

Civil liberties

Law



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Laws are enacted to ensure that there is harmony and security in the society. They provide mechanisms and procedures of administering justice to those who break them as well as those who fall victims to the offenders. The police are the major custodians of these laws meaning that they have the responsibility and the mandate of ensuring they are followed and respected by all and sundry. It is due to this role that the police are accorded the powers of arresting and taking into custody those citizens whom they feel that they have reasonable grounds to warrant an arrest. It may be important to note that the arrested person is denied some of the fundamental rights such as the freedom of movement, freedom of association among others but it is also necessary to mention that this does not warrant inhumane treatment as detainees are also protected by the same laws which define the expected code of conduct to be observed by the arresting officers at the time of arrest through to the time justice is dispensed on the accused (Smith, 2010). In the UK for example, the police upon suspicion may stop a person and subject them to search as long as they have reasonable grounds to believe that the person may have committed or is intending to commit a crime. This may be done without obtaining a warrant to permit the search as it is in accordance with the Police and Criminal Evidence Act 1984, Code A, which gives the officers the right to search a person or a vehicle before making an arrest (Home Office, 2010). In the case of Najya who was subjected to near search and an arrest after being suspected of being a thief, the police had a reasonable and a legal ground to do so as they were relying on information, which reportedly matched Najya's physical appearance to that of the real culprit who had committed the robbery. The process may not have resulted to the said

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person being arrested but the fact that she refused to cooperate with the officers, after she allegedly refused to stop at the request of the officers and the pulling of her arm from the restraining arm of the officer, may have raised suspicion hence arising the need to conduct more investigation on her innocence. The police officers, as the act demands, informed her promptly that they were arresting her and also, they told her the reason why they were doing so. As a result, Najya, as per the procedure of arrest, has no basis to challenge the legality of the method and actions taken by the police, which by all means conform to the article 5 of the European convention on human rights (Strange, 2001). Furthermore, the police as per the case study did not use any undesirable force to bring her in probably because she posed no immediate threat to them or the society. However, every suspect after being taken to the police station is accorded the right to access the services of a solicitor before he or she can embark on answering any questions asked by the police officers. This right is protected in the code C of the codes of practice, precisely section 6, which states that; the detainee must be informed on their right to a solicitor unless the prevailing conditions fulfil the requirements of paragraph 6. 6 of the code (Home Office, 2010). In addition, the suspect is entitled to make a phone call so as to inform, whoever he or she finds it necessary, of the arrest and detention in addition to being allowed to look at the police code of conduct to ascertain that the right procedures and ethics have been adhered to, failure to which the suspect can decide to sue the police department. This is in conformity with section 5 of the code which galvanizes the detainee from being held incommunicado. With regard to Najya's case and with due respect to the codes of practice, it is evident that there was a breach in the way the police

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conducted her detention. This is due to the fact that she was not allowed to access the services of a solicitor and in addition, she was held incommunicado as she could not get the chance to inform her mother. It is however important to note that the code also allows an officer of the rank of superintendent and above to do away with the rights but only if they have reasonable grounds to do so, which are stipulated in the code of conduct paragraph 6.6. Looking at the reason the officer gave for denying Najya these two fundamental rights, which is that she is more likely to confess if she speaks to no one, it is apparent that the officer was acting against the law. To begin with, there was no evidence that Najya had actually participated in committing the theft so there was no way her making contact would have interfered with investigations or tampered with evidence with regard to paragraph 6.6 b(i) (Home Office, 2010). Najya was detained for 12 hours after which she was released without being charged. This is in line with the expected police ethics which allows the detention of a suspect for not more than 24 hours without being charged. Since there was not any reason to prove that she was actually involved in the crime, the police released Najya at the earliest time possible. If there was reasonable ground and evidence to believe that she had actually committed the crime, the superintendent officer in the police station would have exercised his authority to extend the detention period to 36 hours as the law provides (Strange, 2001). Najya may feel that her rights and privileges have been violated especially since we are told that she was actually rushing home from college to babysit her younger brother thereby meaning that she may not have even been aware that such a crime had taken place. However, she must understand that her arrest was to a greater extent legal. On the other

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hand, she has the right to challenge the officer's decision to hold her incommunicado and probably sue them as this may have greatly inconvenienced her mother as she depended on her to babysit. This may have also subjected her to unnecessary mental torture, which could be used as a basis for a law suit. Bibliography Home Office (2010). ' Police and Criminal Evidence Act 1984 (PACE) and Accompanying Codes of Practice.' [Online] Available at: <http://www.homeoffice.gov.uk/publications/police/operational-policing/pace-codes/>. (Accessed: 14 may 2011) Smith, R. (2010). ' Labor, Civil Liberties and Human Rights.' *The Justice Journal*, Vol. 7 (2): 250-265 Strange, M. (2001). *Criminal Justice, Police Powers and Human Rights*, Blackstone Press