

= Amina Bokhary controversy =

The Amina Bokhary controversy occurred in Hong Kong in 2010 involving the assault conviction of a wealthy woman from a well @-@ connected political family . Amina Mariam Bokhary , 32 , received a non @-@ custodial sentence and a one @-@ year driving ban following an incident in the aftermath of a road traffic accident when she struck several police officers . As she had committed similar offences in 2001 and 2008 , her resulting probation was seen by some commentators as too lenient .

The perceived leniency in her sentence provoked an uproar in Hong Kong for alleged preferential treatment . In particular , the presiding judge caused outrage when he said in his judgment that Bokhary had an " unblemished background and was born into a good family with caring parents [and] an outstanding academic record " . The comment highlighted the public perception of widening inequality and increasing disparities in the balance of political power between different social classes in Hong Kong . The judge came under pressure to reconsider his sentencing , but he declined to amend it upon review . Pundits also blamed the police for charging her with an offence carrying a lesser penalty ; the Department of Justice was forced to appeal her sentence .

Opinion polls carried out indicated that the public 's confidence in the judiciary and the impartiality of the courts had been shaken in light of the incident . In the end , after breaching her conditions of probation , Bokhary was jailed for six weeks . On appeal , her driving ban was further extended by two years .

= = Background to the incident = =

Bokhary is descended from influential Hong Kong families . Her grandfather , Daoud Bokhary , served in the British Indian Army and founded Bokhary Securities . Her father , Syed Bagh Ali Shah , was a council member of the former Stock Exchange of Hong Kong . Her uncle , Kemal , is a judge sitting at the Hong Kong Court of Final Appeal , and Kemal 's wife is a High Court judge ; a maternal uncle , Ronald Arculli , was the chairman of Hong Kong Exchanges and Clearing and previously member of the Executive Council of Hong Kong .

Bokhary attended university in the United Kingdom and graduated with a first @-@ class honors degree in economics . She has had a string of jobs in the fashion industry , including Sotheby 's , LVMH , and Harvey Nichols in Hong Kong . According to her counsel , Bokhary failed to find peace or satisfaction in her personal and professional life after returning to Hong Kong from Britain , and in 2007 was diagnosed with bipolar disorder , for which she was being treated with strong psychotropic drugs and was reportedly undergoing intensive counselling . Her increasing alcohol consumption , combined with her medication , was said to have contributed to her violent outburst in 2008 .

= = = Prior incidents = = =

Bokhary 's first brush with the police was in the early hours of 24 June 2001 , when the manager of a bar in Central district of Hong Kong reported to police that she was causing a disturbance . When police officers arrived and attempted to arrest Bokhary , she hit one officer on the cheek ; it took four officers at the scene to put her in handcuffs . Police also found a plastic bag with small amounts of cocaine on her person . She was found guilty of the assault and fined HK \$ 9 @, @ 000 (US \$ 1 @, @ 153) . She was held not guilty of cocaine possession because of doubts over the evidence .

Bokhary was involved in a second altercation at around 3 am on 13 July 2008 , again in Central . Short of cash with which to pay the HK \$ 17 @. @ 80 taxi fare , she proffered her credit card . When the taxi driver refused , Bokhary angrily flung her credit card in the driver 's face ; she kicked him when he prevented her from leaving the scene . The police were called . As she was being questioned by the two officers , Bokhary struck one of them . She was arrested and charged with common assault and assaulting a police officer . She was on medication and had taken wine prior to the incident . Pleading guilty to both charges in November 2008 , she was sentenced to 240 hours of community service and ordered to pay the driver HK \$ 1 @, @ 000 in compensation .

= = Incident and trial = =

Bokhary 's vehicle was involved in a head @-@ on collision with a bus on Stubbs Road shortly after midnight on 27 January 2010 . She refused paramedics ' attempts to put her on a stretcher , returned to her vehicle , and continued to refuse to cooperate . She then attempted to walk away from the scene , but was prevented from doing so by a male police officer , whom she then slapped . She was handcuffed and charged with careless driving , refusing a breathalyser test , and two counts of assault on a police officer . She was released on HK \$ 5 @,@ 000 bail .

Scheduled to appear in Eastern Magistrates ' Court on 7 April , Acting Principal Magistrate Bina Chainrai recused herself due to her familiarity with Bokhary ; the defence was granted a further delay , to permit preparation of a medical assessment . She pleaded guilty on 7 July , advancing mental illness in mitigation . On 2 August , she was sentenced to 12 months ' probation and a fine of HK \$ 8 @,@ 000 ; her driving licence was suspended for 12 months . As a condition of her probation , she would also enter a treatment programme at the Betty Ford Center in the United States . Passing sentence , magistrate Anthony Yuen Wai @-@ ming stated that her offences would normally result in prison time , but he decided to be lenient because of her mental disorder . Yuen 's comment in his judgment that Bokhary has an " unblemished background and was born into a good family with caring parents [and] an outstanding academic record " caused an uproar locally . Her resulting probation was criticised in certain quarters , notably by the police , for its leniency . Between 6 and 7 August , Magistrate Yuen reviewed the case , but did not change his ruling .

= = Reactions = =

Various sectors of society expressed concern over the light sentence ; the Police Inspectors ' Association asked for clearer guidelines on the penalties to be expected in such cases . The Junior Police Officers ' Association also complained that the probation decision could not be seen as a deterrent , but accepted that the court decision had to be respected as the magistrate " would have considered all factors . " The Standard editorial derided Yuen 's reasoning as " unpersuasive " . Kevin Zervos , deputy director of public prosecutions , requested that Yuen rethink his sentence . The police also received criticism for charging Bokhary under the Police Force Ordinance ? with a maximum penalty of six months imprisonment ? instead of the Offences Against the Person Ordinance , which carries a maximum two @-@ year sentence . Police Director of Crime and Security Xavier Tang responded that the lesser charge had been chosen because officers believed they had a better chance of conviction ? she was said to be ready to plead guilty to assaulting police .

= = = Public = = =

An editorial in the South China Morning Post (SCMP) criticised Yuen 's for citing her background , family , education and academic achievement as being mitigating factors , which to some implied such would " buy leniency from the courts " . It summarised that " The failure to show any logical connection between family background and the sentence leaves the public with the perception that those with a notable surname are more equal than others . "

With widespread criticism of his decision , the SCMP published on 7 August an explanation by Yuen , in which he said that Bokhary 's behaviour was " consistent with the mental illness she was , and is still , suffering " . He added that sending the defendant to " prison for a few months would air the grievances of the public , but would destroy the rest of the life of the defendant . "

Approximately 300 people protested outside the Legislative Council Building in Central on 8 August , while another 50 , among them retired policemen , joined a Liberal Party @-@ led march from Wan Chai to the Department of Justice building . In a telephone survey of 1 @,@ 100 people conducted from 10 ? 13 August by the Hong Kong Research Association , 91 % responded that they felt the sentence was too light . Another survey of 1 @,@ 007 people in the same period by the University

of Hong Kong found that confidence in the judiciary had fallen ; respondents ' ratings on " fairness of the judicial system " fell to the lowest level since October 2004 , while " rule of law " indicator and confidence in the " impartiality of the courts " also declined in the month . A Facebook page complaining about the sentence had attracted 42 @, @ 500 participants by 4 August . Another Facebook group allegedly inciting Hong Kong residents to slap police officers was shut down by the site 's administrators . Bokhary 's lawyer Peter Duncan disputes that the widespread perception for Bokhary receiving a light sentence was due to her family 's wealth and connections .

Under public pressure , the Department of Justice (DoJ) stated on 4 August that they were considering an appeal against Bokhary 's sentence . In particular , Secretary for Justice Wong Yan @-@ lung described Yuen 's sentence as " inadequate " and stated that he would initiate a review . In a press release on 11 August , the DoJ stated that they had filed the application for leave to review with the Court of Appeal two days earlier .

= = = Legal profession = = =

In response to the increased negative attention on the judiciary , the Hong Kong Bar Association and the Law Society of Hong Kong on 11 August issued a joint statement to " allay misgivings of the public " and to explain the court 's approach , whilst deploring " any attempt to bring public pressure on a Judge or Magistrate to change his or her mind upon a review of sentence " . Senior Counsel Martin Lee also spoke out against the protest , which he described as mob rule and detrimental to the rule of law . Lee said he would have handed down the same sentence as Yuen in light of the facts of the case . Public focus had been expected to remain on Yuen as he is also the judge handling the case of Christina Chan , the protester charged with assaulting a police officer during the 2010 Hong Kong new year march , although the chairman of the Hong Kong Police Officers ' Association stated that the two cases were not comparable . Chan was acquitted of the assault on 3 September .

= = = Pundits = = =

Former legislator Albert Cheng noted that had Bokhary been charged under the Police Ordinance , and not the Offences Against the Person Ordinance , she would have faced a custodial sentence of up to two years ; furthermore , the police failed to charge Bokhary for allegedly assaulting a policewoman at the police station after her arrest ; the police also prosecuted her for careless driving instead of the more serious offence of dangerous driving . Cheng said : " The public certainly has the right to voice its anger against any injustice . But , in this case , its targets shouldn 't be the government or the courts , but Secretary for Justice Wong Yan @-@ lung , who is responsible for prosecutions and all government legal matters . " Legislator and former Secretary for Security , Regina Ip , said : " At the end of the day , the sense of outrage is not about justice and penalties , but about the widening inequality between rich and poor , between the corporate giant and the artless individual , and the yawning asymmetry of money , knowledge and expert power between the haves and have @-@ nots of our society . " Political commentator Michael Chugani agreed that public anger existed due to the belief that Hong Kong society had become too unfair , and that the verdict was confirmation to some of this view . He said that the public outrage responsible for forcing the Department of Justice to appeal against Bokhary 's sentence was unlikely to result in a happy ending because both outcomes were potentially damaging : the jailing of Bokhary would imply the judicial system had succumbed to public pressure ; if she was not jailed , the system would be tarnished by accusations of favouritism .

= = = Probation breach and jail sentence = = =

Bokhary appeared before magistrates court on 23 December 2010 and was sentenced to six weeks in jail for breaking five out of seven conditions of her 2 August probation order ? she failed to complete three months ' alcohol rehabilitation in the United States ; failed to report to her probation

officer or to participate in programs arranged by same as required ; did not reside as directed ; refused to receive psychiatric and psychological treatment . Her lawyer said Bokhary had become increasingly paranoid as a result of the media attention and felt that ? she had become a target of abuse . ? The court rejected her bail application . Prosecution appealed the sentence ? a one @-@ year driving ban and probation order ? imposed on Bokhary for failing to provide a breath specimen . The appeal against the probation order was dropped when she was jailed , but at a hearing on 11 January , the Court of Appeal extended Bokhary 's driving ban to three years . She served four weeks of the sentence , and was released on 22 January 2011 .