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**Hong Kong Unison**

**香港融樂會**

Fermi Wong 31 March 2007

A rose, no matter how its name is changed, is still fragrant. Humans, no matter what their colors are, have the same dignity.  
玫瑰，不管換個甚麼名字，還是一樣的芬芳。人類，不論有著甚麼膚色，應有一樣的尊嚴。

# Criminal Justice and Ethnic Minority People in HK --

## The Untold Frontline Picture

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# The “EM” people in my speech refer to ....

1. Lower Socio-economic Class
2. Southern Asian
3. Youth & Young Adults

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# Criminal Justice and Ethnic Minority (EM) People in HK

1. EM people in HK is vulnerable before Criminal Justice System
2. EM people's rights before Police & Judicial Process is not respected
3. EM people's rights should be taken seriously during the investigation & Judicial process



# 1. EM people in HK is vulnerable before Criminal Justice System

- 1.1 Weak Sense of right
- 1.2 Sense of powerless as ethnic minority
- 1.3 Ignorance to local Law & Order
- 1.4 Different culture & mentality to rule of law
- 1.5 Low trust to Police & Judicial System

e.g. EM victims are treated as if were criminals



## 2. EM people's rights before Police & Judicial Process is not respected

- 2.1 Stop & Search
- 2.2 Arrest & demand
- 2.3 The right to Remain Silence & Statements to the police
- 2.4 Getting Access to lawyer
- 2.5 Bail
- 2.6 Remand & Detention
- 2.7 Court
- 2.8 Options for Sentencing



## 2.1 Stop & Search

1. Brutal attitude, use abusive language  
(e.g. name calling (Sei Cha Chai, Foul language))
2. Racial profiling ?  
(e.g. frequent Identity checking, smoking cases )
3. Enter & search EM's home:  
→ No search warrant & damage things  
e.g. case of Ganesh



## 2.2 Arrest and Detain

1. Arrest without Caution Statement
2. Arrest wrong person  
e.g. case of Ricky
3. Use of Handcuffs and No ski-mask  
e.g. case of Sujanna or Neeraj
4. Not allow to make calls to even solicitor/spouse  
e.g. are you kidding? You have money for a lawyer?





## 2.3 The right to Remain Silence & Statements to the police

2.3a Right to remain silence is not well informed/explained

2.3b Not dare to remain silence

2.3c \*Interpreter- a big problem!!!

2.3d Not dare to refuse signing statement

2.3e Police mislead or even tell lies to EM about what is going on (e.g. minor offence, nothing to bear)

2.3f Fake promise

e.g. a. Free them if they sign

b. Threat to detain them if they don't speak & sign

2.3g Refuse to give copy of statement

2.3h Not allow to go to toilet & refuse to provide drinking water

## 3.3c \*Interpreter- a big problem

1. Insufficient qualified interpreters
2. Unprofession → Acted as if they were part of Police Force,
3. Some Interpreters feel shame on fellow-countryman, Arrogant attitude  
e.g. criticize/scold the EM suspects
4. Mislead the Suspects (perverting the course of justice) :  
e.g. →Tell them it's a minor offence, just admit it  
→Tell them it is wrong to remain silence  
→Tell them the police will not charge them if they admit it.
5. Selective listening/interpret
6. Refuse their request of altering/adding information to statement



## 2.4 Getting Access to lawyer

1. No money, especially EM youngsters
2. Don't know any lawyer
3. Incomprehensive Duty lawyer Service



# 2.5 Bail

## 1. Bailing period (long and frequent)

e.g. case of Loitering in Yuen Long Park

→ once per 2 wks, last for more than ½ years

## 2. Have to wait for unreasonably long time during the bail-extension

- Interpreter comes late/not available
- Police officer in charge working outside/busy
- Refuse to give reason of waiting
- The file not prepared



## 2.6 Remand & Detention

1. The police station refuse to answer enquiry from detainees' family/friends

e.g. case of Nisar

1. No food/water/clothes to detainee even requested by detainee

2. Police refuse to tell their names to the detainees

3. Chinese environment in Jail

- Rules & regulations
- Notices
- Warnings



## 2.7 Court

### 1. Poor quality of Duty Lawyer Service

- Hostility to EM
- Arrogant attitude
- Don't listen/respect to clients
- Unprofessional

### 2. Not representing the best interest of their clients, perfunctory

e.g. case of Roshan

### 3. Poor quality of interpreter

e.g. case of Rai

### 4. Judge's racial bias and prejudice

e.g. case of HKSAR Vs Chochanga

## 2.8 Less options when sentencing

1. Racial Bias & Prejudice among Probation Officers
  - e.g. Language preference / so called 'language barriers'
2. Background report by Probation Officer
  - perfunctory in collecting information
    - e.g. Without contact to significant others
  - Recommendation for sentencing is narrower
    - e.g. P.O. order is not recommended because of "language barrier"
3. Heavier sentencing to EM juvenile criminals
  - e.g. case of HKSAR Vs Chochanga



# HKSAR Vs Chochanga Vabindra

## 1. Appear in the Magistrates' Court:

Case brief; A Nepalese youngster, aged 18, was charged for possession of DD (0.13 g mixture containing heroin), clear record, not a drug dependent, had full-time job, the sole bread-winner of the family.

Result: Sentenced for 5 months imprisonment immediately and not allowed to be bail out for the appeal

## 2. Appeal to the Court of First Instance

Result: 1 year Probation Order


Judgment:

Parag 12: "...when the court is dealing with a young person who has transgressed the law for the first time, irrespective of his/her ethnic origin, rehabilitation rather than retribution should be in the forefront of the sentencing judge's mind...."





### 3. EM people's rights should be taken seriously during the investigation & Judicial process

1. Professionalize the Interpreters
  2. Guidelines to ensure Non-racism-practice
  3. 'Racism Awareness' trainings to Police, lawyers & judges
  4. Public education (regarding Rights Matters, local law & orders) to EM residents
  5. Improve the Duty Lawyer service
  6. Researches and reviews on the criminal justice system
  7. ....
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# Thank You!

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