

# Human Rights at a Global Crossroads



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**American Whistleblower Edward Snowden**

and

**The Snowden Refugees**

## Edward Snowden

World's most significant whistleblower of the 21st Century.

During June 2013 Mr Snowden disclosed US Government and Five Eyes illegal global electronic mass surveillance programs on civilians.

Currently living in exile in Russia.





## **International Law**

### **International Conventions / Covenants**

UN Universal Declaration on Human Rights (UDHR)

UN Convention Against Torture (CAT)

UN Convention relating to the Status of Refugees and its protocol (Refugee Convention)

UN International Covenant on Civil and Political Rights (ICCPR)

UN Convention on Rights of the Child (CRC)

UN Convention of the elimination of discrimination against Women (CEDAW)

UN International Convention for the Protection of All Persons from Enforced Disappearance Rome Statute of the International Criminal Court (Jus Cogens Ergo Omnes laws)

Many other international conventions / covenants.

### **Customary International Law**

Norms internationally (typically practices or even silence) to common practices that have become sufficiently pervasive that countries need not consent in order to be legally bound (CIL).

# UN Convention relating to the Status of Refugees and its protocol (Refugee Convention)

## Article 33

### PROHIBITION OF EXPULSION OR RETURN ("REFOULEMENT")

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

## Art 33 Refugee Convention

- Outside of the country-of-origin or jurisdiction of persecution
- Threat to liberty and life, which includes serious harm (Objective and subjective tests)
- Forward looking test so no need for actual loss of liberty, serious harm or attempt on life in the past.
- Evidence can include similarly placed persons subjected to persecution.
- Unable or unwilling to seek state protection (either no way to get to help or it is futile to ask police due to corruption, etc.)
- Nexus to one of 5 (five) persecution grounds namely:-

Race, Religion, Nationality, Political Opinion, or Social Group

- Well-founded fear of persecution.

## Art 33 Refugee Convention

### Political Opinion

- **Political opinion** can be expressed through spoken and written words, acts, silence in the face of others actions, physical presence with others, holding certain political opinions, etc.
- Connected with the fundamental right of Freedom of Expression (right not just to communicate something to others, but to receive communications from others)
- Also connects to fundamental rights of freedom of association, freedom of assembly, and freedom of mobility.

## Art 33 Refugee Convention

### Political Opinion

- Political opinion need **NOT** be something that actually opposes the government. It could be any opinion that engages the machinery of government i.e. opposition parties.
- It can also include private persons i.e. within a village or a community.

AND

- The legal test is actually **NOT** the opinion of the victim i.e. the person being persecuted.
- It is the opinion of the "**Persecutor**"
- **CONSEQUENCES** – A person having no political opinion at all is persecuted simply because of being seen standing near a political opponent, or a person of a certain ethnicity, religion etc., who is perceived to have a certain political view, alignment, religious belief, etc

## Art 33 Refugee Convention

### Social Group

UNHCR Guidelines on International Protection “Membership of a particular social group” within the context of Article 1A(2) of the 1951 Refugee Convention and/or its 1967 Protocol relating to the Status of Refugees

*“11. .... a particular social group is a group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one which is innate, unchangeable, or which is otherwise fundamental to identity, conscience or the exercise of one's human rights.*

*12. This definition includes characteristics which are historical and therefore cannot be changed, and those which, though it is possible to change them, ought not to be required to be changed because they are so closely linked to the identity of the person or are an expression of fundamental human rights.”*

# **United Nations Convention Against Torture (CAT)**

## **Article 2**

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

## **Article 3**

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

# **International Covenant on Civil and Political Rights (ICCPR)**

## **Article 6**

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

## **Article 7**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

## **Article 9**

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.

## **Asylum seeker absolute right to cross borders to safety**

### **Article 14 United Nations Universal Declaration on Human Rights (UDHR)**

- (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

### **Article 31 Refugee Unlawfully in the Country of Refuge - Refugee Convention**

1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.
2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

## **Government propaganda, policies and laws categorising refugees as illegal economic migrants thus criminals**

*“Surviving the politics of illegality is a daily challenge for many ‘unwanted’ people around the world as they face the ‘guns’ aimed at their exclusion. In particular, asylum seekers are caught between international legal frameworks of refugee protection and increasingly stringent (external and internal) border controls meant to protect national interests. In official and popular discourses asylum seekers are often associated with illegal economic migrants. Their arrival raises anxieties and security concerns. And their movement is to be deterred in order to minimize the purported risk they pose to the porous borders that enable globalization.”*

And

*“However, asylum seekers are conveniently labelled as undesirable under a logic of border protection that fosters suspicion and obfuscates human rights”*

*Vecchio, Francesco & Gerard, Alison “Surviving the Politics of Illegality” 2015*

## Constructive Refoulement Hong Kong

*“...given that a necessary consequence of the government’s policies is social exclusion and destitution, there are major concerns particularly for the mental health of refugees. This is especially the case because refugees stranded in the territory face indefinite periods while claims are processed all the while plagued by uncertainty. Such concerns not only raise issues of compatibility with the ICESCR and ICCPR, but also place the individual concerned at risk of returning to the source of danger, thus offending the doctrine of constructive refoulement.”*

*Michael Ramsden and Luke Marsh “Refugees in Hong Kong: Developing the Legal Framework for Socio-Economic Rights Protection” Human Rights Law Review, 2014, 14, 267–299*

# **Global trend of criminalisation of asylum seekers and refugees**

## EU Countries

- Austria, Denmark, Hungary
- Others – Drowning of asylum seekers crossing from Africa to Europe (Human trafficking offices capturing those who try to help / save those crossing to prevent loss of life)

## North America

- United States of America
  - Asylum children separated from families
    - Asylum children held in detention centres (Denied toothpaste, soap, blankets)
    - Asylum dead children (Blatant disregard for need for care and health)
    - ICE activities (detaining and deportation, stopped at border or deported ICE inputting false addresses for legal proceedings communications)

## Asia

- Hong Kong (Refusal to accept written claims to seek asylum, private security guards turning asylum seekers wanting to submit asylum notification of asylum claims, Immigration officers attempts to steal passports from transiting asylum seekers).
- Thailand complicit in human trafficking and mass graves of Rohingya in South.

# **United Nations High Commissioner's global update of human rights concerns**

## **2018**

"And it was right for us – not just to have remembered Mandela's greatness, but to have, almost unconsciously, contrasted it with all the narrow politicians who continue to proliferate across the face of the world. Authoritarian in nature, many of them are wily political in-fighters, but most are of thin mind and faint humanity – prone to fan division and intolerance and just for the sake of securing their political ambition. While some do this more openly than others, all are well aware what they practice comes at the expense of vulnerable humans"

37<sup>th</sup> Session of the Human Rights Council  
Statement by the UN High Commissioner for Human Rights  
Zeid Ra'ad Al Hussein  
7 March 2018

# United Nations High Commissioner's global update of human rights concerns 2018

“To them I say: you may seize power, or stubbornly hold onto it, by playing on and stoking the fears of your followers. You may congratulate yourselves for this and you may think yourself so clever for it. But we know all you've done is copy the behaviour of previous generations of once strong, but ultimately catastrophic, leaders and politicians. Yours will in the end become a mouse-like global reputation, never the fine example of the leader you think you are - and never even close to a Mandela. To deserve global respect, you must begin to follow his example - committing to the spirit and letter of the Universal Declaration of Human Rights.”

37th session of the Human Rights Council

Statement by the UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein

7 March 2018

# UN High Commissioner for Human Rights

## 2019

“The report outlines our efforts to assist States to uphold all human rights, at a time when humanity faces many serious challenges

These include the existential threat of climate change; **technological developments**; unbearable civilian suffering in multiple armed conflicts; displacement; youth unemployment; structural economic injustices; xenophobia and hate speech; and - a focus of my statement today - **gross inequalities**”

40th session of the UN Human Rights Council in Geneva  
UN High Commissioner for Human Rights  
Michelle Bachelet  
6 March 2019

# UN High Commissioner for Human Rights

## 2019

Inequalities affect all countries. Even in prosperous States, people feel excluded from the benefits of development and deprived of economic and social rights – leading to alienation, unrest, and sometimes violence. In recent months, we have seen people across the world take to the streets to protest inequalities and deteriorating economic and social conditions. Their demands call for respectful dialogue and genuine reform. And yet, in several cases, they are being met with violent and excessive use of force; arbitrary detentions; torture; and even alleged summary or extra-judicial killings.

40th session of the UN Human Rights Council in Geneva  
UN High Commissioner for Human Rights  
Michelle Bachelet  
6 March 2019

# UN High Commissioner for Human Rights

## 2019

“I fear that we are moving further away from global solutions to global problems due to two clear trends that are taking us in opposite directions”... “Today, in places with very different circumstances, levels of development and political situations, we are seeing an outpouring of popular discontent and mass protests – or their suppression with the firm hand of the State. In every region: in [Hong Kong](#), in Russia, in Indonesian Papua, in Indian-Administered Kashmir, in Honduras and in Zimbabwe – and of course Yemen and Syria, we see the desperate need for dialogue.

The use of unnecessary and disproportionate force against people holding dissenting views, and arrests of individuals exercising their rights to freedom of expression and peaceful assembly can only exacerbate tensions, *seriously undermining the space for dialogue.*”

Geneva, 4 September 2019  
UN High Commissioner for Human Rights  
Michelle Bachelet  
4 September 2019

## India

**Narendra Modi** - 14<sup>th</sup> and current Prime Minister of India

Hindu nationalism and marginalisation of ethnic and religious minority groups despite India's secular constitution.

- Persecution and extrajudicial killings of Muslims (State acquiescence under prejudicial politics)
- Deprivation of citizenship in Assam State (1.9 million stateless people)
- National law granting citizenship to Hindus, Bhudists and Christians persecuted in Bangladesh, Pakistan and Afghanistan, excluding Muslims.
- Further exclusion of Sri Lankan Tamil refugees and stateless children based on ethnicity despite acceptable religious beliefs i.e. Christianity, Bhuddism.

All contrary to Art 15, 15-28 Constitution of India - Prohibition of discrimination based on religion, race, place of birth.

## Sri Lanka

Gotabaya Rajapaksa – President of Sri Lanka (19 November 2019)

Accused of War Crimes, Crimes Against Humanity, and Genocide; Violations of the Geneva Convention on treatment of prisoners of war; Non-derogable rights violations - Cruel and inhuman degrading treatment and punishment and Torture. Sri Lanka not a signatory to Rome Statute and ICC. PR China veto of any international crimes proceedings against Sri Lanka under Rome Statute.

1987-1990 – 2<sup>nd</sup> JVP Insurrection

- Matale Killing Fields – Executed Students (Commanding Officer of Matale District from May 1989 to 1990). Government obstructed judicial inquiry during 2010s).

May 2009 - Final Days of Civil War (Secretary for Defence) War Crimes, Crimes Against Humanity, and Genocide of Tamils.

- Mass Killings of innocent civilians – directed bombings of civilians.
- Mass killings of innocent civilians in civilian hospitals - Identified not to fire upon by UN, nevertheless Gotabaya Rajapaksa directed bombing of such hospitals.
- Mass extrajudicial killings of civilian Tamils (men, women and children) and Tamil soldiers, politicians and news media people after surrender (Rajapaksa's directions).

## Case Study – The Philippines

Rodrigo Duterte - Current President of The Philippines (June 2016)

Duterte came to power on the promise of cleaning up drug abuse and trafficking by way of extrajudicial killings (As he had done as Mayor of Davao, Mindanao in the 2000s as recorded in UN Reports)

Duterte has publicly admitted personally executing many people when serving as Mayor of Davao.

From June-2016 to the end of 2018 **over 20,000 Filipinos had been extrajudicially killed** as part of mass extrajudicial killings by the Philippine police.

Duterte attacked civilians and the institutions and participants core to a democracy:-

- Extrajudicial killings of purported drug addicts (many children executed).
- Extrajudicial killings of civilians and politicians held in police custody
- Extrajudicial killings of a number of democratically elected Mayors across the country
- Declaration of martial law in Mindanao
- Declaration of state of emergency country-wide

## Case Study – The Philippines

Duterte has threatened violence and extrajudicial killings against:-

- NGOs and Human Rights Activists
- Catholic Church including priests and nuns
- Ethnic minorities (Lumad people)
- United Nations Special Rapporteurs

Duterte has supported the idea of concentration camps based on the Holocaust to exterminate of 3 million drug addicts

***“If Germany had Hitler, the Philippines would have...,” he said, pausing and pointing to himself. “Hitler massacred three million Jews ... there’s three million drug addicts. There are. I’d be happy to slaughter them.”***

The Guardian  
1 October 2016

***“President Trump praised President Rodrigo Duterte of the Philippines in a phone call in 2017 for doing an “unbelievable job on the drug problem”***

New York Times  
23 May 2017

U.N. Special Rapporteur on the Rights of Indigenous peoples  
Victoria Tauli-Corpuz

“A United Nations special rapporteur who is one of more than 600 people the Philippine government wants declared as terrorists, said she feared for her own safety and that of other rights activists on the list.

**Victoria Tauli-Corpuz**, the U.N. Special Rapporteur on the Rights of Indigenous Peoples, was listed as a member of the Maoist rebel group. She has denied the allegations.

““The charges are entirely baseless and malicious” Tauli-Corpuz told the Thomson Reuters Foundation in a telephone interview.”

Thomson Reuters  
10 March 2018

United Nations (UN) Special Rapporteur on Summary and Extrajudicial Killings  
and  
ICC Prosecutor

*“Philippine President Rodrigo Duterte threatened to slap United Nations (UN) special rapporteur Agnes Callamard if she investigates him for the extrajudicial killings being linked to his war on drugs.”*

Rappler  
2017

Duterte and government accused of Crimes against Humanity. Two complaints formally filed into the ICC in 2017 by lawyer Jude Sabio and in August 2018 by lawyer Edre Olalia.

International Criminal Court (ICC) Prosecutor Fatou Bensouda threatened with:-

- Arrest if she arrives in the Philippines
- Assault
- Death (Feed ICC investigator to crocodiles)

## **Philippines withdraws from ICC**

The Philippines officially withdrew from the ICC on 17 March 2019. A year after it formally applied to do so. This action was taken in 2018 after the ICC prosecutor decided to investigate Duterte and others in the government for crimes against humanity. (But does not protect Duterte from prosecution).

### Possible War Crimes

- Duterte publicly declared Filipino military could rape 3 women legally (during the armed conflict in Mindanao in 2017 and 2018)
- Duterte publicly stated that NPA women should not be executed but shot in their genitals so that they would become useless

The People's Republic of China (PRC) has supported Duterte in his war on drugs and apparently has offered protection to him.

PRC has been supplying arms to Philippines during its war on drugs. And apparently will use its powers under the Rome Statute to veto any prosecution of Duterte in the ICC

Rapid erosion of fundamental rights and International law  
MAINLAND CHINA

The People's Republic of China

Violation of non-derogable rights and extradition -

2015 in Thailand and after fleeing mainland China, were forcibly returned to mainland China despite risk of ill-treatment, torture and execution. Thai PM stated it was not Bangkok's fault if they suffered problems, and justified that by saying Thailand had to consider keeping good relations with both PR China and Turkey.

2019 - Concentration Camps in Xinjiang - Mainland Chinese authorities have put an estimated more than 1 million Uighur Muslims into concentration camps (Arbitrary arrest and detention, loss of liberty, enforced disappearances, ill-treatment, torture, and extrajudicial killings).

**Evidence:** China Cables (Leaked internal Chinese Government documents exposing evidence of Chinese Central Government directives and modus operandi); Satellite Images; Former captives of the state

# Rapid erosion of fundamental rights and freedoms under constitutional and International law

## Hong Kong

### Extraordinary rendition, attempts at rendition, enforced disappearance, ill-treatment, torture, attempted extrajudicial killings

2004 - Sami Al-Saadi – extraordinary rendition by Hong Kong, UK and US government joint operation (Hong Kong to Libya)

2013 - Edward Snowden

2014 – Occupy Protests – Ken Tsang (Hong Kong) – 7 Police Officers tortured Tsang.  
Police compared treatment of police officers to persecution of Jewish people during the Holocaust

2015 - Hong Kong Booksellers (Hong Kong and Thailand)

2016 - Snowden Refugees

2017 - Xiao Jian Hua, Chinese Billionaire victim of enforced disappearance and extraordinary rendition to Mainland China from the the Canadian owned ‘Four Seasons Hotel’ (Hong Kong).

2018 - Refugee Status granted by Germany to Hong Kong Political Activists Ray Wong and Alan Li.

2019 - Hong Kong Protests and Hong Kong Police Human Rights abuses including arbitrary arrest, arbitrary detention, cruel and unhuman and degrading treatment and punishment, torture, enforced disappearances, rape, attempted and actual extrajudicial killings.

## Hong Kong Government Policy and Practises

Hong Kong does not recognize the UN Refugee convention nor the Universal Declaration on Human Rights

*"The Hong Kong Immigration Department, meanwhile, told VICE that as the "1951 United Nations Convention relating to the Status of Refugees and its 1967 Protocol have never applied to Hong Kong...illegal immigrants seeking non-refoulement in Hong Kong will not be treated as 'asylum seekers' or 'refugees'", and that Hong Kong "maintains a firm policy of not granting asylum and not determining or recognising [the] refugee status of any one"".*

Reported by Gazal Anwar  
24 September 2019  
Vice



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Photo Copyright 2019: M Seguin

40°3'3"

Photo Copyright 2019: Jayne Russell

1897  
加拿大  
魁北克省  
蒙特利爾  
Montreal, Quebec, Canada

美國  
紐約  
New York, NY

1896, 1904, 1909, 1910





**Hong Kong Police Tactical Unit  
1 Wu Tip Shan Road, Fanling,  
Hong Kong**

Photo Copyright 2019: Jayne Russell

## Hong Kong Government human rights violations

Arbitrary arrest, arbitrary detention, cruel and inhuman degrading treatment and punishment, torture, threatened enforced disappearances, attempted extrajudicial killings and allegations of summary killings (young people arrested declare publicly they are of sound mind at time of arbitrary arrest for fear of being extrajudicially killed by police).

**State Sanctioned:** Hong Kong authorities justification of such crimes and constitutional rights violations.

**State Acquiescence:** Police have acted arbitrarily and using disproportionate force. Government has failed / refuses to hold police accountable. This has opened the door to government connected and private parties to utilise de facto para military in Hong Kong to commit same crimes / violations. i.e. White T-shirt gangs openly and without masks violently attacking civilians and protestors. Clear example of persecution based on political opinion.

JOW / SORRY CARRIE NO HAIRCUT JUST HEADCU

FREE HK

罪死

十月一日  
賀伯老母

I  
HK

Antichinozi  
POWER TO THE  
李國寶收皮

國殤  
PEOPLE



**Vanessa Rodel and Daughter  
Keana.**

**December 2019  
Montreal, Canada**



Photo Copyright 2019: R Tibbo

# How to help



<https://fortherefugees.com/donate/>