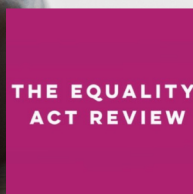
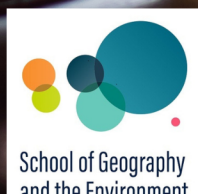


Index of Islamophobia

Proposing an Enforcement
and Prosecution Framework

November 2022



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Foreword

In 2022, Islamophobic hate crimes made up 42% of all religiously motivated hate crimes reported to the police. However, absent from the data provisions is a corresponding breakdown of prosecution and conviction rates within this cohort. There is therefore a significant gap in measuring and reporting of Islamophobia, which is further compounded by the number of cases of Islamophobia that go unreported.

This gap in the data raises a number of important questions, such as whether the current approaches to prosecution are effective. To my knowledge, the ways in which Islamophobia is dealt with upon reporting to the police, is currently information that is publicly unavailable. This raises further questions; are incidents of Islamophobia that are reported to the police dealt with in a uniform manner? Do different police forces have different approaches to triaging reporting of Islamophobia?

This report makes a significant intervention in the literature of Islamophobia, which is currently heavily focused on arriving at a definition. While the need for a working definition is imperative and a key starting point, we must also be actively engaged in the debate to conceptualising an enforcement and prosecution framework.

The Islamophobia Index and the Prosecution Pathways Form designed by Dr Suriyah Bi at the University of Oxford is a tool that can be used by both victims and professionals to record, address, and triage an incident. In particular, the score ascertained through the Index of Islamophobia can be used by Judges to inform sentencing processes. This is an empowering tool that will enable justice to be delivered.

I therefore welcome this report and look forward to working closely with the Equality Act Review and the University of Oxford to widely disseminate the Index of Islamophobia, and Prosecution Pathways Form.

Naz Shah MP



Author's Note

I want to share a personal story with you. In 2015, I was subjected to religious discrimination in the workplace, which was later proven by a series of emails and documents I had obtained through a Subject Access Request (SAR). By religious discrimination, I am referring to the ways in which I express my religious beliefs through dress, lifestyle choices, and value systems. My raising of a safeguarding concern - that an 18-rated graphic video depicting tragic loss of life during the 9/11 attacks - was misinterpreted as objecting to 9/11 being taught on the curriculum. The SAR documents revealed that senior staff members at the school associated me with being part of the Trojan Horse Affair. Despite the clear evidence, the Birmingham Employment Tribunals did not accept that religious discrimination had taken place, citing that a Jewish or Christian staff member would have been treated in the same way as I had been, namely unfairly dismissed. In a preliminary hearing at the outset of the Employment Tribunal proceedings, my case for racial discrimination was struck out due to the Judge's belief that 'Muslims were not a race.' While I won my case on unfair dismissal, protected interest disclosure, and victimisation, the injustice surrounding the religious discrimination claim lingered, and I felt I could do more to redress this imbalance.

Questions arise as to the effectiveness of multiple and various definitions of Islamophobia that have been put forward in the past two decades or so. The discourse has been dominated by discussions around the semantics of the word Islamophobia. However, real people and real lives are being failed in and through the legal system every day. I was one of these people. This report therefore aims to (re)centre the discourse of Islamophobia around enforcement and prosecution from a grassroots, and lived experience perspective.

This report should also be seen as part of my broader work reviewing the Equality Act 2010. At the Equality Act Review, we published the most comprehensive review of the Equality Act in 2021 and then in July 2022. Outside of my work engaging in policy review and change, I am a lecturer of Cultural Geography at the University of Oxford. I have previously lectured at the University of Edinburgh's Social Anthropology and Social Policy departments, and SOAS University of London's History Religions, and Philosophies, and Anthropology department.

Dr Suriyah Bi



Executive Summary

Islamophobia has long been discussed and debated from a semantics perspective largely confining attention to how it should be defined. While such debates are necessary they have diverted attention away from how Islamophobic incidents and actions ought to be prosecuted. In addition, how any such definition(s) should and could be enforced has also been largely absent from the policy and academic fields. A House of Commons Library report showed that in 2021/22 of all hate crimes recorded by the police, 42% were targeted against Muslims (Allen and Zayed: 2022). Enforcement and prosecution perspectives are therefore sorely required at a time when Islamophobia is on the rise, both in the UK and around the world.

We believe there to be gap in both the academic and policy fields with regards to enforcement, prosecuting, and convicting Islamophobic hate crimes. From a practical viewpoint, the way in which Islamophobia is perceived in legal terms is crucial. The debates around a definition (see APPG: 2018) must be plugged into legal language and structures. It is this juncture that currently separates the British Muslim community from enforcement and prosecution possibilities. Until this gap is addressed, the discourse on Islamophobia will remain disconnected from the much-needed action that is required to address Islamophobia in society and workplaces.

This report therefore serves three purposes:

1. To progress the focus from the definition of Islamophobia to enforcement and prosecution pathways;
2. To engage lived experiences of Islamophobia with existing legal frameworks such as the Equality Act 2010;
3. To provide a framework to enforce and prosecute Islamophobic actions and incidents.

We propose an index of Islamophobia to be calculated for each action or incident, which is based on four markers: intensity, intention, impact, and recklessness.

For example:

1. How severe was the intensity of the action/incident?
2. How severe was the intention behind the action/incident?
3. How severe was the impact(s) of the action/incident? Take into consideration physical injury and/or psychological harm caused to the victim.
4. How severe was the recklessness of the incident/action?

A score out of ten, where one is the least severe and ten is the most severe, should be assigned to each marker.

Scales (1-10: lowest to highest) To be completed by victim or professional.				
Intensity	Intention	Impact	Recklessness	Total
Score x	Score x	Score x	Score x	Score x

Index of Islamophobia

Once the scores have been amalgamated, the total (out of 40) can then be used to inform the prosecution pathways.

For example, if a score of eight is provided to each of the four categories, a total 32 points out of 40 is calculated. The court or tribunal dealing with the matter can employ this index to inform their decision(s) when sentencing the perpetrator(s).

In addition to the Index of Islamophobia, we have developed a more detailed framework which can be employed in identifying prosecution pathways. For example, an incident of Islamophobia may speak to multiple laws and therefore could be prosecuted along a number of pathways. An individual completing this form would be able to at least provisionally ascertain which law may have been breached.

The Index therefore serves as a conduit for providing victims of Islamophobia with justice they deserve. It can also aid education amongst the British Muslim community as to which laws Islamophobic actions and incidents can breach, and encourage the pursuit of enforcement and prosecution pathways amongst the community and Police force(s). Professionals such as teachers, social workers, nurses, and doctors can also employ the Islamophobia Prosecution Pathways Form as part of their first response to any such incident(s) and act(s) they may encounter within their surroundings.

Law		Type of action/behaviour			Scales (Lowest to Highest)			
					Intensity	Intention	Impact	Recklessness
		Verbal	Written/ Pictorial	Physical	1	1	1	1
Equality Act 2010	Religious Discrimination				2	2	2	2
	• Indirect				3	3	3	3
	• Direct				4	4	4	4
Malicious Communications Act					5	5	5	5
Public Order Act 1986					6	6	6	6
Crime and Disorder Act 1998					7	7	7	7
Victimisation					8	8	8	8
Harassment					9	9	9	9
Defamation					10	10	10	10

Pathways to Prosecution Form

Introduction

The tragic events of 9/11 initiated unreserved Islamophobia towards Muslims in many forms and across many communities, and global contexts. The UK has been no exception where Islamophobic attacks such as headscarves being torn from women's heads, Muslims being beaten and murdered, and the production and/or publication of Islamophobic texts (print and online) have become increasingly common. Such actions have often snowballed through inspiration. More recently, places of worship around the UK have also been subject to vandalism and attacks. A significant and growing proportion of Islamophobic sentiment is perpetuated online via social media, print, and news media. Due to such growing and intensifying acts within the UK, many British Muslims have felt disengaged and disconnected with the state and society more broadly, which exacerbates the effects for social, cultural, educational, and employment prospects.

In 2022, a House of Commons Libraries report found that 42% of all hate crimes reported to the police, were targeted at British Muslims (Allen and Zayed: 2022). The data tables underpinning the report while provide a break-down of the different types of crimes (such as assault, threats, burglaries, homicides, and literature) for Anti-Semitism, are non-existent for Islamophobia. Further, when prosecution rates are considered, all religiously motivated hate crimes are amalgamated to provide a proliferated sense of prosecutions, despite Islamophobic incidents forming a significant proportion of all hate crimes reported to the police. The rate of prosecutions for islamophobia can be thought to be slim within the cohort of those prosecuted, as a break-down of offence type is unavailable for Islamophobic hate crimes. This points to a lack of prosecutions for such offences. Such absences in the data then, underscore our contention there is a significant gap in the policy arena for enforcement and prosecution-oriented discussions. This report aims to redress this gap by considering enforcement and prosecution pathways, engaging lived experiences of Islamophobia with existing legal frameworks such as the Equality Act 2010, and by providing a framework for both victims and professionals who encounter and/or deal with victims, to employ in their comprehension and articulation of incident(s) and acts of Islamophobia.

This report presents the Index of Islamophobia and the Islamophobia Prosecution Pathways Form, which can be used by victims and professionals. We put the Index of Islamophobia to test through five cases of suspected Islamophobia: (1) Boris Johnson's comments on the burqa, (2) Michael Fabricant MP's tweet of 12th July 2018 concerning the depiction of London Mayor Sadiq Khan as a balloon shaped pig being sexually penetrated, (3) Punish a Muslim Day Letters, (4) A headscarf being torn from a Muslim woman, and (5) Being called 'Shamim Begum' or a 'terrorist' in the workplace.

In the conclusion, we stress the importance of the implementation of the Index of Islamophobia across public, private, corporate, employment, and community sectors, and frame this report as pioneering the way forward in pursuing justice for Islamophobic hate crimes.

Before introducing the Index of Islamophobia and Islamophobia Prosecution Pathways Form, we wish to highlight the severity of Islamophobia within educational and employment settings, and via online platforms. Such an exercise we hope, will lay the foundations to justifying the need for an enforcement and prosecution framework.

Islamophobia in Employment

In 2020, the Equality Act Review conducted the largest study exploring the experiences of Muslim women in educational, and employment settings (Bi: 2020). It was found that 47.2% of Muslim women reported having experienced Islamophobic abuse in the workplace. Powerful interview extracts included a Muslim woman being told that she would have her headscarf burnt by a fellow member of staff, parents of non-Muslim children requesting that their children are reallocated to a different class due to the teacher being Muslim, and patients informing Muslim nurses and doctors they did not want to be treated by a Muslim doctor (ibid). It was found that Muslim women also experienced a loss of talent and aspirations between the ages of 14-22, with only one woman (n=425) becoming a doctor at age 22, whereas 79 women wanted to become doctors at the age of 14. When examined closely, the theme of 'not being believed in by teachers' at school and sixth form, was a significant factor in depressing aspiration, and talent.

When such data is coupled with the considerable levels of economic disadvantage faced by British Muslims, another layer of bleakness is cast over employment prospects. Figures suggest that 50% of British Muslims live in the bottom 10% of housing in the UK (Eichler: 2022), while the unemployment rate for the community has been reported to be twice the national average (Garatt: 2016). Demos (2015) and Garratt (2016) found that of those Muslim who were employed, there was a severe underrepresentation in higher occupations with only 6% holding senior positions, the lowest of all religious groups. In addition, Heath and Li (2015) reported that on average, British Muslims earn £350 less than other religious groups. Such studies speak to a report by the Government's Social Mobility Commission, which found that Islamophobia, racism, and discrimination increasingly defined the professional and career development experiences of British Muslims (Stevenson et. al: 2017). The report also highlighted the role of prejudicial attitudes at application and interview stage, including having an ethnic-sounding name. A BBC investigation in 2017, found that candidates with anglicised names such as Adam, received three times more interviews and offers than candidates whose names were Mohammed (Adesina and Marocico: 2017). Similarly, a report by the Department of Work and Pensions (Wood et.al: 2009) found that ethnic minority applicants were discriminated against in favour of white applicants in 29% of cases. Such experiences then, are inextricably linked with the financial capital British Muslims are able to obtain through employment, which in turn translates into shaping social forms of capital, such as housing, and access to educational opportunities. Addressing workplace Islamophobia within an enforcement and prosecution framework is therefore, paramount to ensuring the upward social mobility of future generations of British Muslims.

Islamophobia Online

Online comments posted on social networking sites such as Facebook and Twitter, blogging sites,

chat rooms, and other virtual platforms (Allen: 2014) are often spaces in which Islamophobic language is rife (Wall: 2001, Saeed: 2007). Such comments can also appear in the form of racist jokes and stereotypical 'banter' (Weaver: 2013), which add an additional layer of assumed protection for perpetrators. Academics have argued that if such incidents are left unregulated and unactioned, can escalate into physical attacks (Allport: 1954, Saeed: 2007).

Over the last decade, a significant proportion of reports made to Tell MAMA comprised of online incidents of Islamophobia (Copsey et.al. 2013). Specifically, 69% of were linked to the far right groups English Defence League (EDL) and British National Party (BNP). Tracing the profiles of perpetrators, Copsey et.al (2013) found that perpetrators of online abuse were mainly males, who cited in their online abuse, threats of offline abuse. Such threats included burning down mosques to killing muslims babies (2013: 23). Online comments of hate were mainly anti-Pakistani, comprising of comments such as "rape and paedophilia, incest, interbreeding, being terrorists, and killing Jews" (ibid). Online spaces play a significant role in constructing and perpetuating a hostile environment for Muslims where violent, Islamophobic, and racist narratives become part of the everyday experience of Muslims.

The luxury of online anonymity exacerbates in many ways, the threat of a continuum of abuse from online spaces, to the offline, in-person, and lived realm (Douglas et. al: 2005, Hall: 2005). Awan and Zempi (2015) have mapped the effects of experiencing online hate, which include experiencing anxiety, depression, and feelings of isolation. Social media platforms such as Facebook have come under increasing scrutiny regarding their policies, have failed to counter online hate (Lee: 2013). The Online Hate Prevention Initial stated in its report (2013) that while Facebook had discovered hate speech and images on their platform, they did not remove reported incidents, as it believed that their 'community standards' had not been breached. Almost a decade on, progress is slow with regards to removing hateful content posted online towards Muslim communities.

While there are a number of laws under which perpetrators of online hate can be prosecuted, including charges of 'racially motivated' or 'religiously motivated' crimes as part of the Crimes and Disorder Act 1998, the Malicious Communications Act 1988, the Communications Act 2003, and the Public Order Act 1986 (Coliandris: 2012), it has proven difficult to police people's activity on social media platforms (Awan: 2012, Leveson: 2012). The campaign for the 2022 Online Safety Bill has been able to make great strides to safeguard and protect children. The tragic loss of Molly Russell's life attributed by a coroner to have been caused by social media. This much-needed campaigning to protect children, could pave the way forward to expand online safety to include online hate crimes.

Gendered Islamophobia

A significant aspect of Islamophobia Muslim women's visibility, which posits them as an easier target (Abu-Lughod: 2006, Dwyer: 1999, Tarlo: 2007, Afshar: 2008, Haddad: 2007, Chakraborti and Zempi: 2012, Jiwani: 2005). A number of European countries such as France and Belgium have taken a narrow view on Muslim women veiling in public, calling for there to be fines. While the UK has not announced similar measures, narratives peddled by senior government ministers such as Boris Johnson in his role as the then Foreign Secretary referring to Muslim women as letter boxes and bank robbers (Hughes: 2018), certainly exposed the extent of government sanctioned Islamophobia.

In the past five years, the case of Shamima Begum, the school girl who left the UK to join ISIS, pushed every British Muslim school-aged girl into a potential ISIS sympathizer. As academics have shown through the feedback loop between the news media and consumers (Nisbett and Cohen: 1996) and the Werther effect (Werther: 1974), the media can have a devastating impact on influencing viewpoints and behaviours. ‘Gendered Islamophobia’ is particularly played through news media, where there is a disproportionate media preoccupation with the Muslim woman wearing the veil (Mirza: 2013). During the Covid-19 pandemic, it was highlighted that various news platforms published a disproportionate number of stories regarding the virus, which featured Muslim women (MEND: 2020). For example, seven BBC stories used images of Muslim women in their coverage of the pandemic when the story in question did not relate to British Muslim experiences of the pandemic (ibid). The synonymity with the virus and Muslim women evokes connections around immigrants and the other (Said: 1978) as sources of infection. Such media features have a lineage which spans over two decades. For example, in 2006, Labour Minister Jack Straw announced in an opinion piece in the Guardian that he felt at unease talking to someone who was wearing the veil in his constituency surgeries in Blackburn (Bunting: 2006, Mirza: 2013). This caused a media frenzy around ‘dangerous but oppressed’ Muslim women on newspaper front pages (ibid), which continues to this day and in many ways reappeared during the Covid-pandemic. The idea of the Muslim woman as ‘silent but deadly’, drawing parallels with the pandemic has certainly been a trope that has been peddled during a globally testing time for the vast majority of people.

The forms of abuse Muslim women have reported to have been subject to range from verbal abuse, being spat on, having headscarves or face veils torn from them, harassment, aggressive or threatening behaviour, violence, and physical harm (Allen: 2014). As Bi (2019, 2020) demonstrates, even in cases where Muslim women obtain upward social mobility through education and employment, they can be subjected to severe forms of Islamophobia, which is heightened by depriving them of routes to justice in and through the UK Legal System.

Justifying an Enforcement and Prosecution Framework

With Islamophobic incidents spanning educational, employment, and online spaces, peddled by newsmedia and politicians, it is ever important that a framework for addressing this form of hate is established. The most recent data for Islamophobic hate crimes reported to the police demonstrate that Islamophobia made up 42% of all religiously motivated hate crimes (Allen and Zayed: 2022). A corresponding breakdown of prosecution and conviction rates for these reported crimes has not been made available, indicating an enforcement and prosecution framework for Islamophobia is needed now more than ever before.

Index of Islamophobia

The Index of Islamophobia has been developed with the following aims:

- a) To provide victims the opportunity to identify the type of incident and it's nature (impact, intensity, intention and recklessness) and how it can be best addressed through the law;
- b) To enable professionals (such as police officers, legal practitioners, community workers) to identify the type of incident a victim has been subjected to and determine the best course of legal action;
- c) To enable the uniform analysis of Islamophobic incidents around the country as per the nature, form, and the action taken.

Scales (1-10: lowest to highest) To be completed by victim or professional.				
Intensity	Intention	Impact	Recklessness	Total
Score x	Score x	Score x	Score x	Score x

Index of Islamophobia

A Note on Methodology

When constructing the Index of Islamophobia, we considered what the index ought to capture. Given that Islamophobia is deeply felt, irrespective of the form it may take (written, pictorial, verbal, physical), it was important for the index to incorporate different aspects of the process leading up to and underpinning the Islamophobic incident itself. We believe that practice and application of the law should be contextualised (Bi; 2019), which inspired us to take the approach to viewing Islamophobic incident(s) and actions in three stages: before, during, and after.

These three phases were best captured by the markers: intention, intensity impact, and recklessness. Intention highlights the process of Islamophobia prior to the incident and/or at the time of the incident. Intensity captures how severe the incident was at the time it was taking place. Impact focuses on the post-incident stage, and aims to capture the physical, psychological, social effects of the incident for the victim. Recklessness on the other hand speaks to all three stages, as a score for the lack of regard for the consequences of one's behaviour can be seen to underpin before, during, and after any such Islamophobic incident or action.

We considered how effective a stand-alone Index of Islamophobia would be. While it would be helpful to ascertain a score to articulate the severity of the Islamophobic incident(s), the inability to apply the index within a legal framework would severely limit its value. We therefore devised the Pathways of Prosecution Form to empower victims and professionals to apply the index to the law. Ascertaining an index score in conjunction with a Pathways to Prosecution Form allows victims and/or professionals to contextualise the incident(s), and triage accordingly and within the broader legal system. The Pathways to Prosecution form also increases education within the community as to the different ways in which Islamophobia can breach the law. It also offers avenues of legal justice which could empower victims further.

Law		Type of action/behaviour			Scales (Lowest to Highest)			
					Intensity	Intention	Impact	Recklessness
		Verbal	Written/ Pictorial	Physical	1	1	1	1
Equality Act 2010	Religious Discrimination				2	2	2	2
	• Indirect				3	3	3	3
	• Direct				4	4	4	4
Malicious Communications Act					5	5	5	5
Public Order Act 1986					6	6	6	6
Crime and Disorder Act 1998					7	7	7	7
Victimisation					8	8	8	8
Harassment					9	9	9	9
Defamation					10	10	10	10

Pathways to Prosecution Form

Testing the Index of Islamophobia

Below we have put the Index of Islamophobia into practice by applying it to a number of case studies. Five case studies have been selected; (1) Boris Johnson's comments about the burqa, (2) Michael Fabricant MP's tweet depicting Sadiq Khan as a swine being sexually penetrated, (3) 'Punish a Muslim' day letters, (4) Tearing off a headscarf from a Muslim woman, and (5) Being called 'Shamima Begum' or 'terrorist' at work.

1. Boris Johnson's comments on the Burqa

In August 2018, the then Foreign Secretary took to his column in the Telegraph to express his thoughts on the burqa (the full face veil). Johnson stated "I would go further and say it is absolutely ridiculous that people choose to go around looking like letterboxes", and added that that they look like 'bank robbers'. This caused a public outcry involving some of the most senior politicians and public servants who demanded Johnson to apologise. However, after Johnson refused to offer any such apology, the Conservatives launched an independent inquiry into his comments. While at the time of writing this report, the outcome of the inquiry had not been published, the comments can be analysed as per Index of Islamophobia.

Here, we are able to gauge that Johnson's comments fall under the direct form of discrimination on religious grounds, as per the Equality Act 2010. For the avoidance of doubt, Johnson's comments qualify as direct form of discrimination, as the comments treat Muslim women differently because of who they are. However, direct and indirect discrimination predominantly apply in the employment context, and do not extend to a 'public comments' context. To enable the extension of direct and indirect forms of Islamophobia to be applicable in the public comments (print and media) domain, the Government ought to update the Equality Act 2010 to accommodate this.

The Malicious Communications Act 1988 makes it illegal in England and Wales to "send or deliver letters or other articles for the purpose of causing distress or anxiety." We believe Johnson's comments were made with the intention to cause harm/offence, resulting in distress and anxiety amongst the British Muslim community. As a result, Johnson's comments would fall under the Malicious Communications Act 1988. However, to strengthen this argument and to prevent the legal loop-holes from being pursued, the "sent or deliver" aspect should also include "publish".

Under the Defamation Act 2013, Johnson's arguments could also be seen as defamatory. The act stipulates that a statement's publication must do serious harm to the reputation of the claimant. The dictionary definition of reputation is: "the beliefs or opinions that are generally held about someone or something" or "a widespread belief that someone or something has a particular characteristic", and

serious harm can be interpreted as "substantially effects in an adverse manner the attitude of other people towards claimant" (Cooke v MGN 2014). In this way, Johnson's comments caused people to hold negative beliefs and opinions about Muslim women who wear the burqa and is likely to manifest in negative attitudes towards Muslim women including the risk of increased discrimination. As a result, a Muslim woman and/or Muslim women (class action) who wear the burqa could potentially bring a case forward for defamation in the High Courts.

The scales of intensity, intention, impact, and recklessness have been calculated on the basis of the widespread media coverage of Johnson's comment, and the resulting increase in discrimination against Muslim women and/or Muslims. It has been found that in the week following the comments being made, Islamophobic incidents rose by 375% (Dearden: 2019).

Incident: Boris Johnson’s Burqa Comments								
Law		Islamophobic action/behaviour			Scales (Lowest to Highest) To be completed by victim or professional.			
					Intensity	Intention	Impact	Recklessness
					Verbal	Written/ Pictorial	Physical	1
Equality Act 2010	Discrimination (‘protected characteristic of religion)				2	2	2	2
	• Indirect				3	3	3	3
	• Direct		x		4	4	4	4
Malicious Communications Act			x		5	5	5	5
Public Order Act 1986					6	6	6	6
Crime and Disorder Act 1998			x		7	7	7	7
Victimization			x		8	8	8	8
Harassment			x		9	9	9	9
Defamation			?		10	10	10	10

2. Michael Fabricant's comments against London Mayor Sadiq Khan

On 12th July 2018, Conservative MP Michael Fabricant tweeted an image of Donald Trump expressing humour at a picture of a pig shaped balloon with Sadiq Khan's face photoshopped on, which is seen to be sexually penetrated by another pig shaped balloon. In the foreground, President Donald Trump is seen expressing laughter. The text accompanying the image reads "BREAKING NEWS: TRUMP DEFEATS SADIQ KHAN IN BALLOON WARS."

In line with the Islamophobia Index, Michael Fabricant's tweet meets the requirements of direct discrimination on religious grounds, malicious communications act, and possibly defamation against London Mayor Sadiq Khan. On the intensity, intention, impact, and recklessness scale, the tweet scores nines across the board. The tweet situates Muslims as inferior to pigs through the depiction of sexual penetration by a pig. There was clear intention to be Islamophobic, causing significant negative impact(s) due to the contextual and situational time point - Trump's visit to the UK - which was covered by global media platforms. This tweet is the epitome of dehumanising Muslims.



Incident: Michael Fabricant's Tweet dated 12th July 2018

Law		Islamophobic action/behaviour			Scales (Lowest to Highest) To be completed by victim of professional.			
					Intensity	Intention	Impact	Recklessness
		Verbal	Written/ Pictorial	Physical	1	1	1	1
Equality Act 2010	Discrimination (protected characteristic of religion)				2	2	2	2
	• Indirect				3	3	3	3
	• Direct		x		4	4		4
Malicious Communications Act			x		5	5	5	5
Public Order Act 1986					6	6	6	6
Crime and Disorder Act 1998					7	7	7	7
Victimization					8	8	8	8
Harassment			?		9	9	9	9
Defamation			?		10	10	10	10

3. Punish a Muslim Day Letters

The Punish a Muslim Day letters were sent to a number of MPs and posted through the letterboxes of Muslim citizens around the country. It was stated that there would be a certain number of points awarded for different types of actions against Muslims. For instance, ten points would be awarded for 'verbally abusing a Muslim', twenty-five points for 'pulling the head-scarf off a Muslim woman'. The points increased as per the assumed severity of the attack. Attacks included 'throwing acid in the face of a Muslim', 'beating up a Muslim', 'torturing a Muslim using electrocution, skinning, use of a rack' 'butcher a Muslim using gun, knife, vehicle, or otherwise', burn or bomb a mosque, 'nuke' [attack] Mecca'. Such violent acts have been normalised through the video games, which consist of physical and sexual violence evident. Furthermore, the hierarchisation of violent acts as per a point scoring system provides an insight into the way in which violence against Muslims is envisaged prior to being enacted. A profound impact of the letter is, for the first time in history, a national day for the punishment of Muslims has been created, which introduces into the national social imaginary, a day to hate Muslims, in a similar way to national bank holidays or other such holidays when the nation is able to take a day off. The provision of permission through assigning a day to celebrate violence against Muslims is a powerful tool that activates Islamophobic behaviour, which may have been dormant in people. As with the previous examples of Islamophobia, the Index of Islamophobia is applied to the Punish a Muslim day letters below.



An image of 'Punish a Muslim day' letter retrieved from Google

Incident: Punish a Muslim Day Letter							
Law		Islamophobic action/behaviour			Scales		
					(Lowest to Highest)		
					To be completed by victim of professional.		
					Intensity	Intention	Impact
		Verbal	Written/ Pictorial	Physical	1	1	1
Equality Act 2010	Discrimination (protected characteristic of religion)				2	2	2
	• Indirect				3	3	3
	• Direct		x	x	4	4	4
Malicious Communications Act			x		5	5	5
Public Order Act 1986				x	6	6	6
Crime and Disorder Act 1998			x	x	7	7	7
Victimization					8	8	8
Harassment					9	9	9
Defamation					10	10	10

In June 2018, it was reported that the man behind the Punish a Muslim Day letters – David Parnham from Lincoln – was accused of fourteen offences including one count of soliciting murder, charged with two counts of sending a number of racist letters promoting a 'Punish A Muslim Day', five counts of sending a substance with the intention of inducing in a person a belief that it is likely to contain a noxious substance, five counts of sending a number of letters conveying a threat, and one count of making a bomb hoax. This example is demonstrates the potential to further develop the Index of Islamophobia to include legal offences, particularly highlighting the crucial role of the police force in dealing with cases of Islamophobia. While we appraise the work of the police force in this case, we note that there was no specific charge of 'Islamophobia' brought forward against the man in question. It is crucial that perpetrators are charged with "Islamophobia" as a distinct offence, as well as additional relevant and appropriate charges.

4. Headscarf being torn from a Muslim woman

For many Muslim women the reality of having their headscarves pulled from their heads is a very real one. Muslim women across the country are increasingly sharing their experiences of having their headscarf torn from their heads, which is often accompanied by verbal abuse, and being spat on. As knowledge of incidents rapidly spread within the British Muslim community, women began advising one another as to how to wear headscarves in a manner that in the event an attack of such a nature occurs, one's life is not threatened. For example, Muslim women began to refrain from using safety pins to hold the headscarf around the neck area in order to prevent the safety pin from piercing the respiratory tract. Women also began to refrain from tying their headscarf in a knot to the rear of the neck to prevent suffocation in the event their headscarf was pulled. We applied the Index of Islamophobia to examine such an attack from an enforcement and prosecution perspective.

Incident: Headscarf torn off Muslim woman's head								
Law		Incident: Islamophobic action/behaviour			Scales (Lowest to Highest) To be completed by victim of professional.			
					Intensity	Intention	Impact	Recklessness
		Verbal	Written/ Pictorial	Physical				
Equality Act 2010	Discrimination (protected characteristic of religion)				1	1	1	1
	▪ Indirect				2	2	2	2
	▪ Direct			x	3	3	3	3
Malicious Communications Act					4	4	4	4
Public Order Act 1986				x	5	5	5	5
Crime and Disorder Act 1998				x	6	6	6	6
Victimization					7	7	7	7
Harassment					8	8	8	8
Defamation					9	9	9	9
					10	10	10	10

In this instance if the tearing of the headscarf takes place within the workplace, we ascertain that this would be a direct form of discrimination under the Equality Act 2010. We also ascertain that the tearing of a headscarf from a Muslim woman breaches the public Order Act 1986 and the Crime and Disorder Act 1998. As per the Index of Islamophobia, we have provided a score of nine across all four categories, intensity, impact, intention and recklessness.

5. Being called ‘Shamima Begum’ or ‘terrorist’ in the Workplace

Between 2018-2020 we conducted research exploring Muslim women’s experiences of work and career development. One of our interlocuters informed us that she was called Shamima Begum at work by a number of colleagues, who justified the comments as ‘banter’. Another interlocuter informed us that they were called a terrorist at work, which is also the experience of many Muslim men. Through social media, many Muslims have opened up about being called a terrorist in public, such as while using public transport. Examining such language using the Index of Islamophobia and the Prosecution Pathways Form, we find the following:

Within the employment context, such verbal abuse qualifies as direct discrimination. If the abuse occurs on more than one occasion, harassment laws also apply. When applying the Index of Islamophobia, we have scored this case study seven across the four categories. However, we have shaded the scales between five and eight, as we acknowledge that the scoring may vary from individual to individual, based on their personal experience.

Incident: Being called 'Shamima Begum' or 'terrorist' in the Workplace								
Law		Islamophobic action/behaviour			Scales (Lowest to Highest) To be completed by victim of professional.			
					Intensity	Intention	Impact	Recklessness
		Verbal	Written/ Pictorial	Physical	1	1	1	1
Equality Act 2010	Discrimination (protected characteristic of religion)				2	2	2	2
	▪ Indirect				3	3	3	3
	▪ Direct	x			4	4		4
Malicious Communications Act					5	5	5	5
Public Order Act 1986					6	6	6	6
Crime and Disorder Act 1998					7	7	7	7
Victimization					8	8	8	8
Harassment		x			9	9	9	9
Defamation					10	10	10	10

Conclusion

This report aims to address the gap between the current discourse on Islamophobia and the unknown, but more than likely to be slim, rates of prosecution and conviction. We have devised the Index of Islamophobia, which comprises of a scale that establishes a score based on the intensity, intention, impact, and recklessness of an Islamophobic incident(s) or action(s). In addition, we have devised a Prosecution Pathways Form where the broad category of the Islamophobic incident(s) or action(s) [verbal/written/pictorial, physical] is defined, the intensity, impact, intention and recklessness scales are incorporated, and a legal scale through which the prosecution pathways can be determined for the Islamophobic incident(s) or action(s) in question. Both the Index of Islamophobia and the Prosecution Pathways Form can be completed by victims, and legal practitioners and/or Police professionals.

We recognize that that significant improvements must be made in the law to enable the prosecution of Islamophobic incidents. We propose:

1. A specific offence of Islamophobia to be instilled as part of the legal landscape;
2. The Law Commission to take a more specific and detailed review of the Public Disorder Act 1986 and the Crime and Disorder Act 1998 in relation to Islamophobia;
3. The CPS must, as a matter of urgency, define ‘religion’ and ‘hostility’, in order to ensure that incidents of Islamophobia are brought to justice;
4. Civil offences under the Equality Act 2010 must be defined in a way that enables Islamophobic incidents and actions to be brought to justice.

The Equality Act Review aims to treat the Index of Islamophobia as an iterative piece of work. We are open to updating the framework while remaining true to its core tenets. The Equality Act Review is open to feedback from the community as well as practitioners and policy makers, with the aim of strengthening the index. We aim for the Index of Islamophobia and Prosecution Pathways Form to be widely disseminated to aid processes of justice.

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