



31 Quinn Street, Fordsburg, Newtown, South Africa. P.O.BOX 31267
Braamfontein, South Africa 2017
Mobile: +27 72 358 8611

Website: www.hurisa.org.za, Email: info@hurisa.org.za

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WE SAY NO TO XENOPHOBIA

Human Rights Institute of South Africa (HURISA) Condemns in the strongest term the Xenophobic attacks against fellow Africans manifested in sporadic assaults, looting and petrol bombing of their shops. It is disheartening that these horrific attacks coincide with the Human Rights Month that South Africa commemorate the Sharpeville Massacre that devastated the country on 21 March 1960. This massacre left over 69 people murdered and 180 wounded by lethal weapons police used to disperse a peaceful gathering against the repressive and discriminatory pass laws. It is also an important occasion to observe the 40th Anniversary of the adoption of the African Charter on Human and People's Rights which is the apex human rights mechanism promoting the people's rights in Africa.

Xenophobic attacks, harassment, violence against fellow Africans is not a new phenomenon in South Africa and has become a routine with the aim of ousting African people from the country. Fellow Africans are blamed for economic insecurity, unemployment, crimes, spreading diseases and for government failures to deliver basic services. This has escalated in violence, looting, malicious damage to businesses and shops owned by refugees, migrants, and asylum seekers.

The first outbreak of xenophobic attacks that killed over 68 people and caused displacement of thousands of African fellows in May 2008, started in Alexander, and spread in other part of the province. This was also instigated by gangsters parading in the streets carrying guns, machetes, sjamboks, and bottles hunting, in townships to brutalize, burn, stone, rape, loot and kill fellow Africans with strong accent. The rioting was accompanied by protesters calling on foreigners to leave. The African Commission on Human and People's Rights adopted Resolution 131 condemning these attacks and the Commission sought to conduct a fact finding mission into the killings of migrants in South Africa.

After this incident thousands of foreigners returned to their homes, while others went to find refuge at police stations, churches, or community centres. Since then, the Commission has been seized with South Africa xenophobic situation and condemned the attacks in Resolution 304 adopted in 2015. Subsequently, the Commission issued statements from 2018 and 2019 calling South Africa to comply with its regional and international obligations to protect the lives, rights and properties of refugees, migrants, asylum seekers in South Africa. However, xenophobic aggression has erupted repeatedly and exacerbated by certain sentiments expressed by politicians promoting hatred for all foreigners to leave South Africa and go back to their countries. This often happen during election period as

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campaigning season for local government election unfolds and this is used to cover up failures in rendering basic service delivery in communities.

With COVID-19 that gripped the world causing an increase in inequality. The attack instigated on Monday, 8 March 2021 by a group of around 10 men claiming to be Umkhonto We Sizwe Military Veterans Association (MKMVA) in Victoria Street Durban CBD, which has since been rejected by the MKMVA leadership has left migrants, refugees, asylum seekers devastated and in fear of their lives. They witnessed their fellow family members subjected to violence, inhumane and degrading treatment through beatings of shop owners and petrol bombed of their businesses. Furthermore, two fellow African men sustained serious injuries and were taken to hospital for medical attention. Some were brutalized by the police while trying to disperse people with rubber bullets.

Xenophobia is a contradiction of constitution promises to human dignity and non-racialism. In March 2019, the government launched the National Action Plan to combat xenophobia, racism, discrimination and prejudice marking an important step towards addressing the widespread human rights abuses arising from xenophobic and discrimination that continue to plague South Africa. However, there is lack of accountability because few suspects have been prosecuted of the past crimes committed by perpetrators from 2008 till present on vulnerable migrants, refugees and asylum seekers. Although the goal of the NAP is to improve the protection of foreigners and their access to justice. Law enforcement officials have been accused of responding with indifference and using counterfeit goods raids as a cover for xenophobic harassment and attacks. Another barrier that has added to the vulnerability of migrants, refugees and asylum seekers in accessing justice is the inability to obtain and renew documentation.

This month we reflect back on all sacrifices that accompanied the struggle for the attainment of human rights, human dignity, democracy in South Africa. We should respect the inherent basic rights and freedoms belonging to every individual in the world from birth until death and not deprive anyone from their rights to life regardless of where they come from, what they believe or choose to live their life.

As we commemorate the Human Rights Month and the 40th Anniversary of the adoption of the African Charter on Human and People's Rights, we call for:

- Unity, dignity, non-violent society based on equality and human dignity.
- South Africa to promote and protects rights of all people in this country including refugees' migrants, asylum seekers and as stipulated in the African Charter.
- South Africa to condemn the continuous perpetration of these heinous crimes including murder, assault, looting of goods, destruction of business of people with impunity and ensure all suspects are apprehended, prosecuted, and receive harsh convictions and sentences.
- The Government should ensure all involved in instigation of this crime to stop. All politicians in the leading party including opposition to conduct themselves responsibly in respecting the country's commitment to human rights and play positive roles in the society to end all forms of violence, discrimination, and marginalisation of refugees, migrants, asylum seekers, who are black people from the soil of African continent.

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- SAHRC to conduct investigations into these crimes that continue unfolding in South Africa especially pre- elections. Such crimes are inhuman and degrading and conflict with efforts to build a human rights culture in the society and accountability.
- The Government must do everything in its power to prevent violent experienced during the 2016 Local Government Elections. There is no reason for South Africa to degenerate into bloodshed of people based on difference of nationality.
- The Government has adopted and launched a National Action Plan on Racism, Xenophobia and Related Intolerance. Over and above this is the strong democratic institutions hailed as progressive and capable to root impunity, violence and injustice. The Government should monitor the implementation of the NAP and the establishment of an accountability mechanism.
- The government should find measures to improve the documentation of asylum seekers, migrants, and refugees to enable them to access basic services and justice. Particularly, comply and implement the Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee problems in Africa and the Kampala Convention on Internally Displaced Persons.
- Well trained police officers with zero tolerance on xenophobia is needed.
- South African government should comply with resolution 131 & 304 passed by the African Commission by investigating and prosecuting those responsible for the attacks and to institute further measures to ensure the protection of foreign migrants in South Africa and their property.
- South Africa to comply with its obligation under Articles 3 and 4 of the Maputo Protocol to take appropriate measures to eliminate all forms of gender-based violence, including against women of foreign nationalities, particularly nationals of other African countries.

For more information contact:

Cathy E Kodiemoka
0725450083
cathy@hurisa.org.za

Website: www.hurisa.org.za

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