

**FORMAL RESPONSE TO THE DRAFT CONSTITUTION AS
PART OF THE CONSULTATION EXERCISE IN RELATION TO
THE MOSQUES AND IMAMS NATIONAL ADVISORY BOARD
("MINAB")**

1. We are willing to engage in the process constructively and to that end you will note the seriousness with which we have considered the myriad of issues that surround MINAB. For reasons enunciated herein below, the draft constitution has fundamental weaknesses, the structure is not responsive to our requirements and the standard of governance displayed so far is not good enough for a body that wishes to be its standard bearer.
2. The response has been set out under three distinct headings:
 - (a) Serious problems with the draft constitution;
 - (b) The methodology used in relation to the consultation exercise; and
 - (c) Fundamental issues that need to be addressed.

Serious problems with the draft constitution

3. As a broad principle we are of the view that the MINAB project will only succeed if it has the support of the whole community at all levels. Having regard to the current draft constitution it is highly unlikely that it will have such support, at least not across the spectrum of Muslim communities and certainly not in the long term. There are a number of serious problems with the draft constitution but time and space only allows a mention of a few of them. For the avoidance of any doubt, in this response where we use the term "Shia" we are referring to the Shia' Ithnaasheri Muslim Community/Organisation.
4. The draft constitution embeds a two tier system within the Muslim communities by creating a special class of members known as the "founding members" who retain for themselves a 42 year monopoly of power (as set out below). This is completely unethical and contrary to the basic tenets of Islam. If the "founding members" feel that they should be rewarded for their preliminary efforts then their reward is with Allah (SWT) but there is absolutely no reason why they should confer on themselves special privileges and powers. Once the grassroots organisations discover this, it is highly unlikely that in the long term MINAB will command their confidence and may well cause dissension. The fact that the "founding members" have presented such a document

creates a risk of giving an impression that they wish to dominate and subjugate the Muslim communities.

5. There has been a conspicuous failure to set out in the draft constitution a number of elementary aspects of good governance, both in relation to the operation of the General Council and the Executive Board. For a body whose stated objective is to assist in matters of governance this appears to be a staggering omission.
6. The Executive Board is the powerful segment of MINAB and yet the majority on the members on the Board (55%) will not be elected by the grassroots organisations. Pursuant to Article 8(a), out of the 58 members only 26 will be elected by the General Council. This is totally undemocratic.
7. Each “founding member” has reserved the power to appoint six persons who they like onto the Board – see Article 8(g). This right is not given to any other member. This is totally undemocratic and again reinforces the two tier system within the Muslim communities.
8. The “founding members” have reserved for themselves the right to appoint people on the Board up “to the end of 2050” – see Article 8(g). It is totally unacceptable that in the pretext of democracy such a monopoly is embedded in the draft constitution for a period of 42 years. This right should be removed.
9. The office bearers will not be elected by the grassroots but by Executive Board – see Article 10(b). As stated above, the Executive Board will not be democratic. Therefore, the head of the organisation will not be elected by the General Council but by the undemocratic Executive Board – see Article 11 under “Chair”.
10. Each of the “founding members” have reserved for themselves the right to appoint all the four “Vice Chairs”, each of them entrenching the right to appoint one of them – See Article 11 under “Vice Chair”. This is utterly unjustified.
11. Once the constitution is finalised, the monopoly powers reserved by the “founding members” (set out in Article 8) will be hard to amend as it will have to be approved by two thirds of the members present – see Article 13(b). Therefore, if all the issues set out in

this response are not addressed then the likelihood of them being resolved at a later stage would be exceedingly slim.

12. Article 1(d) pledges that MINAB will be broad based with an accountable system of representation. At the present time, the representation of the Shia' Muslims does not appear to be accountable to the Shia' grassroots organisations. No elections are held to elect suitable representatives nor can the Shia' Muslims replace them through a ballot if they are not happy with their performance or leadership. The Shia' Muslims, together with all other Muslims, must have a say (tested by the ballot box) as to who should represent them. If any of the so called founding members do not have democratic legitimacy then with what credibility will they preach good governance to all other mosques and establishments?
13. According to Article 9(e), it is the undemocratic Executive Board rather than the General Council which will appoint Consultative Councils (it is set out in plural and therefore it appears that several Consultative Councils are envisaged). This is particularly serious when the draft constitution makes no reference to the purpose or remit of any Consultative Council. In any event, Consultative Councils should be elected by the General Council.
14. Having regard to the fact that the Chair will not be elected by the grassroots organisations but will be appointed by the undemocratic Executive Board, there is no justification for conferring on the Chair the power to rule whether an issue is of "special significance" – see Article 8(d). Furthermore, "special significance" has not been defined in the draft constitution and as things stand this will be left to the subjective and arbitrary interpretation by the Chair.
15. The Executive Board has the duty to pass Standing Orders but there is no provision to have these approved by the General Council. This is a serious defect which must be remedied.
16. Article 8(i) refers to the "Shia Muslim community" but this has not been defined. So for instance, would it include the Aga Khan Ismailis?
17. Article 5 relating to membership and purported representative rights needs to be properly thought through or more properly defined if MINAB is to have democratic legitimacy. For instance,

an “establishment” which happens to be an Islamic bookshop selling a few books a year would appear to have the same right to send one delegate as a democratic organisation which has a membership of 300 and provides basic services.

18. Under Article 2, one of the stated objectives is to “advise on the suitability of Imams and scholars coming to the UK” and yet there is nothing in the draft constitution in relation to the criteria by which this “advise” will be given, precisely who will give this “advise”, what are the mechanisms for challenging any such “advise” and who bears the consequences for any erroneous “advise”.
19. Again under Article 2, one of the stated objectives is to “advise members on legal compliance” but there is a complete failure to specify legal compliance in relation to what. Furthermore, what expertise will MINAB have to give any such “advise” and who will bear the consequences of a member organisation relying on any legal “advise” which transpires to have been negligently given?

The methodology used in relation to the consultation exercise

20. For an entity that espouses to be the standard bearer of good practice, its consultation process has not been entirely satisfactory.
21. There was no involvement of the various stakeholders in the various models and options for the constitution that could have been far more representative and instead the “founding members” appear to have cobbled up the draft constitution after internal haggling and then presented it to the community for “consultation”.
22. There has been no proper consultation on the fundamental need or basis for having MINAB. From the whole range of Muslim bodies and establishments, how many were given the opportunity of having a document that sets out the case for MINAB with clearly defined objectives and then to go away and discuss with their internal membership and thereafter giving their considered response? The absence of this process has manifested itself in the catalogue of defects in the draft constitution.

23. It is surprising that a Muslim entity chose to have its consultation during a period when a significant part of it falls within the Hajj season to be followed by national holidays when people may be away. This was compounded by having the consultation deadline set for mid January 2008 until it was subsequently extended. Given that the steering committee had taken a long time to come up with the draft consultation document, it is shocking that they then felt the need to impose such a tight timescale (as originally set out with the mid January deadline) on the wider community to express their views.
24. As part of the consultation process a second draft of the constitution (taking into account feedback received) should be put to all Muslim organisations (Sunni and Shia' alike) for consideration well ahead of any finalisation of the constitution. The processes and timescales should not mimic the current consultation process, which has been most unsatisfactory (as set out above).

Fundamental issues that need to be addressed

25. Shia' issues (for example in relation to special commemorative months, the selection of speakers/zakirs, the theme for lectures and prayers, the syllabus at madressas etc.) should only be determined by a representative Shia' Board. This should be constitutionally embedded in express terms. There is no reason why we Shias should not be allowed to control our own affairs. It would be inconceivable to have the Anglican Church of England control the minority Catholic Churches here in the U.K. There is no legitimate reason why the Shias should not have total charge over their own affairs. What we need is empowerment and not control.
26. Shias should be represented by a Board which is transparent, accountable and democratically elected by Shia organisations. This too should be expressly incorporated in the constitution.
27. Although the draft constitution states that MINAB will be a registered charity (see Article 12(a), however, the letter sent out jointly by the Al-Khoei Foundation and the World Federation of 12 November 2007 states it "will be an independent statutory body". This is an obvious contradiction with very serious consequences and therefore it is crucial that there is absolute clarity on this point.

28. (a) Is it envisaged that MINAB will be a public body amenable to judicial review? (b) If it cannot bind non members to its view, why should an organisation join it?
29. The press release on behalf of the “founding members” states that mosques should combat “all forms of violent extremism” and yet if this is an objective then why has this important matter not been stated either in the draft constitution or in the draft standards?
30. It is necessary to strengthen the current draft constitution with much wider representation for women and youth in the Executive Board.
31. It appears that one of the founding members MAB is also a member of another founding member MCB, so on what basis was MAB also a founding member? This is very relevant when the founding members have conferred on themselves substantial powers in the draft constitution.
32. There is absolutely no explanation given anywhere as to why an organisation which already has decent standards should oblige itself to join MINAB which, at present, exhibits such poor standards of democratic representation and governance.