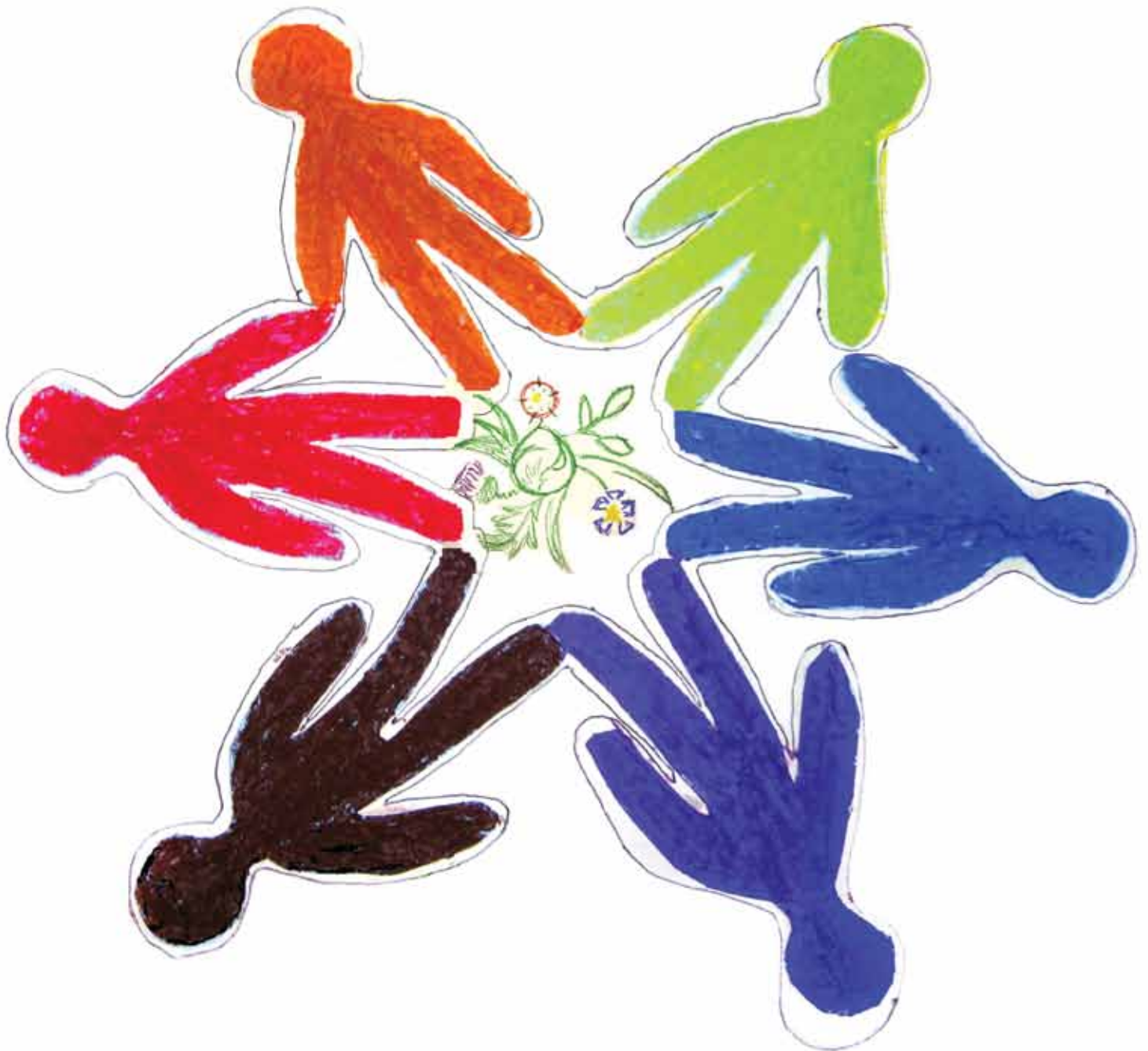


Diversity and the Law:

A report by Big Voice London 2012



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Foreword note by the Chief Executive of the Supreme Court and the Big Voice London Project Co-ordinator

“For the second year running, the UK Supreme Court has provided support to the Big Voice volunteers and students. We have been very pleased to do so, and I am delighted to have been asked to write a Foreword to this report, produced by the participants in Big Voice 2012.

Since the Supreme Court opened its door in October 2009 we have been keen to develop an outreach and engagement strategy which brings young people into contact with their highest Court, particularly young people who might otherwise not have thought of visiting the Supreme Court, or engaging with the issues the Court considers. Big Voice, targeting as it does schools from diverse cultural backgrounds, and different parts of London, has been one of the most effective ways of achieving our policy objective. And it is very clear from what is written in these papers that the students have learnt and reflected on some hugely important issues over the last twelve months.

For the students, this represents additional work over and above their day to day studies and other commitments. They are all to be commended for “staying the course” and for making that sacrifice of time and effort. I would also like to pay tribute to all the volunteers who have assisted them throughout the last few months, and for those individuals who have made time to talk to students, and answer their questions.

The topics they have chosen to study include some of the most challenging social issues of our time. Many commentators have written and spoken on these subjects, but none of them have found “the answer”. The students have read, listened and analysed. The views they express are, of course, their own and not that of any individual, or institution with which they have worked. But those views should be regarded as making a real contribution to the debates that we as a society should be having.

I believe and hope that they will all have found this experience both useful and enjoyable. We have certainly enjoyed providing them with support and opening some doors for them.”

Jenny Rowe

Chief Executive, The Supreme Court of the United Kingdom

“It has been an honour to work with Big Voice London for a second year. For me the highlight of this year has been seeing the breathtaking performance of two of our students in the ‘Just Rights’ moot final; this symbolised just how magnificently young people can understand and use the laws of their country if they are given the tools to do so.

Before I began working with the project, like many of our students, I felt that law was a relatively closed world. However, over the last two years I have seen so many speakers give up their time to share their passion for access to the law that I feel incredibly proud to be part of such a positive legal culture and community. Going forward we need a stronger infrastructure to allow more young people to access the legal world in the way our students have done.

Over the last year our young people, from diverse cultural backgrounds and different parts of London, have worked together to form a team. As a community we have learned about equality and rights in South Africa and in Northern Ireland, Scotland and Wales. I hope that we will all feel the responsibility of the knowledge shared with us and carry it forward to make the world a better place.”

Jennifer Blair

Coordinator, Big Voice London

Introduction

Big Voice London

Big Voice London launched in January 2011. Student barrister Jennifer Blair originally approached the Supreme Court about their youth outreach programme and developed the project with their advice and support. Jennifer recruited a team of committed volunteers, who approached state schools in London, targeting those in areas with the highest child poverty, to gather together a group of 40 sixth form students with an interest in law.

Big Voice London is volunteer-led and volunteers are generally post-graduate law students committed to youth access. Big Voice is unique in the way it specifically addresses the issue of engagement of young people with the legal system. The project endeavours to empower students from socio-economically disadvantaged backgrounds by linking them up with legal policy makers, so that they have a voice in our society.

Big Voice in 2012

We have seen wonderful developments to the project in 2012, including the creation of the 'Just Rights' human rights mooting competition, where our young people were paired up with law students to compete together as junior and senior counsel. This allowed young people with no legal background to receive mentoring as they learned to make legal arguments at a high level. We are grateful to Lord Reed and the Supreme Court for hosting the final and excited that they have agreed to do so again in 2013.

This year we have built on our 2011 comparative study of post-Apartheid South Africa, to also research the innovative legal developments taking place in Northern Ireland, Scotland and Wales. We had the privilege to take part in research trips to Bangor, Belfast and Edinburgh, which have given us wonderful ideas to take forward for our work in future.

Our Students

Our students apply to join the project and taking part in Big Voice London represents a significant commitment of attendance at weekly sessions during term time between January and December 2012, as well as participation in an overnight research trip, all in the context of the heavy pressures of their study at sixth form.

The support and cooperation of the schools and colleges we work with is essential for the project, because it allows the students to feel supported and to have their work recognised. This year our students primarily attend City and Islington Sixth Form College, Hackney Community College, Mulberry School for Girls, Nower Hill high School, St Angela's & St Bonaventure's Sixth Form Centre and St Dominic's Sixth Form College.

Three Spotlights on the Legal System

At the heart of our work is a focus on equality and access to justice. Our students explore these topics from different perspectives in each of their three groups.

Diversity and the Law: explored the barriers affecting access to the legal professions as well the role of culture in legal defences. They challenged discriminatory concepts and explored issues like privilege, empowerment and affirmative action.

Legal Agency: focused on access to law following the Woolf reforms, human rights and the criminal justice system, with a particular study into police powers, protests, accountability and the use of restraints in detention.

Legal Heritage: looked at the impact of art, architecture and literature on the creation of legal identity, exploring the students' own diverse legal heritage and the impact of language rights and devolution on Welsh legal identity.

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Diversity and the Law

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Acknowledgements

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Volunteers have given up their time to bring the project to life. Expert facilitation training was provided by EquaEd. The coordinator team have been Alex Cisneros, Ariana Gale, Jennifer Blair and Maleeka Bokhari. Our group leaders have been: Adam Muckle, Ben Mills, Dimitra Kamarinou, Esma Komur, Frances Bennett, Lucy Rezler-Kennedy, Michelle Murray, Ruth Hennessy, Sarah Hirech, Sasha Wickham, Sophie Charles, Wendy Bremang, Zahra Afshar. We would also like to thank our legal volunteer Nargees Choudhury and our legal events volunteer Rob Patmore.

Speakers have offered the students expert insights into their work and their professional journeys. Thank you to: Saba Ashraf, Imran Khan, Bernard Hogan-Howe the Metropolitan Police Commissioner, Lord Reed from the Supreme Court, Adam Wagner, Tom Cleaver, Jonathan Rubin, Gwion Lewis, Cherie Blair QC, Justice Roderick Evans from the High Court, Anne Fenton from the Institute of Professional Legal Studies in Northern Ireland, Professor Colin Harvey from Queen's University Belfast, Chief Superintendent Mark Hamilton and Maura Muldoon from the Police Service of Northern Ireland, The Law Commission, Emily Thornberry MP, Baroness Helena Kennedy QC and Lord Kerr from the Supreme Court.

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Introduction

The stereotype of the upper class, white, male lawyer persists and while approaching this topic we have found a wide range of barriers restrict access to the legal professions to those from less 'traditional' backgrounds. For this paper we will outline a route into law, so that we can: 1) identify any barriers to access; 2) observe how an individual could face multiple barriers; and 3) determine what could be done at each stage to make the legal professions more open and accommodating of different backgrounds.

To conclude, we will analyse the deeper relationship between culture and the law. This briefing paper is informed by research into the current position of legal diversity in England and Wales, a learning visit to Northern Ireland and a comparative study of diversity in the South African legal system.

Summary

As we go on to discuss below, our main recommendations are that:

- Diversity monitoring statistics should note whether an applicant is state educated (and if so whether they attended a grammar or comprehensive school).
- Pupillage offers/training contracts should be secured before students undertake the BPTC or LPC, legal regulators should seek to keep post-graduate fees down without violating competition law and BPTC scholarships should be managed centrally.
- There should be greater emphasis on practical experience in postgraduate legal training and on alternative routes into law like apprenticeships, avoiding nepotism.
- The BPTC and LPC should be amalgamated into the same course or there should be an easy way of converting from one to the other; it should also be possible for barristers trained in Northern Ireland to practice in England and Wales.
- The Law Society and Bar Council should produce toolkits and action strategies to help smaller firms and sets adopt recruitment best practice.
- When a firm/set refuses an applicant after interview they should provide useful feedback on request as a commitment to equality and diversity.
- A standard piece of work (e.g. an opinion) should be set by the Bar Standards Board for OLPAS each year and circulated with pupillage applications.
- Improved access to child care, more flexible hours/home-working and attractive maternity leave schemes should be priorities.
- Month-long accredited CPD schemes should be run to promote judicial applications.
- If 'tie-break' affirmative action is not effective then we would like to see quotas run for judicial appointments for an initial two years. The definition of 'merit' should be examined to ensure it places sufficient value on experience and skill and is not biased towards one type of lawyer (for example towards commercial barristers).
- The Judicial Appointments Commission should widen its remit to target younger people and younger lawyers, particularly solicitors, so that more people will consider a judicial appointment part of their career path.

Lawyers from Under-represented Backgrounds

In this paper we focus on access to law for women and people from black and minority ethnic (BME) backgrounds. We examine diversity in the context of socio-economic status, because we see this as the main factor that holds people back from a career in law. There does not appear to be sufficient monitoring of this and so we would strongly call for diversity monitoring statistics to reflect state comprehensive, grammar or private school education.

Nonetheless, it is important for our legal professions to include any group who has faced historic discrimination in the legal system and particularly those who have a protected characteristic under the Equality Act 2010.¹ In particular we subscribe to the social model for disability: believing that in many circumstances it is society and our failure to create accessible systems that disables people.² We would like to celebrate current best practice in legal recruitment, like guaranteed interview schemes for applicants with disabilities.³

Legal Education

The members of our group all attend state schools and sixth forms in London and, even at this stage, we feel that privately educated students have an advantage when applying to university. Smaller class sizes mean more one-to-one support with university personal statements and better opportunities for teachers to get to know their students, which may impact on references. Privately educated students may have more money to spend on adding impressive extra-curricular interests and achievements to their CVs and coaching increases confidence and self-awareness for interviews.

These barriers mean, for example, that proportionally fewer students from state backgrounds will apply to and be accepted by the most prestigious universities, like Oxbridge,⁴ despite a state school background being no disadvantage to final degree class at the top levels of academia.⁵ The impact of social class continues at university, since students who have to work to fund their studies will simply not have the same amount of time to spend on their academic work as their better off peers. University drop-out rates are higher at less prestigious universities,⁶ and soaring tuition fees put pressure on students from lower socio-economic backgrounds to drop-out.⁷

In our view, the major barrier to law, for those from poorer backgrounds or those from underrepresented groups who may fear discrimination, is the prohibitive costs involved in pursuing professional training. The cost of an LPC ranges between £10,000 and £15,000.⁸ For the BPTC, this figure increases slightly with a standard one-year, full-time course costing between £12,000 and £18,000.⁹

1 The protected characteristics under the Equality Act 2010 are set out at:
<http://www.legislation.gov.uk/ukpga/2010/15/part/2/chapter/1>.

2 The Social Model of Disability (2009) Grant Carson, SAIF; available online at:
<http://www.ukdpc.net/site/images/library/Social%20Model%20of%20Disability2.pdf>.

3 As undertaken by the Government Legal Service, for example:
<http://www.cabinetoffice.gov.uk/content/guaranteed-interview-scheme>.

4 For example, while only 7% of the population is privately educated, in 2011 Oxford applications were 35.7% from private schools and they accepted 42.3% of their intake from private schools. Information available at:
http://www.ox.ac.uk/about_the_university/facts_and_figures/undergraduate_admissions_statistics/school_type.html.

5 Academic Performance of Undergraduate Students at Cambridge by School/College Background (2011) Dr Geoff Parks, University of Cambridge, available online at:
http://www.admin.cam.ac.uk/offices/admissions/research/docs/school_performance.pdf.

6 For a detailed break-down see: <https://spreadsheets.google.com/pub?key=rjOIMfz31BnVzx0HcjiBg&single=true&gid=0&output=html>, where Oxbridge has the lowest drop-out rates.

7 E.g. <http://www.telegraph.co.uk/education/educationnews/9173784/University-drop-out-rate-soars-by-13pc-in-a-year.html>.

8 Details of fees at the main providers can be found here: The College of Law <http://www.college-of-law.co.uk/prospective-students/lpc-course-fees.html>; BPP University College <http://www.bpp.com/professional-qualifications-course-details/d/professional-qualifications/LPC/4826?p#dates>; Kaplan Law School <http://law-school.kaplan.co.uk/apply/tuition-fees>.

9 For BPP, see <http://www.bpp.com/professional-qualifications-course-details/d/professional-qualifications/BPTC/5461?p#dates>; for City Law School, see <http://www.city.ac.uk/courses/postgraduate/bar-professional-training-course>.

These costs can appear to be a gamble, without any guarantee of a job at the end. For budding solicitors, the chance to secure a training contract before applying for the LPC provides security and assistance with the costs of fees and subsistence for the LPC. While it is also possible to secure a pupillage before commencing the BPTC, interviews often include exercises based on ethical, procedural and advocacy skills only covered on the BPTC.¹⁰

An alternative approach would be to adopt the Northern Irish system, which has a pragmatic focus on taking students for postgraduate course who are likely to be able to find work as a barrister or solicitor after their course. In October 2012 we visited the Institute of Professional Legal Studies in Belfast and heard how there is greater emphasis placed on real-world experience in the Northern Irish system.

Only 30 students study the Bar course each year and they must undergo a work experience scheme in a Citizen's Advice Bureau and a one week mini-pupillage, which is designed to lead to a pupillage offer, before commencing the course. Solicitors undertake post-graduate study as part of a legal apprenticeship, so they are required to find a mentor before they can begin the course. This process makes expensive post-graduate study less of a financial risk, but needs to be managed to prevent nepotism: for example few solicitors firms advertise for 'training contracts' and so many people still rely on family contacts.¹¹

One challenge raised during our visit to Northern Ireland was that many Northern Irish lawyers train and practice in England, because otherwise they would only be able to practice in Northern Ireland. We believe an optional additional module should be developed to allow Northern Irish students to adapt their legal qualifications to cover England and Wales.

Once a basic merit test has been passed, scholarships for the BPTC should be awarded based on financial need. It is our understanding that the four Inns of Court use different criteria for awarding scholarships and it would be much fairer if these awards were made by a single programme, using a set of criteria that reflect current best practice.¹²

Accessing the Professions

For reasons set out earlier in this paper, those from more affluent backgrounds may have a head-start, so additional steps are needed to give applicants from less privileged groups the opportunity to excel.

All pupillages have to be advertised on the online OLPAS system, but can still have their own application processes.¹³ There is no central portal for applications to solicitors firms and again firms can set their own application requirements. For some sets and firms this constitutes little more than a CV and covering letter. This creates a risk of overlooking applicants, who have attended a less well-known university or who have less traditional skills, but may still have excellent potential as lawyers.

In 2010/11 only 43% of pupillages were taken up by women,¹⁴ despite over 60% of law undergraduates being women¹⁵ and 53% of BPTC graduates called to the Bar in 2009/10 being women.¹⁶ While at entry-level women

10 As experienced by volunteers for Big Voice London in interviews and outlined on the Pupillage Pages website: http://thepupillagepages.com/index.php?id=x&cat_id=14#2.

11 Information Booklet for Applicants (2012) Queen's University Belfast Institute of Professional Legal Studies, University of Ulster; available online at: <http://www.qub.ac.uk/schools/media/Media,339557,en.pdf>.

12 The current system is outlined on the Target Courses website: <http://targetcourses.co.uk/funding/securing-a-scholarship-fund-your-bptc-inns-of-court>.

13 As required by the Bar Council: <http://www.barcouncil.org.uk/for-the-bar/new-to-the-bar/pupillage/>.

14 <http://www.barstandardsboard.org.uk/media-centre/research-and-statistics/statistics/pupillage-statistics/>.

15 <http://www.lawsociety.org.uk/careers/becoming-a-solicitor/entry-trends/>.

16 P.8 http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/annex_b.pdf.

receive over 60% of traineeships in solicitors firms,¹⁷ more needs to be done at the Bar, where improvement is only at 2.2% per year.¹⁸ In 2010/2011 14% of pupillages were taken up by applicants from BME backgrounds,¹⁹ despite 16% of the population in England and Wales coming from BME communities²⁰ and almost 45% of those called to the Bar in 2009/10 being from BME backgrounds.²¹

We propose that a 'work-bank' is included in the OLPAS process, by which the Bar Standards Board sets a piece of work, such as a legal opinion, so that applicants can be judged on their skill.²² Moreover, we suggest the government consider offering tax benefits to firms that undertake affirmative action under the Equality Act 2010.²³ This could use similar approaches to Black Economic Empowerment in South Africa.²⁴ We recommend that the Bar Council and Law Society produce ongoing guidance and toolkits to supplement codes of practice that cover diversity and legal recruitment.

The Law Society, Inns of Court and universities already hold outreach events for students from underrepresented backgrounds, but we would like these to go further by including opportunities for assessed skills-based exercises over a longer course to give participants an achievement to take away. We also believe that the credibility of drop-in sessions would be improved by more often involving influential people as role-models.

Furthermore we would encourage all firms and chambers to include a commitment as part of their equality and diversity policies to providing useful feedback on request to unsuccessful candidates, particularly those who have reached interview stage. This would increase accountability and thus prevent discrimination, as well as giving candidates useful advice going forward. In addition we support recent innovations promoting professional training on the job, for example as a paralegal or apprentice. We hope the Legal Education and Training Review will recommend innovative and revolutionary ideas in this area.²⁵

One current problem is the difficulty in converting a BPTC into a LPC. There are far more solicitors than barristers in England and Wales (120,202 compared with 15,204 in 2012)²⁶ and so it seems extremely odd that the 85% of pupillage applicants who did not obtain pupillage last year²⁷ do not have the option to quickly and cheaply convert to the LPC. Those from less privileged backgrounds are highly unlikely to be able to afford to undertake the LPC and so we risk losing out on their talent and commitment in the legal system. We would like to see student barristers and solicitors sitting the same core course or being able to convert by sitting a straightforward additional exam.

17 <http://www.lawsociety.org.uk/careers/becoming-a-solicitor/entry-trends/>.

18 P.15 http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/annex_b.pdf.

19 <http://www.barstandardsboard.org.uk/media-centre/research-and-statistics/statistics/pupillage-statistics/>.

20 <http://www.guardian.co.uk/news/datablog/2011/may/18/ethnic-population-england-wales>.

21 <http://www.barstandardsboard.org.uk/media-centre/research-and-statistics/statistics/called-to-the-bar-statistics/>, although this includes a significant proportion of international students.

22 Similar to the assessed work approach of Brick Court and Blackstone Chambers, from which we met barristers this year.

23 Many top firms are already involved with excellent work such as the PRIME initiative; c.f. The Prime Diversity Initiative (2011) Richard Moorhead, Legal Cheek; available online at: <http://www.legalweek.com/legal-week/blog-post/2112836/prime-diversity-initiative-game-changer-window-dressing> and Vacation Schemes (2012) Catherine Baksi, Guardian Law; available online at: <http://www.guardian.co.uk/law/2012/nov/02/vacation-schemes-applications-law-firms>.

24 For more information see the useful BEE Strategy from the Department of Health in Kwazulu-natal: <http://www.kznhealth.gov.za/TED/strategy.pdf>.

25 C.f. <http://www.ilex-tutorial.ac.uk/>. For more information on the Legal Education and Training Review please visit: <http://letr.org.uk/>.

26 http://www.legalservicesboard.org.uk/can_we_help/faqs/index.htm.

27 <http://www.barstandardsboard.org.uk/media-centre/research-and-statistics/statistics/pupillage-statistics/>.

The Glass Ceiling

Only 11% of QCs²⁸ and less than 20% of partners in law firms are women²⁹ In the last 5 years the proportion of QCs who are women has only risen by 3%. This is not just a case of waiting for more women to enter the professions and gradually rise to more senior positions – known as the trickle-up effect – because that was argument used a generation ago. The rate of change is glacial and, as the Fawcett society state on women and power, a girl born today would be drawing her pension before there was equal representation of women.³⁰

At an EU level there have been recent discussions about imposing gender quotas on private companies.³¹ One of the main drawbacks of having quotas in place is that there is a strong perception among women that this would create tokenism, which would perpetuate stereotypes that women are inferior. Recent research from the Judicial Appointments Commission has found that white men believe they are less likely to be appointed to a judicial role due to positive discrimination, but women do not feel the same.³² This suggests that perceptions of tokenism might not be felt by women, but are likely to be felt by men.

There should be more access to child care facilities either provided by the work-place itself (or the Inns of Court, for barristers) or nearby. There should be lower childcare fees, and support for this should be maintained and increased by the government. More firms should offer employees with children the option of working flexible hours and home-working. This is very achievable considering existing technology that offers sophisticated remote access options. In addition, firms should prioritise attractive maternity leave packages.³³ Though this may be costly in the short term, studies have consistently shown that investing in employees through implementing equality measures is beneficial in the long term, both for morale and financially.³⁴

There must be a very good reason to implement quotas and we fully appreciate the intense political and social conflicts in Northern Ireland and South Africa, which led to quotas in these countries.³⁵ However, at this time we feel the benefits of quotas in law firms would be outweighed by countervailing concerns. Instead we would recommend other forms of affirmative action, such as outreach and head-hunting for promotions, and better transparency to prevent gender discrimination, for example transparency regarding pay, as was initially proposed under the Equality Act 2010.

On the other hand, the statistics for women QCs are appalling and particularly offensive since ‘Queen’s Counsel’ is supposedly a public recognition of merit. We believe that far more must be done to improve the transparency, publicity and information available about the appointment process and to promote applications from under-represented groups. It may also be that the current definition of ‘merit’ should be reconsidered to recognise broader skills and talents.

28 P.15 http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/annex_b.pdf.

29 http://womeninlaw.com/WIL/?page_id=16.

30 <http://www.fawcettsociety.org.uk/index.asp?PageID=5>.

31 <http://www.bbc.co.uk/news/business-20039540>.

32 P.4 http://jac.judiciary.gov.uk/static/documents/Barriers_to_Application_Research_report_1.pdf.

33 List of top 15 law firm’s maternity leave policies: http://www.legalweek.com/digital_assets/5700/Maternity_Table_3.pdf.

34 The Costs and Benefits to British Employers of Measures to Promote Equality of Opportunity (2007) Holtermann, Gender, Work and Organisation, 2: 102–112. doi: 10.1111/j.1468-0432.1995.tb00033.x.

35 The specific form of these quotas were established by the Patten report, available here: http://www.nio.gov.uk/a_new_beginning_in_policing_in_northern_ireland.pdf.

Judicial Appointments

At present only 22.6% of judges are women, with only 15.5% as High Court judges, and still only a single woman judge in the Supreme Court; 4.2% of judges are from BME communities; 62.3% of judges were barristers and so solicitors remain under-represented in the judiciary.³⁶

This year we have had the opportunity to meet Mr Justice Roderick Evans from the High Court, a white male judge who we asked about honour killings. We were immensely impressed with his deep understanding and compassion for this area and would emphasise that it is more important for a 'transformed judiciary' to include individuals who understand diversity issues, than for the judiciary to be exactly numerically representative.

We are concerned about the proposal of choosing the applicant from an under-represented group in a tiebreak between candidates, because this may never be triggered since two candidates will never be exactly the same. If this route is not successful then we feel that a two year trial of quotas could be justified, to inject greater equality into the legal system.

Judicial appointments are appointments to public office and so they have an additional requirement of legitimacy and democratic representation of the people. Judicial appointments should require applicants to meet a minimum competence threshold for being able to do the job adequately, so perceptions of tokenism should be less damaging.

In addition, we feel there ought to be more outreach and widening participation schemes in place to inform young people and young lawyers about the role of a judge and the applications process, since the Judicial Appointments Commission has found that people will only apply if they see joining the judiciary as part of their 'career path'.³⁷

Comparison with Northern Ireland and South Africa



In October 2012 we visited Northern Ireland and met with Chief Superintendent Mark Hamilton and Maura Muldoon, Head of Policing with the Community Branch, from the Police Service of Northern Ireland to discuss the ten years of affirmative action and quotas in Northern Ireland to ensure equal representation of Catholic and Protestant officers.³⁸

We have also explored the quotas for both black and women judges in the South African judiciary, following the end of apartheid.³⁹ We were very impressed that these quotas in both instances

have been so successful and believe this is in part due to the accompanying affirmative action, which ensures the person appointed is effective in their job.

We do not believe the Northern Irish policing and South African models could be imported directly into England and Wales, but we would certainly recommend the Judicial Appointments Commission goes further in its outreach strategy to offer more substantial opportunities, for example people could write an assessed judgement on a real case.

36 http://www.judiciary.gov.uk/publications-and-reports/statistics/diversity-stats-and-gen-overview/?wbc_purpose=basic.rss.

37 P.5 http://jac.judiciary.gov.uk/static/documents/Barriers_to_Application_Research_report_1.pdf.

38 For more detail visit Joshua Garfield's article online at: <http://bigvoicelondon.org/2012/11/16/big-voice-visits-the-uk/>.

39 P.12 <http://bigvoicelondon.files.wordpress.com/2011/12/big-voice-report.pdf>.

Conclusion

While it is possible for a talented, committed person from any background to become a lawyer in the UK, it is our view that the barriers outlined above make it more difficult for a person from a non-traditional background and we would argue that this amounts to institutional discrimination. This damages the reputation of the legal professions and means that meritorious applicants are overlooked.

Some of these barriers begin very early, but they continue right into the highest echelons of the professions. The answer to these challenges lies in both regulation and less structural schemes that widen participation and raise aspirations in less privileged communities. Initiatives like Big Voice London can instigate trends in diversifying legal thought and will hopefully lead to greater awareness of equality and diversity in legal culture as a result.

Culture and the Law

In the context of diversity, we have also studied the role culture has to play in our legal system, particularly where evidence concerning culture is part of a defence in a criminal case. There is a tension between arguments based on culture and the 'reasonable man' test, which could potentially have a huge impact on the universal rule of law.

As a group we were particularly interested in the impact of culture in honour crimes and we were very lucky to meet with Mr Justice Roderick Evans, a high court judge and presiding judge in the recent trial regarding the murder of Shafiea Ahmed, a British Pakistani teenager, who was killed in 2003.⁴⁰ Her parents were sentenced to life imprisonment for her murder in August 2012, on the evidence of a police listening device and Shafiea's sister, who stated she was killed to avoid bringing shame on the family for rejecting an arranged marriage.

In the year before Shafiea was killed, she was drugged and taken to Pakistan against her will in an attempted forced marriage. Since 2008, our courts have been able to impose a civil order to protect victims of forced marriages, under the Forced Marriage (Civil Protection) Act 2007, and breach of this can result in a two-year jail sentence for contempt of court. Although, the government has announced plans to criminalise forced marriage, this has not happened yet, whereas in Scotland forced marriages were criminalised last November.⁴¹ Critics maintain that criminal legislation could deter victims from coming forward. However, in Shafiea's case, if forced marriage had been criminalised, the law may have protected her. In our view criminalising forced marriage is likely to benefit more potential victims and human rights would be upheld through this law.

As yet, no specific legislation has been proposed to combat honour-based violence, but then the term 'honour' killings seems an inappropriate euphemism for cold-blooded murder. We concur with Mr Justice Roderick Evans, that culture in murder should not be treated as a mitigating factor. Just as Mr Justice Roderick Evans was prepared to, courts should stress that murder is murder, regardless of the background of the defendant and, where appropriate, that culture may be treated as an aggravating factor in the case, particularly if it indicates a lack of remorse.

40 Information on the case are available online at: <http://www.bbc.co.uk/news/uk-england-19068490>.

41 Discussion available online at: <http://www.familylawweek.co.uk/site.aspx?i=ed90038>.

To improve the treatment of violence in the name of honour in the UK, we recommend:

- Maintaining the objective nature of the ‘reasonable person’ test;
- Ensuring police receive consistent and up to date training and work with schools;
- Use of an ethnocentric curriculum in schools to raise awareness of honour-based violence and the legal protections available to those who feel threatened. This could be done as part of the Home Secretary’s £500,000 plan to work with schools to identify potential victims of forced marriage earlier;⁴²
- Promotion and publicity of Karma Nirvana’s honour-based violence helpline;⁴³
- Urgent reform to forced marriage protections to protect the estimated 8,000 women who are victims each year.⁴⁴

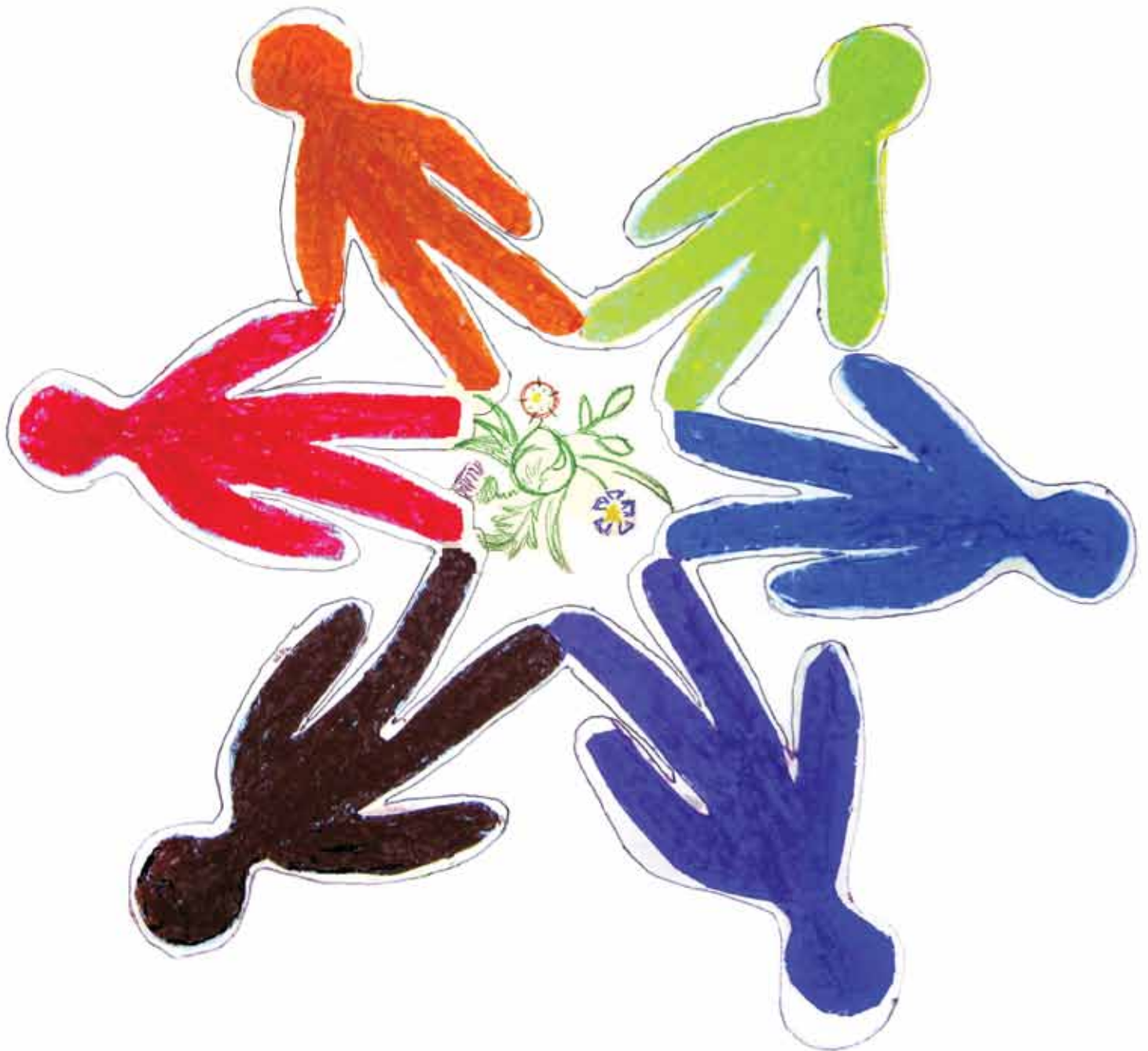
42 Information on these plans available online at: <http://www.guardian.co.uk/world/2012/jun/08/forced-marriage-criminal-offence-david-cameron>.

43 Details available on their website: <http://www.karmanirvana.org.uk/>.

44 Information available online at: <http://www.guardian.co.uk/world/2011/dec/12/forced-marriages-england-number-8000>.

Amrywiaeth a'r Gyfraith:

Adroddiad gan Big Voice London 2012



Gyda Chefnogaeth Garedig:



Rhagair gan Brif Weithredwr y Goruchaf Lys a Chydlynnydd Prosiect Big Voice London

“Am yr ail flwyddyn yn olynol, mae Goruchaf Lys y DU wedi darparu cefnogaeth i wirfoddolwyr a myfyrwyr Big Voice. Rydym yn falch iawn gwneud hynny, ac mae'n bleser cael y cyfle i ysgrifennu rhagair ar gyfer yr adroddiad hwn, sydd wedi ei gynhyrchu gan gyfranogwyr Big Voice 2012.

Ers i'r Goruchaf Lys agor ei ddrwsau yn Hydref 2009 rydym wedi bod yn awyddus iawn i ddatblygu strategaeth allgysylltu sy'n dod a phobl ifanc mewn cysylltiad â'u llys uchaf, yn arbennig pobl ifanc na fyddai fel arall yn meddwl am ymweld â'r Goruchaf Lys, nac yn ymwneud â'r materion mae'r Llys yn eu hystyried. Mae Big Voice, sy'n targedu ysgolion o gefndiroedd diwylliannol amrywiol, ac o wahanol rannau o Lundain, wedi bod yn un o'r ffyrdd mwyaf effeithiol i gyflawni ein hamcan polisi. Ac mae'n amlwg iawn o'r hyn sydd wedi'i ysgrifennu yn y papurau hyn bod y myfyrwyr wedi dysgu ac adlewyrchu ar rhai materion o bwys mawr yn ystod y deuddeg mis diwethaf.

Ar gyfer y myfyrwyr, mae hyn yn cynrychioli gwaith ychwanegol tu hwnt i ofynion eu hastudiaethau dyddiol ac ymrwymadau eraill. Maent i'w canmol am ddyfalbarhau ac am wneud yr aberth amser ac ymdrech. Hoffwn hefyd dalu teyrnged i'r gwirfoddolwyr sydd wedi rhoi cymorth iddynt dros y misoedd diwethaf, ac i'r unigolion hynny sydd wedi rhoi eu hamser i drafod â'r myfyrwyr, ac i ateb eu cwestiynau.

Mae'r testunau y maent wedi eu dewis i'w hastudio ymysg rhai o faterion cymdeithasol mwyaf heriol ein hoes. Mae amryw o sylwebwyr wedi ysgrifennu a siarad am y testunau hyn, ond nid oes yr un ohonynt wedi darganfod "yr ateb". Mae'r myfyrwyr wedi darllen, gwrandao a dadansoddi. Wrth reswm, mae'r syniadau a'r farn y maent yn eu mynegi yn eiddo iddynt hwy ac nid i unrhyw unigolyn, na sefydliad sydd wedi gweithio â hwy. Ond dylai'r syniadau a'r farn hynny gael eu hystyried fel cyfraniad gwirioneddol i'r trafodaethau y dylem ni fel cymdeithas fod yn eu cael.

Rwy'n credu ac yn gobeithio eu bod nhw wedi darganfod y profiad yn un gwerthfawr a phleserus. Rydym yn bendant wedi mwynhau darparu cefnogaeth ac agor rhai drysau iddynt."

Jenny Rowe

Prif Weithredwr, Goruchaf Lys y Deyrnas Unedig

“Mae wedi bod yn anrhydedd gweithio gyda Big Voice London am ail flwyddyn. I mi, uchafbwynt y flwyddyn oedd gweld perfformiad gwefreiddiol dau o'n myfyrwyr yn rownd derfynol ymryson 'Just Rights'; amlygodd hyn pa mor wych y gall pobl ifanc ddeall a defnyddio cyfreithiau eu gwlad os ydynt yn cael yr offer i wneud hynny.

Cyn i mi ddechrau gweithio â'r prosiect, fel llawer o'n myfyrwyr, roeddwn i'n teimlo bod y gyfraith yn fyd cymharol gaeedig. Fodd bynnag, dros y ddwy flynedd diwethaf rwyf wedi gweld cymaint o siaradwyr yn rhoi eu hamser i rannu eu hangerdd dros fynediad at y gyfraith fel fy mod yn hynod o falch bod yn rhan o ddiwylliant a chymuned gyfreithiol mor gadarnhaol. Wrth symud ymlaen rydym angen isadeiledd cryfach i ganiatáu mynediad at fyd y gyfraith i fwy o bobl ifanc yn yr un ffordd â'n myfyrwyr ni.

Dros y flwyddyn olaf mae ein pobl ifanc, o gefndiroedd diwylliannol amrywiol ac o rannau gwahanol o Lundain, wedi gweithio â'i gilydd i greu tîm. Fel cymuned rydym wedi dysgu am gydraddoldeb a hawliau yn Ne Affrica ac yng Ngogledd Iwerddon, yr Alban a Chymru. Rwy'n gobeithio y byddwn i gyd yn teimlo cyfrifoldeb y wybodaeth a rannwyd â ni, ac y byddwn yn barod i'w ysgwyddo er mwyn gwneud y byd yn well."

Jennifer Blair

Cydlynnydd, Big Voice London

Cyflwyniad

Big Voice London

Lansiwyd Big Voice London ym mis Ionawr 2011. Cysylltodd Jennifer Blair, myfyrwraig bargyfreithiol, yn wreiddiol â'r Goruchaf Lys ynglŷn â'u rhaglen allgysylltu â phobl ifanc, a datblygodd y prosiect gyda'u cyngor a'u cefnogaeth. Recriwtiodd Jennifer dîm o wirfoddolwyr ymrwymedig, aeth at ysgolion y wladwriaeth yn Llundain, gan dargedu'r rhai mewn ardaloedd â'r nifer uchaf o dlodi plant, i gasglu at ei gilydd grŵp o 40 o fyfyrwyr chweched dosbarth gyda diddordeb yn y gyfraith.

Caiff Big Voice London ei arwain gan wirfoddolwyr sydd ar y cyfan yn fyfyrwyr cyfraith ôl-raddedig sydd ag ymrwymiad i roi mynediad i ieuencid. Mae Big Voice yn unigryw yn y ffordd y mae'n mynd i'r afael yn benodol ag ymrwymo pobl ifanc â'r gyfundrefn gyfreithiol. Mae'r prosiect yn ymdrechu i rymuso myfyrwyr o gefndiroedd cymdeithasol-economaidd ddifreintiedig drwy eu cysylltu â llunwyr polisi cyfreithiol, fel bod ganddynt lais yn ein cymdeithas.

Big Voice yn 2012

Rydym wedi gweld datblygiadau bendigedig i'r prosiect yn 2012, gan gynnwys creu cystadleuaeth ymryson hawliau dynol 'Just Rights', ble cafodd ein pobl ifanc eu paru â myfyrwyr y gyfraith i gystadlu â'i gilydd fel prif gwmsler a chwmsler iau. Caniataodd hyn i bobl ifanc oedd â dim cefndir cyfreithiol i dderbyn mentora wrth iddynt ddysgu sut i wneud dadl gyfreithiol ar lefel uchel. Rydym yn gwerthfawrogi cyfraniad yr Arglwydd Reed a'r Goruchaf Lys am gynnal y rownd derfynol ac yn gyffrous eu bod wedi cytuno i wneud hynny eto yn 2013.

Y flwyddyn hon rydym wedi adeiladu ar ein hastudiaeth gymharol yn 2011 â De Affrica ol-apartheid, drwy ymchwilio i'r datblygiadau cyfreithiol arloesol sy'n cael eu gwneud yng Ngogledd Iwerddon, yr Alban a Chymru. Cawsom yr anrhydedd i gymryd rhan mewn teithiau addysgol i Fangor, Belfast a Chaeredin sydd wedi rhoi syniadau gwych i ni ar gyfer ein gwaith i'r dyfodol.

Ein Myfyrwyr

Mae'r myfyrwyr yn gwneud cais i ymuno â'r prosiect ac mae cymryd rhan yn Big Voice London yn golygu ymrwymiad sylweddol o ran mynychu sesiynau wythnosol yn ystod y tymor rhwng Ionawr a Rhagfyr 2012, yn ogystal â chymryd rhan mewn teithiau ymchwil dros nos, i gyd yng nghyd-destun pwysau gwaith eu hastudiaethau yn y chweched dosbarth.

Mae cefnogaeth a chydweithrediad yr ysgolion a cholegau sy'n gweithio â ni yn hanfodol i'r prosiect, gan ei fod yn caniatáu i fyfyrwyr gael cefnogaeth a chydabyddiaeth i'w gwaith. Y flwyddyn hon mynychodd rhan helaeth o'n myfyrwyr City and Islington Sixth Form College, Hackney Community College, Mulberry School for Girls, Nower Hill high School, St Angela's & St Bonaventure's Sixth Form Centre a St Dominic's Sixth Form College.

Tri Chwyddwydr ar y Gyfundrefn Gyfreithiol

Calon ein gwaith yw canolbwyntio ar gydraddoldeb a mynediad at gyfiawnder. Mae ein myfyrwyr yn archwilio'r testunau hyn o wahanol safbwyntiau ym mhob un o'r tri grŵp.

Amrywiaeth a'r Gyfraith: archwiliwyd y rhwystrau sy'n effeithio ar fynediad at y proffesiynau cyfreithiol yn ogystal â rôl diwylliant mewn amddiffyniadau cyfreithiol. Heriwyd cysyniadau gwahaniaethu ac archwiliwyd materion megis braint, grymusrwydd a gweithredu cadarnhaol.

Asiantaeth Gyfreithiol: canolbwyntiwyd ar fynediad at y gyfraith yn dilyn diwygiadau Woolf, hawliau dynol a'r gyfundrefn gyfiawnder troseddol, gydag astudiaeth benodol ar rymoedd yr heddlu, gwrthdystiadau, atebolrwydd a'r defnydd o ataliaeth mewn dalfeydd.

Treftadaeth Gyfreithiol: edrychwyd ar effaith celf, pensaernïaeth a llenyddiaeth ar hunaniaeth gyfreithiol, archwiliwyd treftadaeth gyfreithiol amrywiol y myfyrwyr eu hunain ac effaith hawliau ieithyddol a datganoli ar hunaniaeth gyfreithiol yng Nghymru.

Yr Awduron

Y bobl ifanc gymrodd rhan yn y prosiect a gyfrannodd tuag at y papur hwn oedd:

Amrywiaeth a'r Gyfraith

Ciara Walsh
Jessica Bhardwaj
Joshua Aberdein
Joshua Garfield
Kadija Ledeatte-Williams
Nazia Sultana
Roumina Begum
Rukshana Begum
Shahida Begum
Sonia Tailor
Tasneem Helal
Yavin Fusi-Akpodono

Y gwirfoddolwyr oedd yn ymdrin â hwyluso, cydlynu a chyfrannu at y papur hwn oedd:

Alex Cisneros, Ben Mills, Jennifer Blair, Maleeka Bokhari a Ruth Hennessy.



Cydnabyddiaethau

Rydym yn gwerthfawrogi'n fawr yr ewyllys da a'r cymorth yr ydym wedi ei dderbyn yn ystod ein prosiect ac yn arbennig i Ysgol y Gyfraith Prifysgol Bangor am eu cymorth â'r cyfieithu i'r Gymraeg.

Gwirfoddolwyr yw'r rhai sydd wedi rhoi eu hamser i wireddu'r prosiect. Cafwyd hyfforddiant hwyluso arbenigol gan EquaEd. Y tîm cydlynau oedd Alex Cisneros, Ariana Gale, Jennifer Blair a Maleeka Bokhari. Ein harweinwyr tîm oedd: Adam Muckle, Ben Mills, Dimitra Kamarinou, Esmá Komur, Frances Bennett, Lucy Rezler-Kennedy, Michelle Murray, Ruth Hennessy, Sarah Hirech, Sasha Wickham, Sophie Charles, Wendy Bremang, Zahra Afshar. Hoffem hefyd ddiolch i'n gwirfoddolwr cyfreithiol Nargees Choudhury a'n gwirfoddolwr digwyddiadau cyfreithiol Rob Patmore.

Mae Siaradwyr wedi cynnig golwg arbenigol i'r myfyrwyr am eu gwaith a'u profiad proffesiynol. Diolch i: Saba Ashraf, Imran Khan, Bernard Hogan-Howe Comisiynydd yr Heddlu Metropolitan, yr Arglwydd Reed o'r Goruchaf Lys, Adam Wagner, Tom Cleaver, Jonathan Rubin, Gwion Lewis, Cherie Blair CF, Ustus Roderick Evans o'r Uchel Lys, Anne Fenton o'r Sefydliad Astudiaethau Cyfreithiol Proffesiynol yng Ngogledd Iwerddon, yr Athro Colin Harvey o Brifysgol Queen's Belfast, y Prif Uwch-arolygydd Mark Hamilton a Maura Muldoon o Wasanaeth Heddlu Gogledd Iwerddon, Comisiwn y Gyfraith, Emily Thornberry AS, y Farwnes Helena Kennedy CF a'r Arglwydd Kerr o'r Goruchaf Lys.

Mae llawer mwy sydd wedi cyfrannu at gyflawni'r prosiect. Hoffem ddiolch yn arbennig i: EquaEd, Sarwan Singh a City University, BPP Law School, City and Islington Sixth Form College, Hackney Community College, Mulberry School for Girls, Nower Hill high School, St Angela's & St Bonaventure's Sixth Form Centre, St Dominic's Sixth Form College, Islington Council, Kensington Unitarian Church, Gray's Inn, Paul McEvoy o Gyfreithwyr McEvoy Sheridan Solicitors, ein prif noddwr Lexis Nexis a'r Goruchaf Lys.

Cyflwyniad

Mae'r ystrydeb o'r cyfreithiwr gwryw, gwyn, dosbarth uchel yn parhau ac wrth ymdrin â'r pwnc hwn rydym wedi darganfod amryw o rwystrau i'r proffesiynau cyfreithiol i'r rhai o gefndiroedd llai 'traddodiadol'. Ar gyfer y papur hwn byddwn yn amlinellu trywydd i mewn i'r gyfraith, fel ein bod yn gallu: 1) adnabod unrhyw rwystrau i hygyrchedd; 2) gweld sut all unigolyn wynebu amryw o rwystrau; a 3) pennu beth ellir ei wneud ar bob cyfnod i wneud y proffesiynau cyfreithiol yn fwy agored ac addas ar gyfer cefndiroedd gwahanol.

I gloi, byddwn yn dadansoddi'r berthynas ddwysach rhwng diwylliant a'r gyfraith. Mae'r papur briffio yn ganlyniad i waith ymchwil ar sefyllfa bresennol amrywiaeth cyfreithiol yng Nghymru a Lloegr, taith addysgiadol i Ogledd Iwerddon ac astudiaeth gymharol o amrywiaeth yng nghyfundrefn gyfreithiol De Affrica.

Crynodeb

Fel y trafodir isod, ein prif argymhellion yw:

- Dylai ystadegau monitro amrywiaeth nodi os yw ymgeisydd wedi cael addysg y wladwriaeth (ac os ydynt pa un ai ydynt wedi mynychu ysgol ramadeg neu gyfun).
- Dylai cynigion disgybledd/contract hyfforddi gael eu cadarnhau cyn i fyfyrwyr ymgymryd â Chwrs Hyfforddi Proffesiynol y Bar (CHPB) neu'r Cwrs Ymarfer Cyfreithiol (CYC), dylai rheoleiddwyr cyfreithiol geisio cadw ffioedd ôl-raddedig i lawr heb amharu ar gyfraith cystadleuaeth a dylai ysgoloriaethau'r CHPB gael eu rheoli'n ganolog.
- Dylai bod mwy o bwyslais ar brofiad ymarferol mewn hyfforddiant cyfreithiol ôl-raddedig a llwybrau amgen i'r gyfraith megis prentisiaethau, gan osgoi nepotiaeth.
- Dylid cyfuno'r CHPB a'r CYC i un cwrs neu dylid bod ffordd rwydd i droi o un i'r llall; dylai hefyd fod yn bosib i fargyfreithwyr sydd wedi eu hyfforddi yng Ngogledd Iwerddon ymarfer yng Nghymru a Lloegr.
- Dylai Cymdeithas y Gyfraith a Chyngor y Bar gynhyrchu pecyn cymorth a strategaethau gweithredu i roi cymorth i ffyrmiâu bychan a setiau fabwysiadu arferion gorau ar gyfer recriwtio.
- Pan mae ffyrmydd yn gwrthod ymgeisydd wedi cyfweiliad dylent ddarparu adborth defnyddiol ar gais fel ymrwymiad i gydraddoldeb ac amrywiaeth.
- Dylai darn safonol o waith (e.e. opiniwn) gael ei osod gan Fwrdd Safonau'r Bar ar gyfer OLPAS yn flynyddol a'i gylchredeg gyda cheisiadau disgybledd.
- Dylai gwell mynediad i ofal plant, oriau gwaith/gweithio o gartref mwy hyblyg a chynlluniau absenoldeb mamolaeth fwy deniadol fod yn flaenoriaethau.
- Dylai cynlluniau Datblygiad Proffesiynol Parhaus (DPP) mis o hyd wedi eu hachredu gael eu cynnal er mwyn hyrwyddo ceisiadau barnwrol.
- Os nad yw gweithred gadarnhaol 'canlyniad cyfartal' yn effeithiol yna byddwn yn hoffi gweld cwota yn cael ei osod ar gyfer apwyntiadau barnwrol am gyfnod cychwynol o ddwy flynedd. Dylai'r diffiniad o 'deilyngdod' gael ei archwilio er mwyn sicrhau ei fod yn gosod gwerth digonol ar brofiad a sgil ac nad yw'n dangos tuedd o blaid un math o gyfreithiwr (er enghraifft o blaid bargyfreithwyr masnachol).
- Dylai'r Comisiwn Apwyntiadau Barnwrol ehangu ei gylch gwaith i dargedu pobl ieuengach a chyfreithyddion ifancach, yn arbennig cyfreithwyr, fel bod mwy o bobl yn ystyried apwyntiad barnwrol fel rhan o'u llwybr gyrfaol.

Cyfreithwyr o Gefndiroedd sy'n cael eu Tangynrychioli

Yn y papur hwn byddwn yn canolbwyntio ar fynediad i'r gyfraith ar gyfer merched a phobl o gefndiroedd croenddu a lleiafrifoedd ethnig. Rydym yn archwilio amrywiaeth yng nghyd-destun statws gymdeithasol-economaid, oherwydd ein bod yn gweld hyn fel y brif nodwedd sy'n dal pobl yn ôl rhag gyrfaoedd yn y gyfraith. Nid yw'n ymddangos bod monitro digonol o hyn ac felly byddwn yn galw'n gryf ar yr ystadegau monitro amrywiaeth i adlewyrchu un ai addysg wladwriaeth gyfun, ramadeg neu addysg ysgol breifat.

Fodd bynnag, mae'n bwysig i'n proffesiynau cyfreithiol gynnwys grwpiau sydd wedi wynebu gwahaniaethu hanesyddol ac yn arbennig y rhai sydd â nodwedd wedi ei ddiogelu o dan Ddeddf Cydraddoldeb 2010.¹ Yn arbennig rydym yn cefnogi'r model cymdeithasol o anabled: gan gredu, mewn nifer o sefyllfaoedd, mai cymdeithas a'n methiant i greu systemau hygyrch sy'n achosi anabled pobl.² Hoffem ddathlu'r arferion gorau cyfredol mewn recriwtio cyfreithiol, megis cynlluniau sy'n gwarantu cyfweliad ar gyfer ymgeiswyr ag anabledau.³

Addysg Gyfreithiol

Mae aelodau ein grŵp i gyd wedi mynychu ysgolion a chweched dosbarth y wladwriaeth yn Llundain, a hyd yn oed ar y cyfnod yma, rydym yn teimlo bod gan fyfyrwyr sydd ag addysg breifat fantais wrth ymgeisio i brifysgolion. Mae dosbarthiadau llai yn golygu mwy o gefnogaeth un-i-un ar gyfer datganiadau personol ar gyfer prifysgolion a gwell cyfleoedd i athrawon ddod i adnabod eu myfyrwyr, a all gael effaith ar dystlythyrau. Gall myfyrwyr sydd ag addysg breifat fod â mwy o arian i wario ar gyfer ychwanegu diddordebau a llwyddiannau allgyrsiol er mwyn creu argraff yn eu CV ac mae hyfforddiant yn cynyddu hyder a hunanymwybyddiaeth ar gyfer cyfweliadau.

Mae'r rhwystrau hyn, er enghraifft, yn golygu bod canran llai o fyfyrwyr o gefndir y wladwriaeth yn ymgeisio ar gyfer ac yn cael eu derbyn i'r prifysgolion mawreddog, megis Oxbridge,⁴ er nad yw cefndir ysgol y wladwriaeth yn anfantais ar gyfer y dosbarth gradd derfynol ar haenau uchaf y byd academaidd.⁵ Mae effaith dosbarth cymdeithasol yn parhau yn y brifysgol, gan na fydd gan fyfyrwyr sydd angen gweithio i gefnogi eu hastudiaethau'r un amser i ymroddi i'w gwaith academaidd o gymharu â'u cyfoedion sy'n well eu byd. Mae graddfa'r myfyrwyr sy'n rhoi'r gorau i brifysgol yn uwch mewn prifysgolion llai mawreddog,⁶ ac mae ffioedd myfyrwyr cynyddol yn rhoi pwysau ar fyfyrwyr o gefndiroedd cymdeithasol-economaid is i roi'r gorau iddi.⁷

Yn ein barn ni, y prif rwystr i'r gyfraith, ar gyfer y rhai o gefndiroedd tlotach a'r rhai o grwpiau sy'n cael eu tangynrychioli a all fod yn ofni gwahaniaethu, yw'r gost waharddol sydd ynghlwm â dilyn hyfforddiant proffesiynol. Mae cost y CYC yn amrywio rhwng £10,000 a £15,000.⁸ Ar gyfer y CHPB, mae'r swm yma'n codi ychydig gyda cwrs safonol un flwyddyn, llawn amser yn costio rhwng £12,000 a £18,000.⁹

1 Mae'r nodweddion sydd wedi eu diogelu o dan y Ddeddf Gydraddoldeb 2010 wedi eu nodi ar:
<http://www.legislation.gov.uk/ukpga/2010/15/part/2/chapter/1>.

2 The Social Model of Disability (2009) Grant Carson, SAIF; ar gael ar-lein ar:
<http://www.ukdpc.net/site/images/library/Social%20Model%20of%20Disability2.pdf>.

3 Fel sy'n cael ei ymgymryd gan Wasanaeth Cyfreithiol y Llywodraeth, er enghraifft:
<http://www.cabinetoffice.gov.uk/content/guaranteed-interview-scheme>.

4 Er enghraifft, er mai 7% yn unig o'r boblogaeth sy'n cael addysg breifat, yn 2001 roedd 35.7% o geisiadau i Rydychen o ysgolion preifat ac roedd 42.3% o'r nifer a dderbynwyd o ysgolion preifat. Gwybodaeth ar gael ar:
http://www.ox.ac.uk/about_the_university/facts_and_figures/undergraduate_admissions_statistics/school_type.html.

5 Academic Performance of Undergraduate Students at Cambridge by School/College Background (2011) Dr Geoff Parks, Prifysgol Caergrawnt, ar gael ar-lein ar: http://www.admin.cam.ac.uk/offices/admissions/research/docs/school_performance.pdf.

6 Am ddadansoddiad manwl gweler: <https://spreadsheets.google.com/pub?key=rjOIMfz31BnVzx0HcijtiBg&single=true&gid=0&output=html>, ble mae gan Oxbridge mae'r raddfa isaf o'r rhai sy'n rhoi'r gorau iddi.

7 E.e. <http://www.telegraph.co.uk/education/educationnews/9173784/University-drop-out-rate-soars-by-13pc-in-a-year.html>.

8 Gellir darganfod ffioedd y prif ddarparwyr yma: The College of Law <http://www.college-of-law.co.uk/prospective-students/lpc-course-fees.html>; BPP University College <http://www.bpp.com/professional-qualifications-course-details/d/professional-qualifications/LPC/4826?p#dates>; Kaplan Law School <http://law-school.kaplan.co.uk/apply/tuition-fees>.

9 For BPP, see <http://www.bpp.com/professional-qualifications-course-details/d/professional-qualifications/BPTC/5461?p#dates>; for City Law School, see <http://www.city.ac.uk/courses/postgraduate/bar-professional-training-course>.

Gall y costau hyn ymddangos fel mentro lwc, heb unrhyw sicrwydd o waith ar y diwedd. Ar gyfer egin gyfreithwyr, mae'r cyfle i sicrhau contract hyfforddi cyn ymgeisio am y CYC yn rhoi diogelwch a chymorth gyda phris y ffioedd a chynhaliath ar gyfer y CYC. Tra ei bod hefyd yn bosib sicrhau disgybledd cyn dechrau'r CHPB, mae cyfweiliadau'n aml yn cynnwys ymarferiadau sydd wedi eu seilio ar sgiliau moesol, gweithdrefnol ac eiriolaeth sydd ond yn cael eu dysgu ar y CHPB.¹⁰

Dull arall fyddai mabwysiadu'r system yng Ngogledd Iwerddon, sydd â chanolbwynt bragmataidd wrth dderbyn myfyrwyr ar gyfer cyrsiau ôl-radd sydd yn debygol o allu darganfod swyddi fel bargyfreithwyr neu gyfreithwyr yn dilyn eu cwrs. Yn Hydref 2012 aethom i ymweld â'r Sefydliad Astudiaethau Cyfreithiol Proffesiynol ym Melffast a chlywed sut mae pwyslais arbennig yn cael ei roi ar brofiad o'r byd go iawn yng nghyfundrefn Gogledd Iwerddon.

30 o fyfyrwyr yn unig sy'n astudio cwrs y Bar pob blwyddyn ac mae'n rhaid iddynt ymgymryd â chynllun profiad gwaith mewn cangen Cyngor ar Bopeth ac wythnos o ddisgybledd, sydd wedi ei ddylunio er mwyn arwain at gynnig disgybledd lawn, cyn dechrau'r cwrs. Mae cyfreithwyr yn ymgymryd ag astudiaeth ôl-raddedig fel rhan o brentisiaeth gyfreithiol, felly mae angen iddynt ddod o hyd i fentor cyn iddynt ddechrau'r cwrs. Mae'r broses yma'n gwneud astudiaeth ôl-raddedig ddud yn llai o risg ariannol, ond bod angen ei reoli er mwyn osgoi nepotiaeth: er enghraifft ychydig o ffyrniau cyfreithwyr sy'n hysbysebu 'contractau hyfforddi' ac mae llawer yn parhau i ddibynnu ar gysylltiadau teuluol.¹¹

Un her a godwyd yn ystod ein hymweliad â Gogledd Iwerddon oedd bod nifer o gyfreithwyr o Gogledd Iwerddon yn hyfforddi ac ymarfer yn Lloegr, oherwydd fel arall byddent ond yn gallu ymarfer yng Ngogledd Iwerddon. Rydym yn credu y dylai modiwl dewisol ychwanegol gael ei ddatblygu er mwyn caniatáu i fyfyrwyr Gogledd Iwerddon addasu eu cymwysterau cyfreithiol i rychwantu Cymru a Lloegr.

Unwaith y mae prawf teilyngdod sylfaenol wedi ei basio, dylai ysgoloriaethau ar gyfer y CHPB eu gwobrwyo yn seiliedig ar angenrheidrwydd ariannol. Yn ôl ein dealltwriaeth ni mae pedwar Llety'r Brawdlys yn defnyddio meini prawf gwahanol ar gyfer gwobrwyo ysgoloriaethau a byddai'n llawer tecach pe byddai'r gwobrau hyn yn cael eu gwneud drwy raglen unedig, gan ddefnyddio meini prawf sy'n adlewyrchu'r arferion gorau cyfredol.¹²

Mynediad i'r Proffesiynau

Am y rhesymau a nodwyd yn gynharach yn y papur hwn, fe all fod y rhai o gefndiroedd breintiedig fod gam ar y blaen, felly mae angen camau ychwanegol i roi cyfle i ymgeiswyr o grwpiau llai breintiedig i ragori.

Mae'n rhaid i ddisgybleddau gael eu hysbysebu yn ganolog drwy system ar-lein OLPAS, ond gallent dal gael eu prosesau ymgeisio unigol eu hunain.¹³ Nid oes porth canolog ar gyfer ceisiadau i ffyrniau cyfreithwyr ac unwaith eto gall ffyrniau sefydlu eu gofynion ar gyfer ceisiadau eu hunain. Ar gyfer rhai setiau a ffyrniau nid yw hyn yn ddim mwy nag CV a llythyr eglurhaol. Mae hyn yn creu'r risg o edrych heibio rhai ymgeiswyr, sydd wedi mynychu prifysgol llai adnabyddus neu sydd â sgiliau llai traddodiadol, ond a allai dal fod â gallu gwych fel cyfreithwyr.

Yn 2010/11 43% yn unig o ddisgybleddau a gymerwyd gan ferched,¹⁴ er bod dros 60% o israddedigion cyfraith yn ferched¹⁵ a bod 53% o'r graddedigion CHPB a gafodd eu galw i'r Bar yn 2009/10 yn ferched.¹⁶ Tra ar lefel

10 Fel y profwyd gan wirfoddolwyr Big Voice London ac amlinellir ar wefan Pupillage Pages: http://thepupillagepages.com/index.php?id=x&cat_id=14#2.

11 Information Booklet for Applicants (2012) Queen's University Belfast Institute of Professional Legal Studies, University of Ulster; ar gael ar-lein ar: <http://www.qub.ac.uk/schools/media/Media,339557,en.pdf>.

12 Mae'r system gyfredol yn cael ei amlinellu ar wefan Target Courses: <http://targetcourses.co.uk/funding/securing-a-scholarship-fund-your-bptc-inns-of-court>.

13 Fel sy'n ofynnol gan Gyngor y Bar: <http://www.barcouncil.org.uk/for-the-bar/new-to-the-bar/pupillage/>.

14 <http://www.barstandardsboard.org.uk/media-centre/research-and-statistics/statistics/pupillage-statistics/>.

15 <http://www.lawsociety.org.uk/careers/becoming-a-solicitor/entry-trends/>.

16 t.8 http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/annex_b.pdf.

mynediad mae merched yn derbyn dros 60% o'r swyddi dan hyfforddiant mewn ffyrniau cyfreithwyr,¹⁷ mae mwy angen ei wneud yn y Bar, ble mae'r gwelliant ond yn 2.2% pob blwyddyn.¹⁸ Yn 2010/11 cafodd 14% o ddisgybleddau eu cymryd gan ymgeiswyr o gefndiroedd croenddu a lleiafrifoedd ethnig,¹⁹ er bod 16% o boblogaeth Cymru a Lloegr yn dod o gymunedau croenddu a lleiafrifoedd ethnig²⁰ a bod bron i 45% o'r rhai a alwyd i'r Bar yn 2009/10 yn dod o gefndiroedd croenddu a lleiafrifoedd ethnig.²¹

Rydym yn cynnig y dylai 'banc-gwaith' gael ei gynnwys yn y broses OLPAS, ble gall Bwrdd Safonau'r Bar osod darn o waith, megis opiniwn cyfreithiol, fel bod modd beirniadu ymgeiswyr yn unol â'u sgiliau.²² Yn ogystal, rydym yn awgrymu bod y llywodraeth yn ystyried rhoi buddiannau treth i ffyrniau sy'n ymgymryd â gweithredu cadarnhaol o dan y Ddeddf Gydraddoldeb 2010.²³ Gallai hyn ddefnyddio dulliau tebyg i'r mudiad Awdurdodi Grym Economaidd Croenddu yn Ne Affrica.²⁴ Rydym yn awgrymu y dylai Cyngor y Bar a Chymdeithas y Gyfraith gyhoeddi canllawiau parhaus a phe cynnau cymorth i ategu'r cod ymarfer sy'n ymdrin ag amrywiaeth a recriwtio cyfreithiol.

Mae Cymdeithas y Gyfraith, Lletyau'r Brawdlys a phrifysgolion yn cynnal digwyddiadau allgysylltu i fyfyrwyr o gefndiroedd sy'n cael eu tangynrychioli, ond hoffem weld y rhain yn mynd ymhellach drwy gynnwys cyfleoedd ar gyfer asesu ymarferion sydd wedi eu seilio ar sgiliau dros gyfnod hirach er mwyn rhoi cyflawniad ar y diwedd i'r rhai sy'n cymryd rhan. Credwn hefyd y gellir gwella hygyrdded sesiynau galw-mewn drwy gynnwys pobl ddylanwadol fel ysbrydoliaeth.

Yn ogystal, byddem yn annog pob ffyrm a siambr i gynnwys ymrwymiad fel rhan o'u polisiau cydraddoldeb ac amrywiaeth i ddarparu adborth defnyddiol ar gais i ymgeiswyr aflwyddiannus, yn arbennig y rhai sydd wedi cyrraedd y cyfnod cyfweld. Byddai hyn yn cynyddu atebolrwydd ac felly yn atal gwahaniaethu, yn ogystal â rhoi cyngor defnyddiol i ymgeiswyr wrth fynd yn eu blaen. Rydym hefyd yn cefnogi mentrau diweddar i hybu hyfforddiant proffesiynol wrth weithio, er enghraifft megis paragyfreithwyr neu brentisiaeth. Rydym yn gobeithio y bydd yr Adolygiad Addysg a Hyfforddiant Cyfreithiol yn argymhell syniadau arloesol a chwyldroadol yn y maes hwn.²⁵

Un broblem gyfredol yw anhawster trosi CHPB i CYC. Mae llawer mwy o gyfreithwyr na bargyfreithwyr yng Nghymru a Lloegr (120,202 o gymharu â 15,204 yn 2012)²⁶ ac felly mae'n ymddangos yn hynod o ryfedd bod yr 85% o ymgeiswyr disgybledd aflwyddiannus llynedd²⁷ heb y dewis i drosi yn sydyn ac yn rhad i'r CYC. Mae'n hynod annhebygol y byddai'r rhai o gefndir llai breintiedig yn gallu fforddio ymgymryd â CYC ac felly rydym yn berygl o golli eu talent ac ymrwymiad yn y gyfundrefn gyfreithiol. Byddem yn hoffi gweld bargyfreithwyr a chyfreithwyr yn sefyll yr un cwrs craidd neu yn gallu trosi drwy sefyll arholiad syml ychwanegol.

17 <http://www.lawsociety.org.uk/careers/becoming-a-solicitor/entry-trends/>.

18 t.15 http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/annex_b.pdf.

19 <http://www.barstandardsboard.org.uk/media-centre/research-and-statistics/statistics/pupillage-statistics/>.

20 <http://www.guardian.co.uk/news/datablog/2011/may/18/ethnic-population-england-wales>.

21 <http://www.barstandardsboard.org.uk/media-centre/research-and-statistics/statistics/called-to-the-bar-statistics/>, er bod hyn yn cynnwys canran sylweddol o fyfyrwyr rhyngwladol.

22 Yn debyg i'r dull gwaith asesedig sy'n cael ei ddefnyddio gan Brick Court a Blackstone Chambers, yn dilyn cyfarfod bargyfreithwyr ohonynt eleni.

23 Mae amryw o ffyrniau uchel yn ymwneud yn barod â gwaith rhagorol megis menter PRIME; c.f. The Prime Diversity Initiative (2011) Richard Moorhead, Legal Cheek; ar gael ar-lein ar: <http://www.legalweek.com/legal-week/blog-post/2112836/prime-diversity-initiative-game-changer-window-dressing> a Vacation Schemes (2012) Catherine Baksi, Guardian Law; ar gael ar-lein ar: <http://www.guardian.co.uk/law/2012/nov/02/vacation-schemes-applications-law-firms>.

24 For more information see the useful BEE Strategy from the Department of Health in Kwazulu-natal: <http://www.kznhealth.gov.za/TED/strategy.pdf>.

25 C.f. <http://www.iilex-tutorial.ac.uk/>. Am fwy o wybodaeth ynglŷn â'r Adolygiad Addysg a Hyfforddiant Gyfreithiol gweler: <http://letr.org.uk/>.

26 http://www.legalservicesboard.org.uk/can_we_help/faqs/index.htm.

27 <http://www.barstandardsboard.org.uk/media-centre/research-and-statistics/statistics/pupillage-statistics/>.

Y Nenfwd Gwydr

11% o Gwnsleriaid y Frenhines²⁸ a llai na 20% o bartneriaid mewn ffyrniau cyfreithiol sy'n ferched.²⁹ Yn ystod y 5 mlynedd diwethaf mae'r canran o Gwnsleriaid y Frenhines wedi codi 3% yn unig. Nid yw hyn yn achos o aros i ferched fynd i mewn i'r proffesiwn a chodi'n raddol i safleoedd uwch - a adnabyddir fel yr effaith diferu-fyny - oherwydd roedd hynny'n ddadl a ddefnyddiwyd cenhedlaeth yn ôl. Mae graddfa'r newid yn boenus o araf ac, fel nodir gan y gymdeithas Fawcett ynglŷn â merched â grym, bydd merch sy'n cael ei geni heddiw ar ei phensiwn cyn y bydd cynrychiolaeth gydradd i ferched.³⁰

Ar lefel yr UE mae trafodaethau diweddar wedi bod ynglŷn â gorfodi cwotâu ar gwmnïau preifat.³¹ Un o brif anfanteision rhoi cwota mewn lle yw bod ymdeimlad cryf ymysg merched y byddai hyn yn creu tocynistiaeth, a fyddai'n tragwyddoli'r ystrydeb bod merched yn israddol. Mae ymchwil diweddar gan y Comisiwn Apwyntiadau Barnwrol yn dangos bod dynion gwyn yn credu eu bod yn llai tebygol o gael eu hapwyntio yn sgil gwahaniaethu cadarnhaol, ond nid yw merched yn teimlo'r un fath.³² Mae hyn yn awgrymu efallai nad yw'r argraff o docynistiaeth yn cael ei deimlo gan ferched, ond yn fwy tebygol o gael ei deimlo gan ddynion.

Dylid bod mwy o hygyrchedd tuag at adnoddau gwarchod plant un ai'n cael eu darparu gan y gweithle ei hun (neu letyau'r Brawdlys ar gyfer bargyfreithwyr) neu gerllaw. Dylid bod ffioedd gofal plant llai, a bod cefnogaeth i hyn yn cael ei gynnal a'i gynyddu gan y llywodraeth. Dylai mwy o ffyrniau gynnig y dewis o oriau gweithio hyblyg a gweithio o gartref i weithwyr â phlant. Mae hyn yn gyraeddadwy iawn wrth ystyried y dechnoleg bresennol sy'n gallu rhoi mynediad tra datblygedig o bell. Yn ogystal, dylai ffyrniau flaenoriaethu cynlluniau absenoldeb mamolaeth ddeniadol.³³ Er y gall hynny fod yn ddrud yn y tymor byr, mae astudiaethau wedi dangos yn gyson bod buddsoddi yn y gweithwyr drwy weithredu mesurau cydraddoldeb yn fuddiol yn yr hir dymor, o ran ysbryd da ac yn ariannol.³⁴

Mae angen bod rhesymau arbennig o dda dros gyflwyno cwotâu ac rydym yn cydnabod yn llawn y gwrthdaro angerddol yn wleidyddol a chymdeithasol a arweiniodd at gwotâu yng Ngogledd Iwerddon a De Affrica.³⁵ Fodd bynnag, ar hyn o bryd rydym yn credu y byddai manteision cwotâu mewn ffyrniau cyfreithwyr yn cael eu gorbwyso gan bryderon eraill. Yn hytrach byddem yn argymhell ffurfiau eraill o weithredu cadarnhaol, megis allgysylltu a thargedu dyrchafiadau, a gwell tryloywder i rwystro gwahaniaethu ar sail rhyw, er enghraifft tryloywder mewn perthynas â chyflog, fel y cafodd ei gynnig i ddechrau o dan Ddeddf Cydraddoldeb 2010.

Ar y llaw arall, mae'r ystadegau ar gyfer Cwnsleriaid y Frenhines sy'n ferched yn ofnadwy ac yn arbennig o sarhaus gan fod 'Cwnsler y Frenhines' i fod yn gydnabyddiaeth gyhoeddus o deilyngdod. Rydym o'r farn y dylid gwneud llawer mwy i wella'r tryloywder, cyhoedduswydd a gwybodaeth sydd ar gael ynglŷn â'r broses apwyntio ac i hybu ceisiadau gan grwpiau sy'n cael eu tangynrychioli. Efallai bod angen hefyd ail-ystyried y diffiniad presennol o 'deilyngdod' er mwyn cydnabod sgiliau a thalent ehangach.

28 t.15 http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/annex_b.pdf.

29 http://womeninlaw.com/WIL/?page_id=16.

30 <http://www.fawcettsociety.org.uk/index.asp?PageID=5>.

31 <http://www.bbc.co.uk/news/business-20039540>.

32 t.4 http://jac.judiciary.gov.uk/static/documents/Barriers_to_Application_Research_report_1.pdf.

33 Rhestr o bolisiau absenoldeb mamolaeth y 15 ffyrn uchaf: http://www.legalweek.com/digital_assets/5700/Maternity_Table_3.pdf.

34 The Costs and Benefits to British Employers of Measures to Promote Equality of Opportunity (2007) Holtermann, Gender, Work and Organisation, 2: 102–112. doi: 10.1111/j.1468-0432.1995.tb00033.x.

35 Cafodd ffurf benodol y cwotâu hyn eu sefydlu gan Adroddiad Patten, ar gael yma: http://www.nio.gov.uk/a_new_beginning_in_policing_in_northern_ireland.pdf.

Apwyntiadau Barnwrol

Ar hyn o bryd 22.6% yn unig o'r farnwriaeth sy'n ferched, gyda dim ond 15.5% o farnwyr yr Uchel Lys, a dim ond un ferch yn y Goruchaf Lys; mae 4.2% o farnwyr o gymunedau croenddu neu leiafrif ethnig; roedd 62.3% o farnwyr yn fargyfreithwyr ac felly mae cyfreithwyr yn parhau i gael eu tangynrychioli yn y farnwriaeth.³⁶

Y flwyddyn yma cawsom y cyfle i gyfarfod Mr Ustus Roderick Evans o'r Uchel Lys, barnwr gwryw gwyn y gofynasom iddo ynglŷn â lladd er anrhydedd. Gwnaeth gryn argraff arnom gyda'i ddealltwriaeth ddwys a'i drugaredd tuag at y maes a byddem yn pwysleisio ei bod yn bwysicach i 'farnwriaeth sy'n gweddnewid' gynnwys unigolion sy'n deall materion amrywiaeth, nac i'r farnwriaeth fod yn union gynrychioladol o ran nifer.

Rydym yn bryderus ynglŷn â'r cynnig i ddewis ymgeisydd o grŵp sy'n cael ei dangynrychioli mewn sefyllfa gyfartal rhwng ymgeiswyr, oherwydd ni all hyn fyth gael ei weithredu gan na fydd dau ymgeisydd fyth yn union yr un fath. Os nad yw'r trywydd hwn yn llwyddiannus yna rydym yn teimlo y gellir cyfiawnhau cwotâu am gyfnod prawf o ddwy flynedd, er mwyn chwistrellu cydraddoldeb pellach i'r gyfundrefn gyfiawnder.

Mae apwyntiadau barnwrol yn apwyntiadau i swydd gyhoeddus ac felly mae ganddynt ofyniad pellach o gyfreithlondeb a chynrychiolaeth ddemocrataidd y bobl. Dylai ymgeiswyr ar gyfer apwyntiadau barnwrol gyrraedd trothwy safonau cymhwysedd sylfaenol er mwyn gallu gwneud y swydd yn ddigonol, felly dylai argraff o docynistiaeth fod yn llai niweidiol.

Yn ogystal, rydym yn teimlo y dylai bod mwy o gynlluniau allgysylltu ac ehangu cyfranogi yn eu lle er mwyn hysbysu pobl ifanc a chyfreithwyr ifanc ynglŷn â rôl barnwr a'r broses ymgeisio, gan fod y Comisiwn Apwyntiadau Barnwrol wedi darganfod bod pobl ond yn ymgeisio os ydynt yn gweld ymuno â'r farnwriaeth fel rhan o'u 'llwybr gyrfaol'.³⁷

Cymhariaeth â Gogledd Iwerddon a De Affrica



Ymwelsom â Gogledd Iwerddon yn Hydref 2012 a chyfarfod â'r Prif Uwch-arolygydd Mark Hamilton a Maura Muldoon, Pennaeth Plismona gyda'r Gangen Gymunedol, o wasanaeth heddlu Gogledd Iwerddon i drafod degawd o weithredu cadarnhaol a chwotâu yng Nghogledd Iwerddon i sicrhau cynrychiolaeth gydradd rhwng swyddogion Catholig a Phrotestant.³⁸

Rydym hefyd wedi archwilio i gwotâu ar gyfer barnwyr croenddu a benywaidd yn farnwriaeth De Affrica, yn dilyn diwedd apartheid.³⁹ Gwnaed argraff hynod arnom fod y cwotâu yn y ddwy achos wedi

bod mor llwyddiannus ac rydym o'r farn bod hyn yn rhannol oherwydd y gweithredu cadarnhaol cysylltiedig, sy'n sicrhau bod y person sy'n cael ei apwyntio yn effeithiol yn ei swydd.

Nid ydym yn credu y gellir cyflwyno modelau De Affrica a phlismona yng Nghogledd Iwerddon yn uniongyrchol i Gymru a Lloegr, ond byddem yn argymhell yn bendant bod y Comisiwn Apwyntiadau Barnwrol yn mynd ymhellach yn ei strategaeth allgysylltu er mwyn cynnig cyfleoedd mwy sylweddol, er enghraifft gall pobl ysgrifennu dyfarniad asessedig ar achos go iawn.

36 http://www.judiciary.gov.uk/publications-and-reports/statistics/diversity-stats-and-gen-overview/?wbc_purpose=basic.rss.

37 t.5 http://jac.judiciary.gov.uk/static/documents/Barriers_to_Application_Research_report_1.pdf.

38 Am fwy o fanylion gweler erthygl Joshua Garfield ar-lein ar: <http://bigvoicelondon.org/2012/11/16/big-voice-visits-the-uk/>.

39 t.12 <http://bigvoicelondon.files.wordpress.com/2011/12/big-voice-report.pdf>.

Casgliad

Tra ei bod yn bosib i berson talentog ac ymroddedig o unrhyw gefndir ddod yn gyfreithiwr yn y DU, rydym o'r farn bod y rhwystrau a amlinellwyd uchod yn ei gwneud yn anoddach i berson o gefndir anhraddodiadol a byddem yn dadlau bod hyn yn gyfystyr a gwahaniaethu sefydliadol. Mae hyn yn niweidio enw da'r proffesiynau cyfreithiol ac yn golygu bod ymgeiswyr teilwng yn cael eu diystyru.

Mae rhai o'r rhwystrau hyn yn dechrau'n gynnar iawn, ond maent yn parhau i uchelfannau'r proffesiynau. Mae'r ateb i'r heriau hyn yn gorwedd gyda rheoliadau a chynlluniau llai strwythurol sy'n ehangu cyfranogaeth a chodi uchelgais y rhai mewn cymunedau llai breintiedig. Mae mentrau megis Big Voice London yn gallu symbylu gogwydd wrth amrywiaethu meddyliu cyfreithiol a bydd, gobeithio, o ganlyniad, yn arwain tuag at ymwybyddiaeth well o gydraddoldeb ac amrywiaeth mewn diwylliant cyfreithiol.

Diwylliant a'r Gyfraith

Yng nghyd-destun amrywiaeth, rydym hefyd wedi astudio rôl diwylliant yn ein cyfundrefn gyfreithiol, yn arbennig ble mae tystiolaeth ynghylch diwylliant yn rhan o amddiffyniad mewn achos troseddol. Mae tyndra rhwng dadleuon sydd wedi eu seilio ar ddiwylliant a phrawf y 'dyn rhesymol', a all gael effaith anferth posibl ar reolaeth y gyfraith yn gyffredinol.

Fel grŵp, roeddem â diddordeb arbennig yn effaith diwylliant troseddau er anrhydedd ac roeddem yn lwcus iawn cael cyfarfod â Mr Ustus Roderick Evans, barnwr o'r Uchel Lys a'r barnwr llywyddol yn yr achos diweddar yn ymwneud â llofruddiaeth Shafilea Ahmed, merch Brydeinig o dras Bacistanaid oedd yn ei harddegau, a gafodd ei lladd yn 2003.⁴⁰ Cafodd ei rhieni eu dedfrydu i fywyd yn y carchar am ei llofruddiaeth yn Awst 2012, ar dystiolaeth offer gwrando'r heddlu a chwaer Shafilea, a ddywedodd ei bod wedi cael ei lladd i atal dod a chywilydd ar y teulu am wrthod priodas wedi'i drefnu.

Yn y flwyddyn cyn i Shafilea gael ei lladd, rhoddwyd cyffuriau iddi a'i chymryd i Bacistan yn erbyn ei hewyllys mewn ymgais i orfodi priodas. Ers 2008, mae ein llysoedd wedi gallu gosod gorchymyn sifil er mwyn diogelu dioddefwyr priodas dan orfod, o dan Ddeddf Priodas dan Orfod (Diogelwch Sifil) 2007, ble gall torri'r gorchymyn olygu carchar am ddwy flynedd am ddirmyg llys. Er bod y llywodraeth wedi cyhoeddi cynlluniau i greu trosedd priodasau dan orfod, nid yw hyn wedi digwydd eto, tra yn yr Alban cafodd priodasau dan orfod eu gwneud yn drosedd fis Tachwedd diwethaf.⁴¹ Mae beirniaid o'r farn y gall deddfwriaeth droseddol rwystro dioddefwyr rhag dod ymlaen. Fodd bynnag, yn achos Shafilea, pe byddai priodasau dan orfod yn drosedd, efallai byddai'r gyfraith wedi gallu ei diogelu. Yn ein barn ni mae creu priodas dan orfod yn drosedd yn debygol o fod yn fudd i fwy o ddioddefwyr posibl a byddai hawliau dynol yn cael eu cynnal drwy'r gyfraith hwn.

Cyn belled, nid oes cynnig ar gyfer deddfwriaeth benodol wedi'i wneud i fynd i'r afael â thrais sydd â sail anrhydedd, ond mae'r term 'anrhydedd' yn ymddangos yn amhriodol ar gyfer lladd mewn gwaed oer. Rydym yn cytuno â Mr Ustus Roderick Evans, na ddylai diwylliant mewn llofruddiaeth gael ei drin fel nodwedd liniarol. Fel ag yr oedd Mr Ustus Roderick Evans yn barod i'w wneud, dylai'r llysoedd bwysleisio mai llofruddiaeth yw llofruddiaeth, ni waeth beth yw cefndir y diffynnydd ac, ble mae'n briodol, gellir trin diwylliant fel nodwedd waethybol mewn achos, yn arbennig os yw'n dangos diffyg edifeirwch.

40 Gwybodaeth am yr achos ar gael ar-lein ar: <http://www.bbc.co.uk/news/uk-england-19068490>.

41 Trafodaeth ar gael ar-lein ar: <http://www.familylawweek.co.uk/site.aspx?i=ed90038>.

Er mwyn gwella'r driniaeth o drais yn enw anrhydedd yn y DU, rydym yn argymhell:

- Cadw natur wrthrychol y prawf 'person rhesymol';
- Sicrhau bod yr heddlu yn derbyn hyfforddiant cyson a chyfredol ac yn gweithio ag ysgolion;
- Defnydd o gwricwlwm ethnosen trig mewn ysgolion er mwyn codi ymwybyddiaeth ynglŷn â thrais yn enw anrhydedd a'r diogelwch cyfreithiol sydd ar gael i'r rhai sy'n teimlo o dan fygythiad. Gellir gwneud hyn fel rhan o gynllun £500,000 yr Ysgrifennydd Cartref i weithio gydag ysgolion er mwyn adnabod dioddefwyr posibl priodasau dan orfod yn gynharach;⁴²
- Hybu a rhoi cyhoeddusrwydd i linell gymorth Karma Nirvana i ddioddefwyr trais yn enw anrhydedd;⁴³
- Diwygiad ar frys i ddiogelwch priodas dan orfod er mwyn diogelu'r oddeutu 8,000 o ferched sy'n ddioddefwyr pob blwyddyn.⁴⁴

42 Gwybodaeth ynglŷn â'r cynlluniau hyn ar gael ar-lein ar: <http://www.guardian.co.uk/world/2012/jun/08/forced-marriage-criminal-offence-david-cameron>.

43 Manylion ar gael ar ei gwefan: <http://www.karmanirvana.org.uk/>.

44 Gwybodaeth ar gael ar-lein ar: <http://www.guardian.co.uk/world/2011/dec/12/forced-marriages-england-number-8000>.