



Islamophobia Definition | Policy Brief



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PROPOSED DEFINITION¹ OF ISLAMOPHOBIA²

A. Proposed Definition

Like other forms of bigotry, Islamophobia targets its victims as a group and operates in three inter-related domains – othering, discrimination and hostility, each with their own manifestations that require separate and specific provisions to address them effectively.³ Islamophobia is a form of religious bigotry, racial bigotry and a complex combination of both – ie, racialised religious bigotry.⁴ Islamophobia can be perpetrated individually, institutionally and structurally (ie, at a societal and/or state level), experienced individually, institutionally and collectively as a community, and compounded by other characteristics – eg, gender, geography and socio-economic/citizenship status.⁵ As a form of religious/racial bigotry, Islamophobia today operates and is experienced in very similar ways to past and present forms of Antisemitism in the UK – all such forms of bigotry should be dealt with comprehensively and consistently.⁶ The current policy and legal framework for addressing different forms of bigotry in the UK already addresses most of the manifestations of Islamophobia (particularly in the domains of discrimination and hostility) but not others (particularly in the domain of othering). The Government adopted definition of Islamophobia should not be politicised and/or exceptionalised – it should be located fairly and maximally within the current policy and legal framework for addressing all forms of bigotry in the UK, already developed with due regard to cherished values in a liberal democracy such as equality before the law and free speech/expression.⁷ The definition of Islamophobia adopted by the Government must be supported by, or at least be acceptable to, the majority of the Muslim community.⁸

B. Notes on the Proposed Definition

1. There is considerable debate on whether yet another definition of Islamophobia is required. We:
 - a. Take the view that whilst there are already many good definitions of Islamophobia (see Appendix 1), the UK Government should adopt a definition of Islamophobia that locates it within and fully benefits from the maximal provisions of the current UK policy and legal framework for addressing all forms of bigotry.
 - b. Believe that such a definition is critical for addressing Islamophobia in the othering domain and could be helpful for addressing it in the domains of discrimination and hostility. We will discuss these domains of bigotry/Islamophobia below.
 - c. Accept that this should be a non-statutory definition.
2. There is also some discussion on whether the government should label the bigotry faced by Muslims as Islamophobia, Anti-Muslim Prejudice/Hatred or something else. On balance, we favour calling the bigotry faced by Muslims Islamophobia for the following reasons:
 - a. It was chosen by a very esteemed Commission in 1997 after much careful deliberation and has since gained wide currency in all areas of life and at all levels – local, national, European and international. The UN has dedicated a day to this – 15/3.
 - b. It captures more comprehensively both the religious and racial elements of the bigotry in all its domains and manifestations. Its arguable, for example, that something like Anti-Muslim Hatred does not cover as fully the religious element or the different discrimination manifestations of Islamophobia.
 - c. It appears to be preferred by most parts of the Muslim community – and they should have some agency in labelling their own experience.

However, we believe that it is more important that there is a government adopted description/definition that captures the bigotry experienced by Muslims than quibbling over what label this is given. Although we would prefer the Government to adopt the term Islamophobia, and we use that term in our documents, we would accept another term or phrase for this bigotry so long as its definition captures all the key elements of the bigotry faced by UK Muslims that we describe below. Alternatively, the Government could also adopt dual phrasing, which is what it did in its consultation on Islamophobia.

3. We believe that recognising that Islamophobia, like other forms of bigotry, targets its victims as a homogenous group, and operates and is experienced in three interrelated domains – othering, discrimination and hostility, is the first critical element of its definition. In terms of the UK policy and legal framework for different forms of bigotry, thoughts and agreements on these domains of bigotry based on various characteristics (ie, race, gender, disability, religion/belief, sexual orientation, age, etc) first emerged through the discussions on harmonising the law across the different strands of discrimination/equality that led to the Equality Act 2006. These thoughts and agreements, and developments since, essentially boil down to recognising these three interrelated domains of bigotry:
 - a. Othering – manifestations of this include lazy stereotypes, unjustified/unfair prejudice and negative public narratives (including demeaning, demonising and dehumanising narratives – the 3 Ds) through media, political/public policy and public space discourses and channels. In the discussions preceding the Equality Act 2006, it was felt that the law was not the appropriate tool for addressing these manifestations of othering and that they should be dealt with through other policy levers (eg, education/awareness raising). Since then, certain executive/ administrative provisions have been made to enable this for some forms of bigotry – eg, formal govt/state adoption of a definition of Antisemitism, more space in the curriculum on Holocaust education and funding for monitoring and tackling Antisemitism (eg, funding for the HMD), but not all of these provisions have been consistently made available for other forms of bigotry (eg, Islamophobia - though some have, eg, some funding for monitoring Islamophobia and commemorating the Srebrenica Memorial Day (SMD)). The adoption by the

govt/state of a definition of Islamophobia is critical for mobilising these 'other policy levers' in a more consistent and even handed manner – particularly education/awareness raising around Islamophobia and executive/administrative provisions and actions (eg, govt funding for monitoring/tackling Islamophobia and ministers calling out Islamophobia in public discourses and spaces where this is appropriate and required) in order to nip Islamophobia in the bud before this othering leads to the other two domains. Without it, the Muslim experience in this domain of othering will remain contested, each incident at a time, causing further fractures in society. This othering will remain unsatisfactorily addressed, and addressing the other two domains without doing this is to only address the symptoms without addressing the cause.

- b. Discrimination – manifestations of this include direct discrimination, indirect discrimination, microaggressions/harassment, victimisation, discrimination/harassment based on perception/association and through instruction/inducement/aiding, institutional/structural discrimination and institutionalised/state discrimination. In the discussions preceding the Equality Act 2006, it was felt that this should be the focus of the civil law provisions that the Act could/would offer. The Act subsequently addressed all these manifestations of discrimination, except institutionalised/state discrimination – even if it fell short of addressing Islamophobic microaggressions/harassment in some areas, which we address below. The reason why institutionalised/state discrimination was not addressed in the pre-2006 Act discussions was an assumption that this was unlikely to happen in the UK. However, with the Muslim experience of the domestic 'war on terror', Michael Gove's efforts to single out Muslims throughout his time in government, Donald Trump's 'Muslim ban' in the US and the rise of Nigel Farage in the UK, this now is a real concern for UK Muslims.
- c. Hostility – manifestations here include incitement to hatred and aggravated offences. In the pre-Equality Act 2006 discussions, it was felt that this should be the focus of criminal law provisions. Alongside the Equality Act 2006, the Racial and Religious Hatred Act 2006 tried to fill the remaining gaps with regards to Islamophobia in this domain – however, the result was less than sufficient. Again, we address this below.

4. We believe that explicitly recognising and stating that Islamophobia can be experienced as purely religious bigotry, purely racial bigotry or a combination of both should be the second most important element of the definition for the following reasons:

- a. Most of the current definitions recognise both the religious and racial aspects of the bigotry faced by Muslims – see Appendix 1 for the most prominent of these definitions as adopted by the most significant international/European level institutions and found in jurisprudence at that level. A language/construct analysis of these definitions suggests that the racial aspect is recognised as often as the religious one, if not more. See also Appendix 2 on the complex interplay between the religious and racial aspects of the bigotry faced by racialised religious minorities – deeper analysis of this can be found in the works of Professors Tariq Modood and Nasar Meer.
- b. The UK has so far, almost uniquely, failed to recognise this racial element of Islamophobia as experienced by UK Muslims in its policy and legal framework, even though it has long recognised this racial element for other religious groups, eg, Sikhs and Jews – see again Appendix 2 for more elaboration on this point. This failure has resulted in a lack of protection of Muslims where members of other minority religious communities (eg, Sikhs and Jews) have been protected.
- c. Clearly acknowledging and highlighting the racial element of Islamophobia in its non-statutory definition will allow the government to use the current UK policy and legal framework for addressing bigotry to more effectively address currently unaddressed aspects of Islamophobia that are alienating/frustrating some parts of the Muslim community. We will look at this in more detail below.

5. There are three separate points here:

- a. The first is that Islamophobia can be perpetrated individually, institutionally and structurally (ie, at a societal and/or state level). We have included this point here as it features quite heavily in the literature and discourse on all forms of bigotry, including Islamophobia. Whilst we agree to it, we will not say much more on this here as we believe this point is already sufficiently addressed in the UK's current policy and legal framework for addressing all forms of bigotry, which we have argued should maximally be applied to addressing Islamophobia.
- b. The second point is that Islamophobia can be experienced individually as a Muslim, institutionally or as a sub-group, and collectively as a community – in all the three domains of Islamophobia. The collective experience of Islamophobia means that it may be felt by even the most integrated of UK Muslims who may not have experienced any direct Islamophobic othering, discrimination or hostility personally. When the collective experience of a bigotry, or even a perception of it, is sufficiently widespread in a community, as arguably Islamophobia currently is in the UK Muslim community, it should be a serious concern in terms of community and societal cohesion. The combination of experiencing Islamophobia at the collective, institutional/sub-group level and individual level means that those least integrated will become more alienated resulting in greater challenges to community/societal cohesion. We, therefore, suggest highlighting the collective element in the definition in order to concentrate the mind in terms of the government's policy and delivery work on community/societal cohesion.
- b. The third point here is that Islamophobia can be experienced more intensely by some sections of the UK Muslim community than others due to the multiple characteristics they hold, the bigotries in relation to each of them and their compounded impact collectively – note, for example, the case of an Afghan Muslim woman asylum seeker or shop worker in a poor part of the town/city. We feel it is important to highlight this combined/compound impact of multiple forms of bigotry in the definition – particularly as there are currently multiple consultations looking at these combined/compound impacts (eg, the Select Committee hearing on Gendered Islamophobia and the Government's consultation on activating ss 1 and 14 of the Equality

Act 2010 on the socio-economic duty and combined discrimination respectively), suggesting that this is a growing area in terms of policy and legal developments.

6. The point we are making here is that, historically speaking, the UK has witnessed and addressed various forms of racialised religious bigotry – eg, Anti-Catholicism, Antisemitism and Anti-Sikhism – see Appendix 2. We argue that the current impact of Islamophobia on its victims is the same as that experienced by victims of any other form of racialised religious bigotry in the UK in the past or at present – and further, that the Muslim experience of Islamophobia most closely represents the Jewish experience of Antisemitism. In comparing experiences of Antisemitism and Islamophobia, it is often said that the history and nature of the Jewish community is different to that of the Muslim community, and therefore, Antisemitism is different to Islamophobia and needs to be addressed differently. We challenge this argument and illustrate in Appendix 3 that the test used to classify the Jewish community as an ethnic group in law, in order to address the bigotry it faces more effectively, could equally be applied to Muslims and Islamophobia, but more importantly, suggest that a better basis for the protection required in both cases is an understanding of and response to how religious, racial and racialised religious bigotry operates and is experienced in contemporary society – ie, that bigotry targets their victims as a group. We, thereby, recommend a more harmonised approach that can be applied to all communities (including new ones like Black Churches) facing similar bigotry. We seek to underscore here that by seeking a government adopted definition of Islamophobia, containing certain key elements, the Muslim community is not seeking favours but just fairness – to be treated and protected in the same way as others have been treated and protected in the UK in the past and are at present.
7. We wish to convey three more points here:
 - a. The key message here, and in this submission as a whole, that we wish to emphasise and re-emphasise, is that the Muslim community should not be exceptionalised in any way. It should neither be favoured nor treated unfairly. That is why we have emphasised above that Islamophobia should be located, defined and addressed in the same way as other racialised religious bigotry. We go further here and recommend that all religious, racial and racialised religious bigotry should be located, defined and addressed in line with the current UK policy and legal framework for addressing all forms of bigotry (including those based on sex, disability, sexual orientation, age, etc) that has developed since those pre-2006 Act discussions and agreements. This will ensure that all definitions and the framework sit and work easily and well with each other, each informing and gaining/developing from the insights of the others.
 - b. Our second point is that all forms of bigotry covered under this overarching framework should be defined to be equally and maximally addressed within this framework. Appendix 4 outlines, to the best of our understanding, the current overarching UK policy and legal framework for addressing all forms of bigotry with specific reference to race and religion. The table lists all the relevant domains and manifestations through which all the different forms of bigotry are experienced and how they are addressed in the specific strands of race and religion. It thus also illustrates where the framework currently falls short and has gaps in terms of religion – and therefore, for tackling Islamophobia, as this is currently only recognised through its religion and not race aspects. The key argument we make here is that by adopting a non-statutory definition of Islamophobia that highlights both its race/religion aspects and its domains/manifestations, as elaborated above, we will not automatically address the current policy and legal gaps in tackling Islamophobia but could help with opening safer spaces for more productive discussions on how to address these gaps within the current framework.
 - c. Our third point here is that as the framework for addressing all forms of bigotry is already based on and compliant with the cherished values of a liberal democracy such as equality before the law and free speech/expression, even if we are following the maximal best practice within that framework, we need not be consumed and distracted by further discussions of those cherished values here (eg, further discussions on free speech/expression). To illustrate this point, we can say that discussions on free speech in relation to Islamophobia are perhaps most relevant in the domain of othering and under the manifestation of incitement to hatred. In the case of othering, it is an unnecessary discussion as the tools to be used are not even legal and must comply with Art 10 rights. In the case of incitement, there is a criminal law provision against this – but it comes with a sweeping free speech protection clause as well as being subject to Art 10 rights. The point is that even if the definition of Islamophobia is maximally located within the current UK framework on addressing bigotry, such considerations as free speech have already been baked into that framework. However, if an Islamophobia v Legitimate Criticism of Islam Test is required then we recommend the one proposed by Prof Tariq Modood in his submission to this Group.
8. As a final overall point, we suggest that any definition pertaining to a particular community should be supported by, or at least be acceptable to, the majority of that community and not just a few handpicked members of that community. However, any community input into the definition must be in line with the best practices in the current overarching UK policy and legal framework for addressing all forms of bigotry and thus aligned with the overriding values of a liberal democratic state. We conclude by saying that a good definition will not resolve all the issues faced by UK Muslims that we have highlighted. However, it can unlock spaces for working on them constructively – in all the three domains of bigotry discussed above. If there is no definition or a bad definition, then these issues will remain unresolved, and ultimately this will be detrimental to the UK as a whole.

Appendix 1: Existing Definitions of Islamophobia

Since the popularising of the word 'Islamophobia' in the English language in the mid-90s, it has been given numerous definitions.¹ The Runnymede Trust report, *Islamophobia: A Challenge for Us All*, in 1997, which first brought the term into contemporary public and policy discourse, defined it as 'a useful shorthand way of referring to dread or hatred of Islam – and, therefore, to fear or dislike of all or most Muslims'. The report stated that 'Islamophobia refers to unfounded hostility towards Islam. It refers also to the practical consequences of such hostility in unfair discrimination against Muslim individuals and communities, and to the exclusion of Muslims from mainstream political and social affairs' and '... the economic, social and public life of the nation'.

Since Runnymede's original report on Islamophobia, there have been many other attempts at defining the term or the experience of Muslims in minority contexts as captured in that report:

At the European level

- In 2005, the European Commission against Racism and Intolerance (ECRI)/Council of Europe defined/described Islamophobia as '[the] fear of or prejudiced viewpoint towards Islam, Muslims and matters pertaining to them ... [whether taking] the shape of daily forms of racism and discrimination or more violent forms, Islamophobia is a violation of human rights and a threat to social cohesion'.
- While there is no officially announced OSCE definition of "Islamophobia", its use of the term in OSCE materials, eg, the educational guidelines on combatting Islamophobia, relies on the default definition offered by Turkey/OIC: 'Islamophobia is a contemporary form of racism and xenophobia motivated by unfounded fear, mistrust, and hatred of Muslims and Islam. Islamophobia is also manifested through intolerance, discrimination, unequal treatment, prejudice, stereotyping, hostility, and adverse public discourse. This intolerance can manifest in various forms, including: Discourse – words, statements or public expressions that promote hatred or fear; Behavior – actions that demonstrate prejudice or discrimination; Hostility – acts of violence, harassment or intimidation against Muslims or Islamic institutions. Differentiating from classical racism and xenophobia, Islamophobia is mainly based on stigmatization of a religion and its followers, and as such, Islamophobia is an affront to the human rights and dignity of Muslims'.
- Some institutions/experts prefer the label 'anti-Muslim hatred,' fearing that the term 'Islamophobia' risks condemning all critiques of Islam and, therefore, could stifle freedom of expression, and noting that international human rights law protects individuals, not religions, and that Islamophobia may also affect non-Muslims, based on perceptions of nationality, racial or ethnic background. Thus, the EU's Fundamental Rights Agency (FRA) does not use the term Islamophobia, but describes the experience of European Muslims as 'the intersectional dimension of anti-Muslim racism, with discrimination based on religion, racial or ethnic origin and gender', and states that 'Muslim women and girls, especially those publicly showing their faith, face heightened risks of violence and abuse and face exclusion from education, employment, sport and culture' and 'Muslims, particularly young Muslims, are frequently subjected to police stops. It also states that anti-Muslim racism and discrimination also manifest through stereotyped views or prejudices among the general non-Muslim population and hostile rhetoric from the media, politicians and other public figures.
- FRA notes that the Racial Equality Directive does not define the term 'racial or ethnic origin'. However, in the CHEZ judgment, the Court of Justice of the European Union confirmed that 'the concept of ethnicity has its origin in the idea of societal groups marked by common nationality, religious faith, language, cultural and traditional origins and backgrounds'. Further, FRA data show that a person's skin colour and/or religion can trigger ethnic or racial discrimination. FRA also notes that although there is no official definition of what constitutes anti-Muslim hatred, anti-Muslim racism and racial discrimination, the European Commission and FRA use these terms in discussions and measures aimed at preventing and combating hate speech, hate crime and discrimination directed against Muslims or those perceived to be Muslims – in alignment with the aforementioned General Policy Recommendation No 5 from the European Commission against Racism and Intolerance (ECRI), according to which these terms should be viewed through the lens of what is termed 'racialisation', to characterise the complex and diverse array of hate speech and violence and any act of discrimination directed at Muslims or those perceived to be Muslims. For FRA, 'racial discrimination' is understood as discrimination based on at least one of the following three grounds: skin colour, ethnic or immigrant background and religion or religious belief. For FRA, 'Anti-Muslim racism' places the issue of intolerance against Muslims in the broader framework of racism and implies the racialization of a religious category.
- The European Network Against Racism (ENAR) states that 'Islamophobia is a specific form of racism that refers to acts of violence and discrimination, as well as racist speech, fuelled by historical abuses and negative stereotyping and leading to exclusion and dehumanisation of Muslims, and all those perceived as such. Islamophobia is a form of racism in the sense that it is the result of

¹ We are taking this as the starting point whilst recognising that there are earlier mentions and use of the word. It first appeared in English as early as 1923 to quote the French word *islamophobie*, found in a thesis published by Alain Quellien in 1910 to describe 'a prejudice against Islam that is widespread among the peoples of Western and Christian civilisation. The expression did not immediately gain widespread usage in the English-speaking world, which preferred the expression 'feelings inimical to Islam', until its re-appearance in an article by Georges Chahati Anawati in 1976. The term was not used in the Muslim world until it was translated in the 1990s as *ruhāb al-islām* in Arabic, literally meaning 'phobia of Islam'. Since the Runnymede report it has widely been used by Muslims as a shorthand to capture their experience of othering, discrimination and hostility.

the social construction of a group as a race and to which specificities and stereotypes are attributed, in this case real or perceived religious belonging being used as a proxy for race. Consequently, even those who choose not to practice Islam but who are perceived as Muslim – because of their ethnicity, migration background or the wearing of other religious symbols – are subjected to discrimination. Islamophobia has nothing to do with criticism of Islam. Islam, as a religion, as an ideology, is subject to criticism as any other religion or ideology.

- In 2016, the Foundation for Political, Economic and Social Research, in its annual report on Islamophobia offered the following definition: 'Islamophobia is about a dominant group of people aiming at seizing, stabilizing and widening their power by means of defining a scapegoat – real or invented – and excluding this scapegoat from the resources/rights/definition of a constructed 'we'. Islamophobia operates by constructing a static 'Muslim' identity, which is attributed in negative terms and generalized for all Muslims. At the same time, Islamophobic images are fluid and vary in different contexts, because Islamophobia tells us more about the Islamophobe than it tells us about the Muslims/Islam'.

At the international level

- In 2008, the OIC defined Islamophobia as 'a contemporary form of racism and xenophobia motivated by unfounded fear, mistrust and hatred of Muslims and Islam. Islamophobia is also manifested through intolerance, discrimination and adverse public discourse against Muslims and Islam. Differentiating from classical racism and xenophobia, Islamophobia is mainly based on radicalisation of Islam and its followers'.
- The UN definition of Islamophobia is that it is rooted in a baseless/ irrational hostility and fear towards Islam, and therefore, aversion and fear toward Muslims or the majority of them. It is a fear, prejudice and hatred of Muslims that leads to provocation, hostility and intolerance by means of threatening, harassment, abuse, incitement and intimidation of Muslims and non-Muslims, both in the online and offline world. This can include hate speech, hate crimes, social and political discrimination, and the rationalization of policies like mass surveillance, incarceration, and disenfranchisement. Islamophobia also refers to the practical consequences of this hostility, which manifests as discrimination, prejudices, unequal treatment of Muslims (as individuals and communities), and exclusion of Muslims from mainstream political and social life. Motivated by institutional, ideological, political and religious hostility that transcends into structural and cultural racism, it targets the symbols and markers of being a Muslim. This definition emphasises the link between institutional levels of Islamophobia and manifestations of such attitudes, triggered by the visibility of the victim's perceived Muslim identity. This approach also interprets Islamophobia as a form of racism, whereby Islamic religion, tradition and culture are seen as a 'threat' to Western values. The UN has designated March 15th as the International Day to Combat Islamophobia, calling for a global dialogue on promoting tolerance, peace, and respect for human rights and religious diversity.
- The University of California at Berkeley's Islamophobia Research & Documentation Project suggested this working definition: 'Islamophobia is a contrived fear or prejudice fomented by the existing Eurocentric and Orientalist global power structure. It is directed at a perceived or real Muslim threat through the maintenance and extension of existing disparities in economic, political, social and cultural relations, while rationalizing the necessity to deploy violence as a tool to achieve 'civilizational rehash' of the target communities (Muslim or otherwise). Islamophobia reintroduces and reaffirms a global racial structure through which resource distribution disparities are maintained and extended.'

At the domestic level

- In its 20th anniversary report in 2017, Islamophobia: Still a challenge for us all, which extends the initial report and updates it with evidence from the 20 years in between, the Runnymede Trust redefined the term. It mentions that whereas '[T]he original Islamophobia report states that the term refers to three phenomena: unfounded hostility towards Islam; practical consequences of such hostility in unfair discrimination against Muslim individuals and communities; and exclusion of Muslims from mainstream political and social affairs ... We mainly agree with this broad definition but believe the focus should be on the second and third phenomena'. Thus, the report offers a new short definition – 'Islamophobia is anti-Muslim racism; and a longer definition, building on the United Nations definition of racism more generally – 'Islamophobia is any distinction, exclusion, or restriction towards, or preference against, Muslims (or those perceived to be Muslims) that has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.'
- In 2018, the All Party Parliamentary Group (APPG) on British Muslims undertook an extensive review consulting academics, civil society organisations and faith groups and suggested the following simplified definition: Islamophobia is rooted in racism and is a type of racism that targets expressions of Muslimness or perceived Muslimness.

Additionally, there are also many other shorter definitions:

- The Oxford English Dictionary defines Islamophobia as an 'intense dislike or fear of Islam, especially as a political force and hostility or prejudice towards Muslims'.

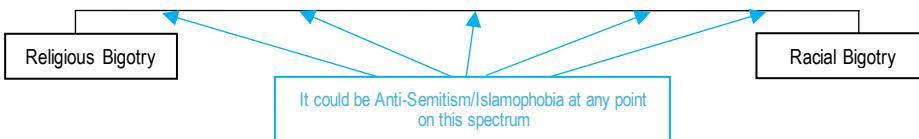
- Mattias Gardell says that Islamophobia is 'socially reproduced prejudices and aversion to Islam and Muslims, as well as actions and practices that attack, exclude or discriminate against persons on the basis that they are or perceived to be Muslim and be associated with Islam'.
- Diane Frost sees Islamophobia as 'anti-Muslim feeling and violence based on race or religion'.
- Nesrine Malik states 'Muslims therefore have become an expression of two anxieties, one racial, one religious'.

The definition of Islamophobia continues to be discussed, with academics such as [Chris Allen](#) saying that it still lacks a clear definition. According to Erik Bleich, in his article, Defining and Researching Islamophobia, even when definitions are more specific, there is still significant variation in the precise formulations of Islamophobia – as we have seen. As with parallel concepts like xenophobia and Antisemitism, Islamophobia connotes a broader set of negative attitudes or emotions directed at individuals or groups because of perceived membership in a defined category.

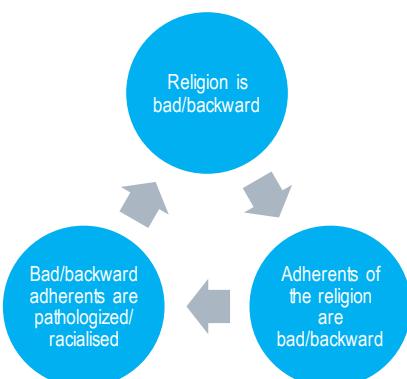
Many, including the Runnymede Trust, have said that 'it must be a priority for the new Labour government that a definition is agreed and used to register, deter and sanction both the kind of vitriolic voices that spout hatred towards Muslim communities from the benches of Parliament and the fists and fury that were aimed at Muslims in [last] summer's racist riots. It must also be a priority for the government to then set about the work of getting its own house in order while setting the standard for others' – ie, we need a definition to identify and challenge Islamophobia where the law currently does not extend – just as we currently do with Antisemitism. The Government has now set up a Working Group to develop a definition of Islamophobia – which Muslims have both welcomed and are also anxious about, but with regards to which they also feel that they must make the most of the opportunity.

Appendix 2: Religious, Racial and Racialised Religious Bigotry in the UK

Like Anti-Sikhism and Antisemitism (and Anti-Catholicism in the past), Islamophobia can be experienced on grounds of both religion and race. Commonly, it is experienced as a complex interplay and combination of religious/racial othering, discrimination and hostility.² It could be represented as a spectrum between race and religion – made more complex by other characteristics – eg, gender, geography and socio-economic/citizenship status. The spectrum could be both linear (religious to racial) and circular (religion is bad/backward – adherents are bad/backward – bad/backward adherents are pathologized/racialised – their religion is bad/backward ...).



The linear spectrum is represented by purely religious othering, discrimination and/or hostility (religious bigotry) at one end of the spectrum and purely racial othering, discrimination and/or hostility (racial bigotry) at the other, with any particular incident of bigotry falling somewhere on that spectrum. With regards to Antisemitism, it is classified as bigotry no matter whether the incident falls closer to one end of the spectrum or the other – and this should be the same for Islamophobia. The linear spectrum also lends itself to the idea of a process of racialisation of religious bigotry, which brings us to the circular spectrum.



The circular spectrum is oft-repeated on a list of issues, eg, ('Islamist') supremacism (through control/replacement), violence/terrorism, misogyny/sexual deprivation (eg, paedophilia/grooming gangs), etc – until layer upon layer of othering is reinforced, discrimination is rationalised and hostility is justified. Islamophobia is, therefore, no different to the experiences of other racialised religious groups, most notably Antisemitism as experienced by Jews.

The key difference between religious/racial and racialised religious bigotry as experienced by different groups (eg, Sikhs, Jews, Muslims, etc) is in how the state has treated those different forms of bigotry in the UK context. The bigotry faced by Sikhs has never been given a specific name but was dealt with the earliest in UK caselaw. The experience of Jews has long been recognised through the specific term of Antisemitism and currently enjoys the most comprehensive protection from criminal, civil and administrative provisions. The protection offered to Muslims has developed piecemeal and remains a work in progress – although statistically they are the most likely to experience such forms of bigotry. Where the experiences of religious/racial bigotry are similar between different groups, the provisions and protections provided to them should be harmonised and consistent. Where the experiences are different, these should be explained and, of course, addressed appropriately.

This suggestion of harmonisation and consistency is not new. In a paper in 2017, Chris Allen, for example, suggested that the adoption by the Government of a working definition for Antisemitism might offer a good foundation upon which to establish an Islamophobia equivalent. Conceived by the International Holocaust Remembrance Alliance (IHRA) in May 2016, its working definition for Antisemitism has since been adopted by 31 Member States, ten Observer States and seven international partner organisations. The UK is one of these States. The working definition of Antisemitism is: '...a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities'. Allen suggests that given the clear resonance between these two forms of bigotry, it would be extremely easy and straightforward to amend the working definition on Antisemitism for Islamophobia: 'Islamophobia is a certain perception of Muslims, which may be expressed as hatred toward Muslims. Rhetorical and physical manifestations of Islamophobia are directed toward Muslim or non-Muslim individuals and/or their property, toward Muslim community institutions and religious facilities'.

² Note Edward Said's book on Orientalism.

Appendix 3: Islamophobia and Antisemitism in UK Law

In the UK, although Antisemitism and Islamophobia are experienced in similar ways, Antisemitism has long been recognised as both religious and racial bigotry in law, but manifestations of Islamophobia have thus far been recognised only as religious bigotry, not racial. On a closer analysis, it becomes clear that this distinction/dichotomy between Jews on the one hand and Muslims on the other, that has evolved through UK caselaw, is erroneous and should be corrected.

The origin and evolution of the dichotomy

The origin of this dichotomy is to be found in the landmark case of *Mandla v. Dowell Lee (1983)*. Although the case was primarily concerned with whether Sikhs were protected under the Race Relations Act 1976, the House of Lords ruled that not only Sikhs but Jews also constituted an ethnic/racial group for the purposes of the Act. This decision was significant because the Act protected racial groups but did not protect religious groups. In a later case, *R (E) v Governing Body of JFS (2009)*, the UK Supreme Court reinforced the recognition of Jews as an ethnic/racial group in UK law. Both these cases have been pivotal in ensuring that religious identities are protected under UK ethnic/racial discrimination laws.

Mandla v Dowell Lee (1983)

This case revolved around a Sikh boy, Gurinder Singh Mandla, who was denied admission to Park Grove School in Birmingham because he refused to remove his turban, which was against the school's uniform policy. His father, Sewa Singh Mandla, challenged this decision, arguing that it was racial discrimination under the Race Relations Act 1976.

The House of Lords ruled that Sikhs were an ethnic group, meaning they were protected under the Act. Lord Fraser outlined key criteria for defining an ethnic group, including:

1. A long shared history that distinguishes the group from others.
2. A cultural tradition, often linked to religious observance.
3. A common geographical origin.
4. A common language.
5. A common literature.
6. A shared religion.
7. Being a minority or oppressed group.

This ruling was crucial because it established that race/ethnicity is not solely about colour, place of origin or nationality; it can also encompass historical, religious and cultural identity. The decision also meant that Jews were also recognized as an ethnic group, ensuring legal protection for them against racial discrimination.

R (E) v Governing Body of JFS (2009)

This case involved JFS (Jewish Free School), which had an admissions policy favoring students recognized as Jewish by Orthodox religious authorities. A boy, "E", was denied admission because his mother had converted to Judaism under Progressive Judaism, which Orthodox authorities did not recognize.

The UK Supreme Court ruled that this policy amounted to racial discrimination, even though the school argued it was based on religious criteria. The court found that Jewish identity – whether by lineage/birth or conversion into the faith – was an ethnic characteristic, meaning those born into and/or practising a more orthodox part of the faith could ethnically discriminate against those converting into and/or following a more progressive/liberal reading of the faith, and therefore, the admissions policy violated the Race Relations Act 1976.

This case reinforced the idea that ethnic and religious identities are often intertwined and cannot be separated and legal protections against racial discrimination should reflect this and be read in favour of protection.

In UK law, however, Muslims have never been classified as an ethnic/racial group but only as a religious group. This classification of Muslims only as a religious group goes back to the case of *Ahmad v Inner London Education Authority (1978)*, which preceded *Mandla v. Dowell Lee (1983)*.

Ahmad v Inner London Education Authority (1978)

This case involved Mr. Ahmed, a teacher, who regularly took time off from his work to attend Friday prayers, a religious requirement in Islam. The Inner London Education Authority (ILEA) instructed him not to take unauthorized leave and offered him part-time employment as an alternative. Mr. Ahmed refused the part-time offer and resigned instead, arguing his religious freedom was being violated.

In the final judgement in the case, the Court of Appeal sided with the ILEA, stating that while freedom of religion is a fundamental right, it is not absolute. The court emphasized that employment contracts are legally binding, and employees must fulfill their obligations, even if it means accommodating religious practices. The court also noted that Mr. Ahmed's absence could have disrupted the education of his students and was not in the best interest of the children, who were the primary concern of the education authority. The court ultimately held that Mr. Ahmed's right to "manifest his religion in practice and observance" must be balanced against the ILEA's contractual rights and the interests of the children.

Since the case of Ahmad, and even after the case of Mandla, whilst other groups such as Sikhs and Jews have been legally recognized as both religious and ethnic/racial groups, Muslims have remained in UK law recognised only as a religious group and not an ethnic/racial group. The key reasons given for this are as follows:

1. **Ethnic v Religious Identity:** UK law distinguishes between ethnicity and religion. The Race Relations Act 1976 and Equality Act 2010 protect individuals from discrimination based on race, ethnicity and religion, but they do not automatically classify religious groups as ethnic groups.
2. **Legal/Caselaw Precedent:** The Mandla v Dowell Lee (1983) case established the criteria (the Fraser criteria) for defining an ethnic group – which included a shared ancestry, historical identity and cultural traditions. It is said that while Jews and Sikhs meet these criteria, Muslims are considered to be too diverse to be classified as one ethnic group.
3. **Diverse Ethnic Backgrounds:** Muslims in the UK come from over 50 nationalities and multiple ethnicities and cultures – which includes communities from South Asia to the Middle East, and Europe to Africa. Islam is thus a global religion, and its followers come from diverse racial and ethnic backgrounds and do not share a single ethnic origin.

An analysis of the key reasons

It is true that the current UK statutory definition of race distinguishes between national origin/ethnicity and religion/belief, and does not automatically classify minority religious groups as ethnic/racial groups. When the definition of race/racial group was first discussed for UK statutory purposes, at the Bill stage of the Race Relations Act 1976, religion was considered as a possible marker for racial discrimination, alongside colour, nationality and national/ethnic origin, but was ultimately specifically excluded because it was not seen as a distinct enough marker in its own right and raised too many other problems at the time – see Hansard recording of Standing Committee A of the Race Relations Bill, House of Commons, 29 April and 4 May 1976.

However, it is possible to argue that the criteria set out in UK case law for recognising a religious group also as an ethnic/racial group has been inconsistently, inequitably and erroneously applied to Muslims – as illustrated in this table:

Criteria	Sikhs	Jews	Muslims
1. A long shared history that distinguishes the group from others	Sikhs have a distinct shared history – though much shorter than either Jews or Muslims.	Jews have a very long shared history – though that also means different parts of Jewry also have different histories.	Muslims have a longer shared history than Sikhs but not as long as Jews – but, like Jews, different parts of the Ummah also have different histories.
2. A cultural tradition, including family/social customs, often linked to religious observance	Sikh cultural tradition is very closely linked to religious observance.	Jewish cultural traditions are very diverse and sometimes not at all linked to religious observance – eg, Jewish secular/atheist lifestyles and cultures.	Muslim cultural traditions are also very diverse and sometimes at odds with religious observance – eg, the restrictions on and treatment of women.
3. A common geographical origin or descent from a small number of ancestors	Sikhs mostly have a common geographical origin – Punjab. However, there are converts to Sikhism that originate from other parts of the world.	The geographical origins of modern Jewish communities is very diverse – includes Ashkenazis from central/eastern Europe, Sephardis from the Iberian Peninsula/N Africa, Falashis from Ethiopia and surrounding countries, Mizrahis from the Middle	The geographical origins of Muslim communities is also very diverse – they come from over 50 nationalities and cultures, including from South Asian to the Middle Eastern, and Europe to Africa. Muslims come from diverse racial and ethnic backgrounds and, like Jews, do not share a monolithic

		East, Cochins from India and other Jews from other parts of the world.	ethnic/cultural background like most Sikhs.
4. A common language even if not unique to the group	Sikh holy scriptures are written primarily in Punjabi. However, key texts in many other languages, including Punjabi, Sanskrit, Persian, Arabic, Hindi and Sindhi	Jewish holy scriptures are written primarily in Hebrew, but they also include texts in Aramaic. Authoritative religious texts were also written in Greek, Arabic, Persian, Yiddish and Ladino/Judeo-Spanish	Muslim holy scriptures are written in Arabic. However, key Islamic scholarship and texts are also to be found in Persian, Turkish, Urdu, Malay/Indonesian and Swahili
5. A common literature	A common Sikh literature encompasses a rich and diverse collection of texts that reflect Sikh philosophy, spirituality and history. This includes the Guru Granth Sahib, the central scripture of Sikhism, containing hymns and teachings from the Gurus; the Dasam Granth, attributed to Guru Gobind Singh; the Japuji Sahib, a foundational Sikh prayer by Guru Nanak; the Sorathi Ki Var, a poetic work by Guru Ram Das; the Prem Sumarag, a text exploring Sikh ethics and conduct; and the Persian and Hindi Writings. Modern Sikh literature continues to evolve, with works in Gurmukhi, English, and other languages exploring Sikh identity, history and contemporary issues.	Jewish literature is incredibly diverse, but there are common texts and themes that unite Jewish literary traditions. Jewish literature includes religious texts, philosophical works, historical writings, poetry and fiction spanning centuries and multiple languages. Some key categories of Jewish literature includes: religious texts, eg, the Tanakh, Talmud and Midrash, forming the foundation of Jewish thought and law; medieval Jewish literature, including rabbinic commentaries, ethical writings and philosophical works by figures like Maimonides and Saadia Gaon; modern Jewish literature, encompassing Yiddish, Ladino, Hebrew and Jewish-American literature, reflecting Jewish life across different cultures; Jewish fiction and poetry, by writers like Franz Kafka, Philip Roth and Yehuda Amichai; and historical and memoir writings, including Holocaust literature and diaspora narratives. Modern Jewish literature is shaped by history, migration and cultural exchange, making it both unique and deeply interconnected.	Muslim literature is also very broad and diverse. It includes religious texts, philosophical works, historical writings and poetry – that have shaped Muslim thought across centuries. Some key categories of Muslim literature includes: religious texts that are foundational to Islam, ie, the Qur'an (the central scripture of Islam), the Hadith (sayings and actions of the Prophet Muhammad) and the Tafsir (Qur'anic exegesis); Islamic philosophy and science by thinkers like Al-Farabi, Ibn Sina and Al-Ghazali, contributing to philosophy, medicine and theology; Islamic historical literature, by scholars like Ibn Khaldun, who pioneered historical analysis in his book <i>Muqaddimah</i> , and the early Islamic historians who documented the rise of Islam; and Sufi poetry and mystical writings, by poets like Rumi and Hafiz, who wrote extensively on spirituality, love and divine connection. Modern Muslim literature explores themes of faith, identity and society in novels, essays and poetry.
6. A shared religion that unifies the group – that others regard as a distinct community	Sikhism is both a shared and diverse/evolving religion, with a global following of 30m people. Different interpretations and practices exist within the Sikh community. Some Sikhs follow the Khalsa, ie, the specific religious practices, including wearing the Five Ks – Kesh, Kara, Kachera, Kirpan, and Kangha; some admire the Khalsa but choose not to take formal initiation; while others are Sikhs only by birth, maintaining cultural ties without and strict religious observance. While mainstream Sikhism follows the Guru Granth Sahib, some groups, like the Namdhari and Nirankaris, believe in a living human Guru, which sets them apart from orthodox Sikh teachings. There is also regional/cultural diversity within the global Sikh community, spread in India, UK, Canada, US and Australia. Each region has unique	With only 16m Jews around the world, Judaism is an incredibly diverse religion, encompassing a wide range of beliefs and practices. Some key aspects of Jewish diversity includes: denominational diversity, including denominations, such as Orthodox, Conservative, Reform, Reconstructionist and Humanistic Judaism – each interpreting Jewish law and tradition differently, ranging from strict adherence to halakhah (Jewish law) to more flexible, modern approaches; religious practice – with some Jews being strictly observant, following kosher dietary laws and Shabbat restrictions, while others are secular, identifying more with Jewish culture and heritage than religious practice; ethnic and cultural diversity – with each Jewish community worldwide having some distinct traditions and customs; and linguistic diversity – which means that while Hebrew is central to Jewish religious life, Jewish communities historically spoke and continue to speak many other languages in their own circles.	With over 1.6 billion followers around the world, Islam is also a very diverse religion. While all Muslims share the core beliefs – ie, faith in one God (Allah) and the teachings of the Prophet Muhammad – there are many denominations/sects and significant variations in other religious beliefs and practices. Some key aspects of Muslim diversity includes: sectarian diversity – the two largest sects are Sunni and Shia, with further subdivisions like Ibadi and Ahmadiyya; legal and social interpretations – some Muslim-majority countries follow strict interpretations of Islamic law (Sharia), while others adopt more flexible approaches to governance and religious practice; regional differences – Islam is practiced differently in Southeast Asia, South Asia, the Middle East, Africa, and the West, often blending with local customs and traditions; and cultural expressions – Islamic art, music and literature vary widely from Persian poetry to Indonesian shadow puppetry that incorporates Islamic themes. There are also generational differences – younger

	cultural expressions, including in language, music and practices. Some Sikhs advocate for progressive interpretations of Sikhism, adapting it to contemporary issues like gender equality and social justice. Sikhism is regarded by others as a distinct religion with a distinct community.	Many Jewish communities today also embrace intersectional identities, recognizing Black, Asian, Latino and LGBTQ+ Jews as efforts to promote inclusivity and diversity within Jewish spaces continue to grow. Judaism is regarded by others as a distinct religion with a distinct community.	Muslims in some regions are less religiously observant than older generations, while in others, younger Muslims are more engaged in religious practices. Islam's diversity reflects its global reach and adaptability, allowing communities to maintain their faith while integrating local traditions. Islam is regarded by others as a distinct religion with a distinct community.
7. Being a minority or oppressed group	Sikhs are currently a minority everywhere in the world. Historically, they have faced discrimination and oppression, both in India and globally. Sikhs endured massacres and forced conversions, particularly during conflicts with Mughal rulers and later under British colonial rule. Following the assassination of Prime Minister Indira Gandhi in 1984, thousands of Sikhs were killed in India in organized violence and many families were displaced. Sikhs continue to face discrimination and hate crimes, especially in India and also Western countries, where their distinct identity (turban and beard) has led to racial profiling and attacks.	Jewish communities have historically faced discrimination, persecution and oppression in various parts of the world. Jews have been subjected to antisemitism, including expulsions, forced conversions and violence. The Holocaust is the most extreme example, where six million Jews were killed by the Nazi regime. Throughout history, Jews have also faced restrictions on education, employment and citizenship. While many Jewish communities thrive today, antisemitism still persists, including hate crimes and discrimination.	Muslims live as a minority group in many different countries, where they face prejudice, discrimination and hostility. In many Western countries, Muslims experience bias in education, employment and public services/life. In some countries, Muslims encounter restrictions on religious practices, such as bans on hijabs, mosques or Islamic education. In many European countries, Islamophobic incidents, including hate crimes and negative media portrayals, have increased rapidly in recent years. Some Muslim sects, such as the Shia and Ahmadiyya communities, face persecution from governments and extremist groups within certain Muslim countries. Muslim minorities have also been affected by colonial histories, immigration policies and geopolitical conflicts, shaping their experiences of oppression to this day.
8. Conversion into/a more liberal reading of the religion is not a barrier to being a member of the ethnic group	Sikhism is an open and inclusive faith, and while it does not actively seek converts, people from all backgrounds are welcome to embrace Sikh teachings. Conversion to Sikhism is seen as a personal journey rather than a formal process. Thus, unlike some religions, Sikhism does not require a formal ceremony for conversion – a person becomes a Sikh by accepting the teachings of the Gurus and living according to Sikh principles. Many converts start by studying Sikh scriptures, such as the Guru Granth Sahib, and adopting Sikh values like honest living, equality and devotion to God. Some Sikhs choose to take Amrit (baptism), a sacred initiation into the Khalsa, which involves committing to Sikh discipline, wearing the Five Ks and following Sikh ethical guidelines. Converts often attend their local Gurdwara services, engage with Sikh communities and participate in seva (selfless service).	Conversion to Judaism, known as giyur, is a structured process that varies depending on the Jewish denomination overseeing it. Some key aspects of conversion include: commitment to Jewish beliefs and practices – converts must study Jewish law, customs and theology, often under the guidance of a rabbi; circumcision (for males) – if not already circumcised, a male convert must undergo circumcision, but if circumcised already, a symbolic ritual (hatafat dam brit) is performed; immersion in a Mikvah – converts must immerse in a mikvah (ritual bath) as a symbolic purification and entry into the Jewish community; acceptance by a Beit Din – a Jewish court (beit din), typically composed of three rabbis, evaluates the sincerity and readiness of the convert; and denominational differences – Orthodox conversions are often stricter and require full observance of Jewish law, while Reform and Conservative conversions may have more flexible requirements. Once converted, a person is considered fully Jewish, though some Orthodox communities may not recognize non-Orthodox conversions.	Conversion to Islam is a straightforward and deeply personal process. Like Sikhism, Islam does not require a formal ceremony or approval from religious authorities. The key steps are: declaration of faith (the shahada) – a person converts to Islam by sincerely reciting the Shahada, the Islamic declaration of faith ('I bear witness that there is no God but Allah and Muhammad is the Messenger of Allah'); belief and commitment – conversion requires genuine belief in Islam's core principles, including monotheism, the Qur'an and the teachings of the Prophet Muhammad; spiritual cleansing – some converts choose to take a ritual bath (ghusl) as a symbolic purification, though this is not mandatory; learning and practice – converts are encouraged to study Islamic teachings, learn prayer (salah) and integrate Islamic principles into their daily lives; and community engagement – many new Muslims seek guidance from local mosques or online resources to deepen their understanding and connect with the Muslim community. Islamic tradition views conversion as a return to one's natural state (fitra), and many converts describe it as a spiritual reawakening.

Whether accepted as an ethnic/racial group in law	Yes	Yes	No
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The table illustrates that not only are the criteria for recognising a religious group also as an ethnic/racial group mostly arbitrary, but also that they have been erroneously/inconsistently and inequitably applied to different religious groups – especially between Jews and Muslims, whose religions are actually very similar, except in the size of their global following. Further, the diversity point – that Muslims are a multi-ethnic group, and not a mono-ethnic group, and therefore, too diverse to be classified as one single ethnic/racial group – has now been squarely addressed in s9(4) of the Equality Act 2010, which states: 'The fact that a racial group comprises two or more distinct racial groups does not prevent it from constituting a particular racial group'.

Despite the fact that the case of *Ahmad* preceded the case of *Mandla* which extended the statutory definition of race to include religious groups; the obvious inconsistent, inequitable and erroneous application of the Fraser criteria to Muslims as a group – to exclude them from the extended definition of race; and the inclusion of s9(4) in the Equality Act 2010, it is still generally considered that Muslims do not form an ethnic/racial group in UK law – and, therefore, UK Muslims continue to suffer the deficiencies of the religion/belief based protections only in the discrimination and hostility domains (ie, under the current provisions on harassment and incitement to hatred), as illustrated below and in more detail in Appendix 4. By the same token, Muslims also lose out on all positive action measures on grounds of race, not extended to religion, across the three domains of bigotry (othering, discrimination and hostility) – and this will also be the case with regards to the race equality equal pay provisions that are intended to be introduced through the proposed new Race and Disability (Equal Pay) Bill, even though research has consistently shown that Muslims are amongst the most likely to suffer from unequal pay.

Quality of Protection Between Antisemitism and Islamophobia

	Antisemitism	Islamophobia
A. Othering		
1. Stereotypes	✓	
2. Prejudice	✓	
3. Negative Public Narratives	✓	
B. Discrimination		
1. Direct Discrimination	✓	✓
2. Indirect Discrimination	✓	✓
3. Harassment	✓	
4. Victimisation	✓	✓
5. Discrimination/Harassment through Perception/Association/Instruction /Causing/Inducement and Aiding	✓	✓
6. Institutional/Structural Discrimination	✓	✓?
7. Institutionalised/State Discrimination	✓	
C. Hostility		
1. Incitement to Hatred	✓	
2. Aggravated Offences	✓	✓

Appendix 4: The Current Overarching UK Policy and Legal Framework for Addressing All Forms of Bigotries

The last Labour Government (1997-2010) sought to address the most pronounced forms of bigotry in the UK at the time – those based on sex, race, disability, religion or belief, sexual orientation and age. It identified three interrelated domains in which such bigotry operated and was experienced – the domains of othering, discrimination and hostility. It sought in particular to deal with overt public hatred/hostility and discrimination/harassment through a strong framework of policies, legislation, institutions and programmes. It felt, however, that the othering of groups through stereotypes, prejudice and negative public narratives should not be dealt with through civil and criminal law but needed to be dealt with through other levers for change – eg, education/awareness raising, positive/reactive counter-narratives in public discourse and other administrative law/policy provisions. For Muslims this work remains lagging behind, particularly in terms of clearly and comprehensively identifying, labelling and defining their particular experience of bigotry and ensuring all aspects of this are addressed.

Domains and Manifestations of Bigotry	Grounds and Key Legal/Policy Provisions		Gaps in the Law/Policy (criminal, civil and administrative provisions) between Protection on Grounds of Race and Religion	Solutions – new legal/policy provisions on Islamophobia, R&B or Race more broadly?
	Race	Religion & Belief		
	<p>Race – defined in s9 Equality Act 2010 by markers of colour, nationality or ethnic or national origins. Definition of 'racial group' is extended by caselaw to include mono-ethnic religious groups, eg, Jews and Sikhs, but not multi-ethnic ones, eg, Muslims.</p> <p>However, note s9(4) EA10³ – what does this mean for Muslims as 'a racial group'?</p> <p>Art 14 ECHR right to protection against racial discrimination not so contingent on other Convention rights as its religion/belief counterpart – based on immutability, self-evidence and unconditionality.</p>	<p>Religion & Belief – defined very broadly in s10 Equality Act 2010 as encompassing any religion (including organised and smaller ones – provided they have a clear structure and belief system), religious or philosophical belief and the lack of either (ie, a religion or belief).</p> <p>Art 14 ECHR right to protection against religious discrimination contingent on Art 9 (right to religion/belief), Art 10 (right to free speech) and other Convention rights.</p>		
<p>A. Othering – Perhaps where least work has been done by Muslims, and now most needed – where Islamophobia is perhaps most felt but least addressed at the govt/state level. Othering typically starts with sometimes very benign stereotyping of a group. It can lead to prejudices against that group. People may other and distance themselves from certain groups in different ways. Although some groups may be viewed as being very different, difference itself does not imply hostility. Economic competition from minority groups is viewed with less concern than threats they may pose to culture, health or safety. Muslims are seen as posing stronger threats culturally and physically. Muslims are less likely to be welcomed as neighbours, employers or in-laws. Socio-economic status does not relate strongly to positive and negative attitudes towards any particular groups. When stereotyped differences lead to prejudice and these are widely circulated in public narratives by powerful voices, this could potentially and actually lead to discrimination or hostility – and this needs to be named/challenged. This is usually done through executive/administrative policy and provisions (eg, provisions in education/awareness campaigns, grants/resources for monitoring and high level communications; other policy/administrative provisions – eg, adoption of particular language and definitions, compulsory training, etc). This has been done with colour racism and Anti-Semitism, but less with Islamophobia.</p>				
1. Stereotypes are usually oversimplified and inaccurate judgments/beliefs about a group of people. Stereotypes can be based on a person's race, gender, culture, religion, or sexual orientation. They can be positive, benign or negative. Stereotypes are based on generalisations that don't account for individual differences. They can be influenced by viewpoints from parents, peers and others or media/public	- Racial stereotypes can be positive (eg, Indian/Chinese parents emphasise education), benign (Jews prefer to holiday in Israel) or negative (Black men are less intelligent) – only worth discussing here if they are below the legal thresholds for the civil and criminal law provisions discussed below but pass the negative threshold that can then lead to prejudice.	- Like racial stereotypes, religious stereotypes can be positive (eg, Jewish/Hindu parents emphasise education), benign (older Sikh men prefer to holiday in India) or negative (Muslim men are misogynist) – only worth discussing here if they are below the legal thresholds for the civil and criminal law provisions discussed below	<p>- Gap in dealing with racialised religious stereotypes against Muslims.</p> <p>- This needs to be addressed through formal education, awareness raising campaigns and other executive and administrative actions and provisions, including public</p>	<p>- Accept that racial and religious stereotypes are different and need to be dealt with differently – the latter allowing greater space for free speech. Can use the Modood Test to differentiate between racial v religious/bigotry v legitimate criticism.</p> <p>- However, accept also that Muslims can be racialised like Jews and</p>

³ s9(4) Equality Act 2010 states: 'The fact that a racial group comprises two or more distinct racial groups does not prevent it from constituting a particular racial group'.

<p>discourse/images. Stereotypes can be used as 'shortcuts' to help people make decisions more quickly. Stereotypes can negatively influence how people see, interact with, and treat others.⁴</p>	<ul style="list-style-type: none"> - If negative and prejudicial, and based on colour, ethnicity or national origin (ie, immutable characteristic - the mutability test/threshold), then given greater protection – eg, CRE brains poster. Thus: <ul style="list-style-type: none"> • 'Black men are misogynist': seen as automatically unacceptable – immutable biological characteristic cannot be a determinant for misogyny. 	<p>but pass the negative threshold that can then lead to prejudice.</p> <ul style="list-style-type: none"> - If negative and prejudicial, and based on religion/belief (ie, mutable characteristic - the mutability test/threshold), then have less protection on grounds of choice and rights to free speech to critique that choice. Thus: <ul style="list-style-type: none"> • 'Muslim men are misogynist': automatic presumption of possibility – as based on a mutable characteristic and the possibility of religious teachings on attitudes. 	<p>sector disapprobation – as with Antisemitism.</p> <ul style="list-style-type: none"> - This requires the problem to be named and defined – as with Anti-Semitism. 	<p>measures against racialised religious stereotypes must include those against Muslims. This needs to come within the definition of Islamophobia and incorporated in the definition of racism – as is the case with anti-Semitism.</p> <ul style="list-style-type: none"> - Argue that the way to deal with theological/religious differences is not by imposing European Judeo-Christianity or muscular liberalism but through moderate multiculturalism or multiplexity.
<p>2. Prejudice is misinformed judgement or disposition based on adverse or negative stereotyping of an individual or group. Prejudice is the mental framing and attitude that can lead to acts of actively othering in the public domain and discrimination and hostility.⁵</p> <p>3. Negative Public Narratives (including demeaning, demonising and dehumanising – the 3 Ds) at the local or national level, directly or indirectly, about a group – their characteristics, values and interests – based on stereotypes and prejudice, by people or institutions with power and</p>	<ul style="list-style-type: none"> - Prejudice and negative public narratives on grounds of race, particularly if based on biological racism or Anti-Semitism, and even if they fall below the legal thresholds for the civil and criminal law provisions discussed below, are taken very seriously. - Attitudes and acts that fall below the legal thresholds for the civil and criminal law provisions discussed below are addressed through labelling/defining/calling out (eg, Racism/Antisemitism), formal education (eg, Black history and Holocaust education in schools), awareness raising campaigns (eg, 	<ul style="list-style-type: none"> - Prejudice and negative public narratives on grounds of religion are treated as subject to free speech and the right to critique and criticise religions and their adherents. 	<ul style="list-style-type: none"> - Gap in dealing with racialised religious prejudice and negative public narratives against Muslims. As with Antisemitism, this needs to be addressed through formal education (eg, Muslim history in schools), awareness raising campaigns and other executive/administrative provisions and actions, including public sector disapprobation (including 	<ul style="list-style-type: none"> - Accept that racial and religious prejudice and negative narratives are different and need to be dealt with differently – the latter allowing greater space for free speech, particularly where it is in relation to theology, politics and competition for resources. Can use the Modood Test to differentiate between racial v religious/bigotry v legitimate criticism. This should be applied equally to all religious groups, eg, Muslims, Sikhs, Hindus and Jews.

⁴ A University of Kent report notes that social stereotypes that underpin prejudice about different groups show that the prejudice can take a patronising form – but they can also be more 'hostile'. Muslims are viewed as cold and competing for resources. The emotions associated with different groups reflect these stereotypes. Older people and disabled people are more likely to be pitied, women are more likely to be admired but not envied. Muslims are more likely to be perceived as evoking fear and anger but not pity or envy. Gay men and lesbians are more likely to be perceived as evoking disgust and anger.

⁵ The report also notes that prejudice is expressed differently towards different groups, and therefore, also experienced differently. Overtly negative feelings are expressed by a majority towards illegal immigrants and asylum seekers. A notable number of respondents express negative feelings towards Muslims and gay men and lesbians. An overwhelming majority of people express positive feelings towards women, people over 70 and people with disabilities. People think media portrayals of Muslims are more negative than portrayals of other groups. Arabs and Muslims are less likely to be viewed as being accepted as British than are other groups. Acceptance as British is higher when a person is white, a native English speaker and either Judeo-Christian or non-religious. One third of respondents say they are unconcerned about whether they are prejudiced. Political correctness applies more strongly in the case of prejudice against some groups than others. People feel least constrained in admitting to prejudice against Muslims. It is not the case that some groups are always more prejudiced than others. Different groups direct their prejudice against particular outgroups.

<p>influence can create 'in groups' and 'out groups' and impact and imbed in the sub-conscious of a wider group resulting in widespread stereotypes and prejudice about particular minority/disadvantaged groups that then lead to discrimination/harassment and hatred/hostility towards those groups – thereby, causing very serious harm to members of those group and groups as a whole.⁶</p>	<p>Kick Out Racism/HMD) and other executive and administrative provisions and actions, including public sector disapprobation (eg, dismissals from public roles).</p> <ul style="list-style-type: none"> – Action taken irrespective of audience thresholds, ie, attitudes and acts need not be in the public domain (as with those that meet the legal thresholds for the civil and criminal law provisions discussed below). This is because such attitudes and acts can result in profiling (eg, in policing and CT), creating 'suspect communities' and have significant detrimental impact on good relations between communities/community cohesion/whole society integration. 		<p>dismissal from public sector roles).</p> <ul style="list-style-type: none"> - This requires the problem to be named and defined – as with Anti-Semitism. 	<ul style="list-style-type: none"> - Accept also that Muslims, like Jews, can be racialised and measures against racialised religious prejudice and negative public narratives must include those against Muslims. <u>This needs to come within the definition of Islamophobia and incorporated in the definition of racism – as is the case with anti-Semitism.</u> - Argue that the way to deal with theological/religious differences is not by imposing European Judeo-Christianity or muscular liberalism but through moderate multiculturalism or multiplexity – imagine what it would be like for Muslims if kosher meat and circumcision was not required by Jews.
<p>B. Discrimination – is unfair and inequitable treatment, opportunities and outcomes based on a particular characteristic of an individual or group. Its opposite, equality, is to treat every person with fairness and equity in all aspects of employment and service delivery. Discrimination is addressed through civil law provisions.</p>				
<p>1. Direct Discrimination in the Workplace and the Delivery of Goods, Facilities and Services</p> <p>Direct discrimination is when someone is intentionally put at a disadvantage or treated less favourably than another in the same or similar circumstances simply on grounds of a 'protected characteristic' (sex, race, disability, religion/belief, sexuality, age, etc).</p> <p>Examples of direct discrimination: not interviewing/employing; adverse terms and conditions; refusing training; pay variations; denying promotion – on grounds of a protected characteristic.</p> <p>Key legal/policy provisions: Civil Law – but with narrow exceptions, eg, GOQs/GORs. Limitations of provisions: Victim led and compliance culture.</p>	<p>Equality Act 2010, ss9 and 13 taken together – define direct racial discrimination as someone intentionally being put at a disadvantage or treated less favourably than another in the same or similar circumstances simply on grounds of their colour, nationality or ethnic/national origins.</p>	<p>Equality Act 2010, ss10 and 13 taken together – define direct religious discrimination as the treatment of someone less favourably than others because they are identified with or follow a, or do not identify with or follow a or any, particular religion or religious/philosophical belief.</p> <p>Exemptions in VERY limited circumstances:</p> <ul style="list-style-type: none"> - Exceptions to Direct Discrimination known as Genuine Occupational Requirements (GOR's). Two Types: <ul style="list-style-type: none"> - General GOR - Where a particular job requires that the job holder must be of a particular religion. - Religious Ethos GOR – Where an organisation has an ethos based on a religion and the job requires a task which upholds that religion. 	<p>No obvious gaps in the provisions between race and religion/belief – however, note that s13(5) states that 'If the protected characteristic is race, less favourable treatment includes segregating ... from others'. Why is segregation specifically singled out for race alone? As under caselaw this would apply to Jews and Sikhs but not to Muslims qua Muslims as a group, need to explore what this difference could mean in practice.</p> <p>Note also various very technical differences between race and religion in Sch 3 on services and public functions exceptions and Sch 22 on statutory provisions, which may</p>	<p>Note: What does s14 on combined/dual discrimination mean for Muslims in terms of combined racial/religious discrimination or gender/religious discrimination (in the case of gendered Islamophobia)? Was this ever brought into force – if not, why not? Has this been explored in any academic writing or case law? What could this mean for Muslims if read together with s9(4)? Could we push for more on s14 by way of secondary legislation under s14(6)? Should we commission an expert opinion on this?</p> <p>s9(4) states: 'The fact that a racial group comprises two or more distinct racial groups does not prevent it from constituting a particular racial group.'</p>

⁶ Such narratives have in the past come from Government departments, statutory agencies, media outlets, educational institutions, think tanks, senior politicians, media professionals, academics, faith leaders and popular culture icons. Muslims have suffered directly from such narratives, and also indirectly, eg, from national narratives on terrorism and immigration. Key legal/policy provisions: previously felt that this should be dealt more through policy rather than legal provisions, particularly policy initiatives in education and public communications. Muslims argue, however, that this requires a recognition, naming and definition of the problem by Government – which it has done for Antisemitism, but not Islamophobia.

		<ul style="list-style-type: none"> - Exception for the purposes of Organised Religion <p>or may not disadvantage between various racialised religious groups – eg, Jews vs Muslims.</p>	
<p>2. Indirect Discrimination in the Workplace and the Delivery of Goods, Facilities and Services</p> <p>Indirect discrimination is usually unintended and occurs when a provision (policy, procedure or practice) is applied to or omitted from all, but has a disproportionate negative impact on members of a group with a particular characteristic – in which case, employers need to make reasonable adjustments to ensure that individuals are not discriminated against on the grounds of that particular characteristic.</p> <p>In deciding whether a provision is indirect discrimination or whether a refusal to accommodate a requirement is reasonable, the employer may take into account the burden, costs and implications for the business (the reasonable accommodation test). In essence, it is a balancing exercise between the needs of the employer and the employee. The application of provision is not unlawful if it can be justified as a proportionate means of achieving a legitimate aim.</p> <p>Key legal/policy provisions: Civil Law – in most cases, no longer requires a comparator or detriment to be proven. Limitations of provisions: Victim led and compliance culture.</p>	<p>Equality Act 2010, ss9 and 19 taken together – define indirect racial discrimination as where a person applies to another a provision which is discriminatory in relation to that person's race. Note, a provision here is discriminatory in relation to that person even if applied or would be applied to others who do not share that race or characteristic, if it puts, or would put, people of that person's race at a particular disadvantage when compared with others; it puts, or would put, that person at that disadvantage; and it cannot be shown to be a proportionate means of achieving a legitimate aim.</p>	<p>Equality Act 2010, ss10 and 19 taken together – define indirect religious discrimination as applying or omitting to apply a provision which applies to all employees but has the effect of disadvantaging members of a particular religion or belief, or no religion or belief. For Muslims, this could for example be a failure to accommodate prayer times and facilities, fasting and dietary requirements, and the dress requirements of employees. Employers must also consider the leave requirements of employees, eg, for religious festivals and rites.</p>	<p>No obvious gaps in the provisions between race and religion/belief. However, not looked into what is the practical effect of amending s19 with s19A? Needs looking into.</p>
<p>3. Micro-Aggressions/Harassment in the Workplace and the Delivery of Goods, Facilities and Services</p> <p>Harassment is any behaviour that violates a person's dignity or creates a hostile, humiliating or offensive environment. It includes teasing, name-calling, threatening or offensive behaviour, and violent conduct.</p> <p>Harassment does not have to be intentional – it can be unintentional or subtle. It does not have to be directed at the individual – can be harassment by association. Organisations may be held responsible for the actions of their staff.</p>	<p>Equality Act 2010, ss9 and 26 taken together – define racial harassment as a person harassing another if they engage in unwanted conduct related to the other persons race and the conduct has the purpose or effect of violating that person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.</p> <p>It is also harassment if a person engages towards another in unwanted conduct of a sexual nature, and the conduct has the purpose or effect of violating that person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive</p>	<p>Equality Act 2010, ss10 and 26 taken together should define and provide the same level of protection for religious harassment as provided for racial harassment. However, certain protections provided against harassment for all equality characteristics under s26 are then specifically excluded for religion/belief but not race under other provisions of the EA2010 – see, for example, s29(8) on service provision and public functions; s33(3) and (6) on disposal of premises; 34(2) and (4) on permission for disposal; 35(2) and (4) on the</p>	<p>Ss29, 33, 34, 35, 85 and 101-3, nonetheless create gaps in the provisions for protection against religious harassment – which impact Muslims but not Sikhs/Jews. These gaps are nonsensical – otherwise, they would equally be applied in Part 5 (Work) and other sections of Part 6 (Education – other than Chap1) of the EA2010. This was not done as this would have contravened the EU Employment Directive</p> <p>There are two possible solutions here:</p> <ol style="list-style-type: none"> 1. Remove the gaps in the provisions for protection against religious harassment so that they are the same as provided against harassment on grounds of race and other equality characteristics. 2. Accept that Muslims, like Jews, can be racialised and measures against racialised religious harassment must include protection for Muslims qua Muslims. This needs to come within the definition of Islamophobia and incorporated in the definition of

<p>Key legal/policy provisions: Civil Law provisions on harassment; employer/service provider policy provisions on harassment and bullying.</p> <p>Limitations of provisions: Victim led – victim may not want to pursue; Compliance culture in relation to civil law and policies.</p>	<p>environment for that person. It is also harassment if, because of that person's rejection of or submission to that conduct or the same/similar conduct from another, that person is treated less favourably than if they had not rejected or submitted to the said conduct.</p> <p>In deciding whether the conduct has the effect of violating that person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person, each of the following must be taken into account: the perception of that person; the other circumstances of the case; and whether it is reasonable for the conduct to have that effect.</p>	<p>management of premises; s85(3) and (10) on the admission and treatment of pupils; ss103(2) and 101(4)/102(3) on members, associates and guests of associations. <u>See, however, s212(5)</u> which states: Where this Act disappplies a prohibition on harassment in relation to a specified protected characteristic, the disapplication does not prevent conduct relating to that characteristic from amounting to a detriment for the purposes of discrimination within s13 because of that characteristic. Thus, protection against aspects of religious harassment is denied to protect free speech but some substitute relief may be provided through direct religious discrimination!</p>	<p>applicable to the UK at the time.</p>	<p><u>racism – as is the case with Antisemitism.</u></p>
<p>4. Victimisation in the Workplace and the Delivery of Goods, Facilities and Services</p> <p>Victimisation is to treat someone detrimentally, on grounds of a protected characteristic, because they have made a complaint about discrimination or harassment, intend to make such a complaint or have/will be assisting someone else in making such a complaint. Organisations may be held liable for the actions of their staff.</p>	<p>Equality Act 2010, ss9 and 27 taken together – define racial victimisation as a person victimising another if that person subjects the other to a detriment because that other does a protected act, or is believed to have done, or may do, a protected act on grounds of race.</p> <p>The protected acts are bringing proceedings under the EA2010, giving evidence or information in connection with such proceedings, doing any other thing for the purposes of or in connection with the EA2010 and making an allegation (whether or not express) that the accused or another person has contravened the EA2010 on grounds of race. Giving false evidence or information, or making a false allegation, is not a protected act if the evidence or information is given, or the allegation is made, in bad faith.</p> <p>Victimisation occurs only where the person subjected to a detriment is an individual and reference to contravening the EA2010 includes reference to committing a breach of an equality clause or rule.</p>	<p>Equality Act 2010, ss10 and 27 taken together – define religion/belief victimisation as a person victimising another if that person subjects the other to a detriment because that other does a protected act, or is believed to have done, or may do, a protected act on grounds of religion/belief.</p> <p>The protected acts are bringing proceedings under the EA2010, giving evidence or information in connection with such proceedings, doing any other thing for the purposes of or in connection with the EA2010 and making an allegation (whether or not express) that the accused or another person has contravened the EA2010 on grounds of religion/belief. Giving false evidence or information, or making a false allegation, is not a protected act if the evidence or information is given, or the allegation is made, in bad faith.</p> <p>Victimisation can only occur to an individual and contravention of the EA2010 includes committing a breach of an equality clause or rule.</p>	<p>No obvious gaps in the provisions between race and religion/belief.</p>	

<p>5. Discrimination/Harassment based on Perception/Association and through Instruction/Causing/Inducement and Aiding</p> <p>The Explanatory Notes to s13 state that discrimination and harassment based on perception or 'perceptive discrimination' is a type of direct discrimination. It means discriminating against someone because of a 'perceived' protected characteristic. The Explanatory Notes to s13 also state that discrimination and harassment based on association or 'associative discrimination' is another type of direct discrimination. It means discriminating against someone because of their connection with either someone who has a protected characteristic – for example a family member, friend or colleague, or a group of people who have a protected characteristic.</p> <p>s111 EA2010 provides that a person must not instruct, cause, induce (directly or indirectly) another to do in relation to a third person anything which contravenes Part 3, 4, 5, 6 or 7 or ss 108(1) or (2) or 112(1) of the Act (a basic contravention). Further, s112 EA2010 provides that a person must not knowingly help/aid another to do anything which contravenes Part 3, 4, 5, 6 or 7 or ss 108(1) or (2) or 111 of the Act (a basic contravention).</p>	<ul style="list-style-type: none"> - These contraventions can occur on grounds of race or religion/belief. For example, it is a contravention of the provisions if someone thinks a person is of a particular race or religion and discriminates against them because of this, when they are actually not of that racial or religious group. Similarly, it is a contravention of the provisions where the less favourable treatment is because of the victim's association with someone of a particular race or religion/belief. - Both sections 111 and 112 apply to both the characteristics of race and religion/belief. 	<p>No obvious gaps in the provisions between race and religion/belief.</p>	
<p>6. Institutional/Structural Discrimination</p> <p>Institutional discrimination is when the routine provisions (policies, procedures and practices) of an institution, or omissions thereof, disadvantages a particular group over time. It is often the result of unconscious bias of the majority in an organisation. It is not usually felt by the discriminator, or even the discriminated, at the point of discrimination – but statistical analyses over time reveal clear patterns of such discrimination.</p> <p>Key tools for tackling institutional discrimination have included 3-5 year equality/human rights health of the nation reports, public sector equality duty, public sector agreed targets, procurement provisions (Sch 26 s10) and the mainstreaming of equality/diversity into the work of inspectorates.</p>	<p>According to s149 EA2010 the public sector equality duty requires a public authority, and others who are not a public authority but who exercise public functions, in the exercise of their functions, to have due regard to the need to: eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.</p> <p>Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to: remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.</p>	<p>No obvious gaps in the provisions between race and religion/belief – except that Sch.18 on the immigration exceptions to the public sector equality duty states under subsection 2(1): In relation to the exercise of immigration and nationality functions, section 149 has effect as if subsection (1)(b) did not apply to the protected characteristics of ... race or religion or belief; but for that purpose "race" means race so far as relating to nationality, or ethnic or national origins (ie, not colour).</p>	<p>- Immigration exception on grounds of nationality or ethnic/national origins is understandable to an extent (on grounds of the idea of nation states and economic interests), but not on grounds of colour – and this is recognised under Sch 18. However, the exception is not understandable or acceptable on grounds of religion/belief – and Sch 18 should be amended accordingly.</p> <p>- The requirement to have due regard to the need to tackle prejudice and promote understanding should be explored in relation to Islamophobia and a plan of action drawn from this and implemented.</p>

<p>These tools have so far only been tested in the public sector, not the private or voluntary sectors. Where institutional discrimination over time has resulted in entrenched structural discrimination, employers can take positive action measures to address them – i.e., employers can take steps to redress the effects of past inequality in the workplace, e.g., they can advertise in ethnic minority media to encourage more applicants from particular under-represented groups; provide bridging courses to allow applicants from under-represented groups to compete on a level playing field; train existing employees for work in areas their group has historically been under-represented. However, selection for all jobs must still be on merit alone.</p> <p>Limitations of key provisions: only available in the public sector, not private or voluntary sectors.</p>	<p>Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to <u>the need to tackle prejudice and promote understanding</u>.</p> <p>Note that s149(6) states that: Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.</p> <p>According to s158 EA2010 positive action may be taken if a person reasonably thinks that: persons who share a protected characteristic suffer a disadvantage connected to that characteristic; persons who share a protected characteristic have needs that are different from the needs of persons who do not share it; or participation in an activity by persons who share a protected characteristic is disproportionately low. The section states that EA2010 does not prohibit taking any action which is a proportionate means of achieving the aim of: enabling or encouraging persons who share the protected characteristic to overcome or minimise that disadvantage; meeting those needs; or enabling or encouraging persons who share the protected characteristic to participate in that activity. Note that s158(6) states that s158 does not enable doing anything that is prohibited by or under an enactment other than the EA2010.</p> <p>According to s159 EA2010 positive action specifically in recruitment and promotion may be taken if a person reasonably thinks that: persons who share a protected characteristic suffer a disadvantage connected to that characteristic; or participation in an activity by persons who share a protected characteristic is disproportionately low. s159(2) states that Part 5 of the EA2010 (on Work) does not prohibit taking action within s159(3) with the aim of enabling or encouraging persons who share the protected characteristic to: overcome or minimise that disadvantage; or (b) participate in that activity. s159 states that that action is treating a person more favourably in connection with recruitment or promotion than another person because that person has the protected characteristic but the other does not. However, s159(4) states that s159(2) applies only: if that person is as qualified as the other to be recruited or promoted; there is no policy as such of treating persons who share the protected characteristic more favourably in connection with recruitment or promotion than persons who do not share it; and taking the action in question is a proportionate means of achieving the aim referred to in s159(2). Note that s159(6) states that s159 does not enable doing anything that is prohibited by or under an enactment other than the EA2010.</p> <p>The above provisions apply equally to the grounds of race and religion/belief.</p>	<p>However, see Sch 26 ss18, 22 and 54-56 which seem to promote positive action on grounds of race but not religion in relation to appointments and encouragement to take up certain employment opportunities and training.</p> <p>Note also that Race Relations (Amendment) Act 2000 ss1, 3-10, Sch 2 (except for paras 17 and 31) and Sch 3 are repealed but the rest of the Act remains valid, and that not the whole of Equality Act 2006 has been repealed – need to check whether any 'race but not religion' provisions have been kept there and what disadvantages this therefore means for Muslims as compared to Sikhs/Jews.</p>		
<p>7. Institutionalised/State Discrimination</p> <p>Institutionalised discrimination refers to the unjust discriminatory mistreatment of a group and its members by society as a whole, intentionally or unintentionally (ie, recklessly) sanctioned by the state and its institutions. It stems from systemic stereotypical beliefs perpetuated by the state about a groups superiority/inferiority or nature (e.g., White people are superior; Black people are less intelligent and lazy; Muslims are</p>	<p>Institutionalised/state discrimination on the basis of racial groups has been mostly removed from the UK domestic context through six decades of racial discrimination legislation – though arguably still lingers in terms of foreign and immigration policies, legislation and practice – eg, approach to the plight of Ukrainians vs Palestinians. This is often justified on grounds of geopolitics and economics. Sikhs/Jews, accepted as</p>	<p>Institutionalised/state discrimination on the basis of religious groups, sometimes racialised but still not accepted as racial groups in law, still persists implicitly in domestic law, policies and practice – even if explicitly rejected in domestic equality law. It certainly continues in foreign policy. Such implicit domestic discrimination, previously experienced by Catholics</p>	<p>Ministers, advisors, civil servants and senior figures in statutory sector agencies during Tony Blair's time in Government privately comment that he had a particular issue with Islamic theology – thought it was inherently bad and the cause of Muslim supremacism, dissatisfaction, extremism and</p>	<p>- There was a discussion in Govt leading up to the EA2006 on whether the new EHRC should have the power to take human rights cases against the Govt. The concern was that if it had the power it might end up being embroiled in all the CT legislation against the Muslim community that the Govt was trying to push through at the time. The outcome of that discussion was the</p>

<p>violent/terrorists; etc.) that are then held by the majority/powerful in a society where these stereotypes and discriminatory attitudes and behaviour become the norm.</p> <p>These discriminatory beliefs, attitudes and behaviour is then codified into policies, law and practice – eg, in terms of suspect communities and counter-terrorism policies, law and practice. These groups are then not allowed to represent themselves but must be represented by those from these groups appointed/co-opted by the state/government.</p> <p>Key legal/policy provisions: APPG/Select Committee/Parliamentary Joint Committee/Independent Commissions inquiries/reports and Judicial Reviews.</p>	<p>racial groups under caselaw, arguably benefit from this in a way Muslims don't as yet, as Islamophobia still not recognised in UK law as a form of racism.</p>	<p>and now by Muslims, is most acutely manifested in counter-terrorism/extremism and related (esp in the areas of crime and immigration) legislation. The discourse around such legislation feeds into popular narratives about these groups – which then feeds into the othering, discrimination and hostility faced by these groups in everyday life.</p>	<p>international terrorism. Many working with Michael Gove say the same about him, and his book, Celsius 7/7, is explicit about this. Both institutionalised Islamophobia, or at least sought to, directly or indirectly, in their responses to terrorism and extremism, which resulted in many bad laws, policies and practices against Muslims. A clearer example of institutionalised/state Islamophobia is Trump's 'Muslim ban in the US', which concerns UK Muslims with the rise of Farage.</p>	<p>restricted powers given to the EHRC in ss28 and 30, EA2006, in relation to possible cases against the Govt under the Human Rights Act 1998. ss28 and 30 could be amended to give the EHRC greater powers to protect against institutionalised/state Islamophobia.</p> <p>- Islamophobia should be defined as a form of racism to bring Muslims under the protection of institutionalised/state race discrimination – so that they enjoy the same protection as Sikhs and Jews.</p>
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C. Hostility – includes incitement and perpetration of hatred and hate crimes, and is addressed through criminal law provisions.

<p>1. Hate Crime - Incitement to Hatred</p> <p>Hate crimes (hatred and hostility) are the sharp end of discriminatory behaviour towards and treatment of a group. Prejudice, hatred, hostility and dehumanisation against Muslims increased sharply after 9/11. The law now recognises that this starts with incitement to hatred (eg, far right activities against Islam & Muslims after 9/11), and this leads to:</p> <ul style="list-style-type: none"> - anti-social behaviour, hate crimes (harassment and violence to person and property) and fear of such crimes on the streets, in public spaces and wider society – dealt with in section 2 below. - harassment, bullying and discrimination at work and in service delivery – dealt with in section 2 below. <p>Key legal/policy provisions: Criminal Law: incitement laws.</p> <p>Limitations of provisions: Victim led – victim may not want to pursue.</p>	<p>Public Order Act 1986 – Incitement of Racial Hatred – to behave in such manner or to use or publish insulting or abusive words with the intent to stir up racial hatred or, in the circumstances, racial hatred is likely to be stirred up as a result of the action.</p> <p>'Racial groups' as defined by reference to colour, race, nationality or ethnic or national origin (Race Relations Act 1976). The definition of 'racial group' is extended by case law to include mono-ethnic religious communities, like Jews and Sikhs.</p> <p>Maximum of seven years imprisonment.</p> <p>Although Jews and Sikhs rightly enjoy protection from this offence, the protection is not extended to multi-ethnic religious communities. Thus, Christians, Muslims and most other faith communities in Britain remain unprotected from this offence.</p>	<p>Racial and Religious Hatred Act 2006 – Incitement to Religious Hatred – to use threatening words or behaviour, or display any written material which is threatening, if intending thereby to stir up religious hatred. However, this shall not be read or given effect in a way which prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents, or of any other belief system or the beliefs or practices of its adherents, or proselytising or urging adherents of a different religion or belief system to cease practising their religion or belief system.</p> <p>'Religious group' is defined as a group of persons defined by reference to religious belief or lack of religious belief.</p> <p>Maximum of seven years imprisonment.</p>	<p>Note: the removal of the words 'abusive' and 'insulting' and the 'likely' test, so that only 'threatening' conduct 'intended' to incite hatred remains for religious hatred vis-à-vis racial hatred. Note also the sweeping defence of free speech which raises the threshold for litigation so high that it makes it virtually impossible to bring a successful prosecution. Note also that the threshold for incitement to religious hatred in Britain is much higher than in N Ireland, where it is the same as incitement to racial hatred.</p>	<p>Two possible solutions:</p> <ol style="list-style-type: none"> 1. The Law Commission recommended in 2021 that there should be a single test for all forms of stirring up hatred. Under this test a person would be guilty of stirring up hatred if they used words or behaviour intended to stir up relevant hatred or used threatening or abusive words or behaviour likely to stir up relevant hatred. Thus, 'abusive' and 'likely' would be added for all and 'insulting' taken away for all. The Law Commission also recommended that the current provisions on freedom of expression in relation to religion should be retained and extended to discussions of cultural practices, individual countries and their governments, and immigration, asylum and citizenship. 2. Accept that Muslims, like Jews, can be racialised and measures against racialised religious incitement to hatred to include protection for Muslims qua Muslims. This needs to come within the definition of Islamophobia and
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				<u>incorporated in the definition of racism – as is the case with Antisemitism.</u>
<p>2. Hate Crime – Aggravated Offences</p> <p>Public Harassment, Hostility and Violence - anti-social behaviour, hate crimes (harassment and violence) and fear of such crimes (personal safety implications, but also access to employment, services and community cohesion implications) on the streets, in public spaces and wider society.</p> <p>Key legal/policy provisions:</p> <ul style="list-style-type: none"> • Criminal Law: harassment laws, aggravated offences. • Policies: Islamophobia treated as a separate hate crime by the police; Cases more vigorously pursued by the CPS – eg, <i>DPP v Norwood</i>. <p>Limitations of provisions</p> <ul style="list-style-type: none"> • Victim led – victim may not want to pursue. 	<p>Crime & Disorder Act 1998 – Racially Aggravated Offences – harassment, violence and/or criminal damage to property motivated by racial hatred or where there is any aggravating evidence of racial hostility in connection with the offence.</p> <p>'Racial groups' as defined by reference to colour, race, nationality or ethnic or national origin (Race Relations Act 1976). The definition of 'racial group' is extended by case law to include mono-ethnic religious communities, like Jews and Sikhs.</p> <p>Courts may give higher penalties for main offence to reflect the racial aspect to the crime.</p> <p>Although Jews and Sikhs enjoy protection from this offence, the protection is not extended to multi-ethnic religious communities. Thus, Christians, Muslims and most other faith communities in Britain remain unprotected from this offence.</p>	<p>Anti-Terrorism, Crime & Security Act 2001 – Religiously Aggravated Offences – harassment, violence and/or criminal damage to property motivated by religious hatred or where there is any aggravating evidence of religious hostility in connection with the offence.</p> <p>The protection extends to adherents of all 'religious groups'. 'Religious group' has not been defined, but left to the Courts to define should the occasion arise for such a definition.</p> <p>Courts may give higher penalties for main offence to reflect the religious aspect to the crime.</p> <p>The Act extends the provisions entailed in the Crime & Disorder Act 1998 to multi-ethnic religious communities, and thereby closes a lacuna in the law creating a hierarchy of protection for different faith groups.</p>	<p>No obvious gaps in the provisions between race and religion/belief.</p>	

The table above illustrates that though Islamophobia, like Anti-Sikhism and Anti-Semitism, may be experienced as both racial and religious bigotry, and often as a complex interplay between the two, the policy, legal and administrative protections offered against each strand of bigotry, though sometimes the same/similar, are at other times quite different – depending on the domain and manifestation. The differences are based on the mutability of the two strands of race and religion. Race is considered immutable, and therefore, protected almost unconditionally. Religion, on the other hand, is considered mutable, and therefore, protected only conditionally – eg, subject to allowing greater space for freedom of speech and expression. In each instance in the above table, where a manifestation is given weaker protection on grounds of religion than on race, this appears to be the rationale behind the difference.

It is unfortunate for Muslims that though Anti-Sikhism, Anti-Semitism and Islamophobia are all experienced in similar ways, Anti-Sikhism and Anti-Semitism were both recognised in UK caselaw as both religious and racial bigotries, but Islamophobia was recognised only as religious bigotry, not racial. This difference was erroneous – and there is much academic literature now that concludes that these different forms of racialised religious bigotries follow similar patterns of perpetration, are experienced by their victims in similar ways and should therefore be dealt with similarly and equally by the state.

