Law, Policing and Human Rights:
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."

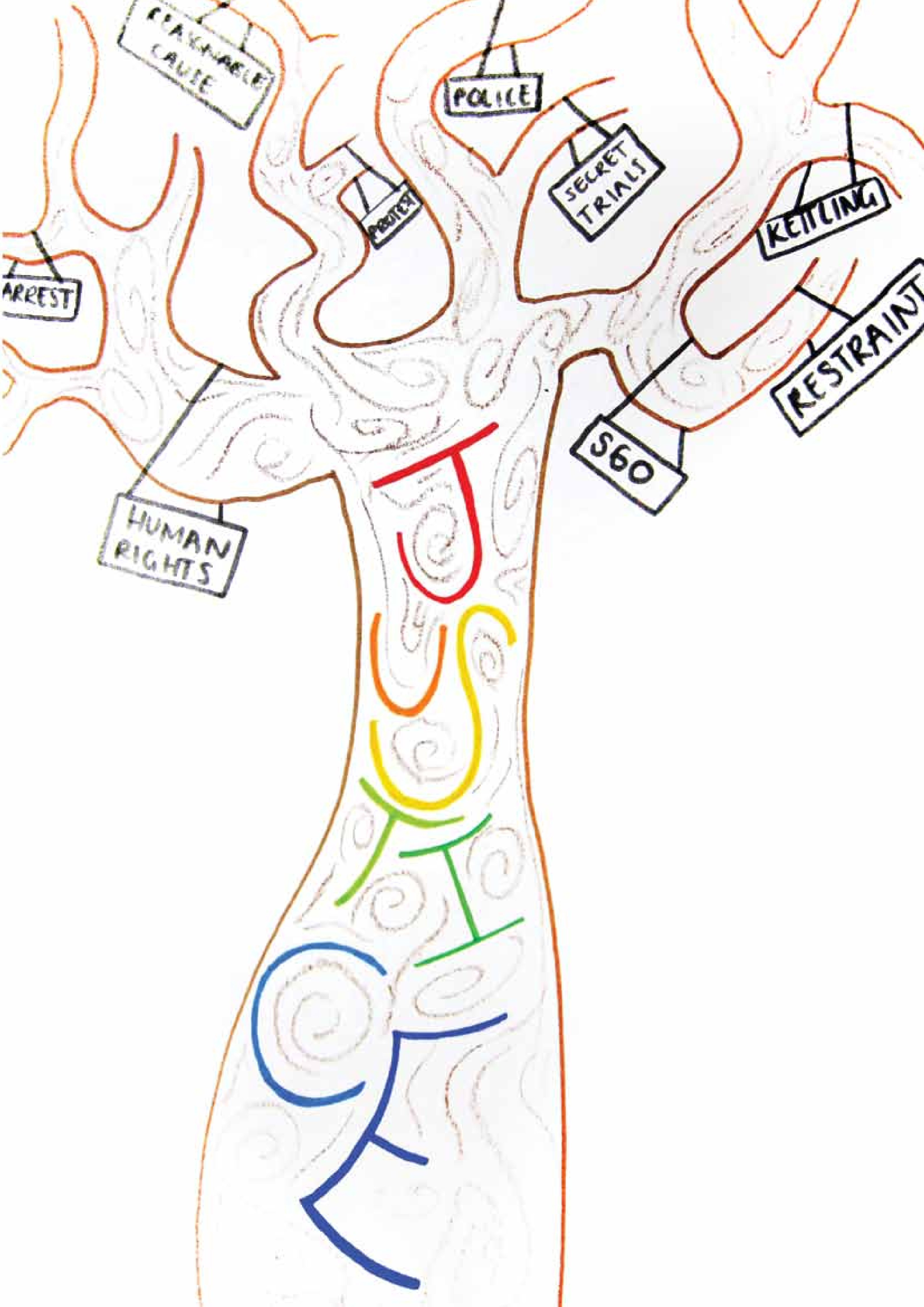
Jenny Rowe
Chief Executive, The Supreme Court of the United Kingdom

"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


POLICE
SECRET TRIALS
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KETTLING
ARREST
RESTRAINT
S60
HUMAN RIGHTS
JUSTICE

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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The young people taking part in the project who have contributed to this briefing paper are:

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Acknowledgements

We are extremely grateful for the good will and assistance we have received during this project and particularly for the assistance of Bangor University Law School with Welsh translation.

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: Sophie Farthing from Liberty; Tom Wainwright; Doug Brogan, Bernard Hogan-Howe the Metropolitan Police Commissioner; Lord Reed from the Supreme Court; Adam Wagner; Tom Cleaver; Nisha Gautama, Anna Marshall, Jeremy Coleman and David Simpson from Hammersmith Magistrates Court; Lord Ramsbotham from the House of Lords; Rebecca Samaras and Lindsay Jack from Edinburgh University; Assistant Chief Constable Graham Sinclair; Chief Inspector James Royan and Lothian and Borders Police; The Law Commission; Emily Thornberry MP; Baroness Helena Kennedy QC and Lord Kerr from the Supreme Court.

There are many others, without whom our project would not have been possible. We would particularly like to thank: EquaEd, Sarwan Singh and 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 from McEvoy Sheridan Solicitors, our main funder Lexis Nexis and the Supreme Court.

Introduction

The introduction of the Human Rights Act 1998 has created new challenges for policing in the UK. Strategies to protect the public must now be balanced against individual rights in a proportionate way. In this paper we address four areas of tension between individual rights and public safety. These are: stop and search powers under Section 60 Criminal Justice and Public Order Act 1994 (CJPOA), the policing of protests, police accountability in court proceedings and the use of restraints.

This paper is informed by research conducted into policing in England and Wales, a learning visit to Scotland and a comparative study of policing in South Africa. In summary, our main recommendations are:

- Broad stop and search powers under s.60 CJPOA 1994 should be reviewed and amended to:
    - Require 'reasonable suspicion' before they can be authorised;
    - Include a code of practice for authorising officers and front line staff;
    - Emphasise the importance of community buy-in for the exercise of emergency police powers.
- Containment or 'kettling' of protesters should be limited to use as a last resort and stricter guidelines on the provision of resources to protesters and time limits of containment should be issued; we would like to see this issue revisited by the European Court of Human Rights (ECtHR).
- A clear distinction should be drawn in the policing of public order between the rights of legitimate protesters and those of rioters; the police should embrace social media platforms to engage with the public and gain up-to-date intelligence.
- The Justice and Security Bill should be amended to limit closed material proceedings on national security issues to cases involving the intelligence services, and not the police, in order to support police accountability in the public sphere.
- Pain-free methods of restraint, developed in hospitals, should be used by the police, prison guards and private security firms and high-risk pain and compliance techniques should no longer be used.

Stop and Search Powers

Section 1 of the Police and Criminal Evidence Act 1984 (PACE) provides the police with the power to stop and search people and/or vehicles for a variety of items, ranging from stolen property to offensive weapons and drugs.[1] These stop and search powers are granted to overcome the obstacle of a warrant, when there are reasonable grounds of suspicion mainly deriving from background intelligence, specific information or the actual behaviour of the suspect. While discussing this issue with community engagement officers from the Metropolitan Police, we learnt that they consider a range of factors, from visual, sound, circumstances and smell to previous knowledge, actions and communication of the suspect,[2] in order to establish whether there are reasonable grounds to carry out a stop and search. We believe the existence of this element is crucial to ensure that the powers are used fairly and their use has to be justified by officers, without unlawful discrimination based on race, age, gender, religion or sexuality. Unlawful and discriminatory stop and searches are known to lead to disastrous situations, like the Brixton riots in 1981.[3]

1 Stop and Searches (19 April 2012) Home Office website: http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/police-research/police-powers-procedures-201011/stops-searches-1011

2 Following the S.H.A.C.K.S mnemonic; c.f. p.5,: Search Powers Prior to Arrest (2012) Metropolitan Police: http://www.met.police.uk/foi/pdfs/policies/search_powers_prior_to_arrest_sops_mpsps_version.pdf

3 The Scarman Report (April 1981) Lord Scarman, Penguin Books, ISBN 014022744X, 9780140227444

Section 60

One stop and search power is s. 60 of the CJPOA 1994 which provides the police with powers to prevent anticipated violence. These powers deviate from the ones described above as they are lacking the safeguard of 'reasonable suspicion' attached to a specific individual, and that is the source of their main criticism. S. 60 powers can be authorized for 24 hours by an officer of the rank of inspector or above and have to be based upon a 'reasonable belief' that a) '*incidents involving serious violence may take place*' or that b) '*persons are carrying...offensive weapons...without good reason*' (CJPOA s.60(1)).

Where it is reasonably suspected that an offense of serious violence or of carrying an offensive weapon has been committed, an officer of the rank of superintendent or above can extend the authorization for a second 24 hours (CJPOA s.60 (3)). During the time that a s.60 order is in place, a uniformed officer can '*stop any person or vehicle and make any search he thinks fit whether or not he has any grounds for suspecting that the person or vehicle is carrying weapons*' (CJPOA s.60(5)).

The main problem we identified with the fact that senior officers need only have a 'reasonable belief' to authorize the use of this power, is that 'reasonable belief' is an ambiguous term. There seem to be few safeguards to prevent the law being taken advantage of and used for other purposes other than what it is designed for, i.e. the police on the ground could stop and search people to look for things other than weapons, e.g. drugs, or could even use these powers to victimise known individuals.

During the year 2010/2011, from the 60,963 people who were stopped and searched in England and Wales[4] under s.60 (of whom 53,518 were in London), only 505 were found to be carrying offensive weapons or other dangerous instruments and from those, only 243 were subsequently arrested. The remaining 1,160 arrests resulting from s.60 stop and search were for reasons other than carrying offensive weapons.[5]

The arrest to searches percentage of 2.3% causes us to question whether the 'reasonable belief' police officers hold prior to the stop and search authorization can ever be objective, unambiguous and proportionate. Is it legally justifiable and ultimately worth it to potentially alienate a big part of the population, who have been stopped and searched without any reasonable suspicion, in order to find the tiny minority who are responsible or may be responsible for violence?

The answer seems to be based on whether the searches are necessary, according to the law in a democratic society and proportionate, since these are the tests applied under the Human Rights Act. As well as stop and search affecting Article 8 – the right to private life – there are concerns that s.60 searches are often targeted at a particular social or racial group, which would potentially breach Article 14 of the European Convention on Human Rights (ECHR).[6]

Requiring Reasonable Cause

This test applies to situations where an arrest is made without a reasonable cause. While the term 'reasonable cause' represents the facts and circumstances that form a 'reasonable suspicion', the two terms are often used interchangeably.

4 Home Office website, 'Stop and searches tables (Police Powers and Procedures England and Wales 2010/11), (19 April 2012) Available at: http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/police-research/immigration-tabs-q4-2011/stops-searches-1011-tabs (SS.05)

5 Ibid.

6 For example, members of our group have related that they were stopped and searched under s.60 because they were 'Asian', which would clearly fall within the scope of Article 14.

In the ECtHR judgment in *Gillan*,[7] the Court found that the stop and search powers under s.44 Terrorism Act 2000 were far too broad and were taking place without reasonable suspicion, violating the right to privacy of those stopped and searched. Following this, the Parliamentary Joint Committee on Human Rights called for a review of the Terrorism Act 2000 (TA), which resulted in increased safeguards.[8] In line with this decision, we recommend an analogous review of s. 60 powers, to examine whether such blanket provisions can comply with our commitments to human rights.

If s.60 is to be retained, we recommend that the legislation should be amended along the same lines as s.44 TA to include a similar code of practice that police officers have to follow before authorising a s.60 stop and search. Our main recommendation regarding s.60 is that an authorization should go beyond 'reasonable belief' and require a reasonable suspicion backed up by real intelligence.

Before a s.60 search can be authorised, frontline staff should be provided with a basic script outlining how they should communicate the exercise of these powers to the public, using clear and polite language to prevent people feel unduly criminalised. For accountability, we would suggest that police officers carrying out s.60 stop and searches wear helmets with embedded cameras so that the procedure is better monitored and controlled by superior officers.

More public awareness of stop and search powers is needed to enhance the relationship between the police and the public. We recommend that the police build on their community engagement strategies by visiting schools and taking on board young people's perceptions, perhaps as part of the Citizenship curriculum. Finally, we suggest that central guidance is issued to make it clear that s.60 is an emergency measure, rather than a tool Borough commanders are expected to use to demonstrate that they are tough on knife crime, since this was a concern raised by the Metropolitan Police Commissioner during our meeting with him earlier this year.

Policing of Public Dissent and Protests

According to Article 10 of the ECHR, everyone has the right to freedom of expression and according to the subsequent Article 11, everyone has the right to peaceful assembly and association with others, including the right to protest. When a protest is peaceful, the police should be present to protect the protesters and make sure they can exercise their freedom of expression without interference.[9]

However, there are cases where a group of people may choose to express their views in public in a way that interferes with the rights of others, resulting in breach of the peace and potentially leading to violence. What starts as a peaceful protest may develop into a serious case of public dissent or a riot. In those cases, police are present to safeguard the public interest and prevent violence from spreading. To this end, the police have been known to use a variety of techniques to respond to protesters' violence; these include 'containment' or 'kettling' of protestors or by pushing protestors back with police in riot gear, by using CS spray or rubber bullets to combat escalating chaos.

Protest and the European Court of Human Rights

7 Gillan and Quinton v The United Kingdom, ECtHR Application no. 4158/05 (12 January 2010); available online at: http://www.bailii.org/eu/cases/ECHR/2010/28.html. C.f. Stop and Search Powers Under Review (2010) Adam Wagner, UK Human Rights Blog: http://ukhumanrightsblog.com/2010/07/01/stop-and-search-powers-under-review-as-european-court-reject-uk-appeal/

8 The Terrorism Act 2000 (Remedial) Order 2011; available online at: http://www.homeoffice.gov.uk/publications/counter-terrorism/terrorism-act-remedial-order/terrorism-act-remedial-order?view=Binary

9 Beatty v Gillbanks (1882) 9 QBD 308; c.f. discussion by the Select Committee on Northern Ireland affairs online at: http://www.parliament.the-stationery-office.co.uk/pa/cm200001/cmselect/cmniaf/120/120ap25.htm.

The technique of containment (commonly known as 'kettling'), as a method for controlling large crowds during protests, was looked at by the ECtHR in the recent case of *Austin and others v The United Kingdom*.[10] The appellants, including a demonstrator and passersby who were caught in the cordon, established that during a protest against globalisation in London the police set a cordon around the protesters and forbade them to leave for almost seven hours without providing any space for movement, toilet or water facilities.[11] The Court judged that the police did not violate the protesters' right to liberty under article 5, since the 'containment' consisted only of a temporary restriction on the protesters' freedom of movement, which was proportionate and necessary to avoid serious damage, and did not amount to detention.

We believe that the Court went too far in this decision, since it appeared to redefine 'liberty' in an effort to justify its judgment. If anything, Article 5 does not differentiate between temporary and permanent restrictions of liberty; the natural meaning of 'liberty' includes 'freedom of movement' in this context and so it should only be restricted when one of the specific lawful exceptions applies under Article 5(1)(a)–(f). We would encourage the ECtHR to reconsider this issue.

We have discussed the issues surrounding the use of containment tactics with a representative from the Metropolitan Police public order team and with senior police officers from Scotland on a visit to the Headquarters of Lothian and Borders Police Force in Edinburgh. We are reassured that police public order teams try to ensure as much as possible in the preparatory stages of a proposed protest that needing to kettle will not be necessary. We were also informed that this is done most successfully through community engagement between the police, the public and the protesters, although the police are fully prepared to enforce such measures should the need arise as an absolute last resort.

We were lucky enough to also speak with protest law expert Tom Wainwright, a barrister from Garden Court Chambers, and it seems to us that there are still grey areas relating to how many people are contained in a 'kettle' and what resources are provided to them during containment. We would recommend that:

- Kettling is used as a last resort by police, only after an assessment of the intentions of protesters has been undertaken and there is found to be a high risk of an imminent escalation into violence;
- During this assessment, the police should, within reason, try to identify any vulnerable members of the population among the protesters and remove them before the restriction is put in place;
- Police should provide adequate toilet and water facilities for protesters;
- Strict guidelines on acceptable time limits should be issued and clear sign off from a senior officer should be required if containment is to continue beyond four hours.

Hooliganism, Modern Protests and Social Media

Whilst looking at issues of public order, we considered the context of 'hooliganism' as a backdrop to how police today view outbursts of public disorder and how hooliganism has impacted on the response to modern protests. 'Hooliganism' became synonymous with football fans during the 1970s and 80s,[12] and both politicians and police were placed under tremendous pressure to deal with public order offences in sport more effectively. Since this time, legislation has been passed across the UK to challenge both spontaneous

10 Austin and others v the United Kingdom, ECtHR Applications nos. 39692/09, 40713/09 and 41008/09 (15 March 2012); available online at: http://www.bailii.org/eu/cases/ECHR/2012/459.html

11 Human Rights Europe, 'Judges reject police "kettling" human rights appeal' (15 March 2012), Available at: http://www.humanrightseurope.org/2012/03/judges-reject-police-kettling-human-rights-appeal/

12 Hooliganism (2007) Dr Geoff Pearson, Football Industry Group, University of Liverpool; available online at: http://www.liv.ac.uk/footballindustry/hooligan.html

violence and planned violence by gangs of football fans.[13] It is vital that the police do not approach legitimate protests with the same attitude adopted towards violent ones[14]. Students protesting against increases in tuition fees, for example, have a right of assembly protected by the ECHR, which would not apply equally to the participants in the London riots, so the two groups must not be approached with the same strategies.

An additional factor today is the role of social media, which allow public gatherings to happen spontaneously. Social networking tools, such as Facebook, Twitter, Blackberry Messenger and other instant message providers, mean incidences of public disorder can be planned, in a relatively short amount of time. This was evident in the riots of last year, as many reported that they had received social media 'broadcasts' informing them where to go, which consequently led to the rioting spreading extremely quickly and the people involved staying one step ahead of the police.[15] We would recommend that the police:

- Fully embrace all the new and emerging forms of social media, such as Twitter, in order to gather intelligence quickly and at the same time as an event occurs;
- Continue to use social media in a proactive way to prevent crime, increase public awareness and break down communication barriers between themselves and the public;
- Do not seek to access the social media accounts of others without legal authority, since this would be a great violation of the right to privacy (Article 8 ECHR).

Police Accountability and Secret Trials

As the police exist to serve the public and maintain the peace, it follows logically that the public have the right to have their voices heard on issues relating to police policy. Similarly, our justice system is founded upon principles of open justice. Therefore, we are concerned that the proposals for 'secret trials' in cases which raise issues of national security in the Justice and Security Bill could prevent or reduce police accountability to the public.[16]

It is already recognised that there are undercurrents of hostility and mistrust in the relationship between the police and the public. We believe that the possibility of holding secret trials involving members of the police, and not just the intelligence services, would only increase this negative climate. Holding secret trials for police officers involved with cases with an impact on national security would lead to an unfair and two-tiered justice system, as the ordinary lay-person would still be obliged to be subjected to a public trial, with all the consequences and media exposure that this entails. Finally, there is also a real fear that secret trials would prevent police being held to account and this could lead to a lower standard of policing as a whole.

As the justice system should be open and transparent, so should the police service. We do not believe that secret trials should extend past extreme cases of national security, and therefore section 6 of the proposed Justice and Security Bill should be amended to exclusively apply to the intelligence services.[17]

13 C.f. the helpful analysis of this area in Football Hooliganism, Politics.co.uk; available online at: http://www.politics.co.uk/reference/football-hooliganism and the Football (Offences and Disorder) Bill 1999: http://bit.ly/ZoTKAL.

14 As set out in Taking Liberties (2008) directed by Chris Atkins; see the film website for more details: http://www.noliberties.com/.

15 After the Riots (2012) Riots Communities and Victims Panel, p. 129; available online at: http://riotspanel.independent.gov.uk/wp-content/uploads/2012/03/Riots-Panel-Final-Report1.pdf

16 To see the currents of debate on this topics c.f. the Consultation outline and responses for the Justice and Security Bill, available online at: http://consultation.cabinetoffice.gov.uk/justiceandsecurity/the-justice-and-security-bill.

17 At present the proposals only apply to cases of 'national security', but do not exclude cases involving the police; c.f. the Justice and Security Bill online at: http://www.publications.parliament.uk/pa/bills/lbill/2012-2013/0027/lbill_2012-20130027_en_1.htm

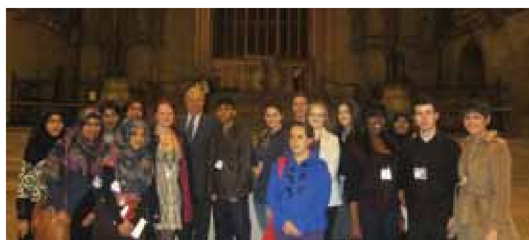
Transparency and Secrecy in South Africa

While the Justice and Security Bill is being discussed in the UK, the Protection of State Information Bill (PSIB) is in the process of becoming law in South Africa.[18] This Bill, which makes revealing state secrets and espionage an offence, has received high levels of criticism in South Africa, since it would, for example, seem to make it illegal for journalists to reveal high level official corruption.[19] Like the section in the Justice and Security Bill relating to Norwich Pharmacal applications,[20] the PSIB would not permit the courts to balance competing public interests.

If the PSIB becomes law, it will be open to the members of South Africa's National Assembly to apply to the South African Constitutional Court to test whether the legislation is unconstitutional,[21] but no such path is open to us in the UK and so we would urge the political parties in the UK to reconsider whether this legislation is really necessary. We would draw confidence from the powerful civil liberties activism in South Africa to recommend that it should be open to the court to weigh competing public interests in any case which involves fundamental human rights and allegations of high level corruption.[22]

Uses of Restraint

We were fortunate to have the opportunity to meet with Lord Ramsbotham in the House of Lords, to discuss with him his upcoming report with the Independent Asylum Commission and Citizens UK which addresses the uses of restraint in detention.[23] This was just after the announcement that security staff would not be charged for the death of Jimmy Mubenga during an immigration removal[24] and at the same time that a news story broke regarding a police officer being charged with misconduct for using excessive force while executing a restraint technique based on pain and compliance.[25]



Lord Ramsbotham explained that mental health facilities and hospitals have developed and introduced restraint techniques that do not require using any pain and are as effective the restraint techniques used by the police, prison service and private security services. We would strongly recommend that these techniques are used across the board, to reduce the extremely concerning forms of restraint currently in widespread use, which are open to abuse, particularly in immigration removals, where private security firm contractors may not be adequately trained.[26] When an alternative is available, the use of pain and compliance techniques could potentially violate individual human rights, and amount to torture or inhuman or degrading treatment or punishment, breaching Article 3 of the ECHR.[27]

18 Available online at: http://www.info.gov.za/view/DownloadFileAction?id=151319.

19 C.f. ANC's secrecy bill seen as assault on South African press freedom (June 2012) Smith, the Guardian; available online at: http://www.guardian.co.uk/world/2012/jun/06/south-africa-secrecy-bill-press-freedom.

20 Section 13 onwards; available online at: http://www.publications.parliament.uk/pa/bills/lbill/2012-2013/0027/13027.pdf.

21 Under section 80 of the South African Constitution; available online at: http://www.info.gov.za/documents/constitution/1996/96cons4.htm#80.

22 Including cases like that of Binyam Mohamed; c.f. http://www.reprieve.org.uk/cases/binyammohamed/history/.

23 More information on this work can be found on Citizens UK's website: http://www.citizensuk.org/campaigns/citizens-uk-diaspora-caucus/citizens-for-sanctuary/.

24 For more information on Jimmy Mubenga's tragic case see: http://www.guardian.co.uk/uk/jimmy-mubenga and http://blog.cps.gov.uk/2012/07/cps-decision-on-death-of-jimmy-mubenga.html on the decision not to prosecute.

25 Moment a policeman lost his temper (2012) Tozer and Parveen, Daily Mail; online at: http://www.dailymail.co.uk/news/article-2215608/PC-Stephen-Hudson-spared-jail-CCTV-captures-using-pain-restraint-boy-15.html

26 Parliament.uk website, 'Written evidence submitted by Amnesty International UK' http://www.publications.parliament.uk/pa/cm201012/cmselect/cmhaff/563/563we07.htm

27 See article online: http://www.cambridge-news.co.uk/News/Handcuffing-prisoner-dying-in-hospital-unnecessary-12102012.htm

Conclusion

During our visit to the police headquarters in Edinburgh we were extremely impressed with the priority given to community engagement shown by the Scottish police. We were shown how community input is valued and included in all stages of police strategy, leading to needs analysis from the grassroots up. This has led, for example, to an extensive campaign on hate crime, since this has been identified by the local community as a particular area of concern.

With the introduction of elected police commissioners, we are concerned that policing priorities may become more political. From our experience over the last twelve months, the best policing involves listening to the people the police should serve and it would be a shame if this approach is lost in the new system.

To conclude, we would like to see more engagement with the public and particularly with young people, for example in the design and evaluation of diversion schemes.

Cyfraith, Plismona A Hawliau Dynol:
Adroddiad gan Big Voice London 2012

Gyda Chefnogaeth Garedig:

LexisNexis

Big Voice

The Supreme Court

Prifysgol Bangor University

Rhagair gan Brif Weithredwr y Goruchaf Lys a Chydlynydd 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 ddrysau 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 ymrwymiadau 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, gwrando 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."

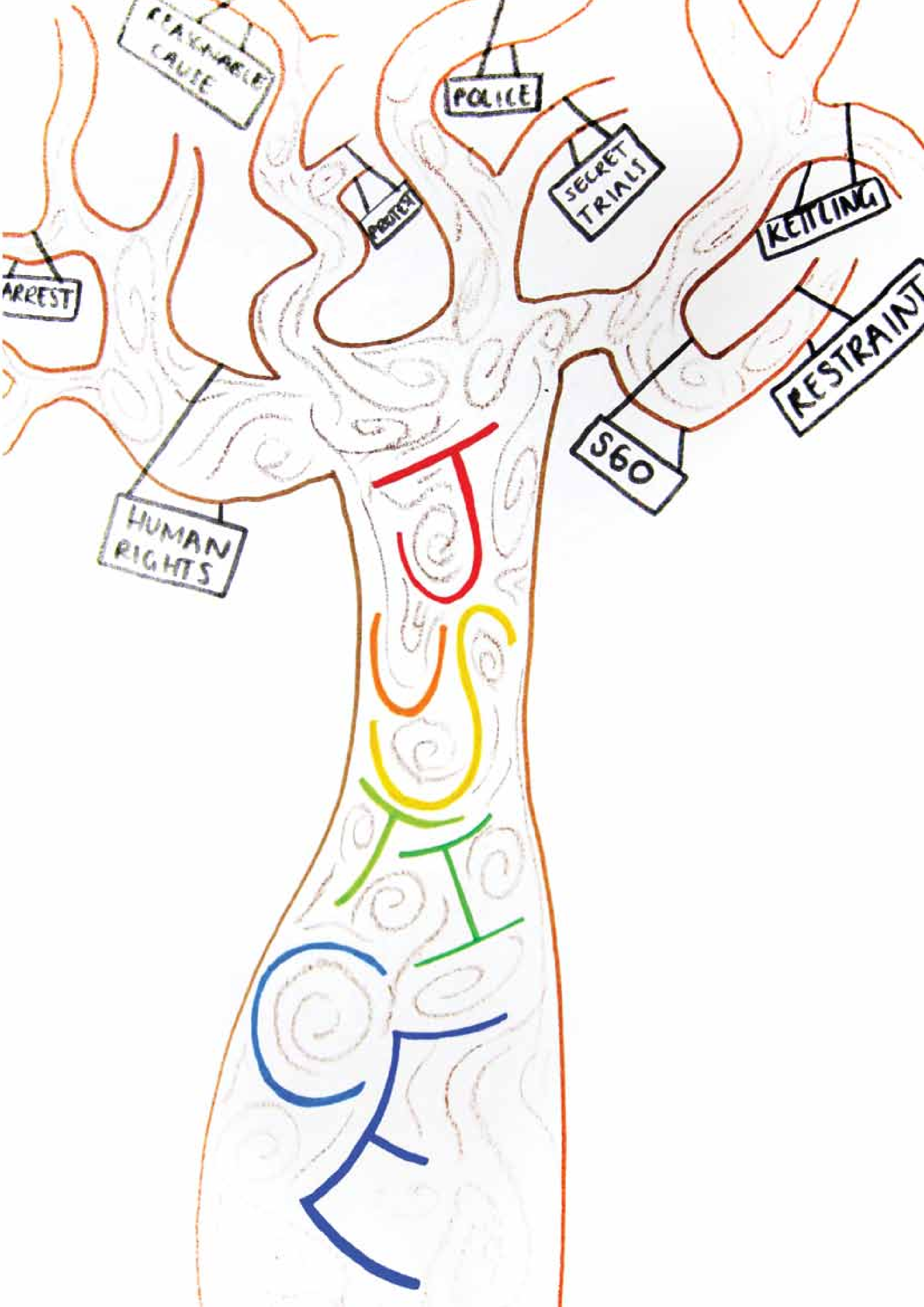
Jenny Rowe
Prif Weithredwr, Goruchaf Lys y Deyrnas Unedig

"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
Cydlynydd, Big Voice London



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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 ieuenctid. 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 gwnsler a chwnsler 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, Belffast 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 chydnabyddiaeth 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:

Asiantaeth Gyfreithiol

Adaora Onuora

Aklima Begum

Ali Reza

Disheta Shah

Gabriella Pini-Colbert

Isabella Siegertsz

Khadejah Al Harbi

Leena Begum

Niall MacLaughlin

Sophie Leer

Tahmina Hussain

Unadi Salim

Sonika Nankoosing

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

Alex Cisneros, Dimitra Kamarinou, Frances Bennett, Jennifer Blair, Maleeka Bokhari a Sophie Charles.

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 cydlynu oedd Alex Cisneros, Ariana Gale, Jennifer Blair a Maleeka Bokhari. Ein harweinwyr tîm oedd: 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. 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: Sophie Farthing o Liberty; Tom Wainwright; Doug Brogan, Bernard Hogan-Howe Comisiynydd yr Heddlu Metropolitan; yr Arglwydd Reed o'r Goruchaf Lys; Adam Wagner; Tom Cleaver; Nisha Gautama, Anna Marshall, Jeremy Coleman a David Simpson o Lys Ynadon Hammersmith; yr Arglwydd Ramsbotham o Dŷ'r Arglwyddi; Rebecca Samaras a Lindsay Jack o Brifysgol Caeredin; y Prif Gwnstabl Cynorthwyol Graham Sinclair; y Prif Arolygydd James Royan a Heddlu Lothian a'r Gororau; 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

Daeth cyflwyno'r Ddeddf Hawliau Dynol 1998 a heriau newydd i blismona yn y DU. Mae'n rhaid i strategaethau sy'n diogelu'r cyhoedd nawr gael eu cydbwyso yn erbyn hawliau'r unigolyn mewn ffordd gymesur. Yn y papur hwn byddwn yn ystyried pedwar maes ble mae tensiwn rhwng hawliau'r unigolyn a diogelwch y cyhoedd. Y rhain yw: grymoedd stopio a chwilio o dan adran 60 y Ddeddf Cyfiawnder Troseddol a Threfn Gyhoeddus 1994 (DCTThG), plismona gwrthdystiadau, atebolrwydd yr heddlu mewn achosion llys a'r defnydd o ddulliau ataliaeth.

Mae'r papur hwn yn ganlyniad i waith ymchwil am yr heddlu yng Nghymru a Lloegr, taith addysgiadol i'r Alban ac astudiaeth gymharol o blismona yn Ne Affrica. Yn gryno, ein prif argymhellion yw:

- Dylai grymoedd eang stopio a chwilio o dan adran 60 DCTThG 1994 gael eu hadolygu a'u diwygio er mwyn:
    - Sicrhau bod 'drwgdybiaeth resymol' cyn eu hawdurdodi
    - Cynnwys cod ymarfer ar gyfer awdurdodi swyddogion a staff y llinell flaen;
    - Pwysleisio pwysigrwydd bod y gymuned yn derbyn gweithredu grymoedd argyfwng yr heddlu.
- Dylai ynysu neu 'kettling' gwrthdystwyr gael ei gyfyngu i'w ddefnydd fel y dewis olaf a dylid cyflwyno canllawiau llymach ar ddarparu adnoddau i wrthdystwyr a chyfyngu amser yr ynysiad; hoffwn weld y Llys Hawliau Dynol Ewrop (LlHDE) yn dychwelyd i'r mater hwn.
- Dylid cael gwahaniaeth clir wrth blismona trefn gyhoeddus rhwng hawliau gwrthdystwyr cyfreithlon a hawliau terfysgwyr; dylai'r heddlu achub ar y cyfle i ddefnyddio llwyfannau'r cyfryngau cymdeithasol er mwyn cysylltu â'r cyhoedd a darganfod y wybodaeth ddiweddaraf.
- Dylid diwygio'r Bil Cyfiawnder a Diogelwch i gyfyngu achosion deunydd caeedig mewn materion diogelwch cenedlaethol i achosion sy'n gysylltiedig â'r gwasanaethau cudd, ond nid yr heddlu, er mwyn cefnogi atebolrwydd yr heddlu yn gyhoeddus.
- Dylai dulliau ataliaeth ddi-boen, a ddatblygwyd mewn ysbytai, gael eu defnyddio gan yr heddlu, swyddogion carchardai a chwmnïau diogelwch preifat ac ni ddylai technegau ufudd-dod a phoen risg-uchel gael eu defnyddio mwyach.

Grymoedd Stopio a Chwilio

Mae adran 1 o Ddeddf yr Heddlu a Thystiolaeth Droseddol 1984 (DHThD) yn darparu'r heddlu â grym i stopio a chwilio pobl a/neu gerbydau am sawl eitem, gan gynnwys eiddo wedi'i ddwyn, arfau ymosodol neu gyffuriau.[1] Mae'r grymoedd stopio a chwilio hyn yn cael eu caniatáu er mwyn goresgyn y rhwystr o warant, pan fod sylfaen resymol o ddrwgdybiaeth yn seiliedig yn bennaf ar wybodaeth gefndirol, gwybodaeth benodol neu ymddygiad yr un a ddrwgdybir. Wrth drafod y mater yma gyda swyddogion cyswllt y gymuned o'r Heddlu Metropolitan, dysgom eu bod yn ystyried amrywiaeth o elfennau, megis rhai gweledol, clywedol, arogl, amgylchiadau, gwybodaeth flaenorol a gweithrediadau a chyfathrebiadau'r un a ddrwgdybir,[2] er mwyn sefydlu os oes seiliau rhesymol i gyflawni'r stopio a chwilio. Rydym o'r farn bod bodolaeth yr elfen yma yn hanfodol er mwyn sicrhau bod grymoedd yn cael eu defnyddio yn deg a bod eu defnydd yn cael eu cyfiawnhau gan swyddogion, heb unrhyw wahaniaethu ar sail hil, oed, rhyw, crefydd na rhywioldeb. Mae'n adnabyddus bod defnydd anghyfreithlon a gwahaniaethol o stopio a chwilio yn gallu arwain at sefyllfaoedd trychinebus, megis terfysgoedd Brixton yn 1981.[3]

1 Stop and Searches (19 Ebrill 2012) Gwefan y Swyddfa Gartref: http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/police-research/police-powers-procedures-201011/stops-searches-1011

2 Yn dilyn y S.H.A.C.K.S mnemonic; c.f. t.5,: Search Powers Prior to Arrest (2012) Metropolitan Police: http://www.met.police.uk/foi/pdfs/policies/search_powers_prior_to_arrest_sops_mpsps_version.pdf

3 The Scarman Report (Ebrill 1981) yr Arglwydd Scarman, Penguin Books, ISBN 014022744X, 9780140227444

Adran 60

Un grym stopio a chwilio yw a.60 o'r DCTThG 1994 sy'n darparu'r heddlu â grymoedd i rwystro trais rhagweladwy. Mae'r grymoedd hyn yn wahanol i'r rhai uchod gan nad ydynt yn cynnwys y dull diogelu 'drwgdybiaeth resymol' sydd yn ynghlwm i berson penodol, a dyma yw sail ei brif feirniadaeth. Gall grymoedd a.60 eu hawdurdodi am gyfnod o 24 awr gan swyddog o statws arolygydd neu uwch ac mae'n rhaid iddo gael ei seilio ar 'gred resymol' a) 'y gall digwyddiadau sydd yn cynnwys trais difrifol ddigwydd' neu fod b) '*personau yn cario...arfau ymosodol...heb reswm da*' (DCTThG a.60(1)).

Ble mae drwgdybiaeth resymol bod y drosedd o drais difrifol neu gario arf ymosodol wedi ei gyflawni, gall swyddog â statws Uwch-arolygydd neu uwch ymestyn yr awdurdod am ail gyfnod o 24 awr (DCTThG a.60(3)). Yn ystod yr amser y mae gorchymyn a.60 mewn grym, gall swyddog heddlu '*rwystro unrhyw berson neu gerbyd i'w chwilio ble y mynnai pa un a oes ganddo sail i ddrwgdybio bod y person neu gerbyd yn cario arfau neu beidio*' (DCTThG a.60(5)).

Y brif broblem a ganfuwyd gennym gyda'r ffaith mai 'cred resymol' yn unig sydd angen i uwch swyddogion ei gael er mwyn awdurdodi defnydd y grym, yw bod 'cred resymol' yn derm amwys. Mae'n ymddangos nad oes llawer i rwystro rhywun rhag cymryd mantais o'r gyfraith a'i ddefnyddio ar gyfer rhesymau gwahanol i'r hyn yr oedd wedi ei ddylunio ar ei gyfer, er enghraifft gall yr heddlu stopio a chwilio pobl i chwilio am bethau gwahanol i arfau, er enghraifft, cyffuriau, neu gellir defnyddio'r grymoedd hyn i erlid unigolion sy'n hysbys i'r heddlu.

Yn ystod y flwyddyn 2010/2011, allan o'r 60,963 o bobl a gafodd eu stopio a'u chwilio yng Nghymru a Lloegr[4] o dan a.60 (gyda 53,518 ohonynt yn Llundain), 505 yn unig oedd yn cario arfau ymosodol neu offerynnau peryglus eraill ac o'r rhain, dim ond 243 gafodd eu harestio. Roedd yr 1,160 arestiad arall yn sgil stopio a chwilio a.60 am resymau ar wahân i gario arfau ymosodol.[5]

Mae'r canran a arestiwyd wedi 'u chwilio o 2.3% yn achosi i ni gwestiynu os all y 'gred resymol' sydd gan swyddogion heddlu cyn awdurdodi stopio a chwilio fod yn wrthrychol, yn ddiamwys a chymesur. A yw'n gyfreithiol gyfiawn ac yn y pen draw yn werth o bosib dieithrio rhan fawr o'r boblogaeth, sydd wedi cael eu stopio a'u chwilio heb ddrwgdybiaeth resymol, er mwyn darganfod y lleiafrif bychan sy'n gyfrifol neu a all fod yn gyfrifol o drais?

Mae'n ymddangos bod yr ateb wedi ei seilio ar ba un ai yw'r chwiliadau yn angenrheidiol, yn ôl y gyfraith mewn cymdeithas ddemocrataidd a chymesur, gan mai dyma'r profion sy'n cael eu cymhwyso o dan y Ddeddf Hawliau Dynol. Yn ogystal â stopio a chwilio yn effeithio ar Erthygl 8 - yr hawl i fywyd preifat - mae pryderon bod chwiliadau a.60 yn targedu grwpiau cymdeithasol neu o hil benodol yn aml, sydd o bosib yn groes i Erthygl 14 o'r Confensiwn Ewropeaidd ar Hawliau Dynol (CEHD).[6]

Gofyniad Achos Rhesymol

Mae'r prawf yn gymwys i sefyllfaoedd ble mae arestiad yn cael ei wneud heb achos rhesymol. Tra bod y term 'achos rhesymol' yn cynrychioli'r ffeithiau a'r amgylchiadau sy'n ffurfio 'drwgdybiaeth resymol', caiff y ddau derm eu defnyddio yn rhyng-gyfnewidiol.

4 Gwefan y Swyddfa Gartref, 'Stop and searches tables (Police Powers and Procedures England and Wales 2010/11), (19 Ebrill 2012) Ar gael ar: http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/police-research/immigration-tabs-q4-2011/stops-searches-1011-tabs (SS.05)

5 Ibid.

6 Er enghraifft, mae aelodau o'r grwp wedi cyfleu sut y cawson nhw eu stopio a'u chwilio o dan a.60 oherwydd ei bod yn 'Asiaidd', a fyddai'n disgyn yn glir o fewn rhychwant Erthygl 14.

Yn nyfarniad Llys Hawliau Dynol Ewrop yn *Gillan*,[7] daeth y Llys i'r casgliad bod grymoedd stopio a chwilio o dan a.44 Deddf Derfysgaeth 2000 yn llawer rhy eang ac yn cymryd lle heb ddrwgdybiaeth resymol, gan dorri'r hawl i breifatrwydd y rhai a gafodd eu stopio a'u chwilio. Yn dilyn hyn galwodd y Cydbwyllgor Seneddol ar Hawliau Dynol am adolygiad o'r Ddeddf Derfysgaeth 2000 (DD), a arweiniodd tuag at ddulliau diogelu pellach.[8] Yn unol â'r penderfyniad hwn, rydym yn argymell adolygiad tebyg o rymoedd a.60, i archwilio os all darpariaeth mor gynhwysfawr gydymffurfio â'n hymrwymiad i hawliau dynol.

Os am gadw a.60, rydym yn argymell y dylid diwygio'r ddeddfwriaeth ar hyd yr un llinellau â a.44 DD i gynnwys cod ymarfer tebyg sy'n rhaid i swyddogion yr heddlu ei ddilyn cyn awdurdodi stopio a chwilio drwy a.60. Ein prif argymhelliad ynglŷn â a.60 yw y dylai'r broses awdurdodi fynd tu hwnt i 'gred resymol' a'i gwneud yn ofynnol i ddrwgdybiaeth resymol gael ei gefnogi gan wir wybodaeth.

Cyn y gall chwiliad drwy a.60 gael ei awdurdodi, dylai staff y llinell flaen gael sgript sylfaenol sy'n amlinellu sut y dylent gyfathrebu eu gweithrediad o'r grymoedd hyn i'r cyhoedd, gan ddefnyddio iaith glir a chwrtais i osgoi pobl deimlo fel eu bod yn cael eu trin fel troseddwyr. Ar gyfer atebolrwydd, byddem yn awgrymu bod swyddogion heddlu sy'n gweithredu stopio a chwilio a.60 yn gwisgo helmedau â chamerâu er mwyn sicrhau bod y weithdrefn yn cael ei fonitro a'i reoli yn well gan uwch swyddogion.

Mae angen gwell ymwybyddiaeth gyhoeddus o rymoedd stopio a chwilio er mwyn gwella'r berthynas rhwng yr heddlu a'r cyhoedd. Rydym yn argymell bod yr heddlu yn adeiladu ar eu strategaethau cyswllt â'r cyhoedd drwy ymweld ag ysgolion ac ystyried sylwadau pobl ifanc, efallai fel rhan o Gwricwlwm Dinasyddiaeth. Yn olaf, rydym yn argymell y dylid cyflwyno cyfarwyddyd canolog i'w gwneud yn glir mai mesur argyfwng yw a.60, yn hytrach nag offer y mae disgwyl i Gomander Bwrdeistrefi ei ddefnyddio i ddangos ei fod yn llym ar droseddau sy'n ymwneud â chyllyll, gan fod hyn yn bryder a grybwyllwyd gan Gomisiynydd yr Heddlu Metropolitan yn ystod ein cyfarfod gydag ef eleni.

Plismona Gwrthwynebiad Cyhoeddus a Gwrthdystiadau

Yn ôl Erthygl 10 o'r CEHD, mae gan bawb yr hawl i ryddid mynegiant ac yn ôl Erthygl 11, mae gan bawb yr hawl i ymgynnull yn heddychlon ac ymgysylltu ac eraill, gan gynnwys yr hawl i wrthdystio. Pan fo gwrthdystiad yn heddychlon, dylai'r heddlu fod yn bresennol i ddiogelu'r gwrthdystwyr a gwneud yn siŵr eu bod yn gallu gweithredu eu rhyddid mynegiant heb ymyrraeth.[9]

Fodd bynnag, mae achosion ble gall grŵp o bobl benderfynu mynegi eu barn yn gyhoeddus mewn ffordd sy'n amharu ar hawliau eraill, gan arwain at dorri'r heddwch ac o bosib trais. Gall yr hyn sy'n dechrau fel gwrthdystiad heddychlon ddatblygu i achos difrifol o wrthwynebiad cyhoeddus neu derfysgaeth. Yn yr achosion hynny, mae'r heddlu yn bresennol i ddiogelu lles y cyhoeddus a rhwystro trais rhag lledaenu. I'r perwyl hwn, mae'n hysbys bod yr heddlu yn defnyddio amryw o dechnegau i ymateb i drais y gwrthdystwyr; mae'r rhain yn cynnwys 'ynysu' neu 'kettling' gwrthdystwyr neu drwy wthio gwrthdystwyr yn ôl gyda heddweision mewn offer terfysg, drwy ddefnyddio chwistrellydd CS neu fwledi rwber rhag i anhrefn waethygu.

7 Gillan and Quinton v The United Kingdom, ECtHR Application no. 4158/05 (12 January 2010); ar gael ar-lein ar: http://www.bailii.org/eu/cases/ECHR/2010/28.html. C.f. Stop and Search Powers Under Review (2010) Adam Wagner, UK Human Rights Blog: http://ukhumanrightsblog.com/2010/07/01/stop-and-search-powers-under-review-as-european-court-reject-uk-appeal/

8 The Terrorism Act 2000 (Remedial) Order 2011; ar gael ar-lein ar: http://www.homeoffice.gov.uk/publications/counter-terrorism/terrorism-act-remedial-order/terrorism-act-remedial-order?view=Binary

9 Beatty v Gillbanks (1882) 9 QBD 308; c.f. trafodaeth gan Bwyllgor Dethol Materion Gogledd Iwerddon ar-lein ar: http://www.parliament.the-stationery-office.co.uk/pa/cm200001/cmselect/cmniaf/120/120ap25.htm.

Gwrthdystio a Llys Hawliau Dynol Ewrop

Cafodd y dechneg ynysu (a elwir yn aml yn 'kettling'), fel dull ar gyfer rheoli torf fawr yn ystod gwrthdystiadau, ei ystyried yn ddiweddar gan y LlHDE yn achos *Austin and others v The United Kingdom*.[10] Dangosodd yr apelyddion, oedd yn cynnwys gwrthdystwyr ac aelodau eraill o'r cyhoedd oedd wedi eu dal yn yr ardal ynysu, bod yr heddlu wedi ynysu ardal o amgylch y gwrthdystwyr a gwrthod iddynt adael am bron i saith awr heb ddarparu digon o ofod i symud, na chyfleusterau toiled na dŵr yn ystod gwrthdystiad yn erbyn globaleiddio yn Llundain.[11] Dyfarnodd y Llys nad oedd yr heddlu wedi torri hawl y gwrthdystwyr i ryddid o dan erthygl 5, gan mai cyfyngiad dros dro yn unig ar ryddid symudiad y gwrthdystwyr oedd yr 'ynysu', ac nid carchariad, ac roedd yn gymesur ac yn angenrheidiol i osgoi difrod difrifol.

Rydym o'r farn bod y Llys wedi mynd yn rhy bell yn ei benderfyniad, oherwydd mae'n ymddangos ei bod yn ailddiffinio 'rhyddid' mewn ymgais i gyfiawnhau ei ddyfarniad. Os rhywbeth, nid yw Erthygl 5 yn gwahaniaethu rhwng cyfyngiadau dros dro a pharhaol o ryddid; mae ystyr naturiol 'rhyddid' yn cynnwys 'rhyddid symudiad' yn y cyd-destun hwn ac felly dylai ond gael ei gyfyngu os yw un o'r eithriadau cyfreithlon penodol yn gymwys o dan Erthygl 5(1)(a)-(f). Rydym yn annog LlHDE i ail-ystyried y mater.

Rydym wedi trafod y materion sy'n ymwneud â'r defnydd o dechnegau ynysu gyda chynrychiolwyr o dîm trefn gyhoeddus yr Heddlu Metropolitan a gydag uwch swyddogion heddlu yn yr Alban ar ein hymweliad a Phencadlys Heddlu Lothian a'r Gororau yng Nghaeredin. Rydym wedi ein cysuro bod timau trefn gyhoeddus yr heddlu yn ceisio sicrhau cyn belled â phosib yn eu cyfnodau paratoi ar gyfer gwrthdystiad arfaethedig na fydd angen defnyddio 'kettling.' Hysbyswyd ni hefyd bod hyn fwyaf llwyddiannus drwy gyswllt rhwng yr heddlu, y cyhoedd a'r gwrthdystwyr, er bod yr heddlu yn llawn barod i weithredu mesurau o'r fath petai angen fel dewis olaf.

Roeddem yn ddigon lwcus i siarad hefyd â Tom Wainwright, arbenigwr ar gyfraith gwrthdystiadau a bargyfreithiwr o Garden Court Chambers, ac mae'n ymddangos i ni fod amwyster yn parhau mewn perthynas â'r nifer o bobl sy'n cael eu hynysu mewn 'kettle' a pa adnoddau sy'n cael eu darparu iddynt yn ystod ynysiad. Byddem yn argymell:

- Bod 'Kettling' yn cael ei ddefnyddio fel y dewis olaf i'r heddlu, ar ôl i asesiad o fwriad y gwrthdystwyr gael ei gyflawni a dim ond pan fydd casgliad bod risg uchel o droi at drais ar ddigwydd;
- Yn ystod yr asesiad, dylai'r heddlu, o fewn rheswm, geisio adnabod unrhyw aelodau bregus o'r boblogaeth ymysg y gwrthdystwyr a'u symud o'r neilltu cyn i'r cyfyngiad gael ei roi yn ei le;
- Y dylai'r heddlu ddarparu adnoddau toiled a dŵr digonol i'r gwrthdystwyr;
- Y dylai canllawiau llym ar gyfyngiadau amser derbyniol gael eu cyflwyno a bod cyfarwyddyd clir gan uwch swyddog petai angen i'r ynysu barhau am gyfnod tu hwnt i bedair awr.

Hwliganiaeth, Gwrthdystiadau Modern a Chyfryngau Cymdeithasol

Wrth edrych ar faterion trefn gyhoeddus, buom yn ystyried cyd-destun 'hwliganiaeth' fel cefndir i sut mae'r heddlu yn edrych ar anhrefn gyhoeddus heddiw a sut mae hwliganiaeth wedi effeithio ar yr ymateb i wrthdystiadau modern. Daeth 'hwliganiaeth' yn gyfystyr â chefnogwyr pêl-droed yn ystod yr 1970au a 80au,[12] a daeth gwleidyddion a'r heddlu o dan gryn bwysau i drin troseddau trefn gyhoeddus mewn chwaraeon yn fwy effeithiol. Ers y cyfnod hwn mae deddfwriaeth ar draws y DU sy'n herio trais digymell a thrais wedi ei gynllunio gan griwiau

10 Austin and others v the United Kingdom, ECtHR Applications nos. 39692/09, 40713/09 and 41008/09 (15 Mawrth 2012); ar gael ar-lein ar: http://www.bailii.org/eu/cases/ECHR/2012/459.html

11 Human Rights Europe, 'Judges reject police "kettling" human rights appeal' (15 Mawrth 2012), Ar gael ar: http://www.humanrightseurope.org/2012/03/judges-reject-police-kettling-human-rights-appeal/

12 Hooliganism (2007) Dr Geoff Pearson, Football Industry Group, University of Liverpool; ar gael ar-lein ar: http://www.liv.ac.uk/footballindustry/hooligan.html

o gefnogwyr pêl-droed.[13] Mae'n angenrheidiol nad yw'r heddlu yn ymdrin â gwrthdystiadau cyfreithlon gyda'r un agwedd â rhai treisgar.[14] Er enghraifft, mae hawl myfyrwyr, sy'n gwrthdystio yn erbyn y cynnydd i ffioedd myfyrwyr, i ymgynnull wedi ei ddiogelu gan y CEHD, ond ni fyddai'n gymwys yn yr un ffordd i'r rhai oedd yn cymryd rhan yn nherfysgoedd Llundain, felly ni ddylai'r ddau grŵp gael eu trin gyda'r un strategaethau.

Nodwedd ychwanegol heddiw yw rôl y cyfryngau cymdeithasol, sy'n caniatáu i ymgynulliad cyhoeddus ddigwydd yn ddigymell. Mae offer rhyngweithio cymdeithasol, megis Facebook, Twitter, Blackberry Messenger a darparwyr negeseuon parod eraill, yn golygu bod modd cynllunio digwyddiadau o anhrefn gyhoeddus, mewn cyfnod gymharol fach o amser. Roedd hyn yn amlwg yn y terfysgoedd llynedd, gan i nifer adrodd eu bod wedi derbyn 'darllediad' cyfrwng cymdeithasol yn rhoi gwybod iddynt ble i fynd, a arweiniodd at y terfysgoedd yn lledaenu yn sydyn dros ben a'r bobl oedd yn rhan ohono yn aros un cam ar y blaen i'r heddlu.[15] Byddem yn argymell fod yr heddlu yn:

- Llwyr gofleidio'r holl ffurfiau newydd o gyfryngau cymdeithasol, megis Twitter, er mwyn casglu gwybodaeth yn sydyn ac ar yr un amser â'r digwyddiad yn cymryd lle;
- Parhau i ddefnyddio cyfryngau cymdeithasol mewn ffordd ragweithiol i rwystro troseddau, cynyddu ymwybyddiaeth gyhoeddus a thorri rhwystrau cyfathrebu rhyngddynt â'r cyhoedd;
- Peidio ceisio cael mynediad i gyfrifon cyfryngau cyhoeddus eraill heb awdurdod cyfreithiol, gan y byddai hyn yn ymyrraeth sylweddol â'r hawl i breifatrwydd (Erthygl 8 CEHD).

Atebolrwydd yr Heddlu ac Achosion Cyfrinachol

Gan fod yr heddlu yn bodoli i wasanaethu'r cyhoedd a chynnal yr heddwch, mae'n dilyn yn rhesymegol bod gan y cyhoedd hawl i gael llais dros faterion sy'n berthnasol i bolisi plismona. Yn ogystal, mae ein cyfundrefn gyfiawnder wedi ei sylfaenu ar egwyddorion o gyfiawnder agored. O ganlyniad, rydym yn bryderus y gall y cynnig ar gyfer 'achosion cyfrinachol' mewn achosion sy'n codi materion diogelwch cenedlaethol yn y Bil Cyfiawnder a Diogelwch atal neu leihau atebolrwydd i'r cyhoedd.[16]

Mae cydnabyddiaeth eisoes bod elfennau gelyniaethus a drwgdybiaeth yn rhan o'r berthynas rhwng yr heddlu a'r cyhoedd. Rydym yn credu y byddai'r posibilrwydd o gynnal achosion cyfrinachol sy'n cynnwys aelodau o'r heddlu, ac nid yn unig y gwasanaethau cudd, yn cynyddu'r hinsawdd negyddol hwn. Byddai cynnal achosion cyfrinachol ar gyfer heddweision sy'n ymwneud ag achosion sy'n effeithio ar ddiogelwch cenedlaethol yn arwain i gyfundrefn gyfiawnder dwy-haen ac annheg, gan y byddai'n rhaid i'r person lleyg cyffredin fynychu treial cyhoeddus, gyda'r holl ganlyniadau a sylw cyfryngol a ddaw yn sgil hynny. Yn olaf, mae hefyd ofn gwirioneddol y byddai achosion cyfrinachol yn atal yr heddlu rhag cael eu dal yn atebol a gallai hyn arwain at safon is o blismona yn gyffredinol.

Gan y dylai'r gyfundrefn gyfiawnder fod yn agored a thryloyw, felly hefyd ar gyfer y gwasanaeth heddlu. Nid ydym o'r farn y dylai achosion cyfrinachol gael eu lledaenu tu hwnt i achosion o ddiogelwch cenedlaethol, ac felly dylid diwygio adran 6 o'r Bil Cyfiawnder a Diogelwch i'w gymhwyso ar gyfer y gwasanaethau cudd yn unig.[17]

13 C.f. y dadansoddwyd defnyddiol o'r maes hwn yn Football Hooliganism, Politics.co.uk; ar gael ar-lein ar: http://www.politics.co.uk/reference/football-hooliganism a'r Football (Offences and Disorder) Bill 1999: http://bit.ly/ZoTKAL.

14 Fel yr amlinellwyd yn Taking Liberties (2008) cyfarwyddwyd gan Chris Atkins; gweler gwefan y ffilm am fanylion pellach: http://www.noliberties.com/.

15 After the Riots (2012) Riots Communities and Victims Panel, t. 129; ar gael ar-lein ar: http://riotspanel.independent.gov.uk/wp-content/uploads/2012/03/Riots-Panel-Final-Report1.pdf

16 I weld y drafodaeth gyfredol ar y mater hwn c.f. Amlinelliad o'r ymgynghoriad ac ymatebion i'r Bil Cyfiawnder a Diogelwch, ar gael ar-lein ar: http://consultation.cabinetoffice.gov.uk/justiceandsecurity/the-justice-and-security-bill.

17 Ar hyn o bryd mae'r cynnigion yn gymwys ar gyfer achosion o 'ddiogelwch cenedlaethol' yn unig, ond nid yw'n eithrio achosion sy'n ymwneud â'r heddlu; c.f. y Bil Cyfiawnder a Diogelwch ar-lein ar: http://www.publications.parliament.uk/pa/bills/lbill/2012-2013/0027/lbill_2012-20130027_en_1.htm

Tryloywder a Chyfrinachedd yn Ne Affrica

Tra bod y Bil Cyfiawnder a Diogelwch yn cael ei drafod yn y DU, mae'r Bil Diogelu Gwybodaeth y Wladwriaeth (BDGW) yn y broses o ddod yn gyfraith yn Ne Affrica.[18] Mae'r Bil yma, sy'n gwneud datgelu cyfrinachau gwladwriaethol ac ysbïo yn drosedd, wedi cael beirniadaeth sylweddol yn Ne Affrica, gan y byddai, er enghraifft, yn ei gwneud yn anghyfreithlon i newyddiadurwyr ddatgelu llwgrwobrwyo a llygru ar haen uchel swyddogol.[19] Yn debyg i'r adran yn y Bil Cyfiawnder a Diogelwch sy'n berthnasol i geisiadau Norwich Pharmacal,[20] ni fyddai'r BDGW yn caniatáu'r llysoedd i gydbwyso gwahanol les i'r cyhoedd.

Os yw'r BDGW yn dod yn gyfraith, bydd yn agored i aelodau o Gynulliad Cenedlaethol De Affrica i wneud cais i Lys Cyfansoddiadol De Affrica i brofi os yw'r ddeddfwriaeth yn anghyfansoddiadol,[21] ond nid oes y fath drywydd ar gael i ni yn y DU felly byddem yn annog y pleidiau gwleidyddol yn y DU i ystyried os yw'r ddeddfwriaeth hon yn wirioneddol angenrheidiol. Byddem yn cymryd hyder o'r gweithredaeth rhyddid sifil grymus sydd yn Ne Affrica i argymell y dylai fod yn agored i'r llys gydbwyso gwahanol les i'r cyhoedd mewn unrhyw achos sy'n ymwneud â hawliau dynol a chyhuddiadau o lygru a llwgrwobrwyo ar haen uchel.[22]

Defnydd o Ataliaeth

Roeddem yn ffodus i gael y cyfle i gyfarfod yr Arglwydd Ramsbotham yn Nhŷ'r Arglwyddi, i drafod ei adroddiad arfaethedig gyda'r Comisiwn Lloches Annibynnol a Citizens UK sy'n ymdrin â'r defnydd o ataliaeth mewn dalfeydd.[23] Roedd hyn yn fuan wedi'r cyhoeddiad na fyddai staff diogelwch yn cael eu cyhuddo am farwolaeth Jimmy Mubenga yn ystod disodli lloches[24] ac ar yr un pryd cafwyd newyddion am ddau heddwas yn cael eu cyhuddo o gamymddygiad am ddefnyddio grym eithafol wrth weithredu techneg ataliaeth wedi ei seilio ar boen ac ufudd-dod.[25]

Eglurodd yr Arglwydd Ramsbotham bod canolfannau iechyd meddwl ac ysbytai wedi datblygu a chyflwyno dulliau ataliaeth sydd ddim yn defnyddio poen ac sydd yr un mor effeithiol â'r technegau ataliaeth a ddefnyddir gan yr heddlu, gwasanaeth carchardai a gwasanaethau diogelwch preifat. Byddem yn argymell yn gryf bod y technegau hyn yn cael eu defnyddio drwyddi draw, i leihau'r defnydd o ataliaeth sy'n achosi pryder eithriadol ac sydd mewn defnydd eang, ac sy'n agored i'w camddefnyddio, yn arbennig wrth ddisodli lloches, ble efallai nad yw cwmnïau diogelwch preifat wedi eu hyfforddi'n ddigonol.[26] Os oes dewis arall ar gael, mae'n bosib y gall technegau poen ac ufudd-dod dorri hawliau dynol yr unigolyn, ac fe ellir, o bosib, ei gyfrif fel artaith neu driniaeth neu gosb greulon a diraddiol, gan dorri Erthygl 3 o CEHD.[27]

18 Ar gael ar-lein ar: http://www.info.gov.za/view/DownloadFileAction?id=151319.

19 C.f. ANC's secrecy bill seen as assault on South African press freedom (Mehefin 2012) Smith, the Guardian; ar gael ar-lein ar: http://www.guardian.co.uk/world/2012/jun/06/south-africa-secrecy-bill-press-freedom.

20 Adran 13 ymlaen; ar gael ar-lein ar: http://www.publications.parliament.uk/pa/bills/lbill/2012-2013/0027/13027.pdf.

21 O dan adran 80 o Gyfansoddiad De Affrica; ar gael ar-lein ar: http://www.info.gov.za/documents/constitution/1996/96cons4.htm#80.

22 Gan gynnwys achosion megis un Binyam Mohamed; c.f. http://www.reprieve.org.uk/cases/binyammohamed/history/.

23 Mae mwy o wybodaeth ynglŷn â'r gwaith yma ar wefan Citizens UK: http://www.citizensuk.org/campaigns/citizens-uk-diaspora-caucus/citizens-for-sanctuary/.

24 Am fwy o wybodaeth ynglŷn ag achos trist Jimmy Mubenga gweler: http://www.guardian.co.uk/uk/jimmy-mubenga a http://blog.cps.gov.uk/2012/07/cps-decision-on-death-of-jimmy-mubenga.html ynglŷn â'r penderfyniad i beidio erlyn.

25 Moment a policeman lost his temper (2012) Tozer and Parveen, Daily Mail; ar-lein ar: http://www.dailymail.co.uk/news/article-2215608/PC-Stephen-Hudson-spared-jail-CCTV-captures-using-pain-restraint-boy-15.html

26 Gwefan Parliament.uk, 'Written evidence submitted by Amnesty International UK' http://www.publications.parliament.uk/pa/cm201012/cmselect/cmhaff/563/563we07.htm

27 Gweler erthygl ar-lein: http://www.cambridge-news.co.uk/News/Handcuffing-prisoner-dying-in-hospital-unnecessary-12102012.htm

Casgliad

Yn ystod ein hymweliad â phencadlys yr heddlu yng Nghaeredin gwnaed argraff hynod o dda arnom gan y flaenoriaeth sy'n cael ei roi i gyswllt â'r gymuned gan heddlu'r Alban. Dangoswyd i ni sut yr oedd mewnbwn gan y gymuned yn cael ei werthfawrogi a'i gynnwys ymhob cyfnod o strategaeth yr heddlu, gan arwain at ddadansoddi o'r gwreiddiau i fyny. Mae hyn wedi arwain, er enghraifft, i ymgyrch helaeth yn erbyn troseddau atgasedd, ers i hynny gael ei nodi gan y gymuned leol fel maes o bryder arbennig.

Gyda cyflwyniad comisiynwyr heddlu etholedig, rydym yn bryderus y bydd blaenoriaethau plismona yn dod yn fwy gwleidyddol. O'n profiad ni dros y deuddeg mis diwethaf, mae'r plismona gorau yn cynnwys gwrando ar y bobl y dylai'r heddlu fod yn eu gwasanaethu ac byddai'n siomedig os byddai'r dull yma'n cael ei golli yn y system newydd.

I gloi, hoffem weld mwy o gyswllt â'r cyhoedd ac yn arbennig gyda phobl ifanc, er enghraifft wrth ddylunio a gwerthuso cynlluniau gwyrio.