



UNHRC

AUMUN 2020

Background Guide

Chairperson : Kaushik Sarma

Co-Vice Chairperson : Kathiyayini

Co- Vice Chairperson : Aravind Krishnan

Letter from the Executive Board

Dear Delegates,

We welcome you all to the United Nations Human Rights Council at Anna University Model United Nations 2020. It is our honour and privilege to serve as your Executive Board for the duration of the conference.

Keeping in mind your busy schedules, we have compiled this study guide to help you with your research for council. Bear in mind that the study guide is in no way exhaustive and is only to provide you with enough background information to establish a platform for you to begin your research. We would highly recommend that you do a good amount of research beyond what is covered in the study guide.

First timers and experienced delegates alike, please go through standard MUN Rules of Procedure before coming to council. We will spend a part of the first session explaining the same to you, but it's always better to have a fair idea of how council will function before you step in on Day One. We will be following **UNA-USA Rules of Procedure** in council. Furthermore, please take in serious consideration the following points regarding the type of documents that you might want to produce in the committee so as to substantiate your stand.

Good luck & Godspeed!!

-The Executive Board

Introduction

The United Nations Human Rights Council is an inter-governmental body within the United Nations system responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and make recommendations on them. It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year. It meets at the UN Office at Geneva.

The Council is made up of 47 United Nations Member States which are elected by the UN General Assembly. The Human Rights Council replaced the former United Nations Commission on Human Rights.

History

The Council was created by the United Nations General Assembly on 15 March 2006 by resolution 60/251. Its first session took place from 19 to 30 June 2006. One year later, the Council adopted its "Institution-building package" to guide its work and set up its procedures and mechanisms.vAmong them were the Universal Periodic Review mechanism which serves to assess the human rights situations in all United Nations Member States, the Advisory Committee which serves as the Council's “think tank” providing it with expertise and advice on thematic human rights issues and the Complaint Procedure which allows

individuals and organizations to bring human rights violations to the attention of the Council.

The Human Rights Council also works with the UN Special Procedures established by the former Commission on Human Rights and assumed by the Council. These are made up of special rapporteurs, special representatives, independent experts and working groups that monitor, examine, advise and publicly report on thematic issues or human rights situations in specific countries.

Mandate

The mandate includes preventing human rights violations, securing respect for all human rights, promoting international cooperation to protect human rights, coordinating related activities throughout the United Nations, and strengthening and streamlining the United Nations system in the field of human rights. In addition to its mandated responsibilities, the council leads efforts to integrate a human rights approach within all work carried out by United Nations agencies.

AGENDAS:

1. Addressing Human Rights violations in South East Asia with special emphasis on India, China, Myanmar & Philippines

2. Protection of persons from discrimination with special reference to xenophobia

AGENDA I

Human Rights

Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination.

Introduction to human rights violations

There is now near-universal consensus that all individuals are entitled to certain basic rights under any circumstances. These include certain civil liberties and political rights, the most fundamental of which is the right to life and physical safety. Human rights are the articulation of the need for justice, tolerance, mutual respect, and human dignity in all of our

activities. Speaking of rights allows us to express the idea that all individuals are part of the scope of morality and justice. To protect human rights is to ensure that people receive some degree of decent, humane treatment. To violate the most basic human rights, on the other hand, is to deny individuals their fundamental moral entitlements. It is, in a sense, to treat them as if they are less than human and undeserving of respect and dignity. Examples are acts typically deemed "crimes against humanity," including genocide, torture, slavery, rape, enforced sterilization or medical experimentation, and deliberate starvation. Because these policies are sometimes implemented by governments, limiting the unrestrained power of the state is an important part of international law. Underlying laws that prohibit the various "crimes against humanity" is the principle of nondiscrimination and the notion that certain basic rights apply universally.

Predominant Violations occurring in South East Asian States

Arbitrary Detention

Arbitrary detention is the violation of the right to liberty. It is defined as the arrest and deprivation of liberty of a person outside of the confines of nationally recognized laws or international standards. International treaties may be implored to guarantee the right to liberty if national laws protect the individual in an incomplete or partial manner. Detention may be illegal without being arbitrary and vice-versa. Illegality simply means that the law has not been complied with, whereas arbitrary refers to the

inappropriate, unjust, unforeseeable or disproportionate nature of the detention.

Arbitrary detention exposes the victim to more human rights violations since they are deprived of means to defend themselves from extrajudicial execution, enforced disappearances, torture and other cruel, inhuman or degrading treatment, etc.

The right to personal liberty is defined by Article 9 of the International Covenant on Civil and Political Rights, which outlines the conditions that render detention arbitrary, especially when:

- The grounds for the arrest are illegal
- The victim was not informed of the reasons for the arrest
- The procedural rights of the victim were not respected
- The victim was not brought before a judge within a reasonable amount of time

In certain cases, arbitrary detention can be considered as a war crime (Article 8 of the Rome Statute), a crime against humanity (Article 7 of the Rome Statute) or a crime of genocide. During a period of conflict or tensions, arbitrary detention can become a large-scale political tool of

intimidation, often used in combination with other violations, such as the suppression of individual liberties, extrajudicial executions, enforced disappearances, etc.

Death Penalty

More than 160 Members States of the United Nations with a variety of legal systems, traditions, cultures and religious backgrounds, have either abolished the death penalty or do not practice it. Yet, prisoners in a number of countries continue to face execution. The Office of the High Commissioner for Human Rights, with its mandate to promote and protect all human rights, advocates for the universal abolition of the death penalty.

The UN Human Rights Office argues this position for other reasons as well, including the fundamental nature of the right to life; the unacceptable risk of executing innocent people; and the absence of proof that the death penalty serves as a deterrent to crime. In line with General Assembly resolutions calling for a phasing out of capital punishment , the UN Human Rights Office supports Member States, civil society and other stakeholders campaigning for a moratorium on the death penalty and ultimately its abolition worldwide. Death penalty breaches human rights, in particular the right to life and the right to live free from torture or cruel, inhuman or degrading treatment or punishment. Both rights are protected under the Universal Declaration of Human Rights, adopted by the UN in 1948.

Over time, the international community has adopted several instruments that ban the use of the death penalty, including the following:

- The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.
- Protocol No. 6 to the European Convention on Human Rights, concerning the abolition of the death penalty, and Protocol No. 13 to the European Convention on Human Rights, concerning the abolition of the death penalty in all circumstances.
- The Protocol to the American Convention on Human Rights to Abolish the Death Penalty.

Enforced Disappearance

As the name suggests, enforced disappearance is the act of making someone disappear against his or her will, often suddenly. It therefore refers to the arrest, detention or abduction of a person, followed by a refusal to acknowledge the fate of that person. The agents of a repressive State often perpetrate this crime, which, with complete impunity, “gets rid” of people that it considers a “nuisance”: no arrest warrant, no charge, no prosecutions. Outside the protection of the law, the victim finds him or

herself in a situation of utter vulnerability and is especially at risk of being tortured or executed with complete impunity.

The uncertainty inherent to enforced disappearance makes it a crime that is distinct from confinement or extrajudicial execution: the families' feelings swing between hope and disillusionment, which equates to true psychological torture. Enforced disappearance is a serious violation of human rights. Systematically perpetrated against civilians, it is considered a crime against humanity.

The International Convention for the Protection of All Persons from Enforced Disappearance (2010) compels States to fight enforced disappearance on their respective territories. In particular, it affirms the right of individuals to know the fate of their disappeared relatives, and to obtain justice and reparation.

Other relevant international instruments concerning the enforced disappearance of persons are:

- United Nations Declaration on the Protection of All Persons from Enforced Disappearance (1992)
- Inter-American Convention on Forced Disappearance of Persons (1994)

- Statute of the International Criminal Court (1998)

Enforced disappearance is a violation not only of the rights of the direct victim, but also those of his or her relatives. That is why international law recognizes that, just like the disappeared persons, families are full victims too. Sudden separation, a lack of news, uncertainty and fear of reprisal makes the mourning of a loss impossible and causes indelible suffering.

Freedom of Opinion & Expression

The right to freedom of opinion is the right to hold opinions without interference, and cannot be subject to any exception or restriction.

The right to freedom of expression extends to any medium, including written and oral communications, the media, public protest, broadcasting, artistic works and commercial advertising. The right is not absolute. It carries with it special responsibilities, and may be restricted on several grounds. For example, restrictions could relate to filtering access to certain internet sites, the urging of violence or the classification of artistic material.

Rights of Human Rights Defenders

There is no specific definition of who is or can be a human rights defender. The Declaration on human rights defenders (see annex I) refers to “individuals, groups and associations contributing to the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals” (fourth preambular paragraph).

In accordance with this broad categorization, human rights defenders can be any person or group of persons working to promote human rights, ranging from intergovernmental organizations based in the world's largest cities to individuals working within their local communities. Defenders can be of any gender, of varying ages, from any part of the world and from all sorts of professional or other backgrounds. In particular, it is important to note that human rights defenders are not only found within NGOs and intergovernmental organizations but might also, in some instances, be government officials, civil servants or members of the private sector.

Safety of Journalists

On average, every five days a journalist is killed for bringing information to the public. Attacks on media professionals are often perpetrated in non-conflict situations by organised crime groups, militia, security personnel, and even local police, making local journalists among the most vulnerable. These attacks include murder, abductions, harassment, intimidation, illegal arrest, and arbitrary detention.

Human Trafficking

Trafficking in persons is a serious crime and a grave violation of human rights. Every year, thousands of men, women and children fall into the hands of traffickers, in their own countries and abroad. Almost every country in the world is affected by trafficking, whether as a country of origin, transit or destination for victims. UNODC, as guardian of the United Nations Convention against Transnational Organized Crime

(UNTOC) and the Protocols thereto, assists States in their efforts to implement the Protocol to Prevent, Suppress and Punish Trafficking in Persons (Trafficking in Persons Protocol).

Gender Based Violence

Gender-based violence is a phenomenon deeply rooted in gender inequality, and continues to be one of the most notable human rights violations within all societies. Gender-based violence is violence directed against a person because of their gender. Both women and men experience gender-based violence but the majority of victims are women and girls.

Gender-based violence and violence against women are terms that are often used interchangeably as it has been widely acknowledged that most gender-based violence is inflicted on women and girls, by men. However, using the ‘gender-based’ aspect is important as it highlights the fact that many forms of violence against women are rooted in power inequalities between women and men.

CAMBODIA

CASE STUDY

Important Dates

- 2018**-National Elections
- 2018**- Media freedom collapsed
- March 2018**- Lese Majeste was introduced into the constitution
- End 2018**- No local newspapers and radios
- 2017**-Supreme Court dissolved the opposition party
- 2016**- Kem Ley assassination



In anticipation of national elections in July 2018, the government of Prime Minister Hun Sen and his Cambodian People's Party (CPP) intensified its onslaught on the political opposition, civil society groups, and independent media. In late 2017, the

CPP-controlled Supreme Court dissolved the main opposition party, the Cambodia National Rescue Party (CNRP). Former opposition leader Sam Rainsy remained in exile after being convicted on politically motivated charges, while party chief Kem Sokha was jailed for nearly a year on dubious charges and has since been under house arrest. The CPP, facing no major opposition party, won all 125 seats in the National Assembly, effectively creating a one-party state. Hun Sen, in power since 1985, announced that he wants to be the world's longest-serving leader in history.

Cambodia's politicized and corrupt judiciary continued to target individuals for peacefully criticizing the government, including online. During 2018, large numbers of opposition party members and activists

fled the country to avoid arbitrary arrest. The number of political prisoners rose to more than 30 in July 2018, but 16 were released after the election on royal pardons sought by Hun Sen to deflect international criticism of the elections.

Media freedoms, already under pressure, collapsed in 2018. Threatening a massive, bogus tax bill, the government coerced the owners of the highly regarded *Phnom Penh Post* to sell to a Malaysian businessman with reportedly close ties to Hun Sen, making future critical reporting unlikely. By the end of 2018, Cambodia no longer had any local independent newspapers or radio and TV channels. Social media also came under assault, with criminal charges filed for posts to Facebook critical of the government.

The government frequently resorted to repressive laws, such as the Law on Associations and Non-Governmental Organizations (LANGO), to arbitrarily restrict the activities of human rights organizations and silence them. Democratic space in Cambodia has reached its lowest level since before the intervention over 25 years ago by the international community through the United Nations Transitional Authority in Cambodia (UNTAC), established to facilitate the implementation of the 1991 Paris Peace Accords. UNTAC assisted in ending the Cambodian civil war, created an environment conducive for civil society, and established a state that pledged to uphold democracy, the rule of law, and human rights.

Attacks on Human Rights Defenders

On January 4, 2018, a Phnom Penh investigating judge charged labor rights advocate Moeun Tola, director of the Center for Alliance of Labor and Human Rights (CENTRAL); free media advocate Pa Nguon Teang, director of the Cambodian Center for Independent Media (CCIM); and social activist Venerable But Buntenh, a Buddhist monk, with



embezzlement in retaliation for being members of the funeral committee for Kem Ley, a popular political commentator who was assassinated in

2016. In July, the charges were dropped against Moeun Tola under pressure from global apparel brands, but charges remained against the two others at the time of writing.

On August 20, the king pardoned longtime land rights activist Tep Vanny after two years in prison for protesting for justice in a land dispute involving a Chinese company granted a concession in Phnom Penh's Boeung Kak Lake community. However, immediately afterwards, a court convicted her of making death threats in what started out as an internal community dispute in 2012. While the complainant had dropped her lawsuit, the prosecutor decided to pursue it on his own accord, leading to Tep Vanny and five other



Boeung Kak Lake community members being sentenced to six months' imprisonment; the judge suspended the sentence for five years.

The courts also proceeded with cases against other activists. On September 26, a Phnom Penh court convicted five former and current senior staff members of the Cambodian Human Rights and Development Association (ADHOC) of bribery of a witness, in a case that was widely criticized as being politically motivated, and imposed a five-year suspended prison sentence. An investigating judge had released them on bail in June 2017 after 427 days in pretrial detention.

Attacks on Political Opposition

Elections on July 29 were fundamentally flawed, denying Cambodians their right to freely choose their representatives. In addition to dissolving the



CNRP, the Supreme Court-imposed a ban on 118 senior CNRP members from all political activity for five years.

Other serious problems with the electoral process included a lack of fair and equal access to the media; a pro-government national election commission; and surveillance, intimidation, detention, and politically motivated prosecution of key opposition members. The CPP based its



crackdown on unsubstantiated claims that the CNRP intended to lead a “color revolution” to overthrow the government.

The CNRP’s founder Sam Rainsy and other leading opposition figures remained in exile to avoid enforcement of threatened prosecutions and pending prison sentences. His successor as leader of the CNRP, Kem Sokha, was detained for one year on bogus treason charges, before being released on bail in September and placed under house arrest.

CNRP lawmaker Um Sam An was royally pardoned and released on August 25, 2018, after having spent over two years in prison for an incitement conviction that arose out of his accusations against the government that the Cambodia-Vietnam border had been wrongfully demarcated. On May 20, the appeals court upheld the conviction of 11 CNRP activists for “insurrection.” The 11 had already served three years of their 7 to 20-year prison terms on baseless charges for a 2014 demonstration in Phnom Penh, in which police were attacked after security forces assaulted peaceful protesters. On August 28, all 11, plus three more CNRP activists who had been sentenced separately on the same charges, were pardoned and released.

Media Freedom

The government further curtailed freedom of media, including online publications. In May 2018, the government coerced the sale of the last independent local newspaper, the *Phnom Penh Post*, a Malaysian businessman with reported ties to the Cambodian government by leveling the newspaper with a questionable unpaid tax bill of US\$3.9 million. The *Post*, along with the previously shuttered local independent newspaper, the *Cambodia Daily*, had long provided investigative reporting frequently critical of the government.



On August 21, two former Radio Free Asia (RFA) journalists, Yeang Sothearin and Uon Chhin, were released on bail. They had been arbitrarily arrested on November 14, 2017, on fabricated espionage charges for allegedly having continued to report for RFA after the closure of RFA's Cambodia office. The two remain under surveillance and on September 18, 2018, the Supreme Court ruled that the judicial investigation against them would continue.

On August 31, after 14 months of pretrial detention, an Australian filmmaker was convicted on trumped-up espionage charges and sentenced

to six years in prison. He received a royal pardon on September 21, and was deported to Australia soon after.

Social media networks faced increased government surveillance and interventions. On May 28, the government issued a national decree, allowing the Ministries of Interior, Information, and Posts and Telecommunications to take down content on social media outlets and websites that the government deems to be “incitement, breaking solidarity, discrimination and willfully creating turmoil that undermines national security, public interest and social order.”

New Repressive Laws

In March 2018, the government introduced a new *lese majeste* (insulting the monarchy) provision into Cambodia’s penal code, with a punishment of up to five years in prison and a \$2,500 fine. Two months later,



authorities arrested two people under the provision, who remained in detention at the time of writing.

A series of repressive new laws and amendments were passed in 2018 that further restricted freedom of association. These included amendments to articles 34 and 42 of Cambodia’s Constitution to require that every

Cambodian “defend the motherland” and empower the government to take action against political parties if they do not “place the country and nation’s interest first.” The repressive and controversial amendments to Cambodia’s Law on Political Parties, allowing for the arbitrary dissolution of political parties and the banning of party leaders without due process, remained in place.

AGENDA II

Introduction

The principles of equality and non-discrimination are part of the foundations of the rule of law. As Member States noted in the Declaration of the High-Level Meeting on the Rule of Law, “all persons, institutions and entities, public and private, including the State itself, are accountable to just, fair and equitable laws and are entitled without any discrimination to equal protection of the law”. They also dedicated themselves to respect the equal rights of all without distinction as to race, sex, language or religion.

The international human rights legal framework contains international instruments to combat specific forms of discrimination, including discrimination against indigenous peoples, migrants, minorities, people with disabilities, discrimination against women, racial and religious discrimination, or discrimination based on sexual orientation and gender identity.

In the Declaration of the High-Level Meeting on the Rule of Law, Member States also recognized the importance of ensuring that women, on the basis of the equality of men and women, fully enjoy the benefits of the rule of law. Member States committed to using law to uphold their equal rights and ensure their full and equal participation, including in institutions of governance and the judicial system, and recommitted to establishing appropriate legal and legislative frameworks to prevent and address all forms of discrimination and violence against women and to

secure their empowerment and full access to justice. UN Women engages in advancing these issues by supporting the UN system in the formulation of policies, global standards and norms, providing technical and financial support to Member States, and forging effective partnerships with civil society. The Declaration notes the importance of the rule of law for the protection of the rights of the child, including legal protection from discrimination, violence, abuse and exploitation, ensuring the best interests of the child in all actions, and recommit to the full implementation of the rights of the child.

Introduction to Racism

Racist extremist movements based on ideologies that seek to promote populist, nationalist agendas are spreading in various parts of the world, fueling racism, racial discrimination, xenophobia and related intolerance, often targeting migrants and refugees as well as people of African descent.

In its recent resolution on eliminating racism, the United Nations General Assembly reiterated that all human beings are born free and equal in dignity and rights and have the potential to contribute constructively to the development and well-being of their societies. The resolution also emphasized that any doctrine of racial superiority is scientifically false, morally condemnable, socially unjust and dangerous and must be rejected, together with theories that attempt to determine the existence of separate human races.

The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, E. Tendayi Achiume, in her recent report on nationalist populism, analyzed the threat posed by nationalist populism to the fundamental human rights principles of non-discrimination and equality. She condemned nationalist populism that advances exclusionary or repressive practices and policies that harm individuals or groups on the basis of their race, ethnicity, national origin and religion, or other related social categories.

In her report on glorification of Nazism online, Ms. Achiume identified recent trends and manifestations of glorification of Nazism, neo-Nazism and other practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance. She highlighted States' obligations under human rights law to counter such extreme ideologies online, as well as the responsibilities of technology companies in the light of human rights principles.

Discrimination

“All human beings are born free and equal in dignity and rights”. These first few famous words of the Universal Declaration of Human Rights 60 years ago established the basic premise of international human rights law. Yet today, the fight against discrimination remains a daily struggle for millions around the globe. Starting on Human Rights Day 2009 and continuing throughout 2010, the UN human rights office has a focus on discrimination.

The United Nations has since its very beginning set as one of its goals “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person” without distinction as to race, sex, language, or religion.¹ as this phenomenon is more subtle, more corrosive and more resilient than any one had thought.

For millions of people globally, the struggle to extract themselves from situations of discrimination at almost every turn in their daily lives is an impossible ambition. Tragically, as we have seen in the past twenty years, policies of ethnic cleansing and genocide, policies based on discriminatory ideologies, have led to destruction, exile and death.

Despite the challenges and setbacks, there has been and continues to be a rejection of discrimination . There have been enough successes to demonstrate that this scourge can be eradicated.

The Office of the High Commissioner for Human Rights is a world leader in the stand against the forces of discrimination. As the guardian of international human rights law, the UN Human Rights office advocates for and promotes human rights reforms in many countries across the globe and throughout the UN community.

Types of Discrimination

1. Direct Discrimination

Under similar circumstances, when a person with a protected characteristic is treated less favourably than others, it is direct discrimination. For example – you have the qualifications and experience necessary for the job but your application is turned down because you are ‘too young’ or ‘too old’.

2. Indirect Discrimination

If there is a rule or policy in the workplace that puts you at a disadvantage as compared to others, it may be considered indirect discrimination. For example – an organisation includes a clause that forces all employees to work on Sunday. This puts Christians at a particular disadvantage as it is common knowledge that Sunday is a day of worship for Christians.

3. Discrimination by Association

If you are treated unfairly because someone you know or are associated with has a protected characteristic, this may be construed as discrimination by association. For example – you are

refused service in a restaurant because you are with someone who belongs to a particular race.

4. **Discrimination by Perception**

Receiving unfair treatment because someone thinks you belong to a group with protected characteristics, you may be experiencing discrimination by perception. For example – you are heterosexual but an estate agency refuses to lease out a flat to you because they assume you are gay due to their misconceptions about how gay people look, dress or behave.

5. **Harassment**

Harassment comprises of unwanted behaviour that makes another person feel offended, humiliated or intimidated. Unwanted behaviour could include physical gestures, abuse, jokes, spoken or written words or offensive emails and expressions. For example – male gym members passing sexual comments or telling unwelcome jokes within earshot of a female gym member could constitute harassment.

6. Victimation

When a person is treated badly or subjected to detriment because they complained about discrimination or supported another victim of discrimination, this may be considered victimisation. For example – you are denied training or advancement avenues at work because you filed a sexual harassment complaint against your boss.

SOUTH AFRICA

CASE STUDY

Xenophobic violence against foreign nationals in South Africa has worsened. South Africa witnessed widespread xenophobic attacks since 1994 in provinces such as Gauteng, Western Cape, Free State,



Limpopo and KwaZulu Natal. There has been this and much speculation of the causes and triggers of the violence. A number of reports have highlighted various issues contributing to xenophobia; some of which include poor service delivery and competition for resources.

The type of leadership within communities might have an impact on whether or not xenophobic attacks occur in certain communities, which talks to issues of governance. The issue is not only about foreign nationals and their rights, but about the safety of all who live in South Africa. Most incidents of violent attacks



have been carried out by black South Africans.

Overview

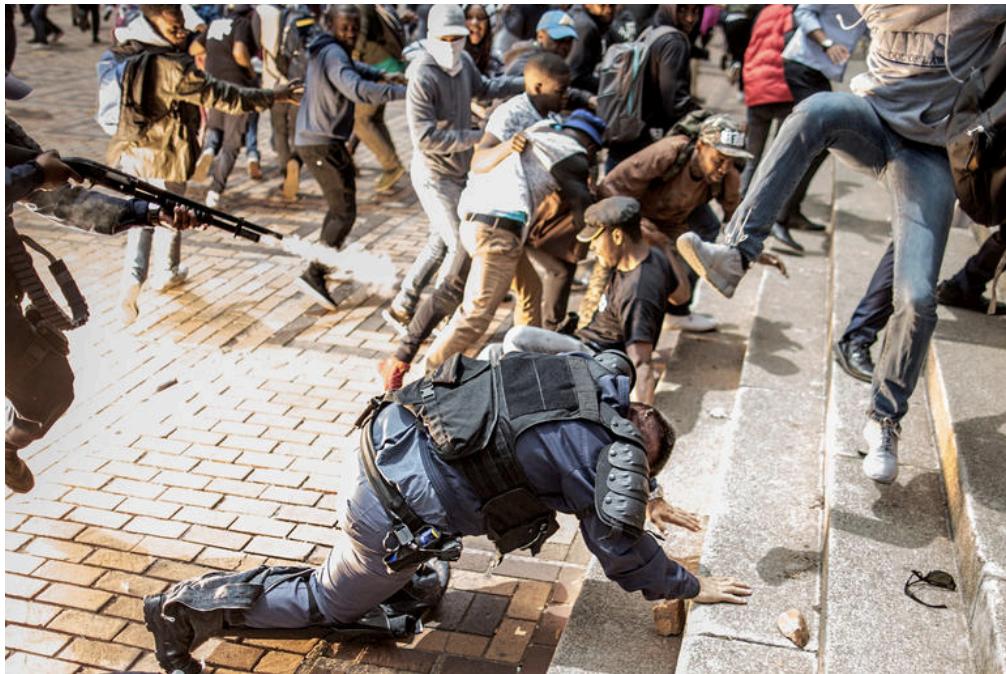
The history of refugees and asylum seekers in South Africa dates back to the 1980s when the country was home to a number of Mozambican refugees, an estimated 350,000, of whom approximately 20% have since returned home. South Africa did not recognise refugees until 1993 and when it became a signatory to the United Nations (UN) and the Organisation of African Unity Convention on Refugees in 1994. The number of refugees and asylum seekers in South Africa has increased in the past years, puts the total number of cross-border migrants in this category at not more than 150 000. The issue regarding the number of undocumented migrants in the country has proved to be a controversial one in South Africa. Central to this debate is the unquantifiable nature of this group of migrants together with a number of credible myths widely accepted as reality in South African society. South Africa is Africa's most

industrialised country, and it attracts thousands of foreign nationals every year, seeking refuge from poverty, economic crises, war and government persecution in their home countries.



While the majority of them are from elsewhere on the continent, such as Zimbabwe, Malawi, Democratic Republic of Congo, Somalia and Ethiopia, many also come from Pakistan and Bangladesh.

Xenophobia is generally defined as ‘the deep dislike of non-nationals by nationals of a recipient state.’ This definition is also used by the South African Human Rights Commission (SAHRC). Xenophobia is also a manifestation of racism. Racism and xenophobia support each other and



they share prejudiced discourses. They both operate on the same basis of profiling people and making

negative assumptions. The profiling in the case of racism is on the basis of race, in the case of xenophobia on the basis of nationality.

When the xenophobic violence in South Africa occurred, the victims were not only foreigners in the sense of a different nationality are attacked but in fact everybody not belonging to the dominant ethnic groups in the main cities, Zulu or Xhosa, was attacked. Members of smaller ethnic groups in South Africa are also viewed as foreigners by fellow South Africans. White people are not viewed as foreigners in the context of xenophobic violence. There had been attacks on South Africans who 'looked foreign' because they were 'too dark' to be South African. Reasons for the attacks differ, with some blaming the contestation for scarce

resources, others attribute it to the country's violent past, inadequate



service delivery and the influence of micro politics in townships, involvement and complicity of local authority members in contractor conflicts for

economic and political reasons, failure of early warning and prevention mechanisms regarding community-based violence; and also local residents claims that foreigners took jobs opportunities away from local south Africans and they accept lower wages, foreigners do not participate in the struggle for better wages and working conditions. Other local South Africans claim that foreigners are criminals, and they should not have access to services and police protection. Foreigners are also blamed for their businesses that take away customers from local residents and the spread of diseases such as HIV/AIDS. Other South African locals do not particularly like the presence of refugees, asylum-seekers or foreigners in their communities.

Cases of xenophobic attacks

1. In December 1994 and January 1995, armed youth gangs in the Alexandra Township outside of Johannesburg, Gauteng Province, destroyed the homes and property of suspected undocumented migrants and marched the individuals down to the local police

station where they demanded that the foreigners be forcibly and immediately removed. In September 1998, two Senegalese and a Mozambican were thrown from a moving train in Johannesburg by a group of individuals returning from a rally organised by a group blaming foreigners for the levels of unemployment, crime, and even the



spread of AIDS. In the township of Zandspruit, a township in Johannesburg, residents went on a rampage burning down shacks of Zimbabwean foreigners living in the settlement with the intention of driving out foreigners they claimed were stealing their jobs and causing crime.

2. In 2000, seven xenophobic killings were reported in the Cape Flats district of Cape Town. Kenyan Kingori Siguri Joseph died in Tambo Close, Khanya Park in Gugulethu after being attacked and shot. In separate incidents, two Nigerians were shot dead in



NY 99 in Gugulethu. Prince Anya, 36, who owned a restaurant in Sea Point, was hijacked with his wife Tjidi and their toddler in Adam Tas Road, Bothasig. In Mdolomba Street in Langa, two Angolan brothers were trapped inside their house and burnt to death. Nguji Chicola, 23, and Mario Gomez Inacio, 25, were in their house when it was set alight by several men who then ran away. The brothers burnt to death.

3. On May 11 2008, an outburst of xenophobic violence in the Johannesburg Township Alexandra triggered more xenophobic violence in other townships. Firstly, it only spread in the Gauteng province. After two weeks, the violence spread to other urban areas across the country, mainly Durban and Cape Town. But it also emerged in townships in more rural areas such as Limpopo Province. The violence consisted of attacks both verbally and physically by inhabitants of the townships on other inhabitants. The victims were called foreigners, referring to their nationality being non-South African and predominantly Zimbabwean and Mozambican. As a result many houses were burnt, 342 shops were looted and 213 burnt down. Hundreds of people were injured, thousands chased away.



References

- <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Home.aspx>
- <https://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx>
- <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Membership.aspx>
- <https://www.un.org/en/sections/issues-depth/human-rights/>
- <https://www.ohchr.org/EN/Issues/Pages/ListOfIssues.aspx>
- https://www.beyondintractability.org/essay/human_rights_violations%20
- <https://www.un.org/en/sections/issues-depth/refugees/>
- <https://www.ohchr.org/EN/Issues/Minorities/Pages/UNNetworkRacialDiscriminationProtectionMinorities.aspx>

