The UK’s Prevent policy as a form of risk governance in the education sector and how it violates human rights and fundamental freedoms

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Abstract

The UK’s Prevent Program within the education sector and its referral initiative Channel are counter-effective. The government claims that these initiatives are a means of safeguarding vulnerable students from extremism. Contrary to these claims is that the Prevent program is not well received within the education sector. In fact, most interactions that have involved police intervention have resulted in violations of human rights and fundamental freedoms of children under the care act. Consequently, a number of lawsuits have been levied against Prevent by parents and academicians which is highlighted in this paper. Furthermore, the statutory duty imposed under Prevent is a form of risk governance driven by pre-emption. British Muslim students are singled out as suspect communities because they ‘lack in Britishness’ and placed under surveillance. Moreover, the government claims that Prevent is a safeguarding initiative implemented to protect vulnerable students from extremism. This paper will show that the uncertainty level presented by the term extremism, renders Prevent’s risk assessment unreliable. Furthermore, the changing level of risk associated with risk governance renders the premise of Prevent political. This is the kind of governmentality that is constructed at the supranational level and implemented locally through domestic policies such as Prevent.
Introduction

Nineteen-year-old Nadia\(^1\), Dr Salman Butt\(^2\), and Kay, a mother from Bedfordshire\(^3\) are some of the people whose lives have forever been changed by Prevent. They have nothing in common, except presence in the education sector. Prevent is currently associated with feelings of exclusion by Muslim students in schools\(^4\) and there has been a massive outcry from teachers for having to police their students under statutory duty and for the various Human Rights abuses they have witnessed within the school system by Prevent.\(^5\) Theresa May continues to claim that it is a means of safeguarding British citizens and the British way from Muslim extremists.\(^6\) This begs the question, what exactly is ‘Britishness’? In fact, she has identified Universities as breeding grounds for extremism,\(^7\) and David Cameron’s speech at the Munich Conference of 2011 endorses the narrative.\(^8\)

In this paper, I am going to argue that Prevent is a political initiative that violates fundamental human rights and freedoms because it operates within a pre-criminal space.\(^9\) Secondly, I will show theoretically that Pre-emption is a form of risk

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\(^1\) David Anderson, ‘Understanding Prevent’ (BBC Radio, 25 July 2017)  
<https://www.bbc.co.uk/programmes/b08yp16m>

\(^2\) Salman Butt v Secretary of State for the Home Department [2017] 4 WLR 154

\(^3\) David Anderson, ‘Understanding Prevent’ (BBC Radio, 25 July 2017)  
<https://www.bbc.co.uk/programmes/b08yp16m>

\(^4\) Sally Weale ‘Prevent strategy stigmatising Muslim pupils, say teachers’ (The Guardian UK, 3 July 2017)  
https://www.theguardian.com/uk-news/2017/jul/03/prevent-strategy-anti-radicalisation-stigmatising-muslim-pupils-teachers


\(^6\) Duncan Gardham, ‘Universities ‘complacent’ over Islamic radicals, Theresa May warns’ (The Telegraph, 5 June 2011)  

\(^7\) Imran Awan. ‘“I am a Muslim not an extremist”: How the Prevent Strategy has constructed a “suspect” community’ (2012) 40 Politics & Policy 1158

\(^8\) David Cameron Munich Speech Moodle LW 935

governance.\textsuperscript{10} To build these two arguments, I will first highlight that the UK government is acting as a gatekeeper for international intelligence. This is through domestic policing, where surveillance and securitization can then be justified\textsuperscript{11}. Then, using case studies, I will highlight that Prevent does not safeguard British citizens’ wellbeing, which is statutory duty. In fact, by alienating and ‘othering’ them, it may propel them in the direction of the extremism it claims to be safeguarding them against.

\textbf{Extremism or radicalisation, problematic definitions}

Extremism, problematically referred to as radicalisation means different things to different people.\textsuperscript{12} Throughout history, the concept of radicalisation has been present in different political contexts. The thing that is new is the silence around the political discourse on radicalisation\textsuperscript{13} The ‘\textit{principle of actionable suspicion}’\textsuperscript{14} coupled with highlighting the levels of uncertainty has been the driving force behind Prevent.\textsuperscript{15} The politics of precaution attributed to Prevent are synonymous with risk assessment, which demands that the public act as policing agents.\textsuperscript{16} In schools, teachers are under statutory obligation to report to Channel any students they deem as ‘vulnerable to radicalisation’\textsuperscript{17}. The problem with this obligation is that if a student is not ‘British enough’,\textsuperscript{18} then they become a target of this fundamentally flawed association to

\begin{thebibliography}{9}
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\bibitem{11} Arun Kundnani. ‘Spooked! How not to prevent violent extremism’ (2009)
\bibitem{12} Arun Kundnani. ‘Radicalisation: the journey of a concept’ (2012) 54 Race & Class 3
\bibitem{13} Christopher Baker-Beall, Charlotte Heath-Kelly and Lee Jarvis, \textit{Counter-radicalisation: Critical perspectives} (Routledge 2014)
\bibitem{14} Marieke De Goede. ‘The politics of preemption and the war on terror in Europe’ (2008) 14 European Journal of International Relations 161
\bibitem{15} ibid 164
\bibitem{16} Marieke De Goede. ‘The politics of preemption and the war on terror in Europe’ (2008) 14 European Journal of International Relations 161
\bibitem{17} Amrit Singh. ‘Eroding Trust: The UK’s Prevent Counter Extremism Strategy in Health and Education’ (2016) New York: Open Society Foundations
\bibitem{18} ibid 35
\end{thebibliography}
extremism. This has set apart Muslim students who have been continually referred to Channel. Prevent is serving as a surveillance initiative because data collected on all Channel referrals is stored regardless of cases of mistaken identity.

The statutory duty imposed on teachers is a violation of Section 43 of the Education Act. Furthermore, I argue that since teachers cannot test nor question Prevent without jeopardizing their jobs, the UK government is exercising sovereignty in education establishments. Through this sovereignty, the government is then able to target ‘extremist’ views and ‘eliminate’ them before they become a risk.20

Consequently, students are no longer able to express themselves for fear of being labelled extremist.21 I argue that these are the political wars of the East brought home to the UK through policing. I contend that it is silencing any opposition to the political narrative given by the global supporters of the ‘war on terror’. By stigmatizing Muslims as risky individuals whose very existence in British society is a threat, securitisation and surveillance can then be justified to the public.22

Supranational governmentality impacting domestic policy

The UN Security Council has taken on the role of Global Legislator in its Countering Violent Extremism (CVE) Resolution23 which requires states to adopt ‘tailored approaches’24 to counter violent extremism. This is motivated by the desire to cast the net as widely as possible, identify suitable enemies, not worry about false positive

19 Arun Kundnani. ‘Spooked! How not to prevent violent extremism’ (2009)
20 Lynn Davies. ‘Security, extremism and education: Safeguarding or surveillance?’ (2016) 64 British Journal of Educational Studies 1
22 Lynn Davies. ‘Security, extremism and education: Safeguarding or surveillance?’ (2016) 64 British Journal of Educational Studies 1
23 Countering violent extremism: Resolution 2178 (2014)
24 Ibid 8
This results not so much in a law that is proactive, but in the creation of a legal space of exception, where some networks and communications that are not in themselves illegal are singled out for surveillance and intervention.\textsuperscript{26}

This kind of policing causes a blur on where domestic governance ends and international policing begins.\textsuperscript{27} Furthermore, I argue that it is the kind of governmentality that is continually driven by a changing level of risk that is decided at the supranational level.\textsuperscript{28}

De Goede and Beck analyse that governments create measures of safeguarding around the uncertainty surrounding the risk they have propagated.\textsuperscript{29} I argue that these measures are policies that continue to cast the net wider and wider to accommodate a widening scope of what that risk entails\textsuperscript{30}. As risk is the vehicle that has driven Prevent,\textsuperscript{31} the government can then surveil Muslim communities, having constructed them as risky through social and political contexts.\textsuperscript{32}

The government has taken on the role of judicial oversight by releasing an ‘extremist hate speakers’ list. It also is expected that it will tighten legislation to ensure that these ‘hate speakers’ are not invited to speak on school campuses.\textsuperscript{34} This is a

\textsuperscript{25} Richard V. Ericson, \textit{Crime in an insecure world} (Polity 2007)
\textsuperscript{26} Marieke De Goede. ‘The politics of preemption and the war on terror in Europe’ (2008) 14 European Journal of International Relations 161
\textsuperscript{27} George W. Bush. ‘President Bush Discusses Homeland Security at the FBI Academy’ (2003) 10 Virginia 20030910
\textsuperscript{28} Ulrich Beck. ‘World risk society as cosmopolitan society? Ecological questions in a framework of manufactured uncertainties’ (1996) 13 Theory, culture & society 1
\textsuperscript{29} ibid
\textsuperscript{30} Michel Foucault. ‘Society must be defended, trans’ (2003) David Macey. New York: Picador
\textsuperscript{31} Charlotte Heath-Kelly. ‘Counter-Terrorism and the Counterfactual: Producing the ‘Radicalisation’ Discourse and the UK PREVENT Strategy’ (2013) 15 The British Journal of Politics & International Relations 394
\textsuperscript{32} Arun Kundnani. ‘Radicalisation: the journey of a concept’ (2012) 54 Race & Class 3
\textsuperscript{33} Imran Awan. “I am a Muslim not an extremist”: How the Prevent Strategy has constructed a “suspect” community’ (2012) 40 Politics & Policy 1158
\textsuperscript{34} Sunday Express, 18 September 2015
breach of the free speech duty for education bodies.\textsuperscript{35} Firstly, I argue that not only is the government continuing to increase its sovereign powers, it is using risk and threat assessment to silence views that are contrary to the political wars of the East. By implementing soft law mechanisms like the above that encroach on human rights and continue to exacerbate Islamophobia, this precedent is a threat to democratic society.

Secondly, take the case of \textit{Salman Butt v Secretary of State for the Home Department}\textsuperscript{36} who was not only labelled an ‘extremist hate speaker’ by the government, but also a Muslim who is ‘not British enough’. This looks like the government is clearly casting the net wider and wider on what it means to be extremist. It is blatantly disregarding the rule of law to assert its power on what the political views should be in this country. As explained earlier, you become a risk the moment you dissent from the narrative the government has set, and you become labelled an extremist. The wider the net, the easier it becomes to classify any views that don’t sit well with the government as extremist. The portraying of Muslim communities as ‘suspect communities’ \textit{has an important consequence in that it removes fundamental questions about pluralism from political debate, casting them instead in a depoliticised language of security}\textsuperscript{37}

\textsuperscript{36} Salman v Secretary of State [2017] 4 WLR 154
\textsuperscript{37} Francesco Ragazzi. ‘Suspect community or suspect category? The impact of counter-terrorism as ‘policed multiculturalism’ (2016) 42 Journal of Ethnic and Migration Studies 724
Safeguarding or Surveillance motives

Under Section 43 of the Care Act, it is the responsibility of the UK government to cater for the wellbeing of individuals at the emotional, mental and physical state. 38 I argue that denying Muslim children the ability to express themselves is not in their best interests. Furthermore, it is not only a form of torture, it is denying them the life of dignity envisioned in the European Convention on Human Rights.39 I invoke the word torture because of a case like Nadia’s. As a Muslim student, she was constantly reminded that being herself was not enough because it was not British enough.

‘Dignity in human life is an underlying principle in the interpretation of the right to life.’ 40 I argue that it is in the expression of who we are, what we believe in, and what we ‘feel’ that drives us to desire to matter in society and to be contributing citizens. Secondly, our quality of life as human beings lies in the way we feel about life overall, and if the quality of our life has been reduced or impacted somehow by the inability to be ourselves, this can limit our desire to live and matter. 41

The government has failed to safeguard Muslim students as I highlight above, especially those that have been referred to Channel as cases of mistaken identity. This is the case of Kay, the mother from Bedford with two sons. She was called and informed that there had been a problem with her sons at school. Upon getting there, she was not allowed to see them as the police proceeded to interrogate them in her absence for ten minutes. She was later informed that the boys had been talking about owning guns and that the older one had been speaking Arabic in class and sharing

39 ibid 57
41 Eyad El Sarraj. ‘Suicide bombers; Dignity, despair, and the need for hope’ (2002) 31 JOURNAL OF PALESTINE STUDIES-BERKELEY- 71
some ‘troubling’ views. It later turned out that the mentioned guns were toy guns. A grave issue here is that police spoke to underage children without the presence of their parents, and used the information gathered to make a decision on whether to progress to Channel. This is a direct violation of Article 3 UNCRC.\(^{42}\) It is obvious the policemen and the school did not consider the implications of their actions on the well-being of the children, and it was actually not their first priority: the first priority of this interaction was security.

Secondly, since this was a case of mistaken identity, what was the mechanism of redress? Well, none. Kay sought the legal help of Liberty, and the school stood its ground. I argue that this kind of injustice and blatant disregard for the welfare of Muslim students could foster animosity and resentment towards the authorities.\(^{43}\) Furthermore, this is counter-effective, is not safeguarding, and the Prevent program could perhaps be a sitting time bomb of creating and nurturing animosity in Muslim students.

Prevent targets values that are in opposition to ‘British Values’, intensifying the reach of the government into ‘everyday lawful discourse’.\(^{44}\) \(^{44}\) I argue this means that if you are perceived different, you are a target.\(^{45}\) This ‘othering’ of Muslim citizens I add, is deeply rooted in ‘wars of the East’ politics.\(^{46}\) If students, can no longer question, can they truly learn? I argue that it is the right to question that develops and fosters growth.\(^{47}\)

\(^{42}\) Adrian L. James. ‘Children, the UNCRC, and family law in England and Wales’ (2008) 46 Family court review 53
\(^{43}\) Arun Kundnani. ‘Spooked! How not to prevent violent extremism’ (2009)
\(^{44}\) Marieke De Goede. ‘The politics of preemption and the war on terror in Europe’ (2008) 14 European Journal of International Relations 161
\(^{45}\) Thomas Martin. ‘Governing an unknowable future: The politics of Britain’s Prevent policy’ (2014) 7 Critical Studies on Terrorism 62
\(^{46}\) Arun Kundnani. ‘Radicalisation: the journey of a concept’ (2012) 54 Race & Class 3
\(^{47}\) Thomas Martin. ‘Governing an unknowable future: The politics of Britain’s Prevent policy’ (2014) 7 Critical Studies on Terrorism 62
The objective set out by the US in its NSS blurs boundaries between international intelligence and domestic policing. It also justifies the strengthening of sovereignty\textsuperscript{48}

The catastrophic incalculable threat element of extremism renders detection of radicalisation crucial, it is argued\textsuperscript{49}. I argue that the spying element of Prevent is the domestic implementation of surveillance to curtail ‘suspect communities’\textsuperscript{50}.

The Global dimension on the war on terror has moved from ‘consequence management’\textsuperscript{51}. I present that administrative bureaucracies can now make decisions concerning what they consider to be normal or abnormal,\textsuperscript{52} and this is the premise of Prevent. Secondly, I argue that Prevent has replaced the rule of law with soft law mechanisms of policing bypassing the conventional order of law making and arbitration\textsuperscript{53}.

Prevent incorporates in its policing ‘prudential citizenship’\textsuperscript{54} where individuals are subjected to punitive measure because they are responsible for the way they are perceived.\textsuperscript{55} The problem with Prevent is that it levies the entire problem of been discriminated against, on the recipient of the discrimination. It then proceeds to blame them for been discriminated against. Nothing is ever said about the people doing the

\textsuperscript{48} Marieke De Goede. ‘The politics of preemption and the war on terror in Europe’ (2008) 14 European Journal of International Relations 161

\textsuperscript{49} Alan M. Dershowitz, Preemption: A knife that cuts both ways (WW Norton & Company 2007)

\textsuperscript{50} Arun Kundnani. ‘Radicalisation: the journey of a concept’ (2012) 54 Race & Class 3

\textsuperscript{51} Christopher P. Banks, ‘Protecting (or destroying) freedom through law: The USA Patriot Act’s constitutional implications’, American National Security and Civil Liberties in an Era of Terrorism (Springer 2004) 29

\textsuperscript{52} Judith Butler, Precarious life: The powers of mourning and violence (Verso 2006)


\textsuperscript{54} Pat O’Malley, Risk, uncertainty and government (Routledge 2012)

\textsuperscript{55} Marieke De Goede and Stephanie Simon. ‘Governing future radicals in Europe’ (2013) 45(2) Antipode 315
discrimination. The notion of diagnosing Muslims from a lens that has been constructed by ‘British Englishness’ promotes Islamophobia.

There is much uncertainty surrounding the word extremism. I argue firstly, that Prevent in its strategy of pre-emption incorporates the ‘staircase model’ which raises this level of uncertainty to alarming levels. Secondly, I argue that singling out Muslim students and ‘othering’ them is actively generating the so-called ‘vulnerable individual’. This therefore reflects how deeply fundamentally flawed and unreliable this theory is.

Prevent does not take responsibility for the mental problems it has reportedly caused in Muslim youth. By targeting them, Muslim students feel excluded, which generates the ‘vulnerable syndrome’ Prevent purports to be safeguarding. Pantazis argues that the very existence of such policies is bound to foster animosity at the system, and as Asim Qureshi of CAGE expresses in frustration, it is simply relegated to Islamic fundamentalism rooted in 'wanting to see the end of Western Civilization'.

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56 Rebecca Langlands. ‘Britishness or Englishness? The historical problem of national identity in Britain’ (1999) 5 Nations and Nationalism 53
57 Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism 9
58 Fathali M. Moghaddam. ‘The staircase to terrorism: A psychological exploration.’ (2005) 60 Am Psychol 161
60 Imran Awan. “I am a Muslim not an extremist”: How the Prevent Strategy has constructed a “suspect” community’ (2012) 40 Politics & Policy 1158
62 Christina Pantazis and Simon Pemberton. ‘From the ‘Old’ to the ‘New’ Suspect Community Examining the Impacts of Recent UK Counter-Terrorist Legislation’ (2009) 49 The British journal of criminology 646
'The principle of actionable suspicion' and its premise that 'not having hard evidence shouldn’t hold you back' is wide at play in Nadia’s situation. Nadia can be labelled using partial knowledge about her certifying without certainty that she is a threat. I argue, the threat of concern here is not one of security, but one of lacking in ‘Britishness’.

The ‘precautionary measures’ of Prevent are synonymous with the language of risk assessment. This has caused various human rights violations. The net has been cast so wide, by using calculated language such as ‘the risk beyond a risk’. This has raised the level of uncertainty around the word extremism to levels that should concern any democratic society. The mark of a democratic society is one where different political viewpoints can be respected. When any viewpoints that differ from the ‘traditional British Englishness’ are labelled as extremist, is this not silencing any form of opposition?

The Open Society Justice Initiative (OSJI) highlights that since Channel (referral program for Prevent) is led by the police and its main provisions are counter-terrorism measures according to chapter 2 of part 5 of CTSA, the safeguarding aim of Prevent may be minimised specially when dealing with vulnerable individuals.

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64 Ron Suskind, One Percent Doctrine: Deep Inside America’s Pursuit of Its Enemies Since 9/11 (Simon and Schuster 2006)
65 ibid
70 Rebecca Langlands. ‘Britishness or Englishness? The historical problem of national identity in Britain’ (1999) 5 Nations and Nationalism 53
71 Arun Kundnani. 'Radicalisation: the journey of a concept' (2012) 54 Race & Class 3
also argues that it has been noted that Prevent has created a fear among children of speaking in class freely, for fear of being misinterpreted to be ‘making jihadi comments’.\textsuperscript{73} Firstly, I argue, this is a double edged sword: children can no longer speak freely in a learning environment which makes them seem vulnerable, and are not protected when deemed ‘vulnerable’ after they speak. By allowing Prevent in schools, the UK government is promoting oppressive regimes in the education sector.\textsuperscript{74} By so doing, it violates the statutory duty of public authorities under Section 11 of the Children Act.

Furthermore, I argue that when the relationships between students and teachers are securitised this stifles debate and sabotages the ability of schools to ensure the welfare of children, a statutory duty for schools under section 175 Education Act of 2002\textsuperscript{75}

Article 3(1) of UNCRC requires the government as a national and international obligation to safeguard the best interests of the child as the primary consideration for any decision – making. OSJI asserts that with regards to extremism, it is not clear what children are being safeguarded from.\textsuperscript{76} Furthermore, at the core of this debate is ‘the relationship between students and teachers and schools and students.’\textsuperscript{77} If students feel that what they say is monitored, this trust is shattered, and boundaries of confidence and trust are shifted. I argue firstly, that this may perhaps bring a shift to soft law mechanisms based on trust that have previously allowed students to freely discuss issues and worries with teachers. When this conversation has been shut down

\textsuperscript{73} Lynn Davies. ‘Security, extremism and education: Safeguarding or surveillance?’ (2016) 64 British Journal of Educational Studies 1
\textsuperscript{74} Paul Thomas. ‘Failed and friendless: the UK’s ‘Preventing Violent Extremism’ programme’ (2010) 12 The British Journal of Politics & International Relations 442
\textsuperscript{76} ibid 46
\textsuperscript{77} ibid Interview with Alex Kenny, London, 14 April 2016, 47
by Prevent, is it in the best interests of the child to leave self-expression outside of learning?

Conclusion

In conclusion, Prevent is counter-effective. As De Goede points out, implementing soft law mechanisms and enacting them as law not only deviates from consequence management, it is the UK’s way of asserting its sovereignty and bypassing the rule of law. Furthermore, I agree with Awan & OSJI that this policy has alienated Muslim youth and promoted Islamophobia. It has opened a door for hostility, aggression and a search for other forms of de-pressurising for affected Muslim youth that may not always be positive. This I argue, is leaving out the Welfare of Muslim students in basics of implementing policy.

I have shown in this paper that Prevent violates human rights and fundamental freedoms because it relies on risk assessment as a means of pre-emption. It propagates the ideology of Muslims as suspect communities by targeting Muslim students because they have a different way of life. I agree with Awan that this perpetuates prejudice, discrimination and exclusion of Muslim individuals as ‘Islamists, fundamentalists, and Jihadists’. Furthermore, the UK government has failed to safeguard the wellbeing of Muslim Youth by not adhering to the statutory duty under

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78 Marieke De Goede. ‘The politics of preemption and the war on terror in Europe’ (2008) 14 European Journal of International Relations 1613
79 Imran Awan. “I am a Muslim not an extremist”: How the Prevent Strategy has constructed a “suspect” community’ (2012) 40 Politics & Policy 1158, 1167
81 ibid 47
82 Marieke De Goede. ‘The politics of preemption and the war on terror in Europe’ (2008) 14 European Journal of International Relations 161
83 Imran Awan. “I am a Muslim not an extremist”: How the Prevent Strategy has constructed a “suspect” community’ (2012) 40 Politics & Policy 1158-67
84 ibid 1167
the Children and Care Acts.\textsuperscript{85} This is what Meah et al regard to as ‘construction of the vulnerable individual’.\textsuperscript{86}

In alienating students by targeting them while securitising the role of teachers, the government has contributed to the breakdown of trust in the education system.\textsuperscript{87} This is not conducive to the mental wellbeing of Muslim students. In fact, feelings of being targeted and silenced may have the counter-effect of driving the ‘vulnerable student’ to the very places of extremism where they are allowed to express their feelings of aggression freely.\textsuperscript{88}

Finally, Prevent poses a threat to the promotion of multiculturalism and diversity within the education sector because of its implications of risk governance.\textsuperscript{89} I see this evidenced by the insidious elimination of discourse that can foster healthy differences in culture and social-psychological-political makeup. There is a danger that students within the British system may be growing up with a one-sided view of the world. Interestingly, ‘policied multiculturalism’\textsuperscript{90} is what the government seems to prefer. I argue that this is indoctrination: by eliminating critical discussion on political issues by labelling them as matters of security, the government can then control these Muslim communities by policing their views.

\textsuperscript{86} Youssif Meah and Collin Mellis. ‘Recognising and Responding to Radicalisation. Considerations for policy and practice through the eyes of street level workers’ (2008) Amsterdam: RecoRa
\textsuperscript{87} Lynn Davies. ‘Security, extremism and education: Safeguarding or surveillance?’ (2016) 64 British Journal of Educational Studies 1
\textsuperscript{88} ibid 12
\textsuperscript{89} Francesco Ragazzi. ‘Suspect community or suspect category? The impact of counter-terrorism as “policied multiculturalism”’ (2016) 42 Journal of Ethnic and Migration Studies 724
\textsuperscript{90} ibid 737