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'I do not trust the police': Hong Kong minorities battle for equal treatment following suspect's death in police custody

by **RHEA MOGUL**

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At around 5pm on May 7, Yau Tsim Mong district police officers subdued a man on Hong Kong's Nathan Road in Tsim Sha Tsui for "five to seven minutes," according to an eyewitness, by kneeling on his neck as he lay on his stomach.

The man, of South Asian descent, had allegedly thrown a glass bottle at a moving vehicle and toppled over a motorcycle. He was arrested on suspicion of property damage, assaulting a police officer, and possession of a dangerous drug.



A Southeast Asian man subdued by police in Tsim Sha Tsui in May 2020. Photo: Apple Daily.

According to the police, the man died roughly 24 hours later at Queen Elizabeth Hospital in Yau Ma Tei, after the force called an ambulance because he was “feeling unwell”. However, according to Hong Kong’s Fire Service Department, paramedics who arrived on the scene found that the man was not breathing and had no pulse when they came to treat him.

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In a video sent to Apple Daily newspaper by an eyewitness, three police officers appear to subdue the man at one point, assisted by two pedestrians.

June 4 in Hong Kong. File photo: Tom Grundy/HKFP.

Those words would become synonymous with the Black Lives Matter (BLM) movement – denouncing police brutality, systemic racism and white supremacy – that came into the spotlight in the days that followed.

Soon afterwards, the video of the man from Nathan Road started receiving new attention and was shared by netizens online.

Hong Kong's police force has faced numerous accusations of excessive force since widespread and sometimes violent protests broke out in June last year against the now-shelved extradition bill.

But many members of the city's ethnic minority population feel that the criminal justice system has historically been discriminatory against them.

The many flaws in the system and in the city's Racial Discrimination Ordinance (RDO), according to Puja Kapai, a professor of law at The University of Hong Kong, "exacerbates unfairness towards ethnic minority defendants."

Kapai in a research paper from 2014, *The Status of Ethnic Minorities in Hong Kong*, she states that "racial profiling, the abuse of stop and search power, erosion of the right to silence, and wrongful arrest and detention" are frequent complaints levied against police by minority groups. This, she tells HKFP, "shatters trust of ethnic minorities towards law enforcement officers."

A police spokesperson told HKFP that the man “resisted and struggled violently, and attacked police officers” and that they had used “appropriate force” to subdue him. The case is now under investigation by the Regional Crime Unit of Kowloon West.

Eighteen days later, George Floyd, a 45-year-old African-American, was killed in Minneapolis after being arrested for allegedly using a counterfeit bill. Derek Chauvin, a white police officer, knelt on Floyd’s neck for almost eight minutes as he lay on his stomach, with his arms handcuffed behind him. During the last two minutes of the arrest, Floyd begged for his life, repeating the words “I can’t breathe” over and over.

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File photo: Tom Grundy/HKFP.

“There’s a growing narrative that ethnic minorities are ‘gang members’, ‘fake refugees’, ‘uneducated’,” said Kapai. “These fake stereotypes are deeply harmful, and have carried over to the 21st century, following the arrival of refugees from Vietnam. And the targets of these stereotypes now, are typically South Asian men.”

Khan, a 45-year-old construction worker from Pakistan who has lived in Hong Kong for 13 years, told HKFP that he has been stopped and searched “so many times, [he] has lost count.” The police, he said, “rarely” give him an explanation, even when he asks for one. They are, according to Khan, often “hostile” and appear to “look down” on him.

“It’s just something that I have now become used to,” said Khan, who is using a pseudonym. “I know they are stopping me because I am dark-skinned, have a beard, and look different. Many times, they have even stopped me when I have been wearing religious dress on my way to pray at the Mosque. They ask me questions like ‘How long have you lived here? Do you have family? Do you work in Hong Kong?’”

According to Kapai’s study, ethnic minorities have also reported that the police display a “brutal attitude” and use “abusive language” towards them. Khan, who has picked up some Cantonese from his co-workers, said he had on one occasion, heard a policeman refer to him as “mo lo cha”, a derogatory slur.



File Photo: Studio Incendo.

“They thought I didn’t understand, but I did. I didn’t say anything back because I just wanted [the stop and search] to be over,” said Khan. “I always show them my ID card, answer their questions, and leave quietly.”

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In March 2009, Dil Bahadur Limbu, an unarmed Nepalese man, was shot dead by a policeman in Ho Man Tin. The incident caused a public outcry among the South Asian community, and many groups protested against the Coroner’s ruling that his death was “a lawful killing”.

The policeman maintained that he fired in self-defence after failing to subdue Limbu, who was homeless, and who allegedly held up a wooden chair when asked to present his identity documents. Critics said that because the policeman only spoke in Cantonese to Limbu, who might not have understood the warnings, the shooting was unlawful.

The policeman testified that Limbu punched him in the face, but staff at Queen Elizabeth Hospital who examined the officer did not record any redness or swelling around his eye. He also testified that he shot Limbu

after nearly emptying a can of pepper spray, but autopsies did not find any trace of the spray on Limbu.

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Sony Rai, widow of Nepalese man Dil Bahadur Limbu, arrives to the High Court for... [see more](#)

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During the inquest the police “reinforced stereotypes”, according to Kapai, and depicted Limbu as an “unemployed, homeless, dark-skinned foreigner with criminal convictions.” The headlines of many local daily newspapers also seemed to side with the police.

“Police Kill ‘Savage’” read the headline of the March 18 publication of Sing Pao Daily that year. An Apple Daily report from the same day said that the Nepalese man was “not troubled by pepper spray because he was used to eating curry.”

Peter Cheng, a campaign officer from Hong Kong Unison, an NGO that advocates for policy reform for offers support to ethnic minority groups in the city, told HKFP that “such stereotypes will shape the view of the public.”

“It’s because of these stereotypes that racial profiling becomes a prevalent problem,” said Cheng. “And more often than not, most of these cases do not come into the public eye, and that is because of the flaws in Hong Kong’s RDO (Racial Discrimination Ordinance).”

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The RDO, unlike other anti-discrimination laws, does not cover the performance of the government's functions or the exercise of its powers. Since its implementation in 2009, not one person has been prosecuted under it. The only person to come close was Arjun Singh in 2014.

Singh, who was aged 15 at the time, sued the Hong Kong government and a police officer, claiming that he was racially discriminated against after they failed to investigate a complaint of assault he made when he was 11.

Embed from Getty Images



(L-R) Arjun Singh, a prodigy and his mother Anita Singh, walk out of the District Co... [see more](#)

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The incident took place inside Wan Chai MTR station in 2010, where Singh was arrested for allegedly assaulting a middle-aged Chinese woman. He explained to the police that he only bumped into the woman in a rush and had already apologised to her, adding that the woman refused to let him go and grabbed him by the arm, leading to his call to the police.

The police, Singh told the court at his trial, were “dismissive” and “biased” and proceeded to arrest him and detain him for five and a half hours at the police station. CCTV footage played in court showed the woman holding Singh, who was shorter than her at the time, forcibly enough that he could not free himself despite struggling. His sweater was torn in the struggle.

After 20 months, the court held that the acts of the police did not amount to services for the protection of the RDO.

In 2016 the Equal Opportunities Commission recommended that the government rectify this gap in the law. However, when some amendments to the Discrimination Legislation were passed in June this year, this particular recommendation was not taken into account. “The government will continue to study it carefully,” said a lawmaker at the time.

“This is a weak response from the government,” said Cheng. “And it will allow such behaviour to continue, and not bring important cases to the forefront.”

Reports from frontline workers with NGOs like Unison Hong Kong suggest that ethnic minorities are vulnerable to wrongful arrest or detention, deprivation of rights and generally unfair treatment in the justice system. On top of this, they have a poor understanding of their legal rights, according to Cheng.



File photo: Hong Kong Unison.

In 2013 Tahir Khan, a 19-year-old from Pakistan, said he was wrongfully detained in prison for one year. He was charged with assault with intent to rob and denied bail due to the seriousness of the offence. However, after a year, including time for an adjournment sought by police to collect evidence, the court held that Khan had no case to answer and he was freed.

Barrister Ronny Tong, a Civic Party lawmaker at the time, said the police and prosecution should not have deprived the defendant of his freedom if the evidence was not strong enough.

Hong Kong Unison has reported other abuses suffered by ethnic minorities in the course of their arrest, including failure to administer the caution statement, wrongful arrest on account of mistaken identity, wrongful use of handcuffs and the non-use of ski-masks to protect their identities, along with other infractions of basic rights.

Kapai and Cheng both said that ethnic minorities are often unaware of their rights and face language difficulties.

“They don’t know that they have a right to make a complaint and that their rights are safeguarded under the Bill of Rights Ordinance,” said Cheng.

Puja Kapai. Photo: HKFP/Ellie Ng.

Furthermore, in the case of ethnic minorities, Kapai's study states that probation officers have "reportedly been biased in their recommendations". The study suggests that it is because of language barriers that probation orders are not recommended as alternatives to custodial sentences.

In a 2003 case, HKSAR v. Chochanga, the magistrate sentenced a young first-time offender from an ethnic minority to five months' imprisonment for possessing dangerous drugs.

The sentence was overturned on appeal, and the defendant was put on probation for a year.

The appellate judge noted that an offender's ability to participate fully in these programmes would be a "vital and deciding factor" in determining what sentencing options are appropriate.

And according to Kapai, this is likely because the programmes are designed for Cantonese-speaking offenders, meaning they can fail to have the desired impact for non-Chinese.

"Ethnic minorities could receive harsher sentences than their Chinese counterparts just because of these language barriers," said Kapai.

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The BLM movement has galvanised millions across the globe, amid a pandemic, to denounce racism. Tech giants, multinational corporations, actors and influencers are among the many groups that have pledged to play a bigger role in combating systemic racism.

However, the conversation has yet to reach such heights in Hong Kong.

Police filming during a rally outside of the Consulate General of the United States to protest against racism and in solidarity with the Black Lives Matter movement. Photo: May James/HKFP.

“I feel upset because I don’t feel like many people fight for us,” said Khan, the construction worker from Pakistan. “We are always a second thought.”

“The video of the man on Nathan Road was thrust into the spotlight in Hong Kong after Floyd’s death,” said Cheng, “[People online] denounced the actions of the police, but that was what became the focus of the story. The racial angle disappeared. It is our duty to continue to eradicate completely the racial profiling and stereotyping that happens on a daily basis.”

A 36-year-old asylum seeker from East Africa told HKFP she has been illegally arrested more than once in her many years living in Hong Kong. “It’s sad how the police think we, the black community, or asylum seekers, are criminals,” she said. “They restrict us from being in certain places. I do not trust the police.”

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Rhea is a Hong Kong-based journalist interested in gender issues and minority rights, whose work has appeared in a number of publications across Asia. She is also on the 2019 Diversity List: a list of ethnic minorities that are qualified and committed to serve on Hong Kong government committees.

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