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Joint Committee on Human Rights

Oral evidence: [Legislative Scrutiny: Counter-extremism Bill](#), HC 647

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Written evidence from witness:

- Sir Peter Fahy QPM, Former Chief Constable of Greater Manchester Police
- Mr Barath Ganesh, Research Officer, Faith Matters
- Sara Khan, Co-Director, Inspire
- Professor Julian Rivers, Professor of Jurisprudence, Bristol University

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Members present: Baroness Buscombe (Chair); Fiona Bruce, Karen Buck; Jeremy Lefroy; Amanda Solloway; Baroness Hamwee, Lord Henley; Baroness Lawrence; Baroness Prosser; and Lord Woolf

Questions 15-28

Witnesses: **Sir Peter Fahy QPM**, Former Chief Constable of Greater Manchester Police, **Mr Barath Ganesh** Research Officer, Faith Matters, **Sara Khan**, Co-Director, Inspire, and **Professor Julian Rivers**, Professor of Jurisprudence, Bristol University.

Q15 Baroness Buscombe (Chair): Welcome to all of you. Thank you so much for coming. I begin by saying that we are now being broadcast, so this is an open session. A transcript will be taken that you can check against. It will be published. I will just say as a matter of housekeeping that there is a chance that a vote might be called in the House of Lords before the session is completed. If that is the case, we will adjourn the meeting for 10 minutes to allow Peers to vote. Hopefully that will not happen, but if bells start going off you will know that is what is going on.

This session will, we hope, flow well from our session last week with Lord Carlile QC and David Anderson QC on the whole issue of Prevent and counter-extremism. We are very pleased that all four of you could attend today. Could you in turn, perhaps beginning with you, Sara, say who you are, which organisation you represent, and perhaps just a couple of lines, particularly for those who are watching the webcast, on what your organisation does?

Sara Khan: My name is Sara Khan. I am director of an organisation called Inspire, a counter-extremism and women's rights organisation that we helped to set up in 2008. A lot of the work that we do is on actively countering Islamist extremism in particular. We are very much a grass-roots organisation founded by Muslim women, and we do a lot of work in empowering the Muslim community, working with mothers and Muslim women, delivering training to teachers and schools, and working with unions across the sector and wider society in general to counter extremism.

Professor Julian Rivers: My name is Julian Rivers. I am professor of jurisprudence at the University of Bristol Law School. I have a particular interest in the legal regulation of religious groups, both from the perspective of international human rights law and of domestic English law in particular.

Mr Bharath Ganesh: My name is Bharath Ganesh. I am representing Faith Matters, a not-for-profit organisation that focuses on working with a broad set of actors in different communities on interfaith and social cohesion as well as on countering extremism.

Sir Peter Fahy: My name is Peter Fahy. I was the chief constable of Greater Manchester until November last year, I was the national police lead for the Prevent programme, and I am currently the chief executive of the street-children charity Retrak.

Q16 The Chair: Thank you very much. We have a number of questions, which we will put to you, and I will invite colleagues in this Joint Committee on Human Rights to ask supplementary questions as and when they would like to.

I have a couple of questions. Please chip in as we go along. How successful of you think the Prevent strategy has been? What have been the most significant human rights issues that it raises?

Sir Peter Fahy: It is very difficult to assess a prevention strategy, whether it is a strategy on the prevention of illegal drugs, gang activity or, in this case, violent extremism, when essentially your criterion of success is that nothing has happened and there have been no attacks. Another difficulty with the Prevent programme is that lots of other issues are conflated into it, such as how the media portray the Islamic faith and certain speeches by politicians, as though they were part of it, but the Prevent programme is not that different from the huge programme that was put in place after the murder of the two girls, Jessica and Holly, in Soham, Cambridgeshire, to safeguard children and to help agencies to work together to identify potential abusers. In its essence, the Prevent programme follows the same line; it is about how you share information between professionals and how you try to develop a counter-narrative. Where it works really well it works on the same safeguarding principles, building on existing good relationships between professionals in schools and universities and police forces.

Professor Julian Rivers: I will say a word, if I may, about the human rights dimension. Until October last year, the human rights aspect of Prevent was, dare I say, familiar in that the target was terrorism—and there is no question about the right and indeed the duty of the state to take action to deal with terrorism and the causes of terrorism. That raises human rights issues, such as procedural rights and fair trial rights, particularly under Article 6 of the European convention. From October last year, we have seen a shift in the Government's thinking in which non-violent extremism has been detached from its origins

as a potential cause of terrorism and treated as a problem in its own right. The moment you do that, you raise a whole host of other quite significant human rights concerns to do with freedom of expression, freedom of religion, freedom of association and privacy rights. It is very important that we note that shift in thinking and take account of the new potential risks to human rights from it.

Lord Woolf: Could you briefly and succinctly identify the new risks?

Professor Julian Rivers: The definition of non-violent extremism clearly covers a very wide spectrum of behaviour, from issues that we would see as clearly connected with terrorism right the way through to the maintenance of a minority position on any matter of public interest. The European court is quite clear that a liberal, tolerant society can cope with the expression of minority viewpoints, so the risk now is that we sweep into a programme that is designed to deal with the causes of terrorism concerns about anyone who mounts a minority position on pretty much any aspect of public concern.

Lord Woolf: Could you clarify that for me? I have difficulty in understanding why merely having a strategy of prevention that deals with the matters that you identify should itself infringe people's human rights.

Professor Julian Rivers: Of course we do not have any legislation yet to start discussing. The most concrete proposal that we have come from the Department for Education at the end of last year, and there are proposals in that consultation document that I think run clearly against the case law of the European Court of Human Rights.

Sir Peter Fahy: Some of the proposals in the counter-extremism strategy, and certainly some of the draft proposals that I saw, have the potential to infringe on freedom of speech and particularly the right to protest. There is a distinction to be drawn between the Prevent programme, and the extension of the Prevent duty to schools and other institutions, and what developed after, sadly, the murder of Lee Rigby, which, as was said, was taken into the counter-extremism strategy. Through that strategy there has been an attempt to develop new legislation to try to disrupt that activity. In practice, it is very difficult to come up with a legal definition of extremism. There is absolutely a need to separate that from the right to free speech, the right to observe a religion and the right to protest.

The Chair: Julian Rivers and Sir Peter, you have answered some of my next questions, which is great. They were about the key changes since 2011 and the publication of the most recent counter-extremism strategy in October last year. Sara and Bharath, do you have thoughts to contribute on this?

Ms Sara Khan: My understanding is that the Prevent strategy is different from the Government's counter-extremism strategy. Again, I think we are conflating two different strategies. Prevent is very much about preventing people from being drawn into terrorism and is part of the CONTEST strategy. The counter-extremism strategy is quite different, and it is very important that we do not conflate the two. I do think that we need a counter-extremism strategy. For a long time in this country, we have acknowledged the threat that far-right extremism poses in our country, whether it targets and promotes the hatred of Jews or of Muslims, and it is right that we have a great civil society movement in this country when dealing with far-right extremism. What we have lacked in this country is a

strong civil society movement to tackle Islamist extremism. Let us be very clear: all forms of extremism absolutely undermine human rights. Islamist extremism undermines women's rights and promotes sectarianism and homophobia. It undermines our rights, so by challenging extremism, by default you are defending human rights. The question is how we go about it, and some of those issues have been raised here. There have been suggestions such as closing down premises and having banning orders. Again, I have concerns about those. We have not seen a Bill yet. As David Anderson and Lord Carlile mentioned last week, there are probably reasons for that, but we do need a strategy that seeks to counter all forms of extremism.

Mr Bharath Ganesh: I will be brief, because I think that everybody has brought up interesting points. The main change since 2011 has been on the issue of non-violent extremism. That is an extremely problematic part of the change in policy. The way in which non-violent extremism or extremism has been defined in the policy document—the 2011 strategy—is very clear, but it is very problematic that that has been done without recourse to a democratic process to identify extremism. Since 2011, we have seen more and more centralisation in the development of the Prevent strategy and a centralisation of power in the Prevent strategy. Our primary concern is the level at which communities will be engaged, in particular Muslim communities. The Channel programme has been relatively focused on the Muslim community, for a number of reasons that are quite obvious, but we have not seen Muslims being able to feed back into the process and address these issues. The Prevent strategy should focus on incorporating a breadth of Muslim voices, and I do not think it has successfully done that yet.

Q17 Baroness Hamwee: I wonder whether I could just follow that up. This is HR-focused, for the reasons that Sara Khan has explained. Do you think that the conflation of the two might suggest that we are starting from the wrong place now and that the Government should be doing something to make it clear that these are two maybe parallel but quite separate issues?

Ms Sara Khan: That is my understanding, but inevitably you are going to have some intermingling between the two because you are talking about extremism. A lot of the evidence that is out there, including that from David Anderson, who has written about this, is that a lot of the ideologies that feed into terrorism are from an extremist element, so there is going to be conflation between CONTEST and the counter-extremism strategy. That becomes difficult. As a whole, challenging extremism is something that we cannot avoid. For too long, we have been doing that. We have a long history in this country of Islamist extremism—conferences in the 1990s and so forth—and now we see the rise of ISIS and hundreds of British Muslims leaving the UK to join ISIS or to fight for Jabhat al-Nusra.

I would slightly disagree with the point made by my colleague from Faith Matters. The kinds of extremism that you are dealing with vary across the UK. I have spoken to a number of Prevent co-ordinators and Prevent police officers who tell me that in their area half the referrals that they get are for far-right extremism and the remaining half are for Islamist extremism, while in other parts of the UK people tell me that 60% of referrals are for Islamist extremism and 40% of referrals are for far-right extremism. Some Prevent co-ordinators are now telling me that they are having to deal with new and emerging threats

of extremism, including Sikh extremism. That is what Prevent has to deal with; it has to deal with evolving forms of extremism that present a threat to our country.

Q18 Ms Karen Buck: Given that rare indeed are the people who would resist a strategy that counters the threat of terrorism—and I pick up Sir Peter’s point about safeguarding—why do you feel there has been such suspicion in Muslim communities about Prevent? To what extent is this possible segueing of counterterrorism into counter-extremism likely to make that more problematic?

Sir Peter Fahy: From my point of view, it was problematic from the beginning, particularly as at the time it was closely related to things like the Iraq war, where there were serious concerns about British foreign policy and there were difficulties about the police being seen as spies. As time has gone on, the Prevent strategy has been able to overcome some of that and be based more on safeguarding. This comes back to the fact that, from my point of view, the suspicion often comes from the strategy being conflated with, for example, Muslim resentment at the way in which the Trojan-horse case was portrayed or, in the grooming cases, the Muslim community often being held to account, supposedly, for some criminal individuals.

Another factor is how the debate on the niqab and the wearing of the veil is portrayed in the media. Those things create a level of suspicion and the language of “them and us”. Baroness Hamwee asked whether we are starting from the wrong point. Number one is the definition of extremism. As a former chief constable of Greater Manchester, I do not need to tell you that the people whom I was most worried about and who I felt were really extreme and were trying to undermine civil society were certainly not people from the Muslim faith. These were people in organised crime groups. There is also the question of whether you start from the position that the problem is extremism or whether you are trying to build on what is a success in this country, as far as I am concerned, which is multiculturalism, diversity and the level of cohesion that we have. Exactly as you say, if you start along that road and always talk about extremism and always focus on one particular community, you are bound to generate suspicion.

Ms Karen Buck: Agreed, but the problem is that, to quite a large extent, the examples that you are quoting are things that will always be out of the hands of politicians. The Government cannot do a lot about that, as a lot of it is about media representation. So where is the hope? If we need to ensure that we bring a community with us and that people respond positively and do not feel beleaguered, which I think is the only way in which you are going to get this kind of engagement, is that not impossible if there is always this problem of the media filter?

Sir Peter Fahy: As you say, there will always be the political debate and the media debate, but the way in which the Prevent duties have been expanded to include a wider range of agencies and organisations takes it out of the security sphere, which I think is a positive thing. At the same time, measures are being taken through the counter-extremism strategy to try to strengthen local community life, to push responsibility down and to try to support voluntary organisations to bring communities together. I think that has happened naturally. After the attacks in Paris and Copenhagen, for instance, communities came together very quickly and people spoke out. We did not allow extremists to undermine the situation, particularly the right-wing groups. When you see the work in schools and how young

people are responding, without a lot of the prejudice and hang-ups that my generation had, there is a lot to be positive about. If you start to bring in legislation and try to define this, particularly if it looks as though it is focusing on one particular community, there is a danger of undermining a lot of that good work and, as you say, spreading suspicion.

Ms Sara Khan: On Prevent, I have never seen a strategy that has had so many myths and untruths told about it. We hear the accusation, for example, that Prevent will target Muslim men who wear beards and women who wear headscarves. That is a factual untruth, but it is being promoted.

Ms Karen Buck: Promoted by whom?

Ms Sara Khan: By a whole range of different voices. I have argued to the Home Affairs Select Committee that there is a strong Islamist anti-Prevent lobby in this country that is actively undermining Prevent. Those people, for their own self-interest, dominate the narrative around Prevent and are feeding untruths about it. They are going around claiming that Prevent is about demonising and targeting Muslims, but that is factually untrue.

Ms Karen Buck: Why are they able to get those myths so firmly implanted in people's minds

Ms Sara Khan: That is an interesting question. There are a number of reasons. The Government's response in their communication about what Prevent is and is not was, in my view, weak—almost defending their strategy and not clarifying it. A lot of these myths have been out there. The media have reported on a number of cases that have been proven afterwards not to be true but have been pointed to as being the fault of Prevent.

Ms Karen Buck: Can you give us an example?

Ms Sara Khan: Last week, David Anderson gave the example of the terrorist-house incident and the boy. You find the media being complicit in all this as well. They will report on these kinds of cases when the full facts have not been established, again creating the kind of sentiment about Prevent that people have and feeding into the already negative attitude towards it. All of it is very dangerous. I have spent eight years working in Muslim communities on extremism, well before ISIS was on the scene. It was about empowering people in countering al-Qaeda ideology. In my view, the level of myth, untruth and suspicion promoted about Prevent has got much worse.

Ms Karen Buck: Even after 2011?

Ms Sara Khan: I think it has got worse, particularly at a time when ISIS is radicalising young Muslims. I have seen the activism of Islamist groups in particular at the forefront of promoting a very negative perception of Prevent.

Sir Peter Fahy: Another example is the claim that Prevent is stopping debate in universities and banning speakers. It turned out that the students' union was banning far more speakers than Prevent ever did. That sort of thing should be out in the open, but it was blamed on Prevent.

Mr Bharath Ganesh: One of the worries about some of the documentation that has emerged in the past six months from the Government is that it does not help to address those challenges around Prevent but muddies the waters considerably about what Prevent is. Suddenly Prevent becomes a matter of having to register music schools that teach children for a few hours a week.

Q19 Ms Karen Buck: We will come on to that later, but I have one final question. I represent a constituency where Arabic is the second language and where there is a very large Muslim population. In my experience, women—particularly mothers—are absolutely at the forefront of trying to find a response to this. They are the ones who feel the most anxious about safeguarding. To what extent have we got it right in engaging with women, particularly in Muslim communities, in order to try to build the civic strength that we were talking about? What more specifically should be done on that?

Ms Sara Khan: I think the coalition Government and this Government have done a lot more than previous Governments to engage actively with Muslim women and empower them. They are a whole host of good projects, led by Muslim women at a local level who have approached the Home Office and said, “Look, we want to do some work. Can you help to fund us or support us in delivering this work?”, and it has. In my experience, it is predominantly women who are prepared to take this to the front line, because as mothers they see how their children are being deliberately targeted and radicalised by preachers, whether online or in communities. We often find, however, that their voices do not reach the debate at the national level. We still have this culture in this country of going to self-appointed community leaders, and we do not often hear the voices of women. I know that we will talk about the madrassahs and out-of-school settings, but, again, Muslim women have always told me that they have always had concerns about it, but we never seem to hear their voices.

Ms Karen Buck: Right. But if that is true, and I firmly believe that it is, just funding—although I do not think there is enough of that—initiatives at the local level is not going to crack that problem. So what do we need to do to make sure that confident voices, particularly although not exclusively women’s, in the Muslim communities can get heard at a higher level, at a policy level?

Sir Peter Fahy: Again, we need to encourage local community organisations to be more open and transparent. I saw it in Rochdale, where the Council of Mosques was very open. It had a public debate about the wearing of the veil, opened up the mosques, and tried to do a lot more charity work in the community—and not just for Muslim organisations. That enabled you to challenge those mosques to ask why there are no women at Friday prayers or on the management committees. This is also about encouraging a range of voices, particularly young Muslim people, through schools, and telling the Muslim community, although I do not particularly like that phrase, not to be like the Christian church, which has almost lost contact with all its young people. The challenge for the Muslim faith in this country is how it holds on to the tenets of Islam and at the same time make it relevant for young people in a modern, pluralistic society. We should try to encourage that. What works against that is the atmosphere of suspicion and fear and unfair media coverage, and sometimes unfair political debate, which does not allow space for other voices to come up and start challenging some of the established leaders and established structures.

The Chair: This has been raised before—and you are really saying this, Peter Fahy—that to an extent this is a generational thing. A lot of the community leaders may be more, dare I say it, set in their ways and averse to change. This is true across every community, and therefore, optimistically perhaps, a change of generation will see that difference come through.

Sir Peter Fahy: It is also true that, with every wave of immigration to this country, it takes quite a long while for them to find their place in society and for the cohesion to develop. I think that is happening with the Muslim faith, but the trouble is that we have this counter-terrorism agenda—and, sadly, the activities of ISIS, which have made it far more complex than, for instance, the integration of the Irish or the Jewish community.

The Chair: Although I hear from Sara a sense of frustration that there has been plenty of time for this to change, and that maybe we, this Government and previous Governments have been a bit slow in the past to encourage this.

Ms Sara Khan: I am not sure about a change of generation. We have had three generations of British Muslims in this country now, and I have not seen huge amounts of change whereby active Muslim women from within Muslim communities are taking leadership positions. There are a number of issues. An internal battle is taking place among British Muslim communities on issues such as gender equality, and we need to do as much as we can as a country to support those Muslim men and women who believe in human rights and gender equality. I know a lot of local authorities that will still engage with community leaders as opposed to women. Probably many of them have no engagement with women at all.

Sir Peter is right that everything tends to be about counter-terrorism. One thing that has changed since 2011 is that we do not really have a community cohesion strategy or an integration strategy anymore, so everything gets put through the prism of counter-terrorism. That is not helpful, because a whole area of work on things like cohesion and integration is missing and local authorities are not pushing those areas. Actually, that area of work is desperately needed, particularly because of the rise of anti-Muslim prejudice, Islamist extremism, anti-Semitism and so forth. That missing area of work is a particular concern, and we need to start investing in it.

Amanda Solloway: I apologise for being late. Quickly, you mentioned the Christian community, Sir Peter, and I know you have talked about the Muslim community. We are not talking about faith necessarily, are we? Is it a cultural thing, as opposed to a religious thing? I just want to clarify that.

Sir Peter Fahy: For me, part of the difficulty for young people is that tension between trying to be faithful to the Muslim faith and trying to be faithful to the modern society that they are living in. That has undoubtedly made the caliphate look pretty attractive to some. I would draw the same analogy with the Catholic Church, for instance, which I am a member of and which sadly has not found a way to provide a message, a way of communicating, to hold on to its young people, and the churches are full of older people. That is one of the challenges for the Muslim faith moving forward: how it reconciles those two things. My colleague here has explained really well the tension in local communities and often in individual mosques in trying to make sure that young people and women have a stronger voice.

Ms Sara Khan: I think it is both; it is cultural and religious. For my parents' generation the challenge is more to do with cultural issues, but for my generation it is more of a religious and ideological challenge. A lot of young Muslims do not know the difference between Islam and Islamism, so they conflate the two, just as the rest of society often does. That is the challenge for my generation of young people.

Amanda Solloway: Thank you. That is helpful.

The Chair: Can we move on to the oversight of the Prevent strategy?

Q20 Lord Henley: As you know, David Anderson strongly recommended that there should be some independent oversight of Prevent. What is the appropriate way of doing this? Will it be positive? What type of oversight would be most appropriate?

Mr Bharath Ganesh: One of the things that has not happened since the Counter-Terrorism and Security Act was passed in 2015 is that we have not seen the development of the privacy and civil liberties board. That is a really big concern; Nick Clegg spoke about it yesterday in a debate on the Draft Investigatory Powers Bill. We should look into why that has not been developed. I completely agree with what David Anderson said last week, but having just one person as the independent reviewer might not work as well for the Prevent strategy. What would help in a big way is having people like David Anderson who are specialists in law. A wide range of members of the Muslim and other faith communities also need to be involved in any kind of oversight.

In the background of what we have been talking about is that there has been a lack of transparency around the Prevent programme since it was developed. That has opened that programme up to all the myths that we are starting to see. The fact that we do not have a lot of reliable, accurate information coming out about the Prevent programme is one of the big things that is fuelling a lot of the anti-Prevent rhetoric that we are hearing.

It is of paramount importance that the Home Office moves to having some type of independent review and evaluation of the Prevent strategy. Another Bill is being proposed before we even know how well the Prevent duty has worked in the last year. Such policy-making is a bit too fast. We need to take a step back and evaluate how the Prevent duty is operating.

Professor Julian Rivers: One element is the application of the duty to universities. We simply do not know yet how universities have responded to that challenge and how they have reconciled their statutory commitment to have due regard to preventing students and others from being drawn into terrorism with their duties to freedom of speech and academic freedom. In a sense, they have been given the problem and asked to come up with a solution. They do, of course, have to answer to HEFCE, the monitoring body, so in the next year or so we should start to have a picture of how universities have grappled with that tension. It is rather important that somebody—I am not too committed to who that should be—should be looking at those reports from higher-education institutions and beginning to spot best practice in that area. But it is very much early days.

Lord Henley: I do not want to start giving evidence myself, but do you think that universities have sometimes been rather wet?

Professor Julian Rivers: Administrators in universities are careful to keep on the right side of the law and to keep their institutions out of difficulty, but the problem with this area is that the law points in two directions. Being, dare I say it, gold-plated in relation to Prevent might lead you to undermine freedom of speech and academic freedom. However, you could reverse it as well; we are in new territory here.

The Chair: Let us move to the Prevent duty in the education sphere, which flows from what you have just been saying.

Q21 Lord Woolf: First, for my own clarification, your main concern at this stage, because we do not know what will be provided for by Parliament, is how it will go about implementing it. Is that right?

Sir Peter Fahy: No. David Anderson's report articulated very well the concerns and tensions about counter-extremism legislation, particularly the question of definition—I have seen “personal safety” extended to include harassment, alarm and distress—and any powers that would then be exercised. So there are some practical difficulties, but that is the difference between what the definition of extremism might be in the strategy and what it might be in legislation, which is incredibly difficult. That may well be the reason why no draft legislation has been published up to now.

Lord Woolf: In that regard, are you particularly concerned that there should be a recognition of the importance of restricting freedom of speech when there is no incitement to hatred or violence?

Sir Peter Fahy: There is a serious danger. I come at this from having been chief constable and knowing the pressures on operational police officers. One of the most difficult parts of my job as chief constable when protests were planned was coming under pressure from different sides supposedly to use the law—sometimes, I will be honest, by Members of Parliament who did not seem to understand that legislation. The danger is that if you bring in further legislation that contains things like banning orders and disruption orders, chief constables and even police and crime commissioners will come under enormous pressure to use that legislation. Even if the proposal is that the bar will be set very high—the High Court has been proposed—the trouble is that that pressure will be there, in the same way in which you often find a lot of misunderstanding about the Public Order Act, under which chief constables are often asked to ban static protests, which the law does not actually allow. That is the danger: it ramps up the whole situation, and you will see individual chief police officers and politicians being put under enormous pressure to declare this or that particular group as extremist, and to make use of the provisions in the legislation. This often occurs at times of high tension, as happened in Manchester, for instance, when we had the protests about Gaza, which were all outside one particular shop. That is the difficulty. Emotions are raised and, as I say, politicians and chief police officers come under enormous pressure. If the legislation is there as well and you put that all together, that is where the danger to human rights comes in.

Lord Woolf: Would you agree that what is to be focused on is the difference between preventing people from expressing their views and challenging the views that they express?

Sir Peter Fahy: That is right. Overall it is better to try in an open society, and in open discussions in schools and universities, to challenge that narrative, rather than saying that you are going to prevent it and shut it down. I understand that the Government and politicians were under enormous pressure after the murder of Lee Rigby, when the extremism task force was operating, which is really where the counter-extremism strategy came from, but as time has moved on we have seen that society in this country has had quite a mature attitude in the way that it has acted, so I would question whether the legislation is now required.

Overall it is much better, through a positive debate in schools and universities, to try to challenge the ideology and to try to help people in universities, but particularly school teachers, to have the maturity to be able to handle difficult conversations, as they often have to do in, for instance, sex education lessons. They have to make a judgment: “Am I concerned about what this young person has in their head? Is it something that I need to deal with? Do I need to talk to the head teacher about it or, sadly, do I need to call the police immediately because I think the person might take it to action in a short time?” In my experience, teachers, particularly in more diverse schools and difficult areas, are extremely skilled in using their common sense in these situations. Still, it needs time for that to develop, and that is where I think a review should look at the guidance and help certain professionals.

Lord Woolf: But the legislation should be in terms that enable the distinction between actions that have to be prevented because they are themselves worrying and meeting arguments that are advanced by people in a way that is perfectly peaceful.

Sir Peter Fahy: You are making a distinction between actions, thoughts and views. Overall, there is probably enough legislation to deal with actions already, including the Public Order Act.

Lord Woolf: So you are really saying that we may not need more legislation.

Sir Peter Fahy: Yes.

Professor Julian Rivers: The European court is very clear about this. As a state you can undertake all sorts of action to challenge views that you think are undesirable. What you cannot necessarily do is limit the enjoyment of human rights. When you start limiting the enjoyment of human rights, you have to justify your limitation, and the phrase that the European court has increasingly used is the concept of “clearly unlawful speech”. The three examples that it gives again and again are defamation, hate speech and incitement to violence. Those are three examples of clearly unlawful speech, where it is absolutely right that the state takes action, typically through the criminal law. When you are outside those examples, the justification of limitations of speech is extremely difficult. The European court rarely says “never”, but at least it says “hardly ever”. The question to be asked is whether we need further legislation to extend that very narrow category of clearly unlawful speech in terms of incitements to violence and hate speech. We know that we have quite a lot of legislation that covers those areas already.

Lord Woolf: And do you think it is adequate?

Professor Julian Rivers: I cannot think of a gap. You could argue that there are certain instances of what could be construed as incitements to violence that slipped through various nets, but it takes a fine-toothed comb to find them.

Ms Sara Khan: We are often told that the Prevent duty is about closing down discussion and debate and that teachers and lecturers are being asked to spy on people. This is just not true. Ofsted says that, in its mind, good practice in schools is schools encouraging discussion and debate in classrooms, not the opposite. Ofsted has made it clear that if it found schools that were closing down discussion and debate, it would be very upset about that and possibly mark a school down because of it.

It is important that we should say that Prevent is not encouraging closing down freedom of speech. Yes, we should challenge hate speech and incitement to violence; I think most people would accept that. Having gone through university and taken part in a number of societies and activities, one of the problems that I have found with the Islamic societies in particular is that often a far-right Islamist preacher will come along and say all sorts of horrendous things that might just fall short of the boundary of hate speech or violence, and he is not challenged. I hope that the Prevent duty would say, "Have a panel that encourages debate, but have someone there to challenge". If Nick Griffin were to come to a university, for example, we would expect the university to have someone sitting on that panel to challenge his view. When you do not do that with far-right Islamist preachers, that is where the problem comes in. I would like to see more of universities having a robust debate but also making sure that they have someone on the panel who is going to challenge the preacher who is spouting hatred.

Lord Woolf: You are saying that you would like to see universities exercising what you see as their responsibility in a better way than they do at present. Is that a matter that legislation could deal with?

Ms Sara Khan: I just think that if universities did that more, there would be no need for the Government to take a hard-edged approach now and use legislation as a blunt instrument. This goes back to my earlier point: civil society, universities and others should take that responsibility. Ideally, I would not like to see a counter-extremism Bill, but because there has been a failure at that level we are now seeing the Government take their hard-edged approach.

Professor Julian Rivers: There is a difference between a school and a university in this respect. Undoubtedly, in the case of a school, the school has a responsibility to moderate any discussion that takes place. With universities we are talking about adults, who themselves enjoy fundamental human rights. I do not think you can require a group to invite speakers to counter the views of their chosen speaker. It is actually quite difficult to design such a policy in a workable way anyway, but it also raises questions, I am afraid, about freedom of speech and freedom of association. A group is entitled to invite a speaker to come and address it, and it is not obliged to have some contrary speaker or counter-speaker to share the platform. I think universities would struggle to implement such a policy.

The Chair: Fiona Bruce is going to talk about this in the context of schools. I agree that they have to be dealt with in a very different way.

Q22 Fiona Bruce: Professor, you mentioned earlier the Government’s recent consultation, which suggested that out-of-school education settings should register. Can you tell us what you consider the implications for human rights might be with regard to those proposals?

Professor Julian Rivers: This proposal is massively problematic from a human rights perspective at several points—in fact, so many that it is difficult to know where to start. The starting point is the recognition that from a human rights perspective there is a fundamental difference between, on the one hand, the public education system, which includes state-maintained schools, independent fee-paying schools and home schooling, all of which operate under the oversight of the state and in fulfilment of the state’s duty to secure education for all people, and, on the other, any activity with children and young people that could be construed as educational in their spare time as a voluntary matter. In human rights terms, the first falls under Article 2 of the first protocol of the European convention; in the latter case we are simply talking about Articles 8 to 1, the basic civil liberties under the European convention. So even calling the programme “Out-of-School Education Settings” is unhelpful, because it blurs a fundamental distinction. The state’s oversight of the public education system, in which of course the state is warranted—in fact it has a duty—to ensure that whatever is offered is “critical, objective and pluralistic”, in the words of the European court, or avoids indoctrination, is an entirely different matter from what civil society and private groups might provide by way of youth work or youth activity. So the first problem is that main category error.

When it comes to making registration compulsory for religious groups, the international human rights standards are pretty clear that you cannot do that, because if you do that you are saying that freedom of religion is dependent on an administrative act on the part of the state, that it is a conditional freedom. As successive United Nations special rapporteurs have pointed out, that denies the essence of freedom, which is the freedom to practise your religion without having to notify a state organ or governmental body. There is a considerable body of case law on this. Compulsory registration is deeply problematic.

When we get to the standards that are being applied, we must distinguish between what I might call the uncontroversial standards of child protection—physical safety, protection from sexual abuse and so on, where there are no real problems with the state intervening to secure child protection and safeguarding—and trying to deal with “undesirable teaching”, which is the phrase that the consultation document uses, using examples of extremist views and opposition to fundamental British values. That is a very vague test. If you are trying to apply that test to civil society voluntary groups, you are heading for all sorts of human rights headaches. It is extremely difficult. I could go on, since the inspection regime also raises fundamental human rights concerns. There is so much about this proposal that is deeply problematic.

Fiona Bruce: Thank you. You mentioned the phrase “fundamental values”, which is used in the definition of extremism in the Government’s strategy from October. Could you give me your comments on whether that definition is helpful or, as some people believe, distinctly unhelpful in the sense that it could promote the tyranny of the majority? It says, for example: “Life in our country is based on fundamental values that have evolved over centuries”. In other words, if you hold a minority view, you could be considered extreme. How do you view those concerns in the light of human rights?

Professor Julian Rivers: I have no problem with the fundamental British values being adopted as an agenda for civic education within schools. Obviously there are good and bad ways of doing that, but I do not have a problem with an agenda to try to ensure that all our children become responsible citizens. That is good. I do not have a problem with fundamental British values when they are tied to violent agendas, as they used to be until late last year. In the event of a breach of fundamental British values that then manifests itself in violent activity, of course the state should take action to deal with that. However, once we get into opposition to “fundamental British values” in the abstract, or as such, then we are into difficult territory. A classic Marxist position is very critical of the concept of the rule of law—it is a mask to hide capitalist oppression—so, taken literally, the new definition of extremism includes classic Marxists within its scope. That is just one example of a view that is perfectly respectable and may be pursued by unlawful means or by lawful means. The problem lies not with the “extremism” or the opposition to fundamental British values but with the means that you used to promote your own particular world view. That is where the focus should lie.

Q23 Fiona Bruce: Concerns have been expressed about the moves that the Government have suggested—for example, the registration of out-of-school settings. Concerns have also been expressed about a recent charities Bill regarding the conduct of a person “that appears [...] to be damaging or likely to be damaging to public trust and confidence”. Do you feel that in many respects we are veering dangerously towards the risk of pigeonholing certain groups as extremists if they hold minority views—I am thinking, for example, of minority religious groups—groups that might have no intention of engaging in any violent behaviour? In so doing, are we risking disengagement and the fracturing of civil society?

Professor Julian Rivers: There is that danger. There is an important distinction to be drawn between tackling this area through charity law and tackling it through new registration schemes. From a human rights perspective, it is quite clear that the state can limit the enjoyment of special privileges, such as the tax exemption that comes with charitable status and the reputational advantages. To my mind, the work that for example the Charity Commission is doing on safeguarding children and ensuring that charities have proper policies in place to ensure that children are safe is entirely acceptable. There is no problem with that.

The problem that came with the Government’s proposals was that to set up a different sort of registration scheme, attached not to the request for charitable status but to the mere activity of doing something educational or being religious, is deeply problematic. On the question of whether there is risk that minority groups get tarred with the wrong brush, yes, that is a danger, and it is important that the law should be clear as to what you are not allowed to do. That is the condition of liberty: that we are clear about the boundaries of our freedom so that we have freedom within the law. When you have vague tests coupled with executive discretion, that is a danger.

Fiona Bruce: Do you see an international trend, as a reaction against global terrorism, in Governments beginning to restrict the sphere within which civil society can operate?

Professor Julian Rivers: There is some evidence of an international trend. There is certainly a very interesting trend on the European continent. In the period immediately after the fall of the Iron Curtain, the eastern European countries moved to very liberal

regimes of regulation for religious bodies and other groups, but over the last decade or so they have started to tighten up again. In some countries, that is due to pressure from Christian Orthodoxy as well, creating that pressure for other minority religious groups. So the European court has had to take an increasingly firm stand against such countries that have tried to restrict a religious group activity through registration schemes. It is interesting to see that what the UK Government are proposing is very much in line with some of the regimes that we are familiar with from before the fall of the Iron Curtain and, more recently, with some eastern European countries.

Mr Bharath Ganesh: I wanted to comment specifically on non-violent extremism. This gets us into very hazy territory when trying to define non-violent extremism. As Professor Rivers mentioned, there are some tests, but the key point that I want to pick up from what he said is the issue of executive discretion. That is extremely problematic, because we have no democratic way of identifying extremism and challenging it. In my understanding and in my review since 2011, watching how the strategy has evolved in such things as the Extremism Analysis Unit, which is being developed in the Home Office, it seems that the branches of government that are not always accountable to a constituency can decide what is and what is not extremism. That is extremely problematic. It is something that needs to be resolved in the public sphere, not in a government office.

The Chair: Who would you suggest should do that instead, if not a government office?

Mr Bharath Ganesh: I would not suggest one particular group. It is important that the people responsible for our security analyse the risks. That is crucial. But the way we define and understand that risk should be a product of public debate, and it is clear to me from watching the strategy since 2011 that right now the way we define and understand extremism is not an object of public debate. If we were to look at how Muslim communities feel at the moment, we would find that there are a whole number of non-violent extremists who perpetuate all kinds of Islamophobic stereotypes. For example, Britain First is not mentioned in the counter-extremism strategy, but we have seen all kinds of threats coming from Britain First. Faith Matters also runs the countering anti-Muslim hotline, Tell Mama.

The Chair: Sorry, I am going to have to interrupt you. I do apologise. Keep that thought. We will adjourn for 10 minutes in the hope that that is long enough for all Peers to go through the Lobby. We will come back as soon as we can. Do not go away.

The Committee suspended for a Division in the House of Lords.

The Chair: Bharath, you were in mid-flight. I am sorry that we had to stop, but we have rather antiquated practices here.

Mr Bharath Ganesh: Not at all. I was also talking through the bell, so I apologise for that. What I was trying to say was that there are non-violent extremist groups that significantly exploit Islamophobic rhetoric, tropes and stereotypes. That leads to the Muslim community facing a significant amount of alienation and problems, although that is not my focus on this question. There is a surprising absence of Britain First and the English Defence League in the counter-extremism strategy as it is today, and that is extremely important. We have seen people who support the EDL committing crimes. There was a

case of EDL supporters putting together nail bombs and getting ready to bomb mosques. The EDL does not have a formal membership structure, so it is hard to say that they were EDL members, but they were supporters and supported that type of rhetoric. Neo-Nazism is a specific concern, and I commend the counter-extremism strategy for addressing that. But there is a huge Britain First group on Facebook that has 1.3 million likes, and on it we have seen a significant number of threats and extreme Islamophobic language. We did a report after the story of the child sexual exploitation scandal broke back in 2014, and when we were putting that report together we were seeing things like, “Islam is a cancer that should be eviscerated”, and, “Eradicate all the Muslims”. I have plenty of quotes that I could give you, but I do not think that is really the point. The point is that we have violent and non-violent rhetoric that is extreme and very much anti-Muslim, but there is an absence on it in the counter-extremism strategy. That makes me conclude that the strategy’s analysis of the far right is a bit dated and that it could engage significantly more with the types of things that are going on, especially on social media. We talk a lot about social media and Daesh, but we do not talk enough about how much social media affects the far right. Plenty of people who have been really plugged into social media have gone on and done things as extremists, such as committing murder in the name of Lee Rigby. The dated analysis of the far right is a huge drawback in the current strategy.

Professor Julian Rivers: From a human rights point of view, there is no question but that the state could take action to deal with the speech that has just been described. In fact, if you have speech that stereotypes minorities in that way, you probably fall within Article 17 of the convention, in which you forfeit your enjoyment of convention rights because that speech is so directly contrary to the values that the convention supports. Again, we have had an example of an area where perhaps the Government could be doing more to take action in a way that was compliant with the European convention, and instead we see aspects of life being swept into government policy that are relatively harmless by comparison with some of that.

The Chair: I shall just tell Baroness Prosser that we have chosen to remain on the same question that we were looking at when the bell rang. Does anyone else has a supplementary? Professor Rivers—perhaps this is a little controversial—you seem to be quite constrained in your answers because of human rights law. Do you sometimes feel that that is the problem, or part of the problem?

Professor Julian Rivers: Not at all. I take the view that the values set out in the European Convention on Human Rights align very closely with what the Government call fundamental British values. That means that there is something slightly ironic about taking steps that limit the enjoyment of those rights in the name of those values, when they are essentially the same thing. Actually, that sounds ironic but it is not, because the European court recognises that democracy can defend itself, and that in order to defend itself democracy may need to limit the enjoyment of rights in order to protect them. It is only a surface paradox. However, you have to be very careful when you do that because you may easily go too far. You may think that you are defending democracy and protecting people’s rights, but actually you are simply undermining them.

The Chair: That is very helpful. I shall say to Baroness Hamwee that as we were quorate we chose to continue with the same question as when the bell went. Let us move on now to the counter-terrorism Bill itself. Of course we have not seen the Bill and we are now assuming

that it will not be published this side of State Opening, which is in the middle of May. Still, it is very helpful to have this kind of evidence session for us to build on our thinking, so that hopefully we can ask ourselves and others the right questions when it is published. Baroness Hamwee has a question.

Q24 Baroness Hamwee: I think the question about whether there is a need for further criminal offences has been very much answered. We have had the comment about “clearly unlawful speech”, which was helpful, while Professor Rivers could not think of a gap. I notice that Sir Peter referred to not having seen the draft legislation. Two of you have not said whether you think there is a need for new powers such as banning orders and closure notices, so that is part of the question, although we have had the answer to some of it. On draft legislation, though, is there a particular argument for this being a draft Bill, giving the opportunity for further consultation? Like Oliver, I should not try to give evidence myself.

Sir Peter Fahy: There would need to be very wide consultation. You could say that that consultation could be the means for having a more productive debate and discussion about this issue. It comes back to the difficulty that when you are talking about legislation it is fine to have a strategy and have that debate. The danger comes when you are talking about how you are going to define this legally without contravening human rights, and without leading to individual police officers being put into a difficult position in trying to define what is or is not extreme and potentially getting caught in the middle. I saw one version of draft legislation that tried to define extremism around the protected characteristics that are often in diversity legislation, which I thought was problematic. What was also problematic was extending the definition of “personal safety” to include alarm, harassment or distress, because again that is a very wide term for covering people being upset by particular types of activity. For me, it is about that distinction. When you are trying to put these things into law, the danger is that you are drawing the police in particular into the policing of thought, which is a very dangerous area for the police in this country to be drawn into.

Professor Julian Rivers: The issue will not simply be about new criminal offences; it will be about regulatory offences if you set up some sort of regime of registration, inspection and so on. It will also be about civil orders. There again, there are quite considerable human rights concerns about using civil standards of proof in contexts that are quasi-criminal. You might have quite a serious impact on a person’s life by subjecting them to a disruption order or a banning order against civil standards, which is very similar to a criminal conviction. All that would need very careful investigation and thought to ensure that that was appropriate, so a draft Bill would be helpful, because some of these issues are incredibly complex and need very careful thought.

Sir Peter Fahy: The experience of the police in this country is that with regard to a lot of the legislation on things like public order and protest, on the whole the approach of British policing is to use it very much as a last resort. When you try to take these cases to court, you are still arguing about it long after the protest, whatever the issue was. Very often the police forces end up paying damages because of the impact of human rights legislation. So on the whole you will find that British policing tries to negotiate, bring people together and find a compromise, because it has found that practical application of the law in this area is enormously problematic, particularly when trying to get it through the courts.

Fiona Bruce: So do you think it is right, Sir Peter, that the proposal that there could be a civil standard of proof for EDOs is the correct way forward?

Sir Peter Fahy: As I say, I think it would be very problematic in terms of who is going to make the application. For instance, in public order legislation on protests, there is the phrase “serious disruption to the community”. We tried to find out what the definition of that was—whether, for instance, damage to the retail trade counted as a serious disruption. This is the sort of difficult area that you get into; the police are often caught in the middle, with people urging us to use the legislation to go to court, but there is a real danger of infringing the human right to protest. If you open up these legal avenues, whether criminal or civil, the police will come under enormous pressure from different interest groups to try to apply that. For the poor police officer caught in the middle of this, it is enormously problematic.

Lord Woolf: In this area, it is hugely difficult to come to any conclusions about the appropriateness of legislation until we have at least seen a draft. Until then, we are working in the dark.

Fiona Bruce: What you are saying, Sir Peter, as I understand it, is that the risk of vague definitions like this being used by activists to target—and, if you like, socially ostracise individuals—and even push public institutions into action against them, is very great. I apologise. Now I am giving evidence.

Sir Peter Fahy: The practical problem that we had was at Piccadilly Gardens in Manchester, when we had fundamentalist Christian groups saying things about the gay community and homosexuality, and members of the gay community turning up and trying to put pressure on police officers on duty to intervene and prevent that. In one case, we ended up having to pay damages because an officer reacted incorrectly. You are right; not only does it mean that different groups are involved, but with a lot of the protests that we had there were lawyers attached to the protests looking out for a police officer doing something wrong on the basis of no-win no-fee, so that they could take the case and make money out of it. That is the practical situation that the police officers are put in. Therefore, if you have more potential legal avenues, it can be enormously problematic. That in itself raises tension around the whole issue and makes it more difficult for the police and other authorities to try to intervene to say, “We can try to mediate here”. In the protest about Gaza, I was desperate for politicians, church leaders, the university or anyone to come in to try to find a different way to deal with the dispute rather than have a big protest outside one particular shop in Manchester. If you have all these legal avenues, you just end up with a field day for lawyers, and pressure from politicians, interest groups and others to say that the police have a duty to enforce that legislation.

Fiona Bruce: I sense that Professor Rivers wants to comment. When you do, would you comment on the concern that many have expressed about the vague definition of extremism, which talks about respect and tolerance of different faiths and beliefs, rather than of people with different faiths and beliefs? That is quite a different thing, really.

Professor Julian Rivers: One of the problems that we have with the term “extremism” is that unlike terrorism it is not at all understood. I talked to Sara about this during the break. If you ask anyone what extremism is, they come up with a whole range of suggestions.

That is a problem for the rule of law. If people do not have an instinctive understanding of what we are getting at in our law, it is very difficult to get the law to work. People know instinctively what terrorism is and what it looks like, but that is not at all the case for extremism. The use of that term is going to raise all sorts of questions and, as Sir Peter has already alluded to, all sorts of expectations for dealing with people who from a legal point of view are well within their rights, whatever they are doing.

In fact the final clause of the definition is entirely unproblematic. To my mind, calls for the death of British Armed Forces overseas can and should be criminal. There is no problem with that. However, when you get to the phrase “mutual respect and tolerance of beliefs”—perhaps this is not quite appropriate—it is a philosophical error. Tolerance means not tolerance of falsehood but tolerance of people, whether they believe something that is true or false. We respect people we disagree with; we do not necessarily respect their opinions or views. That is an example of a slippage that may be harmless; we may know perfectly well what we mean underneath it, but we might not. We may find that when people have strong views that another person is misguided in something that they believe or do, the person who expresses that “wrong” view is tarred with the brush of “extremism” simply because they do not respect or tolerate someone else’s belief. That is a problem.

The Chair: Baroness Prosser, you have a question that is very much along these lines. In a sense, it has been answered.

Q25 Baroness Prosser: I am not entirely sure that there is very much more to be said about it. The question is whether or not you have concerns about these terms, should a new Bill be drafted. The examples are “non-violent extremism” and “British values”, but I think you have spoken about that already, unless someone has something further to say.

Sir Peter Fahy: It seems to me that one of the core British values is “live and let live”, and that on the whole British people do not like talking about their values. There is a paradox there. The serious point is that this focus on extremism is not balanced by a wish to celebrate that what is happening in this country is, on the whole, a success. Look at London compared with Paris. I do not like criticising the French state, but you would have to say that the agencies and policing here, with the great support of communities, handled this pretty well on the whole. In some ways, we should be holding ourselves up as an example to other troubled places in the world and saying, “It is absolutely possible for different religions, cultures and nationalities to live peacefully together”. Also, of course, we know that that is something that ISIS absolutely detests. They would absolutely love to provoke us into more extreme behaviour and more extreme legislation. They would love us to undermine British values, including the sense of tolerance that we have in this country.

The Chair: That is very helpful. It would be extremely helpful, having heard evidence from all of you on this question of definitions and the counter-terrorism Bill, if my support team here—the clerks, legal advisers and so on—made sure that a copy of the transcript goes to the Home Office. It may not be too late to influence the drafting of the Bill.

Professor Julian Rivers: May I add one point about the question on the definition of extremism? It is very important to remember that this definition concerns political values,

and they are values that are appropriate in the public sphere as we meet each other with all our differences. If you are incautious about applying them to other aspects of life, you may end up distorting the institutions that you are trying to regulate. The example is schools. Undoubtedly in countering extremism, fundamental British values are good things to teach and develop, but they are about political values. There is nothing in there, for example, about truth, truth-speaking and truth-seeking, which to my mind is the core value of any educational institution. So as they get moved into other social domains, they need translating into and locating in other values too. We should not lose sight of their origin as political, not universal, values.

Mr Bharath Ganesh: One of the issues is that this definition is so fluid, and when we ask front-line staff across the public sector to implement a definition of extremism we run a lot of risk as to whether those staff are going to be able to understand it and whether or not they will be influenced by what they are hearing in the news that week. Those are serious concerns, and they could be dealt with much better perhaps by a more specific definition.

The Chair: This very much brings us on to Jeremy's question.

Q26 Jeremy Lefroy: Do you see any risk that the new Bill could lead to a diminution in the law's protection of the fundamental rights of freedom of speech, religion and so on?

Sir Peter Fahy: I do, because it is all part of the general atmosphere, and I think we have all highlighted how extending the Prevent duty and some of the way in which it has been publicised has reportedly, whether we like it or not, led to a closing down of some debate, which shows that there are dangers in, as I say, extending it further into legislation on counter-extremism and into proposals for banning orders and disruption orders, and things like that. It is not just the impact of the legislation but the impact of the atmosphere that is then created that is a serious concern. Therefore, any review of the Prevent agenda absolutely has to be looked at along with the intention behind the legislation. Has it had the wider impact of shutting down debate? The safeguarding agenda, for example, was very well intentioned; people working with children have to be vetted. That said, as you know, lots of charities have reported that it puts people off volunteering with children. You have to make sure that there is a balanced approach to such an issue and to understand that there will always be certain individuals, including individual police officers, who may interpret it too far one way, and that that sort of thing can lead to the legislation having far greater impact. Clearly the Government have tried to say about the proposal and the strategy, "It will be very high-level. It will have to be at the High Court. The bar will be set high. People will still be able to express religious views", but whatever the intention there is the more general atmosphere that it creates in an area like this, which is, whether we like it or not, so emotional and politically charged.

Jeremy Lefroy: Drawing together things that Sara and Sir Peter have said, it seems to me that, on the one hand, we have this perhaps typically British desire not to put things into too much of a straitjacket that could cause all sorts of nonsense in respect of people who are just saying something off the cuff or Sunday schools of six people having to be inspected by Ofsted. We need to avoid that. At the same time, we need a much more positive dialogue about what we are in order to counter the negative mythmaking that Sara has referred to.

Perhaps I can add a third point, and others might like to comment, on the whole question of offence and people's incredible ability to take offence at nothing. We saw that recently with Cardiff University and Germaine Greer, and things like that, where, quite frankly, people seem to think they have a right not to be offended. Would you worry that the right not to be offended—which is not a right, in my opinion—will creep in if something like this comes along?

Mr Bharath Ganesh: I will not speak specifically about the right not to be offended, but you bring up a really interesting point. I think we will see people censoring themselves more and more and not speaking out about certain things. That kind of risk aversion is not something that only students or teachers feel; it will filter all the way up to local authorities and to anybody who is tasked with the Prevent duty. We really need to look at that when trying to understand the impacts of the Bill. That risk aversion will start to filter up, and in that sense the kind of pluralism that the public sphere depends upon to challenge different ideas will be pushed underground or inside. That is really quite dangerous.

Ms Sara Khan: I think there is already a culture, prior to any counter-terrorism Bill, of wanting the right not to be offended. We have seen it particularly in universities. Lots of examples have been reported in the press in the past few months of the “safe space” policy now being employed by students to promote intolerance; they do not want to be challenged on issues of free speech or anything that they feel could offend them. Maryam Namazie, for example, who has spoken very much against Islamism, has been refused permission to speak on campuses because people perceive her as being Islamophobic. All that is very worrying. Just a few months ago, she went to Goldsmiths University, and throughout her entire presentation she was shouted down and her projector was switched off by students at the university. That culture has already been created. We talked about this just a few minutes ago, and it is very, very worrying.

That is a separate issue outside Prevent and extremism: what do we do about protecting freedom of speech? I agree with you that there is no right not to be offended. It is not a right, and it has never been a human right, but it is becoming increasingly something that a lot of British citizens feel quite passionate about. The most recent example of this is people filling in the petition not to allow Donald Trump into the country because they find his views offensive. Again, I think that a lot of people would find that quite troubling. Yes, he has very offensive views, but does that mean that he should not be allowed into this country? A wider discourse is needed about censorship, because increasingly we are seeing more and more censorship in our society.

Professor Julian Rivers: One thing we should not do is create new legal remedies that are then potential vehicles for that sort of social movement to latch on to. That is the worry. The European Court of Human Rights says again and again that you have the right to offend, the right to shock, the right to disturb, and that extends even to the foundations of the state. It makes that clear too: you are allowed to say offensive things about democracy, the rule of law, individual rights, mutual respect and tolerance, because we can cope. It is better to have that out in the open in the form of debate and challenge and to resist it than to try to close down those sorts of comments using ineffective legal remedies.

Lord Henley: You might say, “What is wrong with a bit of honest-to-God bigotry from time to time?”

Professor Julian Rivers: Again, the court is clear that you can have all sorts of views; the threshold that you have to have crossed before the state can take action is the concept, which I have stated already, of clearly unlawful speech. At that point, we need to intervene to protect ourselves and each other. But that is a high threshold.

Sir Peter Fahy: That does not stop us promoting respect for one another. I thought it was very positive that the press in this country did not publish the cartoons of the Prophet Muhammad. That was not because of legislation; it because we, on the whole as a society, felt that it would be the wrong thing to do because it would have caused gratuitous offence. That is an example of it being much better to come from a basis of respect for different religions and of “as long as you are not trying to change my way of life”. That, on the whole, is a British attitude and a very healthy one.

Jeremy Lefroy: Although would you not say that sometimes it seems a bit one-sided? We have had instances of other religions that have been, shall we say, portrayed in a negative way that a lot of people would take offence at.

Sir Peter Fahy: I do not know. As a chief constable, I was very open about being a practising Catholic, and I never found that dilemma. I had respect from people because I was open about my faith, so I do not subscribe to the idea that other religions have this difficulty. In general, as I say, it is much better to encourage faith and other groups to come together, to have open dialogue and open conversations and to challenge one another. That is a much healthier way of doing things. It is exactly what is happening at a local level in places like Manchester and Rochdale without anybody imposing it or having legislation to make it happen.

Q27 Jeremy Lefroy: I have a final question. I deliberately threw in having the right not to be offended—or, as I would say, not having the right not to be offended. Do you think we should raise and address this separately? Sara, you suggested initially that it had nothing to do with what we are talking about now, but it seems to me that these issues of freedom of speech and unnecessary self-censorship, and perhaps the lily-livered nature of some of our universities and their authorities, must be brought up when we discuss this proposed legislation.

Sir Peter Fahy: Yes, I think it is about encouraging healthy debate. There are a lot of issues to do with the position of women that absolutely need to be debated, but I do not think it is an issue solely for the Muslim community. Again, I saw some horrendous attitudes towards women and things like domestic violence being tolerated and even accepted and condoned in other communities too. It is really important to have a lot of those discussions, but we need to make sure that these issues are not considered to be the problem of only one community. This has to be done in a healthy atmosphere where, exactly as you say, the issue is not about people being offended but about trying to help us to reconcile different traditions and to move forward.

The Chair: Thank you. We come on to the last questions now. We have encroached to some degree on your questions, Lady Lawrence, but more can probably said specifically.

Q28 Baroness Lawrence of Clarendon: Yes. I would like to thank you all, because you seem to have been sitting there for a long time having questions thrown at you one after the other. Both Sara and Sir Peter have probably answered my questions already. I have a question about the impact that these new measures will have on the community. What are your thoughts about that? I know you have said something about it already.

Ms Sara Khan: Do you mean the new counter-extremism Bill specifically?

Baroness Lawrence of Clarendon: Yes, the new measures that the Government are looking to bring in.

Ms Sara Khan: Again, it boils down to the definition of extremism. I have interviewed lots and lots of Muslims in the past few months about what they define as extremism, and I do not think I have met two Muslims who hold the same definition. Again, that just shows how problematic the whole definition and understanding of extremism is. It is very difficult. I think the impact is going to be very mixed. I think a lot of Muslims will feel that this is just another blunt instrument that the Government are using to try to marginalise Muslims and Muslim communities. There is definitely an idea in Muslim communities that Prevent is a lightning rod for all things terrible, as Sir Peter mentioned. When I go into Muslim communities, I find that people have a lot of grievances about the media and how they portray Islam and Muslims, and they will often connect that to Prevent or extremism when it has absolutely nothing to do with Prevent. There is a lot of conflation of these issues. I will be very honest: there will be some in Muslim communities who will not welcome this at all, and there will be others who will say, “We’ve been waiting for this for a long time. We feel as though we are lone voices who have been seeking to counter extremism for a long time in this country and we’ve often felt that not enough has been done to deal with it”. I personally do not feel that putting it into a Bill is the right approach. As I have mentioned before, I think you need a strategy. Putting it into a Bill is not the right way because of so many issues that have been raised here, such as possible human rights violations, and because extremists in particular will use it almost as a badge of honour and to prove their point and further promote their victimhood narrative—“We’re being oppressed by the British state and the Government”. That is what extremists like to do; they like to promote this view that they are being oppressed by British society as a whole. In one sense, it will fuel their cause, and we have to make sure that we do not do that.

Countering extremism is a battle of ideas, and legislation is a blunt instrument, and we are not going to counter extremism successfully by driving it underground through things like banning orders, disruption orders or closing down premises. For me, closing down premises is pointless, because they will go to another building, and in an era of social media—you have mentioned this already—where so much extremist radicalisation is taking place online, whether by groups like Britain First or ISIS, the idea of closing down premises becomes pointless. Really, this is about challenging ideas, and legislation is not the way to do it.

Sir Peter Fahy: The danger is that you will create a lot of frustration. I can see communities coming forward and saying, “The English Defence League is coming to protest. We want you to ban it”. They will immediately find that legislation does not allow that, and it will cause a lot of resentment and frustration. Under the legislation at the

moment, lots of different people think that the police can stop a static protest, which often means that they feel that the legislation is one-sided because they think they have heard that it has been used in that way somewhere else. It could cause a lot of frustration, because people will have their own definition of who or which group is extremist and will ask why the legislation is not being used to stop them.

Baroness Lawrence of Clarendon: My second question is: is there a risk that groups that are not recorded as violent extremists will be targeted under this new legislation?

Sir Peter Fahy: Yes, there is always that risk, and to some extent I think the Government's intention was try to deal with the fact that there are people operating below that level and below the level of terrorism legislation. But you are absolutely right that the trouble is that these people are often very clever about staying on one side of the law, so the issue will still be there.

Mr Bharath Ganesh: One of the main problems with this is that we have approached the question of extremism through the lens of ideology, and while that is certainly a big part of it, other things are involved. People who have gone to Syria and people who have experienced hate crimes have had feelings of alienation as well as feelings to do with unemployment, and these factors also contribute to it, so combating non-violent extremism is really about combating ideology. Ideology is a factor but not the entirety of the reason why someone might embrace violent extremism, and by focusing on non-violent extremism we are getting into the dangerous area of thought-policing, as Sir Peter has mentioned so many times.

The Chair: Does anybody have any more questions? Can I thank all of you very much indeed for giving evidence this afternoon and for being so articulate and thoughtful? It has been incredibly helpful. We are extremely grateful to you for coming here today. Thank you also for bearing with us while some of us disappeared to vote.