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Matriculation Number: 120025965

The UK as a Free Society: Myth or Reality?

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This dissertation is submitted as part of the programme requirement for the degree of MA (Hons) in Politics and International Relations. I declare that it is the product of my own work beyond the supervision I have received.

Sign: Date:

Abstract

In both official and unofficial rhetoric, the UK has been claimed to be a 'free society' and an archetype of liberal democratic ideals for years. We argue against this claim, supporting our argument with evidence of a UK government assault on a set of rights and liberties of British citizens; one aspect is a government assault on the right to privacy, the other being the targeting and marginalisation of Muslim Britons, leading to them being afforded fewer rights than the rest of the UK citizens. We conclude that the UK's self-image as a 'free society' is a myth.

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Introduction

Britons have celebrated a culture of freedom and liberty for centuries; this is evident in the texts of cherished philosopher David Hume (1904), the texts of celebrated historian A.J.P Taylor (1975), and goes all the way to modern days, evident for example in speeches by Prime Minister David Cameron (2014). Since the eighteenth century, there had not been a shortage in texts associating ideals of freedom and liberty to being British, this culture of liberty was celebrated to a level that it became part of Britain's national heritage (Dworkin, 1988:7). In this dissertation, we will examine the claim of whether the United Kingdom has indeed been a beacon of freedom and liberty in the past, and whether it may be considered to be one today. We will observe that government policies that negatively affect freedoms of citizens of the United Kingdom are increasingly creating the conditions for the opposite of a free society; they are creating the conditions for a more passive, self-censoring and controlled society.

In the first chapter, we will conduct a background analysis on the United Kingdom's self-image as a liberal democratic country; we will be studying the claims made to support this self-image in the past and in our modern day. This first chapter will build the ground for our argument as we will aim to argue against the UK being a strong archetype of the ideals of liberty and freedom. To establish our argument, we will be looking at two main case studies, both involving a set of freedoms which are today enshrined in the European Convention on Human Rights, those are mainly the right to respect for private and family life; freedom of thought, conscience and religion; freedom of expression; and last but not least freedom of assembly and association (European Court of Human Rights, 1950). In the second chapter, our focus will essentially settle on what we will dub as a 'governmental assault on the right to privacy', a right considered essential in any liberal democratic society. The chapter will analyse the impact of the proliferation and normalisation of government surveillance programmes, this will enable us to assess the extent of the impact on the citizens' right to privacy. The third chapter will focus our commentary on how the British Muslim community has been affected by the government's counter-terrorism policies. The chapter will study the extent the government's counter-terrorism strategy as well as a multiplicity of legislation over the

past fifteen years have impinged upon and eroded a set of democratic values and freedoms for this particular section of the UK population. Through the two case studies and our background study of the literature, we aim to establish our argument that the portrayal of the United Kingdom as a free society is more of a myth rather than a reality.

Methodology

In order to establish our argument, we relied on two main case studies in the second and third chapters, discussing the impact of surveillance upon British society and discussing the marginalisation of the Muslim community in Britain through counter-terrorism policy, respectively. Overall, this work has relied on a set of sources, ranging from primary sources in the shape of Acts of Parliament, Parliamentary bills and papers, Parliamentary committee reports, speech transcripts, news articles published at the time, as well as third-party research reports from scholarly institutions and civil liberties organisations; secondary sources were heavily utilised as well, mostly in the shape of published academic texts, journals, and online analysis articles extracted from major news websites. We have not encountered any major difficulties accessing our resources; this is mainly due to the topical and contemporary nature of our discussion.

In building our first case study in Chapter II, our analysis revolved heavily around key legislation which was introduced to parliament and had its second reading in the House of Commons at the time of writing, the legislation *Investigatory Powers Bill 2015-16* did not face a lot of opposition in parliament, however we cannot confirm that it had become law yet; major political commentators have, however, suggested that the bill is very likely to become law before the end of this year (Martin, 2016b). Due to limitations on the length of this work, our work on surveillance and privacy had focused largely on government spying through communications and data, leaving behind other controversial aspects of government surveillance such as CCTV cameras and the DNA database. Similarly in Chapter III, due to the scope of this work we were unable to discuss in-depth other controversial counter-terrorism powers like the Schedule 7 powers under *Terrorism Act 2000*, or the Temporary Exclusion Orders introduced in the most recent legislation *Counter-Terrorism and Security Act 2015*. We have attempted to sufficiently present our cases in support of our arguments by covering general information as well as focusing on recent legislation and policy to back up our case; we have had to choose a different area of focus in each case study, mainly due to the restricted length of this work.

Chapter I

Today, Britons proudly celebrate a culture of freedom and liberty that is said to go back centuries; the origins are often linked with Magna Carta, an 800 year old document signed on the banks of the Thames, which historians interpret as to have inspired the protection of some of the world's most cherished liberties (Castle, 2015). Despite the Magna Carta only being relevant to rich, free, landowning males (Davies, 2015), and despite it being employed to serve the interest of feudal barons who themselves were tyrants against freedom-less English serfs (Jones et al, 2015:24-25), its historical legacy is given esteemed recognition by the politicians in power today. On the 799th anniversary of Magna Carta, Prime Minster David Cameron (2014) wrote about "a belief in freedom" as a well-established British value, which to him is as British as the Union Flag, football, and fish and chips. He further claimed that freedom forms the 'bedrock of Britishness', where without it, no one would be able to say what they think, be who they are, or do what they want (Cameron, 2014). In a 2015 speech during Magna Carta's 800th anniversary, Cameron emphasised again the worth of liberty, and how much it is "held dear" by him and the British people (Castle, 2015). The talk on freedom and liberty is extensive in British politics and history, but what are the roots of this culture? And how does this rhetoric measure when considered with real life practice? In this chapter, we will look at a recent history timeline of the UK as a self-proclaimed archetype of political and social freedoms; and then we will discuss what freedoms and rights are inherent to this model, and how they are upheld in theory.

In his 1741 essay *Of the Liberty of the Press*, Scottish philosopher David Hume (1903: 8) observed a "peculiar privilege" only enjoyed by Great Britain, he wrote:

> "Nothing is more apt to surprise a foreigner, than the extreme liberty which we enjoy in this country, of communicating whatever we please to the public, and of openly censuring every measure entered into by the king or his ministers."

More recently, a view expressed by English historian A.J.P. Taylor is that "Until 1914, a sensible, law-abiding Englishman could pass through life and hardly notice the existence of the state beyond the post-office and the policeman" (Taylor, 1975:1).

Others have written about an emotionally-charged view of liberty influenced by Milton and John Stuart Mill amongst generations of other statesmen, writers, publishers, and citizens who over the centuries made the culture of liberty part of Britain's national heritage (Dworkin, 1988: 7). The past examples are few of the many testimonies used repeatedly by modern writers and politicians to either celebrate this deep-rooted British culture of freedom, or to hark to a time where freedom and liberty seemed to be more commonplace than they are in modern Britain.

However, to many modern scholars concerned with political and social liberties in the United Kingdom, they argue that there is no 'golden age' of freedom lurking somewhere in the British distant past (Gearty, 2007:30), and to suggest such a 'golden age of liberty existed would show a serious lack of historical perspective (Ewing, 2010: 15). One of the criticisms directed at A.J.P. Taylor's (1975: 1) observation, for example, is that the individual described by him is most likely a reflection of himself; a well-off middle-class Englishmen, whereas the situation would be considerably different if this individual were to be working class, poor, Irish, or one of the "criminal classes" as those were the social elements mainly victim of the long-developed and sophisticated security apparatus of the state by 1914 (Joyce, 2013: 318). So, what happened to this British democracy which was one day synonymous with liberty and freedom, a society which prides itself in the words of David Hume who wrote in 1752 of it being the "guardian of the general liberties of Europe and patron of mankind"(Ewing and Gearty, 1990: 1)?

To make a few basic concepts clear, the liberal state in question here can be explained in a few words as a state that systematically deploys political freedom as a method of governance (Joyce, 2013: 3). An understanding of freedom would be the suggestion that people are able to go about their business without being subject to unnecessary constraints, particularly of the kind imposed by government and executive power (Gearty, 2007: 10). Gearty (2007) emphasises the word 'unnecessary' here to explain that there are different views on situations where intrusion on liberty is permitted to certain degrees, just like when John Stuart Mill (1974:68) argued that the only purpose for which power can be rightfully exercised over anyone against their will, is to prevent harm to others; but generally the idea of the abovementioned approach is to be

presumptively resistant to anything that obstructs what individuals want to do. A further crucial point made by Joyce (2013: 5-6) is that the understanding of 'freedom' and the liberal state it spawns had always been more about governing people rather than freeing them from government; he claims that the state of Britain has therefore traditionally been in essence a state of freedom, but the case is argued that Britons are most governed when they assume that they are most free. To use a more appropriate term in describing governance in Britain, Joyce (2013: 29) ditches the word 'liberalism' for the term "organised freedom" in order to be allowed to conceive of 'freedom' as a political rationale that could aptly describe the kind of political regime where it is most fully realised, namely political liberalism.

So in order to create historic context for the modern discourse on freedom and liberty in British society, we understand that a "golden age" of such did not exist in the past. Many scholars go back to the *Bill of Rights Act 1688* where it is often suggested that parliamentarians had all the freedom they needed in order to legislate without direct interference from the Crown, however it was still an era where those 'parliamentarians' were merely representatives of a gendered, propertied elite rather than representatives of the mass of people who were not able to join the process of electing them (Gearty, 2007: 38). The democratic era, if we may call it, was only theoretically realised in April 1928, where a government Act lowered the voting age for women from 30 to 21, putting them on a somewhat equal plane as men (Taylor, 1975: 262). It is important for us then to highlight that our era of properly assessing the claim of Britain being a free society should only start from the 1920s onwards. Reason being, as Gearty (2007: 61) puts it, is that the right to vote constitutes the most important of all civil liberties that an individual can possess in a representative democracy; it establishes for the individual a role in the process of debate and discussion that is the hallmark of a free society.

Over the years, the British culture of liberty was seen to be more significant than formal legal rights; the duty of protecting the people's rights was left as the duty of the executive, legislature, and judiciary (Lester and Clapinska, 2004: 64-5). Before the era of the European Convention on Human Rights, the British had traditionally believed in

the supremacy of the Rule of Law[1], and assumed no need for written constitutions and fundamental rights; parliament would make or unmake the rules at its own will (Lester and Clapinska, 2004: 65). One major exponent of this argument was Albert Venn Dicey (1959: 188) who insisted that the British common law was sufficient to protect civil liberties in this country; hence a single constitutional document was unnecessary. Criticising this approach was not a difficult matter as the belief that regular law may confer arbitrary power was not farfetched; examples were cited during that period by scholars who pointed at the *Defence of the Realm Consolidation Act 1914* and the *Emergency Powers Act 1920* as an illustration of the flaws in Dicey's suggestions (Ewing and Gearty, 2000: 7-8).

Defence of the Realm Acts 1914-1915 were legislation rushed through parliament to give government wide-ranging powers to make regulations without reference to Parliament, introducing far-reaching restrictions on freedoms of assembly, association, and expression (Ewing and Gearty, 2000: 37). *The Emergency Powers Act 1920* was an example where legislation would allow ministers to take certain, potentially extreme measures, in any situation where certain preconditions are met; the Act was put to use, for example, to suppress industrial actions, general strikes, and various incidents of labour unrests throughout the 1920s and 1930s (Ewing and Gearty, 2000: 15,155-6). The principle of the Rule of Law was seen here to keep order at a terrible cost to the civil liberties of members of the labour movement. The suggestions of the Rule of Law being a protector of civil liberties has been criticised by British historian E. P. Thompson (1975: 259) who argued that the Rule of Law is actually rule of class by law where, while it provides equality under the law, it does protect certain interests over others between unequal individuals. In the British common Law during that era, there were no laws protecting the right to political liberty, specifically the right to freedom of assembly or freedom of expression; rather there were laws protecting individuals from arbitrary punishment if they had not broken the law (Ewing and Gearty, 2000: 31).

[1] Rule of Law, as explained by Dicey (1959:188-95), has three main conceptions, those are:
i) No one is to be arbitrarily punished except in breach of law established before the ordinary courts,
ii) Everyone is equally treated under the same ordinary law,
iii) The Rule of Law is an amalgamation of judicial decisions which eventually constitutes the constitution.

The verdict on protection of civil liberties during the twentieth century until the end of World War Two was one that suggested the law did not serve as a protector of civil liberties, rather it served in many circumstances as a tool deployed by the authorities to root out any displays of energetic political activism on the ground (Ewing and Gearty, 2000:416). In 1944, as a consequence of the large scale atrocities committed by Nazi Germany becoming more visible, there was a widespread European interest in the protection of human rights against government misconduct (Hoffman and Rowe, 2010: 28). As a brief note, we do not mean here to conflate civil liberties with human rights; the purpose of civil liberties in contrast to human rights is to promote and encourage political participation, it is about freedom *to* rather than freedom *from* (Ewing and Gearty, 2000: 33). When the *European Convention on Human Rights* (European Court of Human Rights,1950) was signed in Europe in 1950, there was no political pressure in Britain to enact a similar statement on basic rights, mainly due to Britain not experiencing direct Nazi rule or occupation (Hoffman and Rowe, 2010: 26). Attlee's post-war cabinet thought it unnecessary to incorporate the guarantees of freedom into British law as they saw the British constitution as being the "envy of the world" (Ewing and Gearty, 1990: 2). Not long after and throughout the era of Margret Thatcher and the Conservative Party, Britain became one of the most consistent transgressors against human rights in the Council of Europe, with two examples being the Malone v UK 1985 and Halford v UK cases 1997 which both involved UK government breach of Article 8 of the Convention, the right to respect of private and family life (Ewing and Gearty, 1990: 2-3; Hoffman and Rowe, 2010:117-8).

In 1988, a well-respected journal *Index on Censorship* dedicated an entire month's issue to assess the situation in Britain; the authors lament a whole society which seemed to have lost its will to welcome diversity of opinion (Hoffman, 1988: 2). The journal's editor Matthew Hoffman (1988) wrote "if freedom is diminished in the United Kingdom, where historically it has deep roots, it is potentially diminished everywhere." Writing in the same periodical, Ronald Dworkin (1988: 7) claimed that "Liberty is ill in Britain." It has been the case for years now, and there is plenty of evidence which will be discussed here to suggest that the situation of freedoms and civil liberties did not improve under the series of government succeeding Margret Thatcher. Lamenting

Thatcher's attack on the whole culture of liberty, Dworkin (1988: 8) described it as a "cheapening of liberty and diminishing of the nation." This was due to Thatcherism turning liberty into a commodity to be enjoyed only when the political, commercial, or administrative price to be paid for it is negligible (Dworkin, 1988: 8); in other words, the 'liberties' provided are to be within the comfort level of the established governing party. This view supports that of Joyce (2013: 5) who argued that the British liberal state is one which constantly intervened in the citizens' daily lives, public and private, so that they would lead lives actively practicing freedom - freedom, that is, according to how those in political authority view and accept it.

Civil liberties in Britain were in a state of crisis during and after the Thatcher years for a few reasons: Britain saw an unprecedented extension of police powers; the introduction of intrusive statute for the state to intercept communications; a wide variety of restrictions on freedoms of assembly and public protest; the use of national security claims to justify limitations on press freedom; and the extension of security services powers without proper or sufficient democratic oversight (Ewing and Gearty, 1990: 255). In the opinion of Ewing and Gearty (1990), the reason for this problem was the political system which allowed major concentration of powers in the hands of the executive without an effective system of checks and balances.

By accepting liberty as an ideal, we must insist that government may not use the excuse of "overall national interest" to censor opinions or regulate the convictions, or control what individuals read, write, hear, or say (Dworkin, 1988: 7). A variety of philosophies converge on the importance of protecting civil liberties, mainly that democracy would not survive unless individuals have access to every source of information and are free from government censorship; a Kantian view sees that a citizen's dignity is compromised when they are deprived of their voice or the voice of others as this takes away the autonomous personality they must possess if they are to be free; and last but not least an egalitarian defence assumes that citizens are not treated as equals in the case a few happen to be prohibited from expressing their case, however unpopular it may be (Dworkin, 1988:7-8). The above mentioned defences of liberty would unite in suggesting

that, for sustaining the culture of liberty: liberty of speech, conviction, and information should be considered fundamental human rights (Dworkin, 1988:7).

As we learn from the above, the subject of freedom in Britain can be mapped on a graph where it would go up and down rather than always be on the rise. This is important for us to contextualise modern claims by prime ministers who talk and act in different ways when it comes to preserving and defending liberty. In his speech on global terrorism, Tony Blair (2004) said "the struggle which engages us, it is a new type of war [...] it demands a different attitude to our own interests." In the case of Tony Blair, his speech described a situation where the main paradox on civil liberties is played out in a brutally honest fashion; this is a case of leading members of government publicly asserting an extremely high level of terror threat in order to justify unprecedented controls on civil liberties (Gearty, 2007: 44). The culture of liberty under Blair's New Labour was described to have been much worse than Thatcher, making some critics "pine for the halcyon days of freedom under Thatcher" (Ewing, 2010: 7).

Come New Labour in the 2000s, multiple counter-terrorism legislation entered the fray, with the most notorious being the *Terrorism Act 2000* which was also seen as a benchmark in the decline in civil liberties in Britain (Gearty, 2007:46). For context on the history of terrorism-related legislation in the UK, the first legislation of its kind directed at counter terrorism was created as a response to a resurgence in Irish Republican Army activity, it was the *Prevention of Violence Act 1939* (Gearty, 2007:42). Some years later came the *Prevention of Terrorism Act 1974*, it signalled the first official use of the word 'terrorism'; this legislation was described as 'Draconian' by its sponsor Home Secretary and was seen as the 'last gasps of liberal culture in Britain' at that time, decades before the emergence of *Terrorism Act 2000* (Gearty, 2007: 42). New Labour's *Terrorism Act 2000's* definition[2] of 'terrorism' was so broad it would have caught the suffragettes and striking miners if it had been in force in earlier years; the definition is still applicable today to individuals who advocate a violent overthrow of despotic regimes overseas (Ewing, 2010: 10). Under New Labour, some of the main challenges to what Ewing (2010: 221) dubbed as 'core freedoms' were: freedom of association, due to growing

[2] See page 29.

number of proscribed organisations; freedom of assembly, due to abuse of stop and search laws against anti-war and environmental protestors; and last but not least freedom of expression, as laws preventing "glorifying of terrorism" were in place. The aforementioned will be discussed in detail within the main scope of the third chapter of this work.

Under New Labour, some of the European Convention rights were incorporated into UK law in the form of the *Human Rights Act 1998* (Hoffman and Rowe, 2010: 3). This incorporation of Convention rights into domestic law was seen by British judges such as Sir Thomas Bingham in the 1990s as one which would restore the country to its former place as an international standard bearer of liberty and justice (Ewing, 2010: 11). However, after assessing New Labour's legacy, the *Human Rights Act 1998* was seen as a "shroud rather than elixir"; it was seen as ineffective as British citizens continued to rely heavily on the European Court of Human Rights to maintain a protection of personal liberty in cases such as the DNA database, the role of secret evidence involving terror suspects, and the treatment of demonstrators by police at a variety of major protests (Ewing, 2010: 265).

Current Prime Minister David Cameron (2014) is "proud of what Britain has done to defend freedom." Yet he is considering a measure, for example, to amend the *Freedom of Information Act 2000* in order to enable officials to withhold information from the public (Cook, 2015). Britain today remains obsessed with the secrecy of official information; the *Official Secrets Act 1989* and *Contempt of Court Act 1981* were not at all affected by New Labour's human rights culture (Ewing, 2010: 179). It is suggested that only if there was full and legal access to governmental information and records, would the British government become truly democratic and accountable, only then would its citizens have a meaningful right of participation (Austin, 2004: 402). Cameron (2015a), also ironically celebrated Magna Carta's legacy on its 800th anniversary by stating that he is determined to lead a governmental action to "sort out the complete mess of Britain's human rights laws" by scrapping *Human Rights Act 1998*. Many scholars have, since the introduction of the *Human Rights Act 1998*, repeatedly emphasised its significance and the need to build upon it as it is the first major step in

British history akin to a modern Bill of Rights, and the first document in British law to contain a comprehensive statement of individual, fundamental rights (Hoffman and Rowe, 2010: 23; Lester and Clapinska, 2004: 73).

This chapter has set out to present the background behind the United Kingdom's self-image of being an archetype of freedoms and liberal democratic values. We have presented a few examples from the literature which can be seen as evidence of the UK being celebrated for this self-image, however we have also presented plenty of historic evidence and academic arguments that show there was never a 'golden age' of liberties in the distant history of the UK. The chapter then closely examined the Thatcher-era, followed by a brief examination of the consecutive governments' role to create a basic understanding of the situation of freedoms under each government's tenure. Through our brief examination of the situation of political and social freedoms, we learned that the 'free' society the UK is often claimed to be is not quite a plausible reality. The second and third chapters of this work will conduct a close examinations of a set of freedoms and how they are upheld by the government, the examinations will be aiming to assess the level of truth in the claim that the UK can be considered a 'free society' or an archetype of liberal democratic values.

Chapter II

A governmental assault on the right to privacy

This chapter will focus on how the right to privacy, considered an essential pre-requisite in a liberal democratic society (Bennett and Raab, 2007: 338), is being threatened by a variety of intrusions and legislation implemented by successive UK governments in recent years, with a special focus on the current government's relentless push for the *Investigatory Powers Bill 2015-16*, also dubbed as "snoopers' charter." Article 8 of the *European Convention on Human Rights*, which in itself was principally incorporated into UK law in the shape of the *Human Rights Act 1998*, suggests that "Everyone has the right to respect for his private and family life, his home and his correspondence" (European Court of Human Rights, 1950; Hoffman and Rowe, 2010: 409). Today, we have an abundance of academic work citing the essential value of the right to privacy in a free liberal democratic society (Westin, 1967: 25; Inness, 1992: 15-24). Alan Westin (1967: 24-25), considered an authority on the subject of privacy and freedom, has written on the functions of privacy in a liberal democracy being:

i) To promote freedom of association,

ii) to protect scholars and scientists from unnecessary government intrusion,

iii) to permit the right to secretly participate in elections using secret ballot,

iv) to restrict law-enforcement's improper conduct,

v) to shield institutions like the press, interest groups, and other governmental agencies whose work is required to keep government conduct responsible.

We aim to present briefly a sample of the abundance of scholarly work that has been done on the value of privacy in any free liberal democratic society in order to later evaluate the threat posed by surveillance and government intrusion. Scholars have argued that liberal democracy theory is indeed based on defending individual privacy and denying that same privacy to the government (Shils, 1996). Bloustein (1964), for one, has argued that privacy is essential to guard an individual's needs against

conformist pressure. In his book *On Human Rights*, Griffin (2008: 225) has argued that without privacy, our autonomy is threatened; he explains that we as individuals often severely self-censor and are afraid of going against a strong social current due to our fear of disapproval, ostracizing, ridicule, and attack. Without privacy, argued Rauhofer (2008: 194), we risk a society made up solely of followers. We also have privacy advocating organisations like the Centre for Digital Democracy who talk of the importance of privacy in enhancing freedoms of speech and association, explaining that "by withholding identity, some may be more willing to voice political or controversial speech - thus promoting diversity in civil discourse" (Bennett, 2008: 20).

The idea of 'moral autonomy' - being able to control our own decisions and choosing our own course of action in life rather than living according to the wishes of others, an idea which sits at the core of European Convention's Article 8, suggests that every person should have some freedom to be allowed to improve their life and lifestyle, fulfil their personal aims and aspirations, as well as develop their individuality (Hoffman and Rowe, 2010: 250). And so, we turn our discussion into some methods of surveillance which are viewed to infringe on this right to privacy. Scholars have not shied away from bluntly suggesting that surveillance and democracy are polar opposites. Haggerty and Samatas (2010) and Rule (2007) argued that surveillance curtails personal freedoms, inhibits democracy, and ultimately leads to totalitarianism; and so it may be considered a polar opposite to democracy and a sinister force that threatens personal liberties. Surveillance, as defined by Lyon (2001: 2) is "any collection and processing of personal data, whether identifiable or not, for the purposes of influencing or managing those whose data have been garnered." However, Lyon (2007:14) later expands on surveillance, saying it is the "focused, systematic and routine attention to personal details for purposes of influence, management, protection or direction."

While New Labour's passage and implementation of the *Human Rights Act 1998* was seen to spawn a fresh culture of liberty, it has been argued that a large set of powers have been extended, re-enacted, or introduced for the first time directly hindering citizens' privacy (Ewing, 2010:54). Labour's introduction of *The Regulation of Investigatory Powers Act 2000* (RIPA) and launch of Interception Modernisation

Programme were seen to introduce a world of random surveillance that was no longer 'focused and systematic', as we have stated in the abovementioned definition from Lyon (2007); this was viewed by some to be ominously comparable to the world of surveillance introduced in George Orwell's novel *Nineteen Eighty-Four* (Ewing, 2010:53). A 2009 report compiled by the Convention on Modern Liberty had reported that almost 60 new powers contained within 25 Acts of Parliament have lead to the 'permanent erosion' of freedoms and civil liberties since 1997 (Savage, 2009). The report had claimed that "the right to privacy has been eroded, perhaps permanently, by broad powers to intercept, collect, store and share our private information," with one of the people behind the report, Henry Porter, claiming that there was "little doubt that there is a crisis of liberty in Britain" (Savage,2009).

Six years ago, before they became part of government, the Conservative Party made a pledge to "reverse the rise of the surveillance state" that evolved largely under New Labour's tenure (Travis, 2009). That pledge did not last long as the Conservatives were accused of a U-turn a few months into their coalition government with the Liberal Democrats as they planned to resurrect the Intercept Modernisation Programme, a programme which would allow the security services and the police to spy on and intercept the communications data of everyone using a phone or the internet (Deane, 2010). The programme itself was previously scrapped during the final year of Labour government due to lack of support and security fear (Mitchell, 2012). Despite it being previously criticised by the Liberal Democrats and Conservatives while in opposition, the programme was reintroduced under the new name Communications Capabilities Development Programme with an estimated cost of £2 billion (Mitchell, 2012). Guy Herbert (2012), general secretary of NO2ID campaign group, said this programme "is beyond the dreams of any past totalitarian regime, and beyond the current capabilities of even the most oppressive state," warning that something that aims to make surveillance easy will create more demand for surveillance, ultimately jeopardising the concept of privacy overall.

In summer 2013, a series of high-profile revelations delivered by Edward Snowden, an ex-contractor with the American National Security Agency (NSA), revealed that the UK

government was among others like the American and Canadian governments, engaged in astonishingly large-scale monitoring of its population (Lyon, 2015:71). The British Government Communications Headquarters (GCHQ), via programs like 'Tempora', was secretly accessing and scooping as much online and telephone traffic as possible without any form of public acknowledgement or debate (MacAskill et al., 2013). Snowden himself said of the GCHQ's programme 'Tempora' that it "snarfs everything, in a rolling buffer to allow retroactive investigation without missing a single bit" (Storm, 2013). The documents revealed that, only in 2012, the GCHQ had handled 600 million "telephone events" per day, had tapped and processed data from more than 200 fibre-optic cables and was operating with little oversight compared with the NSA, leading to it being referred to as an "intelligence superpower" (MacAskill et al., 2013).

Lyon (2015: 70) points out to the irony here in that the GCHQ's surveillance used to be about 'targeting', which by definition was relatively limited in scope, yet it is now engaged in 'targeting everyone' which is an oxymoron in itself. "When the self can be technologically invaded without permission and even without the knowledge of the person," wrote Marx (2001:158), then "dignity and liberty are diminished." In the context of the UK, it has been repeatedly argued that the indiscriminate collection of communications data offends the basic doctrine of the rule of law; it is the principle that citizens should be made aware in the event where the state engages in surveillance, and that is so the citizen may regulate their behaviour to avoid unwarranted intrusions (Mitrou, 2010: 135). It has also been put forward that government activity that chill communication or inhibit the use of communications services would amount to an interference with an individual's right to respect for their private life, which in itself is a breach of Article 8 of the *European Convention on Human Rights* (Mitrou, 2010:132).

It is important to highlight that the GCHQ mass surveillance programs revealed by Snowden were being operated in a murky legal zone; the GCHQ had operated by applying old law to new technology, meaning a few obscure clauses in the *Regulation of Investigatory Powers Act 2000* (RIPA) were being exploited by the GCHQ to collect and process data regardless of whether it belonged to identified targets or not (MacAskill et al., 2013). As a response to mass surveillance revelations, the government attempted to

legalise the data collection activity by rushing emergency law *Data Retention and Investigatory Powers Act 2014* (DRIPA) in a move that was described by some Members of Parliament as "democratic banditry resonant of a rogue state" (BBC, 2014). Home Secretary Theresa May justified the bill by saying it "merely preserves the status quo"; MPs later passed the emergency legislation despite criticism (BBC, 2014). MPs David Davis and Tom Watson, supported by Privacy International, Liberty, and other organisations, brought a challenge to the High Court against DRIPA; the challenge was upheld on the anniversary of the bill receiving Royal Assent, it was ruled as unlawful due to sections 1 and 2 being incompatible with the citizens' right to respect for private life and communications and to protection of personal data under Articles 7 and 8 of the EU Charter of Fundamental Rights (Martin, 2015). The ruling was significant in that the UK government was ordered to comply by European law which forbids blanket data retention measures that are not accompanied by a strict regime regulating access to retained data, the ruling also served as a timely restraint on the government's "seemingly insatiable appetite" for new surveillance powers (Nyst, 2015).

We will see in the following section that the claim of the government's insatiable hunger for more surveillance is not unwarranted, it is evident through the government's relentless push for what has been dubbed as the "snoopers' charter." During the 2010-2015 coalition government, Home Secretary Theresa May proposed a timeline to introduce the controversial *Communications Data Bill*, nicknamed "snoopers' charter" by critics of the bill's web monitoring proposals; May was hoping it would reach the statute book and become "in play" before the 2015 general elections (Travis, 2012). To May's disappointment, leader of the Liberal Democrats Nick Clegg had pledged that the bill would not reach parliament as long as his party is in government (Brewster, 2013). The Liberal Democrats continued to block any attempts made by the Home Secretary to resurrect what they called the "snoopers' charter" throughout the term of the coalition government (Press Association, 2014). However, during the early morning hours as the 2015 general election results were still coming in, indicating a Conservative Party majority in parliament, Theresa May was very quick to declare that her party now plans to revive the "snoopers' charter" after it was blocked in the coalition (Hyde, 2015).

The "snoopers' charter" is back under the name *Investigatory Powers Bill 2015-16*, and has been moved to be introduced in parliament by Theresa May in March 2016. The *Investigatory Powers Bill 2015-16* aims to solidify the already existing powers for the police, security, and intelligence agencies, and in addition it will provide the agencies mentioned with new powers for the retention of internet connection records and bulk connection of communications data. The bill would force internet providers to store browsing records for 12 months whilst authorising law enforcement, security and intelligence agencies access for the data, while at the same time suggesting privacy safeguards in order to address the fears of civil liberties and privacy advocates (Home Secretary, 2016). However, as we have seen in the *Data Retention and Investigatory Powers Act 2014*, deemed unlawful by the high court, the new *Investigatory Powers Bill 2015-16* aims mainly to give legal backing for the already ongoing bulk collection of internet traffic which came to light due to Edward Snowden's revelations (Shaw, 2016).

Before being introduced to parliament in March 2016, a draft version of the bill was published in November 2015 by the Home Office (2015); the draft was put forward for review and consideration by a variety of parliamentary committees and other interested parties. In the Joint Committee on the Draft Investigatory Powers Bill (2016) report, the Committee suggested many parts of the draft bill were too broad, open-ended, and often fail to justify the need for the power; to list a few, the Committee saw that no formal case was made to justify the retention of 'Bulk Personal Datasets', no case to justify the bulk communications data retention, no clear definition of 'national security', and also pointed out that it is possible the bulk interception and equipment interference powers did not comply with Article 8 of the *Human Rights Act 1998*. Besides the Joint Committee, the draft bill was criticised by three parliamentary committees overall, mainly for handing far-reaching powers to the state without being comprehensible in its text (Demianyk, 2016). We also have the information commissioner's office, which had contributed to one of the parliamentary committees' reports, who heavily criticised the draft bill for "attacking individuals' privacy", focusing mainly on the proposed requirement on communications providers to store data for 12 months (Hern, 2016).

Theresa May had claimed that the bill, presented to parliament on the 1st of March 2016 in its revised form, had taken into consideration the majority of recommendations made by the House of Commons Science and Technology Committee, the Intelligence and Security Committee of Parliament and the Joint Committee of both Houses of Parliament which had all convened to scrutinise the draft bill (Home Secretary, 2016). Despite the claim, the *Investigatory Powers Bill 2015-16* saw expanding powers; for example the access to internet connection records is now to be available when deemed "necessary and proportionate" in pursuing investigative leads, despite being rather limited under the first draft published by the Home Secretary (2015). In *The Telegraph*, a letter was published calling on the government to not rush the *Investigatory Powers Act 2015-16* as, given the critical recommendations made by the three parliamentary committees, the passage of the bill this year "would not be in the nation's interest;" the letter was signed by over 100 notable experts, heads of campaign groups, politicians, and academics (The Telegraph, 2016). Critics contend that the GCHQ had failed to persuade the Intelligence and Security Committee of the need to retain the power for bulk equipment interference, a power that allows for the mass hacking of electronic devices worldwide (Anderson, 2016). They also saw the proposal which requires communications providers to retain internet connection records for 12 months as an undue invasion of privacy, considering the access to the records may be self-authorised by the police (Anderson, 2016).

The revised bill is set to give law-enforcement powers to access internet records and hack into suspects' electronic devices, as well as order internet service providers to hold on to browsing history information of all their users for 12 months, and handling them to the authorities when asked to (Investigatory Powers Bill 2015-16; Demianyk, 2016). There are strong fears that intrusive surveillance may not only violate individual privacy, but can also inhibit freedom of expression; Jurgen Habermas (1989) is for example one to remind us of the value of open public debate and free press in nurturing democratic governance, methods of surveillance that regulate and inhibit dissent pose a danger to the debate and information that we put forward to the public sphere. When citizens become aware of the increased transparency of their behaviour and communications, they will self-censor, avoid the public sphere, and would therefore harm the level of

participation and debate in a democracy (Haggerty and Samatas, 2010:5). Routine data retention of the sort the government seeks through the *Investigatory Powers Bill 2015-16* does encroach on the private lives of most citizens and hence endanger the fundamental freedoms that people enjoy and cherish (Mitrou, 2010: 138).

One of the controversial aspects of the *Investigatory Powers Bill (2015-16:14)* powers is that a warrant may be issued not only in the interest of national security, preventing or detecting serious crime, but also in the "interests of the economic well-being of the United Kingdom." The Home Secretary had told MPs that she had rejected the parliamentary committees' recommendations to exclude the use of the powers for the "economic wellbeing of the UK", and she had also informed them that she resisted requests to scrap GCHQ bulk computer hacking powers and mass collection and storage of everyone's communications data (Travis, 2016). One member of the scrutiny Committee on the draft bill, Lord Strasburger, has expressed frustration at the Home Office's complete lack of genuine interest in privacy; he also accused the Home Secretary of showing no respect to the parliamentary committees by trying to force the bill through parliament on a quick timescale (Travis, 2016). The UN's special rapporteur on privacy has also strongly criticised the bill saying it sets a bad example to other states, he used his maiden report to the Human Rights Council to ask the British government to "outlaw rather than legitimise" the bill's provisions for bulk surveillance and bulk hacking (Martin, 2016a). At the time of writing, the bill had passed second reading vote without much opposition in the House of Commons; it is now predicted by analysts that the bill will become law by the end of this year (Martin, 2016b).

Our liberty in this country is under siege; a world where our every action and communication is observed erodes the very freedom this snooping is often calculated to protect (Wacks, 2015:14). It has been repeatedly argued by scholars and national courts that communications and information privacy are essential for a democratic constitutional order as this privacy enables citizens to develop their own identity and ideas to engage in Public life (Mitrou, 2010: 143); even Snowden (2016) saw privacy as being "the foundation of all other rights." Back in 1978, the European Court on Human Rights had stated that dismissing privacy and freedom infringements as merely a

collateral damage of security efforts threatens to "undermine or even destroy democracy on the ground to defend it" (Mitrou, 2010:143). This chapter had aimed to highlight a governmental assault on individual privacy that has become a recurring trend over the past twenty years; the chapter had focused on a recent push for legislation that aims to legitimise and solidify rather than curb intrusive mass surveillance. As of yet, there does not seem to be any pause on the chain of events directly inhibiting privacy and indirectly threatening democracy and civil liberties; the governmental push to introduce intrusive legislation is indeed ruthless and keeps coming in all shapes and forms, ultimately confirming the crisis of liberty in the UK that we are discussing in this work.

Chapter III

British Muslims Under the Government's Magnifying Glass

The United Kingdom, seen as a pluralist democracy which enshrines fundamental freedoms and liberties for its citizens, has been put to test in recent years with regards to its relationship with the British Muslim community in the shadow of the 9/11 attacks in the USA. This chapter will see a focus towards the Muslim community in Britain; we will assess the level a set of rights and liberties are upheld, especially with the onset of a multiplicity of counter-terrorism legislation and strategies adopted by the UK since the turn of the century (Hewitt, 2008:xiii-xxiv). Many notable experts have shared the view that the UK response to 9/11 has seen legislation passed which erodes core British democratic values (Staniforth, 2013:354-58). British Muslims in particular did not only face a growing level of Islamophobia in Britain, but were also identified as a 'threat' by many governmental organisations (Rex, 2005:237). While the architects of Britain's counter-terrorism strategies have often stressed that the rule of law and international human rights are to be upheld in all counter-terrorism efforts (Gearson and Rosemont, 2015: 1044), many viewed this effort to have singled out Muslim Britons, and at times critics have gone as far as to suggest the efforts have lead to an emergence of a police state (Hewitt, 2008:114).

To build our case on the eroding liberties of a portion of the British society in the name of security, we will approach the topic by generally analysing the UK's counter-terrorism response after 9/11. The chapter will later shed a spotlight on the impact of the UK Counter-Terrorism Strategy (CONTEST), with a specific focus on the Prevent strand of CONTEST (Home Secretary, 2011). We will also highlight the impact of the most recent *Counter-Terrorism and Security Act* (*2015)*, an Act which has been viewed by some critics as "extremism in the name of security" directly threatening what they described as values held dear by the British people (Nabulsi, 2015). Earlier in the first chapter, we talked briefly about what Ewing (2010:221) considered to be a set of core freedoms

which are under challenge due the UK's counter-terrorism strategy, those were freedom of association, freedom of expression, and freedom of assembly. The freedoms which we will argue are diminished for members of the Muslim community are clearly enshrined in the *Human Rights Act* (*1998)*; the act sets out openly to protect freedom of thought, conscience and religion; freedom of expression; and freedom of assembly and association in articles 9, 10 and 11 respectively.

John Stuart Mill (1974:75), among many other British writers, was one to vehemently express that prescribing opinions to people and choosing what doctrines or arguments they are allowed to hear is a feature of corrupt or tyrannical government. While it is not right to preach hate against other people or cause them to be afraid, it is not right to limit free speech in a free society except in the most extreme and clearly defined cases; those include when there exist elements of incitement for violence, intimidation or coercion (Mill, 1974:141; Hoffman and Rowe, 2010: 307; Staniforth, 2013:239). Even Mill (1974:119) has acknowledged that the liberty of the individual must be limited if it sets out to do harm to others without justifiable cause. The problem we face here, we argue, is that the UK government through different legislation has set to conflate between extremism and violent terrorism; on the contrary, a liberal, pluralist and democratic society is supposed to be one where a wide range of political views should not only be acceptable, but also desirable (Staniforth, 2013:329). It is important to remind ourselves that there are limits to free speech; inciting violence is indeed a criminal offense and a perpetrator is usually punished according to criminal law, meanwhile holding 'extremist' views which may cause offense to others is not a criminal offense (Cottee, 2015). This chapter will not only highlight the counter-terrorism impact upon the Muslim community in Britain, it will draw attention to the fact many people are labelled and isolated by the UK authorities merely for holding 'extremist' views, despite the fact it is neither a criminal offence nor terrorism to hold such a view (Staniforth, 2013: 329).

In UK law, there is provision for the proscription of organisations under *Terrorism Act 2000* that may include any organisation which the Secretary of State believes is concerned in terrorism; this was seen to potentially clash with Article 11 of the *Human*

Rights Act 1998 on Freedom of Assembly and Association (Hoffman and Rowe, 2010: 319). For example, plans to ban Hizb Ut-Tahrir by the Blair government in 2005 were opposed by figures within the government and police; a representative of the Association of Chief Police Officers expressed "I have not seen anything suggesting they have apologised for or glorified terrorism. I might not like their views, but that does not mean they are criminal and that is an important distinction we have to make" (Hewitt, 2008:115). To the great dislike of David Cameron as leader of the opposition, the plans to ban the Islamist group were eventually shelved by Prime Minister Blair due to pressure from intelligence chiefs and civil liberties groups who argued that banning a non-violent group could backfire and set a negative precedent (Morris, 2006). *Terrorism Act 2000* and later *Terrorism Act 2006* have led to the proscription of a wide variety of organisations, and many of them had included groups concerned with Kurdish independence, political reform in Iraq, the overthrow of the Egyptian government, and the independence of Kashmir; membership of any proscribed group would now be a criminal offense (Ewing, 2010:184).

The legal definition of terrorism in the UK was set in *Terrorism Act 2000,* it consists of an act that aims to intimidate the public or influence the government by causing serious harm or endangering a person, causing serious damage to property, causing serious risk to the health or safety of the public or seriously disrupting an electronic system in order to advance a political, religious or ideological cause. The aforementioned definition has prompted critics like Gearty (2007: 37) to write:

> "With these remarkable expansions of definition, terrorism law burst its original banks in the criminal law and overflowed in the direction of direct action, civil disobedience, and of political protest generally."

However, in *Terrorism Act 2006,* the offenses that fell under 'terrorism' as defined now included not only encouragement or incitement to commit such an act, but also the glorification of an act as defined above. We referred in the first chapter to the fact that the definition as set by *Terrorism Act 2000* was so wide that it would have included the suffragettes or striking miners had it been in place decades earlier, but the 2006 inclusion of 'glorification of terrorism' as ground for proscribing organisations added

further complication to the debate (*Terrorism Act 2006)*. The amendments put forward in *Terrorism Act 2006* were seen to interfere with the *Human Rights Act 1998's* Article 10 on freedom of expression, and potentially freedom of association under Article 11 due to the fact it was now an offense to have attended a place used for terrorism training without necessarily being involved in an act, as well as the fact there was now ground to proscribe more organisations which 'glorify' terrorism (Hoffman and Rowe, 2010:372). Returning to Mill's (1974:115-6) defence of liberalism *On Liberty,* he warned of a high likeliness of missing out on important truths by silencing opinions rather than engaging or contesting said views; he warned that not the violent conflict between parts of the truth, but rather the quiet suppression of half of it that is the formidable evil, consequently hardening prejudice and exaggerating falsehood.

This leads us back to the problem of conflating terrorism with radicalism or extremism. Various experts such as terrorism scholars John Horgan and Jamie Bartlett have put forward their case that research today shows that the suggestion that radicalisation leads linearly to terrorism is nothing but a myth, they further elaborate that there is evidence the majority of people holding radical views do not engage in violence, as well as evidence which increasingly shows that people who engage in terrorism do not necessarily hold radical beliefs (Knefel, 2013). This has prompted Andrew Silke who serves on the UN Roaster of Terrorism Experts and the European Commission's European Network of Experts on Radicalisation to comment that, by fitting the right age, gender and the right social demographics which push and pull individuals towards extremism, hundreds of thousands could fit the crude profile of a potential terrorist yet only a handful actually become a terrorist (Staniforth, 2013: 329). It is fairly accepted by most terrorism scholars that there is no single explanation for why individuals turn to terrorism (Gearson and Rosemont, 2015:1050). Yet, we see today a highly controversial government push for counter-extremism and counter-radicalisation measures, to be discussed in the subsequent paragraphs.

In Britain, Tony Blair's government introduced CONTEST, its main **co**u**n**ter-**te**rrorism **st**rategy, after the Madrid bombings in March 2004 (Hewitt, 2008: 98). CONTEST has been upheld and amended by successive governments, but the essence of it remains

almost the same since 2003 (Gearson and Rosemont, 2015:1038). CONTEST consists of four main principles, dubbed as the 4Ps, those are:

i) Pursue: to stop terrorist attacks;

ii) Prevent: to stop people becoming terrorists or supporting terrorism;

iii) Protect: to strengthen protection against a terrorist attack;

iv) Prepare: to mitigate the impact of a terrorist attack (Home Secretary, 2011).

The tone of the Blair government at the time was seen as to have demonized some or all British Muslims; examples include Foreign Office minister Dennis MacShane who called upon British Muslims to choose between the 'British way' and 'terrorism,' another example is Home Office junior minister Hazel Blears who told a parliamentary committee that British Muslims would simply have to accept that "some of our counter-terrorism powers will be disproportionately experienced by them" (Hewitt, 2008: 112-113).

Our focus here will be on Prevent, the government strategy that attempts to prevent radicalization and extremism and is considered by many to be the most strategic and most controversial aspect of CONTEST (Gearson and Rosemont, 2015: 1045-9). The main strands of Prevent as set in 2008 were:

i) Challenging violent extremist ideologies and supporting mainstream voices;

ii) disrupting those who promote violent extremism;

iii) increasing community resilience to violent extremism;

iv) addressing the grievances that ideologies are exploiting;

v) and supporting individuals who are being targeted and recruited to the cause of violent extremism (Staniforth, 2013: 327).

The Communities and Local Government Parliamentary Committee (2010) held an inquiry into Prevent; their conclusion suggested that Prevent strategy had created an

environment where members of the Muslim community felt labelled as potential terrorists in all aspects of life in their community. A noticeable observation on the evolution of this strategy since its inception is that the latest revised version (Home Secretary, 2011) now aims to tackle all those who are deemed by government as extremists, especially in respect of Islamist extremism, rather than only the violent ones (Gearson and Rosemont, 2015: 1050). The key problem with Prevent, as seen by experts like Andrew Silke, was that despite the fact that less than one per cent of people who view or engage with 'extremist' information end up intending to commit a serious act in the real world, Prevent worked as if the figure was closer to 90 per cent as opposed to 0.01 per cent (Staniforth, 2013: 329).

Prevent did indeed lead to ample concern being raised where the policy was seen to unfairly target, or in extreme cases, was seen as to be unfairly spying upon Muslim communities (Staniforth, 2013:333). The policy's targeting of innocent Muslim Britons has only seen a rising criticism being levelled against the government in recent years; the policy had recently lost support among academics who were sympathetic to the early aims of Prevent, the loss of support was mainly due to the government enshrining a law which was seen to undermine academic independence and freedom of speech due to creating a legal obligation on the higher education sector to prevent radicalisation on university campuses (Gearson and Rosemont, 2015: 1049). Part 5 of the most recent *Counter-Terrorism and Security Act 2015* has set to expand greatly on the Prevent policy by setting out in statute legal responsibility upon a variety of specified authorities to monitor and actively "prevent people from being drawn into terrorism;" the specified authorities are listed in schedule 6 of the act, those include local governments, nurseries, educational institutions (including universities), as well as members of the health service. Plentiful of evidence has been presented by groups and organisations that show the expansion of Prevent only serves to erode trust within communities and lead to counter-productive results, especially since 'signs of radicalisation' as presented by the government may include someone's religion, foreign policy views, a distrust of civil society and 'mental health' (Liberty, 2015). A much needed trust in relationship between pupils and teachers as well as patients and their GPs is now being eroded by

the measures. What is also remarkable is that, by including nurseries, children as young as three years old may be monitored for signs of 'extremist' ideologies.

In a 2015 speech, UK Prime Minister David Cameron led the charge on tackling what he described as "non-violent extremism", he repeatedly said "it is not about clamping down on free speech" regardless of the fact he was introducing a government statute that recruits local authorities, police, schools and doctors to confront non-violent extremism (Cameron, 2015b). In his speech, Cameron (2015b) ironically described what is clearly clamping down on free speech as "just applying our shared values uniformly" in a tone that would very likely disturb the likes of classic defender of liberties John Stuart Mill (1974). Experts have seen this government's move to expand Prevent through legislation as accepting the limitations of government and intelligence agencies in challenging extremism, and instead placing a significant part of the burden of confronting this ideology on Muslim communities themselves (Gearson and Rosemont, 2015: 1051). Director of Liberty, Shami Chakrabarti, claimed that the extension of powers of Prevent signalled the biggest spying programme in Britain in modern times as it had recruited a wide variety of community members and authorities to map the dynamics of the Muslim communities, often seeking data that had little to do with violent extremism or terrorism, all in the name of security (IHRC, 2015).

Other controversial aspects of the UK's counter-terrorism legislation were the stop and search powers under Section 44 of the *Terrorism Act 2000*. The powers were described as 'lawful discrimination', particularly due to the disproportionate targeting of citizens of non-White appearance without grounds for suspicion (Ewing, 2010:210). To be specific, the Equalities and Human Rights Commission reported in 2010 that since 1995, stop and searches for Asian people and Black people had remained between 1.5-2.5 and 4-8 times respectively, compared to the rate for White people (Liberty, 2015). In 2010, of the 101,248 people who were stopped and searched under counter-terrorism powers, none were arrested or convicted of any terrorism-related offences (Travis, 2010). Even the Metropolitan Police Authority described the stop and search powers as doing 'untold damage' to community relations (Hewitt, 2008:113). In 2010, the counter-terrorism stop and search powers under Section 44 of *Terrorism Act 2000* were ruled illegal by the

European Court of Human Rights as it had violated rights under Article 8 of the European Convention on Human Rights (BBC, 2010). The court had said that the powers were "not sufficiently circumscribed" and missing "adequate legal safeguards against abuse," as well as concluding that the powers pose a real risk of discriminatory abuse (BBC, 2010).

With the recent *Counter-Terrorism and Security Act 2015*, we saw a resurgence of a similar arbitrary power; this was, under chapter (1) part (1), the power to seize and temporarily retain the travel documents of individuals suspected of leaving Britain with the intention to engage in terror-related activity; it is important to note that, as it was set in the act, the suspicion is merely the officer's as there does not have to be any grounds or evidence for the suspicion. Liberty (2015) had stated that it appeared odd that the Home Secretary Theresa May would legislate for a new power with a high fail rate and sure to risk injustice on individuals as well as perpetuate a climate of fear and suspicion, despite her recent recognition of the hugely prejudicial nature of previous stop and search powers. Chakrabarti, speaking on arming the police with broadly worded, discretionary power to stop and search or seize travel documents, has claimed that those powers only have a "negative impact on community relations and made [the powers] entirely counterproductive (Staniforth, 2013:356). A variety of organisations have expressed frustration at the new powers introduced in *Counter-Terrorism and Security Act 2015*, claiming that, based on evidence how previous counter-terrorism powers were used to disproportionately target Muslims, the new power to seize passports will lead to discrimination against Muslims and those perceived to be Muslim (IHRC, 2015).

In the scope of this chapter, we have aimed to look into the impact of a variety of terror legislation upon the British Muslim community; we have examined how government policy undermined a set of liberties that were supposed to be enshrined for UK citizens as a whole. There has been a lot of concern raised by experts in regards to: the UK's counter-terrorism strategy's compliance with the *Human Rights Act 1998*, distorted police powers not subject to robust oversight and resulting in few convictions, and collapse of trust and alienation of communities (Staniforth, 2013: 347). Commenting on

the impact of 9/11 on the UK, Assistant Chief Constable Jawaid Akhtar QPM, who also happened to be a Muslim, talked about how the general politicians' attitude that 'something had to be done' lead to the introduction of new unpopular laws disproportionate in their effects, causing the Muslim community to feel targeted and vilified, despite that not being the expressed intention of the politicians, according to Akhtar (Staniforth, 2013:355-6). We conclude this chapter by stating that, since 9/11, the Muslim community had been made into a suspect community in the UK; this has lead to the erosion of several liberties and British democratic values in the name of security. We understand the state's desire to maintain security and protect its citizens, but the singling out of the Muslim community has done more harm than good to intercommunity relationships in particular, and to the image of the UK as a bastion of freedoms and liberal democratic ideals for all its citizens in general.

Conclusion

In this work, we have argued that consecutive contemporary governments in the United Kingdom have set to erode a set of rights and liberties in the name of security and stability. We have aimed to take apart a widely acknowledged myth that the United Kingdom is a model of a free liberal democratic society; our study has looked into legislation and policy in the UK which contradicted this self-image of a 'free society.' We began our work by analysing both the implicit and explicit claims about the UK being a free society over a period stretching from the late eighteenth century until our modern day, we have presented a set of literature and evidence that aimed generally to dismantle this self-image and deny that a 'golden age' of liberties ever existed in Britain.

Our contribution to this work has been in the shape of two case studies which we have utilised to conduct in-depth analysis of the situation of freedoms in the UK. Our first study looked closely on the right to respect for private and family life as stated in the European Convention on Human Rights, we have concluded that liberty is under siege due to the increasing reach of mass surveillance technologies which in their turn directly inhibit privacy and threaten basic democracy and civil liberties of citizens of the UK. We have discussed how the current UK government not only justified extending surveillance powers by using the term 'emergency' in order to inhibit democratic dissent in the name of security, but we have also shown that their latest attempt at passing the *Investigatory Powers Bill 2015-16*, a bill which would legitimise a broad scope of mass collection of data and consequently further hamper privacy, is predicted to pass and become law by the end of this year. Our second case study revolved around analysing how a set of rights and civil liberties are not afforded to a select minority of British citizens, those who are members of the Muslim community. We have examined some parts of the UK's counter-terrorism strategy and legislation in order to assess the level of targeting and marginalisation faced by Muslim Britons, which in consequence negatively affected the provision of basic rights and liberties to them. Through our study, we were able to support our argument that the UK's claim to be a positive model of a liberal democracy is flawed, and thus the claim that the United Kingdom is a 'free society' is more of a myth than a reality.

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