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THE HIGHER EDUCATION UNION

The Terrorism Bill and Academic Freedom - Report Stage briefing

This Briefing builds on our earlier one for the Bill's Second Reading. The content has been updated and includes reference to some of the specific amendments laid down for Report Stage. If you need to discuss these issues any further please contact Jonathan Whitehead, AUT's head of parliamentary and public affairs on 07966 177 793 or at jonathan.whitehead@aut.org.uk.

AUT represents 48,000 university staff including academics, lecturers, researchers and academic-related staff. Our interest in and concerns with the Government's Terrorism Bill relate to the impact of the proposed legislation on the ability of academics, lecturers and researchers in our universities and colleges to both teach and research while safe in the knowledge that their academic freedom is protected.

Overview

Our concern is to protect academic freedom and to ensure that academics, lecturers and researchers do not find themselves unknowingly or unwittingly in breach of the law. We do not want to see entirely legitimate debate and academic discourse curtailed, nor the ability to study and educate undermined. In short, we will not be able to defeat terrorism if we are unable to study and learn more about its causes, its methods and the motivations of those who engage in such activities. As it stands, the Terrorism Bill will undermine exactly that.

We are sure that the Government does not intend to criminalise perfectly legitimate forms of academic enquiry in both teaching and research, either directly or indirectly. Therefore we are looking to find positive ways forward which protect academic freedom while allowing the Government to legislate in this area.

In that spirit we believe the following clauses as they stand may have an unintended impact on academic freedom:

- **Clause 1 - Encouragement and glorification of terrorism**
- **Clause 2 - Dissemination of terrorist publications**
- **Clause 6 - Training for terrorism**

In particular, we believe that many academics could fall foul of the legislation, not because they are seeking to incite anyone to take part in terrorist activities but because they are seeking to further our understanding of such acts and of those who carry them out. Without the need to prove that someone "intends" to further the cause of terrorism, we run a huge risk that entirely legitimate forms of academic enquiry will be criminalised. In each section below we highlight a practical example of the kind of academic activity that we are concerned about.

We believe these concerns are sufficiently serious to warrant amendment.

Clause 1 Encouragement and glorification of terrorism

We believe that as currently drafted the glorification provision is too broad and as such may criminalise many academics.

We wish to see the legislation redrafted in order to ensure that the legitimate study of controversial historical events, terrorist activity, the motivation of those who use terrorist means and the use of violence for political ends, is not curtailed as an unintended consequence of the Government's desire to restrict terrorist activities.

Our main concern here is for those academics who are engaged in teaching potentially sensitive subjects including controversial areas of history, the development of political theory or current global political events. Specific areas of study could include:

- An examination of violence in the context of Middle East politics,
- The ethics of animal vivisection, the animal rights movement and the use of both non-violent and violent action by those involved
- The current political situation in Zimbabwe and the opposition to the regime.

These are just a few examples. It is highly likely that in the course of being taught such a module, students are required to read, listen to or watch texts and statements that do indeed glorify terrorism or could be seen to encourage it. The purpose of such activity would of course be to further their – and our – understanding of the relevant historical event or strain of political thinking. The purpose or intent would most certainly not be to encourage them to carry out such acts themselves.

However, as currently drafted, the legislation would mean that the lecturer would have committed an offence if s/he had reasonable grounds to believe that one of their students was "likely to understand it as a direct or indirect encouragement or other inducement to the commission, preparation or instigation of acts of terrorism or Convention offences". In other words the lecturer does not have to think one of their students is a terrorist themselves, only that one of his students may interpret what they are saying as being an encouragement to terrorism. The potential for this to close down the range of views expressed and controversial opinions explored in the course of academic teaching is frightening. In itself, this would also hinder our attempts to better understand and hence defeat terrorism and those attracted to it.

We therefore urge MPs to support the following amendments to Clause 1:

- ***Government 34, Conservative 19, and John Denham 14* – all three amendments would introduce the notion of *intent* and *recklessness*. With these protections we believe this Clause would allow for the full range of legitimate academic activity.**
- ***Conservative 3 and Lib Dems 23* – these identical amendments would remove the notion of *glorification of terrorism*. Given the extreme difficulties in defining what is meant by *glorification*, we would support these amendments.**

Clause 2 Dissemination of terrorist publications

We have deep concerns about Clause 2 of the Bill and for very similar reasons to those set out above. Namely, that in the course of a legitimate form of academic teaching or indeed research, academics may find themselves running the risk of prosecution even if their intentions were utterly benign. This could arise from the handing out to students of primary or secondary source materials which themselves constitute encouragements to terrorism. Likewise the reproduction of such materials in a research paper or dissertation could again fall foul of the legislation. And finally, the librarians who stock and lend such books or materials would also be open to prosecution.

As it stands, sub-section 3 of Clause 2 means that an offence would have been committed if the book being stocked in the university library could be understood as an encouragement to terrorism by anyone to whom it may be lent.

Also, it may be that a philosophy lecturer teaching a module on the ethics of forms of political activity asks their students to study and critically analyse a text in which the case for violent direct action is espoused. Up until now such activity has been viewed as entirely legitimate and of paramount importance to our understanding of the nature of political activity. However, under the proposed legislation, such an activity could land the lecturer in serious trouble. It may be that a student in the seminar room does actually go on to believe in and then possibly carry out violent political action. As currently drafted, the legislation would render the lecturer open to prosecution.

This provision could have serious implications for the entirely legitimate use of primary and secondary sources which may seem to justify violence. This would be a fundamental attack on the ability of academics – and their students – to study, challenge and examine difficult opinions and strains of thought. This would represent a grave threat to our health as a democracy, to academic freedom itself and would undermine the pursuit of knowledge and greater understanding in our society.

We therefore urge MPs to support the following amendments to Clause 2:

- ***Conservative 4*** – this amendment would remove publications which ‘glorify’ terrorism from the scope of the Clause. Given the extreme difficulties in defining what is meant by glorification, we would support this amendment.
- ***Conservative 5*** – this important amendment would allow someone to use as a defence if charged the fact that (a) they did not agree with the contents of the publication and (b) that they did not intend the distribution of the publication to be an encouragement to terrorism. This would protect academics, librarians and others engaged in legitimate academic teaching, study and research.

Clause 6 Training for terrorism

Clause 6 in the Bill relates to Training for terrorism. Once again, we do not question the Government’s intentions behind this clause. However we are concerned that, as currently drafted, entirely innocent academic activity could be deemed criminal and the lecturer engaged in them subject to prosecution.

One particular concern here is the implications, for example, for those scientists working in our universities whose area of expertise includes working with noxious substances, the focus of subsection (4). What we do not want to see is a legislative framework which places the onus on these individual academics to police their own students and therefore, if they fail to do so properly, to leave them open to prosecution.

Likewise we do not want to see the demonstration to students about explosive or noxious substances to be curtailed out of fear of prosecution. An example here would be a university safety officer explaining to students how mixing certain substances is dangerous because they cause an explosion and therefore should be avoided. As the Bill stands, that person could be liable to prosecution if they suspect that one or more student they are explaining this to then use that information for terrorist purposes.

It is the concept in subsection (1)(b) of “suspects” that concerns us because we believe it is too broadly written. Using this legislation to cover situations where a lecturer “knows” their student may be intending to use the chemicals they are working with for terrorist activity is entirely legitimate. However placing the onus on the lecturer to assess whether or not they have *any*

suspicion at all about any of their students is, we believe, unworkable and potentially counterproductive.

We believe the fundamental bond of trust between a lecturer and their students along with the freedom of academic enquiry, would be potentially restricted if all lecturers in certain academic fields of study were in effect forced to spy upon their students. They would have to make a subjective judgment about whether they have any suspicion that any of their students may use their knowledge at some point in the future to commit a terrorist act. We believe this to be far too broadly written.

Academics do indeed have the same responsibility as any other citizen to report and prevent crime. However they should not be given the further role of spying – under threat of prosecution – on their students.

We are also concerned about the broad definition of a noxious substance. As it stands this includes *'any substance which is hazardous or noxious or which may be or become hazardous or noxious only in certain circumstances'* As any chemist will tell you, that covers a vast range of chemicals, the vast majority of which are utterly safe unconnected to terrorism.

We therefore urge MPs to support the following amendments to Clause 6:

- ***Lib Dems 24*** – this amendment would remove the notion of 'suspects' and replace it with 'believes'. This would prevent the situations above from arising.
- ***Lib Dems 27*** – this probing amendment tightens up the definition of a noxious substance so that only those substances defined in the Ant-Terrorism Act 2001 are covered.

Impact on community and race relations on campuses

Underlying much of this debate is the impact on community and race relations within our universities and colleges. We believe there is a serious danger that the impact of the above provisions will be to undermine relations on campuses by introducing a culture of suspicion in which subjective judgments have to be made about the intentions of both staff and students. This is likely to be of particular concern for black and minority ethnic staff and students, especially those from a Muslim background.

For example, what exactly will be a cause for suspicion about a chemistry student? Their political views? Their religion? The strength of their religious convictions? The student society they are a member of? The fact that they ask too many questions? And what is a lecturer supposed to do if they do have their suspicions, legitimate or otherwise: refuse to teach the rest of the class unless that student leaves the room?

Likewise, how many lecturers will feel forced to tone down the content of their teaching out of fear that one or more of their students may misunderstand their "playing devil's advocate" for their real views on, for example, the ethical justification for violent political action? How long will it be before a student takes great exception to their tutor expressing contrary views on, say the Middle East crisis, and decides to report them to the police for glorifying terrorism?

These are real and genuine concerns that need to be considered by all Parliamentarians during the passage of the Government's Terrorism Bill.

For further information on any of these issues, please contact Jonathan Whitehead, AUT's Head of parliamentary & public affairs on 020 7670 9732, by email at jonathan.whitehead@aut.org.uk or by post at Association of University Teachers, 25-31 Tavistock Place, London WC1H 9UT.