

MCB Submission to Parliamentary Joint Committee on Human Rights

Freedom of Speech in Higher Education

Executive Summary

- Freedom of speech is an inalienable right enshrined in UK law and through the ECHR. There are accepted parameters to ensure this right is not abused - for example instigation of hate, public disorder and violence. Nevertheless, freedom of speech is fundamental to university life and the Muslim Council of Britain here outlines the importance of upholding this value, focusing particularly on Prevent and its implications.
- The current debate about freedom of speech on campus seems to be mired in contradiction. On the one hand, there are government proposals to penalise universities if they do not guarantee free speech, while on the other, universities are obliged to vet speakers on loose and highly contested notions of extremism.
- This right to freedom of speech as it purports to UK universities, and more broadly in society, is limited by legislation enacted prior to the Prevent duty. Prevent suppresses expressions of dissent from dominant government narratives.
- The Prevent duty has had a number of consequences which have been widely researched and discussed:
 - The balance has shifted from public interest limitations on free speech to a dangerous stifling of views that do not incite violent acts of terror or form part of a terrorist ideology.
 - Legitimate academic study into the causes of terrorism has been impacted in cases.
 - External speakers have been erroneously and inconsistently banned from speaking on university campuses out of fear of falling foul of the Prevent duty.
- The MCB outlines a series of recommendations to redress the balance back in favour of free speech.

1. Muslim Council of Britain

1.1. The Muslim Council of Britain (MCB), founded in 1997, is an inclusive umbrella body of mosques and Islamic associations that seeks to represent the common interests of Muslims in Britain. It is pledged to work for the common good of society as a whole.

1.2. MCB's affiliate base reflects the diversity of Muslims in the UK, being made up of hundreds of mosques, educational and charitable bodies, cultural and relief agencies and women and youth groups and associations across the UK from a range of ethnic, geographical and theological backgrounds and traditions.

1.3. MCB supports the right of freedom of speech, as articulated in the European Convention of Human Rights. Article 10 specifically guarantees the right to freedom of expression, including the right to “impart information and ideas without interference by public authority.”

1.4 Universities have a critical role to play in the exchange of ideas and debate. They also have a proactive legal requirement as detailed in section 43 of the Education Act (1986) to “take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured” for staff, students and visiting speakers. We will discuss the interaction between this right and the government’s Prevent duty, as well as its impact on British Universities and in particular Muslim students.

2. Prevent Duty vs Free Speech

Public Interest Considerations

1. MCB maintains that the security and safety of the nation is paramount; and should be taken seriously by government and universities alike. We do, however, believe that securing and protecting those rights which make up the essential nature of what it means to live in a liberal democracy, is just as important as other forms of security and national interest. We must aim to protect both the body and soul of the country and its principles.

2. To that end, Convention rights, and in particular freedom of speech need to be limited with care, and a fine line needs to be trod. The best way to ensure safety and security is by upholding the rights of all citizens.

3. It must be noted that limits on freedom of speech and public interest considerations such as national security have been, and continue to be, in place from before the application of the Prevent duty. Indeed, these public interest limits have been intertwined within the formulation of the Convention rights and their application from the outset. The pre-existing forms of legislation and governmental guidance pre-Prevent, served public interest considerations in a nuanced, finely balanced and coherent way; a coherence that the Prevent duty has pushed out of kilter.

Coherence

4. Section 43 of the Education (No.2) Act 1986 provides that “Every individual and body of persons concerned in the government take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured”. Further, institutions must ensure that as far as is reasonably practicable, premises must not be denied to speakers on the basis of their beliefs, views, policy or objectives.

5. There is further legislation specific to academic freedom of speech and expression; namely the Education Reform Act 1988 that states that higher education institutions need to have regard of the need to “ensure academic staff have freedom within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular ideas”.

6. Initially Prevent concerned itself with the tackling of radicalisation and to challenge those ideologies which promote terrorism by “primarily helping Muslims who dispute those ideas to do so”. The current government’s Prevent strategy, after a review in 2011, refined its aims to “stop people becoming terrorists or supporting terrorism”, and that “preventing terrorism will mean challenging extremist (and non-violent) ideas that are part of a terrorist ideology”.

7. Further to our strong reservations on the framing of the current and previous Prevent strategies; there is an internal incoherence in its logic, and also in its application. If problematic views are to be “challenged”, they must be known and tackled head on. Suppressing academic freedom and freedom of speech at higher education institutions runs counter to the stated aims of challenging problem views.

8. Further, an absolute commitment to freedom of speech at universities as outlined in the legislation above applied through a lens of the Prevent duty places academics and universities in an impossible dilemma. The two competing duties are almost impossible to reconcile; and as such we see inconsistencies in its application, as we will mention below.

Balance

9. The competing duties of a commitment to freedom of speech as well as public interest considerations have proven difficult to reconcile. Balance has not been achieved, with a heavy tendency to err on the side of caution and stifling speech on campus. The reasons for this are many, but an aggressive press media and significant governmental pressure in the form of Prevent, certainly does not help. Of course MCB notes that certain racist, inflammatory and incendiary views may need to be curtailed on university campuses for reasons of student safety. Our position, however, is that student bodies’ own no platforming policies, as well as the legislation pre-Prevent duty, are sufficient safeguards; while the additional Prevent duty tips the balance too far.

10. It is our contention that the balance needs to be restored; as the value of free speech cannot be overstated. Further, the limits and safeguards that necessarily exist alongside rights such as free speech; provide a more cohesive and balanced policy than the Prevent duty. Importantly, falling on the side of suppression of ideas and speech rather than the public articulation of problematic views does not make us safer, rather it may have an adverse effect.

3. Prevent Duty

1. The Prevent duty, applied after the Counter Terrorism and Security Act 2015, has left authorities in a position to judge and approve events organised on campus with more scrutiny than ever before. Inconsistent application of the duty has led to criticisms of whether they are able to do so effectively and without discrimination.

1. An academic conference at the University of Huddersfield (July 2016) was cancelled due to a perceived lack of ability to robustly challenge views espoused on the website of one of the organisations involved.

2. Organisers of an event to discuss Islamophobia during Islamophobia Awareness Month (November 2015) at the University of Bradford felt compelled not to go ahead, due to concerns about speakers that weren't communicated in a timely manner from the institution. Questions can be raised on whether this affects student societies or groups that aren't Muslim, or uncritical of Prevent.

2. In the case of *Dr Salman Butt v Secretary of State*, Judge Ousley ruled that the Prevent Duty guidance applies only to non-violent extremism that risks drawing people into terrorism, and not in cases where speakers fall within the definition of wider extremism as detailed in the Prevent duty guidance. For this reason, it is not applicable in the majority of cases where it has been used in universities.

3. Following this legal ruling, MCB understands that the experiences of the following students, whose ability to undertake private research into specific topics was problematised, to be examples of erroneous application of the Prevent duty.

1. A final year undergraduate student at the University of East Anglia was questioned by Special Branch officers at his home for reading extracts from Daesh's magazine, *Dabiq*. This reading was for his university course module 'Clash of Fundamentalisms.'

2. Mohammad Umar Farooq was a 'Terrorism, Crime and Global Security' MA student at the University of Staffordshire. After being seen reading a module core text, he was questioned by a Complaints Officer on his views on British values, foreign fighters, his attitude to homosexuality, Daesh, and al-Qaida. This conversation was reported to the university's security department, and an internal investigation was launched.

4. Where events have been approved to go ahead, introducing a neutral chair or opposing views to balance debate has become a common expectation for "controversial" issues. MCB has gathered that what is deemed controversial is beginning to follow a familiar and apparently discriminatory pattern; for example, events involving Islamophobia, Palestine activism or Prevent. In practice, the

increasing bureaucracy and difficulties in meeting these mitigating factors has had a detrimental effect on freedom of expression.

1. The University of Cambridge replaced the chair, Dr Ruba Salih, of an event organised by the Cambridge Palestine society ('BDS and the globalised struggle for Palestinian rights') with Director of Communications, Paul Mylreas. The reason cited was "to ensure open, robust and lawful debate" and the event was threatened with cancellation should the organisers refuse to comply. This imposition of a 'neutral chair' was referred to as "an intolerable violation of academic freedom."

Potential Consequences

5. The stifling of legitimate debate and discussion at universities can lead to problematic views being driven underground, beyond challenge and rebuttal. This in turn serves to work counter to the stated aims of Prevent itself by fomenting a feeling of isolation among already vulnerable individuals.

6. Universities should be open spaces; where students can formulate, change and challenge their beliefs and views. The role they play in society is exactly that of encouraging debate and novel ideas. An inconsistent, ad hoc and what appears to be a discriminatory application of the Prevent duty has led to a blunting of university as a place of debate and a dangerous intervention by government into the independence of higher education institutions.

Student Unions

7. A significant number of student unions have democratically adopted policy ranging from condemnations of, to non-engagement with Prevent, highlighting the anti-Muslim environment that is perpetuated through the targeting of Muslim individuals and the stifling of Muslim student groups. The National Union of Students refused to accept Preventing Violent Extremism money from the Dept for Business Innovation and Skills.

8. MCB notes, however, despite Student Unions not being directly under the Prevent duty, there have been worrisome high profile exchanges between government ministers and NUS, applying pressure on national student representatives to abandon democratically determined positions on Prevent. While government engagement on policy is to be welcomed, the undermining of student freedoms is not.

9. MCB further notes the damaging impact on campus freedom of speech after several incidents of students being subjected to 'trials by social media' following newspaper reports about their views.

Recommendations

1. Consultation with student bodies, academics and student organisations with particular reference to arbitrary, inconsistent and discriminatory application of the Prevent Duty.

2. Formulation of institutional speaker policies that are not unduly cumbersome, are universally applied to all events and include an appeals process with full transparency in all decisions made.

3. Independent Review of campus freedoms of speech and association, taking into account Muslim and minority students who are frequently publicly targeted for their views.