶ 'Ruling on Legality of Detention under Part 4 of the ATCSA 2001', 30 July 2002. Paragraph 95.

⁷ Newton recommendation paragraph 25.

⁸ See Guardian, 'Democracy's chance' 27 June 2004.

<http://observer.guardian.co.uk/comment/story/0,6903,1248345,00.html>

19. Police powers were substantially extended under the Counter-Terrorism legislation. The most worrying provision has been the enlarged powers of stop and search under s.44 of the TA 2000 granted to law enforcement agencies without being confined to acts of terrorism.
20. Home Office figures revealed a 300% increase in stopping and searching of Asians under the Counter-Terrorism legislation in 2002/03.⁹ Although Muslims are not defined by one single race group, the findings of the Survey have confirmed that Muslims have become a prime target for stop and search.
21. We feel that since the police are not required to show reasonable grounds of suspicion, they have already abused the powers given to them under both the ATCSA 2001 and the TA 2000. The misuse of police powers has not only served to discredit the Government's attempts to counter the perceived threat of terrorism, but has also resulted in alienating many in the Muslim community, who have consequently suffered from a negative backlash. This in turn has made the Muslim community arguably more vulnerable to Islamophobic and racist attacks.¹⁰
22. After the events of September 11 2001, Muslim passengers have expressed frustration at being singled-out by the increased security measures implemented at airports across the country.
23. The impact of relevant provisions on the Muslim community will be assessed with a view to the principles of fairness and equality and whether they have been proportionate and necessary to counter the threat of terrorism.
24. Civil liberties are being seriously undermined by the Counter-Terrorism legislation. The legislation fails to provide adequate safeguards against the criminalisation of entire communities, and therefore remains in our view, overall, subject to serious revision.

⁹ 'Rise in Police Searches of Asians', BBC News, 2 July 2004.

http://news.bbc.co.uk/2/hi/uk_news/3859023.stm

The figures relating to stop and search of Asians under the Counter-Terrorism legislation in 2002/03 were recently produced in a document "Race and the Criminal Justice System: An overview to the complete statistics 2002-2003", published by The Institute for Criminal Policy Research, School of Law, Kings College, June 2004.

¹⁰ Islamophobia can be described as dread, hatred and hostility towards Islam and Muslims perpetuated by views that attribute negative and derogatory stereotypes to Muslims.

INTRODUCTION

25. The Government introduced the *Anti-Terrorism, Crime and Security Act 2001 (ATCSA 2001)* as a piece of emergency legislation. The legislation was subsequently scrutinised, (at the government's request), *inter alia*, by a Privy Council Committee chaired by Lord Newton of Braintree.¹¹ This report, published in December 2003, made specific recommendations on changes to the legislation.¹²
26. In February 2004, the Home Office issued its response to Lord Newton via the discussion paper, *Counter-Terrorism Powers: Reconciling Security and Liberty in an Open Society*. It is within the context of the consultation period created by the discussion paper that FAIR, Al-Khoei Foundation and the Muslim College hereby submit their response after consultation with members of the Muslim community.
27. This response has been constructed from the perspective of select organisations and individuals within the Muslim community. It re-assesses the effectiveness of some of the key provisions in the counter-terrorism legislation and examines the impact of the legislation on the Muslim community. Our response is based on the recommendations of the Newton Report and on the findings of the Survey conducted by FAIR.¹³
28. In compiling this response FAIR sent out a survey which was designed to assess the impact of the counter-terrorism legislation on the Muslim community, and whether this has led to a rise in Islamophobia. The Survey was distributed to Muslim Schools, Mosques, Charities, Islamic Student Societies, NGOs, and members of the community. Over 200 people responded to the Survey providing information on how they had been affected in the following areas: to what extent members of the Muslim community had been affected by Islamophobia, the impact of the Counter-Terrorism powers including arrests, detention and stop and search on the Muslim community, and media coverage of Muslims post 11 September 2001.
29. FAIR re-iterates the position taken by a consortium of Muslim organisations in their November 2001 submission¹⁴, where it was maintained that any new legislation should adhere to the principles of Proportionality, Equality before the law, and Human Dignity. This response also looks at whether the ATCSA 2001 upholds these principles.
30. We accept that the events of 11 September 2001 have led to a requirement of enhanced security. In evaluating the measures taken three principles must be taken into account. Firstly, measures must be proportionate to the threat the State faces. Secondly, the

¹¹ Hereafter referred to as Lord Newton.

¹² Privy Council Review Committee Anti Terrorism Crime and Security Act 2001 Review: Report December 2003, hereafter the Newton Report.

¹³ *FAIR Community Survey: Counter-Terrorism Powers Impact on the Muslim Community in Britain*. Hereafter 'Survey'. See appendix A.

¹⁴ *The Muslim submission on the Anti-Terrorism, Crime and Security Bill 2001*, Consortium of Muslim organisations, November 2001.

measures must adhere to the fundamental principles of the rule of law and thirdly, that the measures must not be discriminatory.

31. The counter-terrorism measures include legislation¹⁵, arrest¹⁶, indefinite detention¹⁷ and curtailing access to independent courts and legal representation.¹⁸ These powers have come into being because the framework of international human rights law allows States to take measures that are in violation of specific human rights obligations, where this is necessary to strike a balance between the protection of human rights of the individual and the safety of the State. It is the failure to observe a seemingly proper balance that has prompted civil rights advocates to argue that some of the counter-terrorism powers imposed are disproportionate and illegal.¹⁹
32. This response begins by examining the Government's decision to derogate from fundamental international human rights obligations to allow internment of foreign nationals without trial. These powers have been subjected to international criticism²⁰ and the courts have ruled that holding such detentions are unlawful²¹. Furthermore, two of the detainees have been released. Government still seeks to renew its powers under Part 4.
33. The Response goes on to examine another factor causing wide concern in the community - the use of powers granted to the police under section 10, ATCSA 2001 and section 44, TA 2000.
34. Finally, we outline some of the wider concerns of the Muslim community. These concerns and their impact on the Muslim community were discussed at great length in our previous submission²². It is our aim to address these issues of concern and to make our recommendations accordingly.

¹⁵ TA 2000, ATCSA 2001.

¹⁶ Section 41, TA 2000.

¹⁷ Section 23 ATCSA 2001.

¹⁸ Sections 26-28 ATCSA 2001.

¹⁹ Amnesty International UK, has argued that "*the indefinite detention of individuals held in cruel, inhuman and degrading conditions amounts to a violation of international law*". EUR 45/011/2004 - 09 March 2004.

²⁰ See Amnesty International Annual Report 2004.

²¹ *The Secretary of State for the Home Department v M* [2004] Civ 324.

²² Anti-terrorism Crime and Security Act 2001 review, A Submission from FAIR, May 2003.

ATCSA 2001, PART 4: IMMIGRATION AND ASYLUM

Definition of Terrorism

35. Part 4 of the ATCSA 2001 relates to special immigration powers allowing the Home Secretary to detain foreign nationals who are suspected of involvement in international terrorism but cannot be deported back to their country due to the UK's commitment to Article 3 of the ECHR.²³
36. The Secretary of State for The Home Department (Home Secretary) is required to certify an individual as a 'terrorist' if the Home Secretary 'reasonably' believes that the person's presence in the UK is a 'risk to national security' and 'suspects that the person is a terrorist.'²⁴
37. We are concerned that there is no single agreed definition for 'terrorism', and that the Home Secretary can claim immunity from scrutiny of his decision, on the grounds of having made his judgment on 'intelligence information', which he is not duty-bound to disclose. The perceived acceptance of 'intelligence information' as foolproof does not sit easily with the UK's previous experiences with the use of such intelligence, as for example, in the wrongful internment in Northern Ireland during the 1970's,²⁵ and the Iraq Dossier,²⁶ which leads us to seriously question the reliability of foreign intelligence.
38. The ATCSA 2001 adopts the definition of 'terrorism' from the Terrorism Act 2000.²⁷ However, crucially, Part 4 of the ATCSA 2001 also defines 'terrorist' to mean a person who 'has been concerned in the commission, preparation or instigation of acts of international terrorism, is a member of or belongs to an international terrorist group', or 'has links with an international terrorist group.'²⁸
39. We maintain our position made in FAIR's previous submission,²⁹ that the definition of 'terrorism' is 'very broad and vague' and has the potential to clamp down on non-criminal activity and legitimate freedom of expression. Since it is the definition which will determine the scope and applicability of the powers under the legislation, greater regard needs to be paid to redefining the definition to include only those whose terrorist activities undermine the democracy of our country. It is clear that innocent

²³ See Appendix B.

²⁴ Section 21, ATCSA 2001.

²⁵ 'Lessons of internment', BBC News Online, 13 December 2001.

<http://news.bbc.co.uk/1/hi/uk/1652641.stm>

²⁶ See Guardian 'Inquiry: U.K. Iraq Intelligence 'Flawed' July 14, 2004.

<http://www.guardian.co.uk/worldlatest/story/0,1280,-4309643,00.html>

²⁷ Section 1, TA 2000.

²⁸ Section 21(2), ATCSA 2001.

²⁹ Anti-terrorism Crime and Security Act 2001 review, A Submission from FAIR, May 2003. p.14/15.

protestors exercising their democratic right have fallen within the ambit of the ATCSA 2001.³⁰

40. Furthermore, rights such as the struggle for the right to self-determination under Article 1 of the United Nations Charter,³¹ which are recognised by many as legitimate, can be deemed as unlawful under the ATCSA 2001. Kegley notes:

“terrorism is so convenient to stigmatise a staggeringly diverse array of behaviours, the meaning of the term remains vague because it has been stretched to refer to widely disparate actions and actors, it is used as a synonym for rebellion, street battles, civil strife, insurrection, rural guerrilla war and a dozen other things.”³²

Derogation from the European Convention on Human Rights (ECHR)

41. The UK Government is the only one in the European Union which has deemed it necessary to derogate from any provision of the ECHR in order to institute its own provisions in relation to Counter-Terrorism legislation.
42. Article 5 of the ECHR³³ prohibits the deprivation of liberty except in specific circumstances. The detentions under Part 4 of the ATCSA do not fall within any of the circumstances mentioned in article 5 under which deprivation of liberty is permitted. As a consequence, the UK using article 15 derogated from article 5 of the ECHR.

Challenging the detentions under the derogations

43. ATCSA 2001 does not take individuals detained under Part 4 completely outside any judicial process. Those detained under Part 4 of the ATCSA 2001 can appeal to the Special Immigration Appeals Commission (SIAC). There are several problems with the process under SIAC. It lacks the safeguards of a criminal trial in terms of the burden of proof, access to the evidence and access to legal advice. The SIAC only judges whether the Home Secretary has ‘reasonable grounds’ to suspect that the person is linked to ‘international terrorism’. The Institute of Race Relations has argued that:

“Internment under the ATCSA is an extreme case of a more general tendency: to use immigration law for detaining, stigmatising and terrorising foreign nationals accused of no crime.”³⁴

³⁰ For example, protestors at the arms fair in London were stopped and searched under section 44 of the TA 2000 in August 2003. See Liberty: *The Right to Protest and Section 44* <http://www.liberty-human-rights.org.uk/issues/right-to-protest.shtml>

³¹ Article 1 (2) of the UN Charter.

³² Kegley, Charles W: *New Global Terrorism: Characteristics, Causes, Controls*, 2002.

³³ See Appendix B.

³⁴ Athwal, Harmit: ‘*Campaigners against Terror Act call for support*’, Institute of Race Relations, 26 June 2003. <http://www.irr.org.uk/2003/june/ak000012.html>

44. The option taken instead to deal with the ‘suspected terrorists’ has been to change the procedural rules to enable them to be tried with the minimum risk to intelligence sources. This measure is not only disproportionate but ineffective in combating terrorism. By removing the usual safeguards found in a criminal trial the ATCSA 2001 risks innocent people being detained. In addition to the limited review of the Home Secretary’s views by SIAC, appeal from SIAC is limited to a point of law.

Is the derogation justified?

45. Article 15 of the ECHR allows States to suspend full compliance with particular provisions under the Convention. Article 15 provides that:

“In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.”³⁵

46. We seriously question whether such a state of ‘public emergency’ or indeed ‘war’ actually exists in the UK, considering that times of war or other public emergency are defined as:

“an exceptional situation of crisis or emergency which affects the whole population and constitutes a threat to the organised life of the community of which the State is composed.”³⁶

47. As the decision to derogate is based upon ‘closed’ information, it is impossible to contest the declared state of emergency. Previously, FAIR pointed out that it is highly debatable whether the measures taken under the derogation were ‘strictly required by the exigencies of the situation’³⁷, given the inherent discrimination of the ATCSA 2001 against non-nationals.

48. Part 4 of the ATCSA 2001 also violates the prohibition of discrimination enshrined in international law.³⁸

49. The Discussion Paper points out:

“Obviously, the Government would prefer to meet the threat without the need for derogation and would have done so if it believed that this was possible. But derogation is

³⁵ See Appendix B.

³⁶ Opinion of David Pannick Q.C in ‘*The Matter of The Derogation from Article 5(1) of the European Convention on Human Rights to allow for detention without trial*, (paragraph 6) Liberty 2001.
[http://www.atcsact-review.org.uk/lib/documents/ATCSA\(5\)4\(f\)_Pannick_Opinion_\(Liberty_Sub\).pdf](http://www.atcsact-review.org.uk/lib/documents/ATCSA(5)4(f)_Pannick_Opinion_(Liberty_Sub).pdf)

³⁷ Anti-terrorism Crime and Security Act 2001 review, A Submission From FAIR, May 2003 pg. 16.

³⁸ Article 14 ECHR See Appendix B.

*permissible within the terms of the Convention and the obligation to derogate is unavoidable in the circumstances which we face.”*³⁹

50. The derogation is available only in relation to the international terrorist threat manifested on 11 September 2001 and is therefore not extended to other forms of international terrorism. This further fuels the argument that the ATCSA 2001 has been specifically legislated to target Muslim groups or individuals said to be associated with what is described as ‘Al-Qaida type terrorism’. If the derogation is limited to those groups perceived to be involved in the attacks on the United States, then ‘terrorist’ must be narrowly construed so that it does not cover other innocent groups concerning Muslims.
51. The Discussion Paper points out that, ‘those detained are free to leave the United Kingdom at any time’, which in the words of Lord Newton would be analogous to ‘exporting terrorism.’⁴⁰
52. Lord Carlisle in his report on the review of sections 21-23 under Part 4 of the ATCSA 2001, acknowledged that the legislation had:

*“a significant impact upon a particular group of the resident community. The members of that group are all persons who do not hold British nationality. Some police have expressed misgivings about a law that in practice has only applied to Muslims (because all those currently detained are Muslim): there is a sense that it causes real resentment among parts of the Muslim community who are both residents and nationals of the United Kingdom, and possibly makes some aspects of policing more difficult.”*⁴¹

53. The Newton Report calls for the replacement of Part 4 in the following terms:

*“We consider the shortcomings described above to be sufficiently serious to strongly recommend that the part 4 powers which allow foreign nationals to be detained potentially indefinitely should be replaced as a matter of urgency. New legislation should deal with all terrorism, whatever its origin or the nationality of its suspected perpetrators; and not require derogation from the European Convention on Human Rights.”*⁴²

54. In the Government’s appeal against the SIAC’s decision to release ‘suspected terrorist’ ‘M’⁴³ the court stated that:

While the need for society to protect itself against acts of terrorism today is self evident, it remains of the greatest importance that, in a society which upholds the rule of law, if a

³⁹ Secretary of State for the Home Department, *Reconciling Security and Liberty in an Open Society*, paragraphs. 34-37, February 2004.

⁴⁰ The Lord Newton Report, December 2003, (paragraph 195).

⁴¹ Lord Carlisle’s Review on the operations of s.21-23. (Paragraph 30).

⁴² The Lord Newton Report, December 2003 (paragraph 203).

⁴³ ‘M’ is a Libyan national who prior to his release was held for 16 months without charge or trial at Belmarsh High security prison.

*person is detained as "M" was detained, that individual should have access to an independent tribunal or court which can adjudicate upon the question of whether the detention is lawful or not. If it is not lawful, then he has to be released.*⁴⁴

55. The differential treatment of nationals and non-nationals undermines the principle of equality before the law. Terrorism has no national or State boundaries and one would imagine that if such a state of emergency did exist so as to warrant derogation from international obligations, then that threat of terrorism be treated the same whether it comes from British or non-British nationals.⁴⁵

56. We believe that abandoning the process of full judicial review and ordinary criminal procedures, and opting for detention of non-UK nationals without charge or trial sets a highly dangerous precedent for a fair and equitable society.

57. Former SIAC panel member Sir Brian Barder has criticized the SIAC:

*"The SIAC continues to administer a law whose provisions for indefinite imprisonment without trial seem plainly unacceptable in a democracy, contrary to British traditions of civil liberties and justice, and in breach of our international obligations".*⁴⁶

58. The Committee should examine the effectiveness of the SIAC in safeguarding the rights of detainees to a speedy review of the lawfulness of their detention and conclusion of their cases.

⁴⁴ The Secretary of State for the Home Department v M [2004] Civ 324 (paragraph 34) Case No: C2/2004/0516.

⁴⁵ Anti-terrorism Crime and Security Act 2001 review, A Submission from FAIR, May 2003 p21.

⁴⁶ Brian Barder explains why he resigned from the Special Immigration Appeals Commission- 18 March 2004. London Review of Books .

http://www.lrb.co.uk/v26/n06/bard01_.html

SECTION 10: POLICE POWERS

59. In the UK, police powers have been substantially extended by the ATCSA 2001. The most worrying provision has been the enlarged powers of stop and search granted to law enforcement agencies. Section 44 of the TA 2000, effectively removes the 'reasonable suspicion' which normal Police and Criminal Evidence Act 1984 (PACE) searches require. There are very few mechanisms in place to monitor the performance of these powers.
60. The Metropolitan Police Authority (MPA) Report reveals a rise in the number of Asians stopped by the police since 2000.⁴⁷ By focussing on Asians the MPA is disguising the enormity of the criminalising and victimisation of the Muslim community. Muslims do not belong to one particular racial group, therefore the current monitoring method used by the MPA and the Home office, fails to adequately monitor how many Muslims have been stopped and searched under the Counter-Terrorism legislation.
61. Since 11 September 2001, law enforcement officials already have much greater discretionary powers. These are also reflected in international legislation, such as UN Security Council Resolution 1373,⁴⁸ as well as the existing rigorous domestic security measures throughout the world.
62. Furthermore, section 94 provides powers for the police to demand the removal of items of clothing which a police officer may believe is being used to conceal a person's identity. This provision is not directed at 'suspected terrorists' or even those suspected of crime and therefore is a clear violation of Article 8 ECHR.⁴⁹
63. The Metropolitan Police Service (MPS) have been unable to provide a breakdown of stop and search statistics of London boroughs, their reason being:

*"to prevent terrorists from discovering where they carry out their searches."*⁵⁰

However the Survey conducted by FAIR reveals that an increasing number of Muslims are being stopped and searched across the country; this is fuelling Islamophobia and related faith-hate crimes. Young Muslim individuals have reported being stopped and searched in 'embarrassing situations' and what they consider to be 'demeaning to their character'⁵¹.

⁴⁷ Report of the MPA Scrutiny on Metropolitan Police Service Stop and Search Practice. 20 May, 2004, p.5.

⁴⁸ On 28/09/2001 The Council unanimously adopted a wide, comprehensive resolution which laid out steps and strategies to combat international terrorism.

⁴⁹ See appendix B.

⁵⁰ Response from MPS when asked to provide a breakdown of statistics on stop and search by borough.

⁵¹ Quote from a participant of the FAIR Survey.

64. When the Counter-Terrorism legislation was first introduced, it was feared that the increase in ad-hoc police powers would have a detrimental impact on communities which are directly affected by the new powers.

65. The Mayor of London supported this view highlighting the following in a submission to the MPA Scrutiny Panel:

*“The mayor has had concerns expressed to him about the use of stop and search powers on the Muslim population from a wide range of groups and organisations working with the Muslim community in London. Although there is currently no facility to check on an individual’s religion when they are stopped and searched, police officers appear to be using s.44 of the Terrorism Act 2000 on the Muslim Community”.*⁵²

66. It is not only the Muslim community who have been unfairly targeted by the police in their stop and search practice. Police powers have also been used against groups and individuals who have engaged in peaceful protests within their right of peaceful assembly protected by Article 11 of the ECHR,⁵³ but nevertheless have been regarded as a nuisance by the authorities.⁵⁴

67. We would advocate strongly that if the Government continues to adopt these powers of stop and search only as a last resort, they then be linked and circumscribed to only serious criminal or terrorist offences and not be left undefined and open to possible misuse by the police. Prominent lawyer, Imran Khan, pointed out that:

*“Stop and search is an ineffective tool to deal with crime as only a small proportion (less than 10%) of stops lead to any criminal prosecution. Weighed against this is the harm it causes to the Muslim community in terms of trust and confidence, the process should be abolished.”*⁵⁵

⁵² Metropolitan Police Authority report of the MPA scrutiny on Metropolitan Police Service- Stop and Search Practice, May 2004.

⁵³ See Appendix B.

⁵⁴ Protestors at the Arms Fair in London’s Edexcel Centre were stopped and searched under the TA 2000 August 2003. (Source BBC news: <http://news.bbc.co.uk/1/hi/england/london/3091854.stm>)

⁵⁵ Stated in a meeting held with FAIR on 13th July 2004.

CONCERNS OF THE MUSLIM COMMUNITY

68. From the results of FAIR's Survey we have found that additional areas of concern consistently expressed by members of the Muslim community are the wide arrests that have been carried out across the country under the Counter-Terrorism legislation.⁵⁶
69. The widespread arrests under the legislation have received condemnation from both civil liberties and human rights organisations as well as from the Muslim community. Furthermore, the majority of those arrested under the legislation have been subsequently released without charge.
70. We are deeply concerned by the number of Muslims who have been arrested under the Counter-Terrorism legislation as well as the manner in which these arrests have been made. One of the participants of the FAIR Survey states:

"I am not saying these arrests are a bad thing, they're not, they are a good thing, but why do they have to be accompanied by middle- of-the night raids terrifying our children and wives. After all that, I wasn't even charged!"

71. According to Home office statistics, between 11 September 2001 and 31 January 2004, 544 individuals were arrested under the TA 2000 and of those 98 were charged with offences under the TA 2000⁵⁷, mostly for firearms offences. Such offences fall just as easily within the ambit of other statutory legislation.
72. Figures from the Welsh National Assembly's Members' Research Service reveal that only 2.5% of those arrested under the Terrorism Act have gone on to be convicted of terrorist offences. David Davies pointed out:

"I was amazed when the Members' Research Service provided me with up-to-date figures on arrests, charges and convictions. It turns out that only 2.5% - 14 - of the 562 people arrested under the Terrorism Act between September 11, 2001, and the end of March this year have actually been convicted of terrorist offences." ⁵⁸

He continues;

"That is a very small proportion, and either the Government is losing its fight against terrorism or the degree of threat has been blown out of all proportion". ⁵⁹

⁵⁶ 10 Kurdish people arrested under the Terrorism laws in Greater Manchester on 19 April 2004, all were later released without charge. *Police 'regret' impact of arrests.*

<http://news.bbc.co.uk/1/hi/england/manchester/3697849.stm>

⁵⁷ http://www.homeoffice.gov.uk/docs3/tatc_arrest_stats.html

⁵⁸ *Concern over terror arrests* IC Network, 23rd July 2004.

http://icwales.icnetwork.co.uk/0100news/0600uk/tm_objectid=14449735&method=full&siteid=50082&headline=concern-over-terror-arrests-name_page.html

⁵⁹ *Ibid.*

73. Arrests which continue to be made across the UK are accompanied by high profile media reports and police statements. The human rights lawyer Gareth Peirce has pointed out that:

*“these symbolic arrests have little effect in suppressing terrorism but a large effect on the perception of the Muslim Community.”*⁶⁰

74. FAIR also surveyed refugee groups across the UK and found that these vulnerable communities were prime targets for arrests under the Counter-Terrorism legislation. Gareth Peirce also adds that:

*“by rounding up a group of asylum seekers, who are usually Muslims, under the Terrorism Act, it will be inevitable that the asylum seekers will probably have false ID’s on them and then they arrest them on that charge.”*⁶¹

75. The continuous sweeping arrests across the country has exaggerated the threat of terrorism and led to the Muslim community being perceived as a ‘suspect community’.⁶²

76. Participants of the Survey also cited that they have had their homes raided by anti-terrorism police. Responses to the Survey show that these police raids often appear to be conducted on the basis of speculation, rather than *prima facie* evidence.

77. We are mindful that there is an extreme political imperative for security agencies and police to investigate and apprehend suspects. However, this outweighs concerns for civil liberties. Though this imperative is understandable, it is no justification for violations of civil liberties and heavy-handed approaches to raiding homes of ordinary citizens who happen to be Muslims. This will inevitably raise anxiety levels of all communities across the UK and further make Muslims vulnerable to racist/Islamophobic attacks.

⁶⁰ Stated in a meeting held with FAIR on 4th June 2004.

⁶¹ Ibid.

⁶² Liberty ‘A new suspect community’ October 2003.

GOVERNMENT RESPONSE

78. The Home Office admits ‘uncertainty surrounding where the danger lies and whether current measures are effective in preventing terrorist attacks’. The UK Government nevertheless perceives the ‘terrorist threat’ to be very real, and although it does not provide clarity as to what this threat actually is, it is unequivocal in stating the terrorist threat to the general public.
79. It was reiterated by Home Office representatives that terrorism is not a new threat.⁶³ Nonetheless, this perceived threat is presented as an actual and imminent one, wherein specific language is adopted as well as keywords and phrases to reflect the urgency of the Government’s message.
80. The dissemination and sharing of information is crucial in an open society, not least to maintain social and public order, but to also engender necessary confidence in the general public that the Government is handling such ‘threats’ adequately.⁶⁴ The Government therefore needs to be more forthcoming about what the actual threat is.
81. The language that the Government uses is itself promoting a climate of fear in the community at large that can potentially lead to unnecessary alarm and confusion. In particular, key phrases consistently used by the Government are also then adopted by the media and, in some cases by public authorities. Thus, phrases such as ‘large networks’, for example, need to be analysed more closely in view of their different interpretations at various levels, of Government and society, and reviews need to be put in place to consider alternative and more accurate descriptions.
82. As was clear from the Seminar on 14th June,⁶⁵ the use of such terminology promotes further inaccuracies and maybe used as an excuse for *ad-hoc* decisions. It is therefore important that we move towards finding a common definition in order to help realise an effective legal response.
83. There is a general fear in the Muslim community that all terrorism is being linked to the religion of Islam. It would be equally dangerous to talk about Buddhist, Christian, Hindu, Jewish or Sikh terrorism in other contexts and this has been recognised in relation to Sri Lanka, Northern Ireland, Israel and India.
84. It was acknowledged by the Home Office⁶⁶ that the last terrorist attacks in the UK were perpetrated by far right extremism telling us clearly that it is wrong and unjustifiable to concentrate the response to such threats on a single religious or ethnic community.

⁶³ Counter-Terrorism Seminar held at Church House, Dean’s Yard, London SW1, on 14 June 2004. (Seminar)

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Ibid.

85. The law does not reflect this reality and until it does so it will be very difficult to move forward to combat the perceived threat of terrorism. Again, this goes to the heart of the argument surrounding the nature of a perceived 'terrorist threat'.

CONCLUSION

86. Although the threat of terrorism is not new, the British Government as well as Governments worldwide are treating it as such. The response so far seems to be designed and perceived to be political rather than legal.
87. Over 80% of the people surveyed by FAIR said that they had been subjected to Islamophobia since 11 September, 2001. A concern which was highlighted by those who participated in the Survey was that the media has consistently shown an inability to articulate the issues in a non-sensationalist way in relation to so-called 'Islamic extremists'. Although there is no set definition, international or otherwise, of 'terrorism', it is regrettable that despite all the evidence and statistics showing Islamophobia to be a form of racism that is unfortunately increasing, the media continues to employ words and images that stereotype a particular ethnic or religious minority/community.
88. Press reporting is frequently unbalanced and uses sensational language. For example, while arrests make headlines, releases without charge receive little or no media coverage. This can also exacerbate increased hostility towards the Muslim community as the general image is almost always negative and biased representing Muslims as a 'problem'.
89. Clear guidance ought to be provided to media, and where necessary, training given on the sensitivities of dealing with certain issues and the way messages are relayed to the public. This is particularly important at a time when there is an acknowledged 'crisis' and tensions are already high.
90. The Government is adamant in maintaining the powers contained within ATCSA 2001. Powers granted to authorities under the legislation raise serious questions as to whether certain measures under the Act are in fact proportionate and necessary within the exceptional circumstances the act refers to.
91. In explaining its position the Government argues for a fair and effective balance between the two major topics at the heart of the debate i.e. security versus liberty. However, the social, cultural, political and human rights of a minority cannot be sacrificed in the name of 'security', especially where the 'perceived threat' is vague and ambiguous. In order not to marginalise and victimise an entire community, it is vital the Government achieve an equal balance between civil liberties and national security as the two must co-exist; and crucially, reconsider the present counter-terrorism legislation and weigh any success against the negative impact it is having on the Muslim community across the UK.
92. Analysis of the findings from FAIR's Survey reveal that 68% of the participants said that they felt they had been perceived and treated differently after the attacks on the United States on 11 September 2001. For example, one participant stated that he was

seen as an 'Islamic fundamentalist' because he observed the main tenets of Islam, such as praying five times a day and fasting during the month of Ramadan. Other participants stated that post 11 September 2001, the general perception of the Muslim community changed dramatically, as they were increasingly viewed as 'extremists' and treated 'less humanely'. In the words of one participant:

"My outward signs of practising Islam did not bother people before, but they now see it as a sign of siding with the terrorists. The people I am referring to are people at work who don't work with me that much but who know I am Muslim. As a result, they are wary of asking me to work for them or do anything for them."

93. We are concerned that the change in the perception of the Muslim community has been greatly influenced by specific terminology such as 'Islamic fundamentalist' or 'Muslim extremist', used both by the Government and the media. Furthermore, the ongoing arrests and house raids of innocent Muslims under the counter-terrorism legislation, accompanied by high profile media reports, continue to portray Muslims negatively and represent them as 'the enemy within'.

94. Of those people who participated in the Survey, 32% claimed to have been subjected to Islamophobia at UK airports. We recognise that under the current climate it is necessary to ensure stringent checks at airports across the country. We are, however, equally concerned by the fact that Muslims continue to be prime targets for these security checks. One participant stated:

"I believe that I was searched at airports here [UK] and in the US simply due to my name even though they insisted the process was 'random'. I noticed that all non-white people were picked and anyone with a non-western sounding name. My bags seemed to be searched more rigorously..."

95. Survey participants also mentioned they were often asked unrelated questions when being interviewed at the airport. For example, 'are you Sunni or Shi'a'? 'For what purpose are you travelling'? and 'Why are you travelling alone and not taking your family with you'?

96. FAIR was contacted by a family who said they had been harassed at Heathrow Airport in July 2004. In this instance, the family had released their seatbelts before fully parking their car in the airport car park. They were confronted by armed Counter-Terrorism police who interrogated them rigorously as to why they had released their seatbelts before fully parking their car. The nature in which the family was interrogated left them frightened, feeling victimised and targeted because of their Muslim appearance.⁶⁷

97. The Survey also revealed that Muslim passengers had been put through 'needless and tiring interviews' at airports across the country, as well as having their luggage searched more rigorously.

⁶⁷ The woman in the family was observing the hijab, and the man was dressed in ethnic clothes.

98. We feel that Muslims are targeted indiscriminately because of the fear that exists surrounding the threat of terrorism from 'Al-Qaida'. If authorities insist on continuing such a 'fishing expedition' as they have done with stop and search and arrest under the counter-terrorism legislation, they will continue to alienate the Muslim community and lose their support and trust in future policies the Government may wish to implement in its fight against 'Al-Qaida' type terrorism.
99. There is no evidence that the ATCSA 2001 on its own makes Britain any safer from the threat of terrorism- instead it has developed a parallel justice system, lacking in adequate safeguards against real and apparent abuses of arbitrary power. In our view the State repression of civil liberties closes the peaceful avenues for legitimate political expression which is necessary in a free and democratic society.
100. The negative affect on vulnerable and targeted Muslim communities is disproportionate to the effect of reducing the threat of terrorism. The indiscriminate use of the legislation has given rise to a culture of fear and insecurity within an already vulnerable community.
101. In attempting to counter the perceived threat of terrorism, the Government cannot renew legislation that singles out the Muslim community. By denying detainees under the ATCSA 2001 access to proper and adequate legal representation, the government itself is not respecting the pinnacles of democracy, namely, that all citizens have equal rights under the law. An increasingly authoritarian state is stifling democracy and providing fertile breeding ground for discrimination against the Muslim community. Counter-terrorism measures must balance public protection with individual rights and States should uphold the fundamentals of Justice on which Western democracies pride themselves, namely, Fairness, Proportionality and the Rule of Law.

RECOMMENDATIONS

102. In attempting to combat the behaviour of these terrorists, it should be asked if it is reasonable and proportionate to limit the rights and freedoms of everyone else. An entire society cannot be expected to pay the price for the actions of a minority; therefore any definition of 'terrorism' must be concisely and specifically drafted in order to avoid the risk of wrongful arrests and detention.
103. We wish to call upon the Government to propose alternative measures to counter the threat of terrorism which will not segregate and demonise an entire community.
104. FAIR's Survey participants have asked:
- “Why must there be a change in the law to deal with Muslims now when terrorism has been in the UK previously?”*
105. We strongly believe that in aiming to counter the threat of terrorism, particularly the threat posed by groups such as Al-Qaida and its 'associates', the ideal step to take is to repeal the ATCSA 2001. The Government must regain the trust and support of the Muslim community, and in doing so ensure the Muslim community is included in any consultation processes designed to effectively minimise the threat of terrorism. The Government should introduce measures which will bind and unify all communities in order to better counter the perceived threat of terrorism.
106. In order for the Government to attain the full co-operation and trust from the Muslim communities it must ensure that Muslims are protected by legislation in all sections of our society. The Government must ensure implementation of the Religious Offences Bill protecting Muslim from incitement of Religious hatred; however, the Government must also be cautious so as not to suppress the legitimate teachings of Islam.
107. It is important to engage in dialogue with the Muslim community and identify the social and political reasons as to why people are drawn to terrorist activity with the aim of finding effective solutions to these issues. For this reason, it is imperative for the Government to cooperate with the Muslim community at all levels. Such cooperation was not sought before the ATCSA 2001 was implemented and thus it fails to address the concerns of the Muslim community.
108. Powers of stop and search have always had a poisonous effect on race relations in the UK- initially the 'sus' laws⁶⁸ used by police lead to widespread rioting in Brixton after the black community was disproportionately targeted by these powers. Now, Section 44 of the TA 2000, which allows police to stop and search to “prevent, deter

⁶⁸ Sus (suspicion) law formed part of the Vagrancy Act of 1824 which was repealed in 1981.

and disrupt terrorist activity”,⁶⁹ is damaging the relationship between the Police and the Muslim community.

109. The power of stop and search under s.44 of the TA 2000 has led to a gross violation of the individual’s right to privacy protected under Article 8 ECHR⁷⁰. Such searches do not require ‘reasonable suspicion’. Imran Khan has stated:

“Even with reasonable suspicion the system is open to huge abuse as African-Caribbean communities have found out and continue to find out.”

The power to stop and search under s.44 of the TA 2000 must cease immediately. These powers have been abused and enforced disproportionately against the Muslim community. Any success this power has had in curbing terrorist activity must also be weighed against the severe impact on the individual’s liberty and on the perception of the Muslim Community.

110. There has been a failure to institute mechanisms whereby clear distinctions are made between religious and racial hatred. This has prevented the community from establishing how the stop and search powers are affecting Muslims as a religious group. If the Government chooses to continue using the powers under section 44 of the TA 2000, then it must also provide safeguards against potential misuse of these powers and implement formal procedures of complaint wherein abuse of stop and search powers by police can be fully and formally investigated.
111. Government led initiatives to monitor the effect of the legislation on communities across Britain, providing data which includes a category of ‘faith’ and/or ‘belief,’ would provide a clearer indication of the impact that the Counter-Terrorism legislation is having on all faith communities in the UK.
112. Part 4 of the ATCSA 2001 is particularly problematic for minority communities and is perceived by the Muslim community generally as directed against them. The Government itself is being perceived to be perpetuating an ‘Us and Them’ scenario. This is inevitably leading to disenfranchisement and segregation of the Muslim community from mainstream institutions, bodies and civic participation.
113. The Privy Counsel Review Committee, which reported in December 2003, strongly recommended that the power allowing foreign nationals to be detained potentially indefinitely should be replaced as a matter of urgency; that there should be no distinction according to the origin or nationality of suspected terrorists; and that there should be no derogation from the fundamental rights protected by the ECHR.
114. The Privy Counsel also came to the conclusion that there was no reason for the UK to derogate from fundamental obligations under the ECHR in order to enact Part 4 of the Act. Furthermore, there is no evidence that derogation from Article 5(1) under the

⁶⁹ See appendix B.

⁷⁰ See appendix B.

ECHR is justified by 'state of war' or 'emergency'. No other European country has deemed it necessary to derogate in such a way, and indeed the UK cannot be said to be under any greater threat than the rest of Europe.

115. If someone has been unlawfully detained under the Counter-Terrorism legislation, there ought to be a sufficient mechanism to redress grievances to allow the aggrieved party to bring a legal challenge to arbitration for an independent ruling immediately.
116. The Government must set up partnerships and initiatives of cooperation with sectors of the Muslim community in order to engage them in the process. In doing so, the Government should also improve its own efforts in protecting the Muslim community from victimisation by the law enforcement agencies.
117. The Government should emphasise the importance of respect for international and regional human rights and humanitarian and refugee laws in the pursuit of combating terrorism.
118. A new terrorist attack does not have to come with a new package of counter-terrorist measures as sufficient legislation already exists to deal with the criminality associated with acts of terrorism. In order to effectively tackle terrorism we need to identify the 'root causes' of terrorism.

APPENDIX A.

FAIR Community Survey: Counter-Terrorism Powers Impact on the Muslim Community in Britain’.

Section One – Personal Details

Question 1 (below) is optional.

1. Surname/Family name:

Title (e.g. Mr, Miss, Mrs, Ms):

Previous surname (where applicable):

Date of birth (day/month/year):

Gender (male or female):

Permanent/home address:
(include postcode, if in UK)

Telephone:

E-mail:

Nationality:

Section Two – Personal Data

The following Questions must be answered.

- 2 a) Please tick to say if you are filling in the survey in your personal capacity or representing an organisation. (Please tick one box)

Personal Capacity (Go to part 2 c)

Representing an organisation

- 2 b) If you are representing an organisation, please state the name and type of organisation below:

Full name of organisation:

Type of organisation: *(e.g. school, charity, mosque, Welfare groups, racial equality units, etc.)*

Is your organisation primarily Muslim? *(In terms of membership/clients you deal with)*

Yes No

- 2 c) What is your position/ occupation?

- 2 d) Please state the name of the city/town in which you or your organisation is based:

Section Three: Rise in Islamophobia?

3 a) Have you or your organisation been subjected to Islamophobic or anti-Muslim sentiment over the past three years? *(Please tick one box)*

Yes No

If yes, please provide us with more information: *(i.e. describe the nature of Islamophobia, where it occurred and how often)*

3 b) Have you experienced any change in the way you have been treated or perceived over the past 3 years?

yes No

If yes, please provide us with more information: *(i.e. state how you have been treated differently and by whom)*

3 c) Has your physical appearance, (such as *observing hijab, beard or wearing traditional Muslim dress*) made you a target for Islamophobia?

Yes No

3 d) Have you reported any such incidents to the police, council or other authoritative body?

Yes No

If yes, to which body did you report to?

- 3 e) On a scale of one to ten (one being lowest), how pleased were you with the investigation?

- 3 f) Have you experienced Islamophobia when travelling on public transport?

Yes No

If yes, please provide further details of the incident: *(state where and when this took place, what happened, and whether you reported it)*

- 3 g) Have you been subjected to Islamophobia when travelling to and from the UK?

Yes No

If yes, please provide further details below: *(e.g. this can include luggage being extensively searched, being asked questions about your religion/political group, strip search, passport confiscated for unknown reasons, etc)*

- 3 h) Have you had to change your appearance since September 11, 2001 (e.g. remove hijab, beard etc.)

Yes No

If yes, please state what you have done:

- 3 i) Have you had to change your lifestyle since September 11, 2001 (e.g. *move home, change job, change school etc*)

Yes No

If yes, then please state below what you have done to change your lifestyle

3 j) Have you seen a change of attitude towards Islam from members of your family, colleagues, or anyone within your institution or organisation?

Yes No

If yes, please state the changes you have seen and in whom:

3 k) Has your relationship with the community been affected since September 11 2001? (*Including neighbours, councillors, local service providers etc.*)

Yes No

If yes, please state how your relationship with the community has changed?

Section Four – Anti-terrorism powers

4 a) Have you or anyone you know been approached and questioned by the security forces?

Yes No

If yes, please state exactly who was approached by the security forces? Please provide as much information as possible.

4 b) Have you or anyone you know been affected by the powers under the ATCSA 2001? (*please see list in 4 c) below, for a list of these powers*)

Yes No

4 c) Which of the following powers of the security forces were used against you or someone you know? (Please select all that apply)

Arrest Arrest and Detention Freezing assets

Stop and Search Raiding property Confiscating property

Closing down organisation permanently or temporarily

Searching through documents and/or emails

None

Other, please specify:

If you have selected any of the above, please provide further information below (i.e. where the power was used and against whom? the reasons provided by the security forces, or if you were detained please state for how long, how you were treated, etc)

4 d) Were any formal charges made against you or anyone you know?

Yes No

If yes, please state what these were and whether this led to a conviction.

Section Five: General Perceptions

5 a) Please rate how you and/or your organisation have been affected since the government introduced the ATCSA 2001 (please select one option for each row).

	Severely	Mildly	Not at all
Public image/perception	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donations/Fundraising	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Relations with non-Muslim groups or communities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Provisional Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employment/ Volunteer levels	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

5 b) Have you been required to conform to ‘western values’? (*E.g. expected to change your dress, work practices, etc*).

Yes No

If yes, please give details:

5 c) Have you been asked to justify events outside UK borders? (E.g. suicide bombings in Palestine, the September 11 attacks)

Yes No

If yes, please give details:

5 d) How do you feel about the media coverage of Muslims after September 11?

- Accurate
- Balanced and reasonable

Biased and discriminatory

- 5 e) Please describe which particular media sources, regional or national, you feel project an unfair image of Islam and Muslims (*Where appropriate state the name of the source and any particular articles or programs you have seen or read, that you find particularly Islamophobic*).

- 5 f) Please use the space below to provide us with any other information you believe to be relevant: (e.g. *the role of far right parties*)

APPENDIX B

Legislation Relevant to Response.

European Convention on Human Rights (ECHR)

Article 2: The right to life

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:
 - a. in defence of any person from unlawful violence;
 - b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
 - c. in action lawfully taken for the purpose of quelling a riot or insurrection.

Article 3: Freedom from torture or inhuman or degrading treatment

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 5: Right to liberty and security

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
 - a. the lawful detention of a person after conviction by a competent court;
 - b. the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
 - c. the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
 - d. the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
 - e. the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;

- f. the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
3. Everyone arrested or detained in accordance with the provisions of paragraph 1.c of this article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation.

Article 6: Right to a fair trial

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
 - a. to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
 - b. to have adequate time and facilities for the preparation of his defence;
 - c. to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
 - d. to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - e. to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 8: Private life and family

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 11: Free assembly and association

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 14: Prohibition of Discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 15: Derogation in time of emergency

1. In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.
2. No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision.
3. Any High Contracting Party availing itself of this right of derogation shall keep the Secretary-General of the Council of Europe fully informed of the measures which it has taken and the reasons therefore. It shall also inform the Secretary-General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

Terrorism Act 2000 (TA)

Section 1: Terrorism: Interpretation.

- (1) In this Act "terrorism" means the use or threat of action where
 - (a) the action falls within subsection (2),
 - (b) the use or threat is designed to influence the government or to intimidate the public or a section of the public, and
 - (c) the use or threat is made for the purpose of advancing a political, religious or ideological cause.
- (2) Action falls within this subsection if it-
 - (a) involves serious violence against a person,
 - (b) involves serious damage to property,
 - (c) endangers a person's life, other than that of the person committing the action,
 - (d) creates a serious risk to the health or safety of the public or a section of the public, or
 - (e) is designed seriously to interfere with or seriously to disrupt an electronic system.
- (3) The use or threat of action falling within subsection (2) which involves the use of firearms or explosives is terrorism whether or not subsection (1)(b) is satisfied.
- (4) In this section-
 - (a) "action" includes action outside the United Kingdom,
 - (b) a reference to any person or to property is a reference to any person, or to property, wherever situated,
 - (c) a reference to the public includes a reference to the public of a country other than the United Kingdom, and
 - (d) "the government" means the government of the United Kingdom, of a Part of the United Kingdom or of a country other than the United Kingdom.
- (5) In this Act a reference to action taken for the purposes of terrorism includes a reference to action taken for the benefit of a proscribed organisation.

Section 41: Arrest without warrant

- (1) A constable may arrest without a warrant a person whom he reasonably suspects to be a terrorist.
- (2) Where a person is arrested under this section the provisions of Schedule 8 (detention: treatment, review and extension) shall apply.
- (3) Subject to subsections (4) to (7), a person detained under this section shall (unless detained under any other power) be released not later than the end of the period of 48 hours beginning-
 - (a) with the time of his arrest under this section, or
 - (b) if he was being detained under Schedule 7 when he was arrested under this section, with the time when his examination under that Schedule began

- (4) If on a review of a person's detention under Part II of Schedule 8 the review officer does not authorise continued detention, the person shall (unless detained in accordance with subsection (5) or (6) or under any other power) be released.
- (5) Where a police officer intends to make an application for a warrant under paragraph 29 of Schedule 8 extending a person's detention, the person may be detained pending the making of the application.
- (6) Where an application has been made under paragraph 29 or 36 of Schedule 8 in respect of a person's detention, he may be detained pending the conclusion of proceedings on the application.
- (7) Where an application under paragraph 29 or 36 of Schedule 8 is granted in respect of a person's detention, he may be detained, subject to paragraph 37 of that Schedule, during the period specified in the warrant.
- (8) The refusal of an application in respect of a person's detention under paragraph 29 or 36 of Schedule 8 shall not prevent his continued detention in accordance with this section.
- (9) A person who has the powers of a constable in one Part of the United Kingdom may exercise the power under subsection (1) in any Part of the United Kingdom.

Section 44: Power to Stop and Search - Authorisations

- (1) An authorisation under this subsection authorises any constable in uniform to stop a vehicle in an area or at a place specified in the authorisation and to search-
- (a) the vehicle;
 - (b) the driver of the vehicle;
 - (c) a passenger in the vehicle;
 - (d) anything in or on the vehicle or carried by the driver or a passenger.
- (2) An authorisation under this subsection authorises any constable in uniform to stop a pedestrian in an area or at a place specified in the authorisation and to search-
- (a) the pedestrian;
 - (b) anything carried by him.
- (3) An authorisation under subsection (1) or (2) may be given only if the person giving it considers it expedient for the prevention of acts of terrorism.
- (4) An authorisation may be given-
- (a) where the specified area or place is the whole or part of a police area outside Northern Ireland other than one mentioned in paragraph (b) or (c), by a police officer for the area who is of at least the rank of assistant chief constable;
 - (b) where the specified area or place is the whole or part of the metropolitan police district, by a police officer for the district who is of at least the rank of commander of the metropolitan police;
 - (c) where the specified area or place is the whole or part of the City of London, by a police officer for the City who is of at least the rank of commander in the City of London police force;
 - (d) where the specified area or place is the whole or part of Northern Ireland, by a member of the Royal Ulster Constabulary who is of at least the rank of assistant chief constable.
- (5) If an authorisation is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable.

Anti-terrorism Crime and Security Act 2001 (ATCSA)

PART 4: Immigration and Asylum: Suspected international terrorists

Section 21: Suspected international terrorist: certification

(1) The Secretary of State may issue a certificate under this section in respect of a person if the Secretary of State reasonably-

(a) believes that the person's presence in the United Kingdom is a risk to national security, and

(b) suspects that the person is a terrorist.

(2) In subsection (1)(b) "terrorist" means a person who-

(a) is or has been concerned in the commission, preparation or instigation of acts of international terrorism,

(b) is a member of or belongs to an international terrorist group, or

(c) has links with an international terrorist group.

(3) A group is an international terrorist group for the purposes of subsection (2)(b) and (c) if-

(a) it is subject to the control or influence of persons outside the United Kingdom, and

(b) the Secretary of State suspects that it is concerned in the commission, preparation or instigation of acts of international terrorism.

(4) For the purposes of subsection (2)(c) a person has links with an international terrorist group only if he supports or assists it.

(5) In this Part-

"terrorism" has the meaning given by section 1 of the Terrorism Act 2000 (c. 11), and

"suspected international terrorist" means a person certified under subsection (1).

(6) Where the Secretary of State issues a certificate under subsection (1) he shall as soon as is reasonably practicable-

(a) take reasonable steps to notify the person certified, and

(b) send a copy of the certificate to the Special Immigration Appeals Commission.

(7) The Secretary of State may revoke a certificate issued under subsection (1).

(8) A decision of the Secretary of State in connection with certification under this section may be questioned in legal proceedings only under section 25 or 26.

(9) An action of the Secretary of State taken wholly or partly in reliance on a certificate under this section may be questioned in legal proceedings only by or in the course of proceedings under-

(a) section 25 or 26, or

(b) section 2 of the Special Immigration Appeals Commission Act 1997 (c. 68) (appeal).

Section 22: Deportation, removal, &c.

(1) An action of a kind specified in subsection (2) may be taken in respect of a suspected international terrorist despite the fact that (whether temporarily or indefinitely) the action cannot result in his removal from the United Kingdom because of-

(a) a point of law which wholly or partly relates to an international agreement, or

- (b) a practical consideration.
- (2) The actions mentioned in subsection (1) are-
- (a) refusing leave to enter or remain in the United Kingdom in accordance with provision made by or by virtue of any of sections 3 to 3B of the Immigration Act 1971 (c. 77) (control of entry to United Kingdom),
 - (b) varying a limited leave to enter or remain in the United Kingdom in accordance with provision made by or by virtue of any of those sections,
 - (c) recommending deportation in accordance with section 3(6) of that Act (recommendation by court),
 - (d) taking a decision to make a deportation order under section 5(1) of that Act (deportation by Secretary of State),
 - (e) making a deportation order under section 5(1) of that Act,
 - (f) refusing to revoke a deportation order,
 - (g) cancelling leave to enter the United Kingdom in accordance with paragraph 2A of Schedule 2 to that Act (person arriving with continuous leave),
 - (h) giving directions for a person's removal from the United Kingdom under any of paragraphs 8 to 10 or 12 to 14 of Schedule 2 to that Act (control of entry to United Kingdom),
 - (i) giving directions for a person's removal from the United Kingdom under section 10 of the Immigration and Asylum Act 1999 (c. 33) (person unlawfully in United Kingdom), and
 - (j) giving notice to a person in accordance with regulations under paragraph 1 of Schedule 4 to that Act of a decision to make a deportation order against him.
- (3) Action of a kind specified in subsection (2) which has effect in respect of a suspected international terrorist at the time of his certification under section 21 shall be treated as taken again (in reliance on subsection (1) above) immediately after certification.

Section 23: Detention

- (1) A suspected international terrorist may be detained under a provision specified in subsection (2) despite the fact that his removal or departure from the United Kingdom is prevented (whether temporarily or indefinitely) by-
- (a) a point of law which wholly or partly relates to an international agreement, or
 - (b) a practical consideration.
- (2) The provisions mentioned in subsection (1) are-
- (a) paragraph 16 of Schedule 2 to the Immigration Act 1971 (c. 77) (detention of persons liable to examination or removal), and
 - (b) paragraph 2 of Schedule 3 to that Act (detention pending deportation).

Section 26: Certification: review

- (1) The Special Immigration Appeals Commission must hold a first review of each certificate issued under section 21 as soon as is reasonably practicable after the expiry of the period of six months beginning with the date on which the certificate is issued.
- (2) But-
- (a) in a case where before the first review would fall to be held in accordance with subsection (1) an appeal under section 25 is commenced (whether or not it is finally

determined before that time) or leave to appeal is given under section 25(5)(b), the first review shall be held as soon as is reasonably practicable after the expiry of the period of six months beginning with the date on which the appeal is finally determined, and

(b) in a case where an application for leave under section 25(5)(b) has been commenced but not determined at the time when the first review would fall to be held in accordance with subsection (1), if leave is granted the first review shall be held as soon as is reasonably practicable after the expiry of the period of six months beginning with the date on which the appeal is finally determined.

(3) The Commission must review each certificate issued under section 21 as soon as is reasonably practicable after the expiry of the period of three months beginning with the date on which the first review or a review under this subsection is finally determined.

(4) The Commission may review a certificate during a period mentioned in subsection (1), (2) or (3) if-

(a) the person certified applies for a review, and

(b) the Commission considers that a review should be held because of a change in circumstance.

(5) On a review the Commission-

(a) must cancel the certificate if it considers that there are no reasonable grounds for a belief or suspicion of the kind referred to in section 21(1)(a) or (b), and

(b) otherwise, may not make any order (save as to leave to appeal).

(6) A certificate cancelled by order of the Commission under subsection (5) ceases to have effect at the end of the day on which the order is made.

(7) Where the Commission reviews a certificate under subsection (4), the period for determining the next review of the certificate under subsection (3) shall begin with the date of the final determination of the review under subsection (4).

Section 27: Appeal and review: supplementary

(1) The following provisions of the Special Immigration Appeals Commission Act 1997 (c. 68) shall apply in relation to an appeal or review under section 25 or 26 as they apply in relation to an appeal under section 2 of that Act-

(a) section 6 (person to represent appellant's interests),

(b) section 7 (further appeal on point of law), and

(c) section 7A (pending appeal).

(2) The reference in subsection (1) to an appeal or review does not include a reference to a decision made or action taken on or in connection with-

(a) an application under section 25(5)(b) or 26(4)(a) of this Act, or

(b) subsection (8) below.

(3) Subsection (4) applies where-

(a) a further appeal is brought by virtue of subsection (1)(b) in connection with an appeal or review, and

(b) the Secretary of State notifies the Commission that in his opinion the further appeal is confined to calling into question one or more derogation matters within the meaning of section 30 of this Act.

(4) For the purpose of the application of section 26(2) and (3) of this Act the determination by the Commission of the appeal or review in connection with which the further appeal is brought shall be treated as a final determination.

(5) Rules under section 5 or 8 of the Special Immigration Appeals Commission Act 1997 (general procedure; and leave to appeal) may make provision about an appeal, review or application under section 25 or 26 of this Act.

(6) Subject to any provision made by virtue of subsection (5), rules under section 5 or 8 of that Act shall apply in relation to an appeal, review or application under section 25 or 26 of this Act with any modification which the Commission considers necessary.

(7) Subsection (8) applies where the Commission considers that an appeal or review under section 25 or 26 which relates to a person's certification under section 21 is likely to raise an issue which is also likely to be raised in other proceedings before the Commission which relate to the same person.

(8) The Commission shall so far as is reasonably practicable-

(a) deal with the two sets of proceedings together, and

(b) avoid or minimise delay to either set of proceedings as a result of compliance with paragraph (a).

(9) Cancellation by the Commission of a certificate issued under section 21 shall not prevent the Secretary of State from issuing another certificate, whether on the grounds of a change of circumstance or otherwise.

(10) The reference in section 81 of the Immigration and Asylum Act 1999 (c. 33) (grants to voluntary organisations) to persons who have rights of appeal under that Act shall be treated as including a reference to suspected international terrorists.

Section 28: Review of sections 21 to 23

(1) The Secretary of State shall appoint a person to review the operation of sections 21 to 23.

(2) The person appointed under subsection (1) shall review the operation of those sections not later than-

(a) the expiry of the period of 14 months beginning with the day on which this Act is passed;

(b) one month before the expiry of a period specified in accordance with section 29(2)(b) or (c).

(3) Where that person conducts a review under subsection (2) he shall send a report to the Secretary of State as soon as is reasonably practicable.

(4) Where the Secretary of State receives a report under subsection (3) he shall lay a copy of it before Parliament as soon as is reasonably practicable.

(5) The Secretary of State may make payments to a person appointed under subsection (1).

94 Powers to require removal of disguises: England and Wales

(1) After section 60 of the Criminal Justice and Public Order Act 1994 (c. 33) insert-

"60AA Powers to require removal of disguises

1) Where-

- (a) an authorisation under section 60 is for the time being in force in relation to any locality for any period, or
- (b) an authorisation under subsection (3) that the powers conferred by subsection (2) shall be exercisable at any place in a locality is in force for any period,

those powers shall be exercisable at any place in that locality at any time in that period.

(2) This subsection confers power on any constable in uniform-

- (a) to require any person to remove any item which the constable reasonably believes that person is wearing wholly or mainly for the purpose of concealing his identity;
- (b) to seize any item which the constable reasonably believes any person intends to wear wholly or mainly for that purpose.

(3) If a police officer of or above the rank of inspector reasonably believes-

- (a) that activities may take place in any locality in his police area that are likely (if they take place) to involve the commission of offences, and
- (b) that it is expedient, in order to prevent or control the activities, to give an authorisation under this subsection,

he may give an authorisation that the powers conferred by this section shall be exercisable at any place within that locality for a specified period not exceeding twenty-four hours.

(4) If it appears to an officer of or above the rank of superintendent that it is expedient to do so, having regard to offences which-

- (a) have been committed in connection with the activities in respect of which the authorisation was given, or
- (b) are reasonably suspected to have been so committed,

he may direct that the authorisation shall continue in force for a further twenty-four hours.

(5) If an inspector gives an authorisation under subsection, he must, as soon as it is practicable to do so, cause an officer of or above the rank of superintendent to be informed.

(6) Any authorisation under this section-

- (a) shall be in writing and signed by the officer giving it; and
- (b) shall specify-

- (i) the grounds on which it is given;
- (ii) the locality in which the powers conferred by this section are exercisable;
- (iii) the period during which those powers are exercisable;

and a direction under subsection (4) shall also be given in writing or, where that is not practicable, recorded in writing as soon as it is practicable to do so.

(7) A person who fails to remove an item worn by him when required to do so by a constable in the exercise of his power under this section shall be liable, on summary conviction, to imprisonment for a term not exceeding one month or to a fine not exceeding level 3 on the standard scale or both.

(8) The preceding provisions of this section, so far as they relate to an authorisation by a member of the British Transport Police Force (including one who for the time being has the same powers and privileges as a member of a police force for a police area), shall have effect as if references to a locality or to a locality in his police area were references to any locality in or in the vicinity of any policed premises, or to the whole or any part of any such premises.

(9) In this section "British Transport Police Force" and "policed premises" each has the same meaning as in section 60.

(10) The powers conferred by this section are in addition to, and not in derogation of, any power otherwise conferred.

(11) This section does not extend to Scotland."

(2) In section 60A(1) of that Act (retention of things seized under section 60), after "section 60" insert "or 60AA".

(3) In section 24(2) of the Police and Criminal Evidence Act 1984 (c. 60) (arrestable offences), in paragraph (o), for "section 60(8)(b)" substitute "section 60AA(7)".