

<Annual Human
Rights Campaign>

elsa

The European Law Students' Association

ANNUAL HUMAN RIGHTS CAMPAIGN 2024/2025

SUPPORTING MATERIALS
(September - December)

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

FOREWORD

Dear Network,

As we continue our fight for human rights with yet another Annual Human Rights Campaign, the importance of addressing the human rights questions and implications in criminal justice systems around Europe is our focus this year. This first set of Supporting Materials for Human Rights and Criminal Justice has been carefully crafted to guide and inspire all Officers in our collective mission. Together, we make an indelible impact on a global scale, unified by our shared dedication to justice and human dignity.

These materials are designed to be both accessible and practical, providing a robust foundation for your Campaign event planning and execution. However, they are not meant to limit your creativity or passion. We encourage you to delve into these resources for inspiration, yet do not hesitate to explore beyond them, tailoring your efforts to the unique needs of your Groups, projects and communities. Our collective strength lies in our diversity, and your innovative approaches will only enhance our shared objectives. Let these materials serve as a starting point, a springboard for action, as we continue to champion human rights for all.

The fight is ours, the moment is now, and together, we will create meaningful change.

We wish you a pleasant reading and be ready to #ActToImpact

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I. September: Democracy and Criminal Justice

International Day of Democracy, 15th of September

1. A short Introduction

Democracy constitutes an indispensable pillar of a society where human rights are celebrated and protected, as it is characterised by respect for the fundamental human freedoms and for the rule of law. As modern democracy all over the world faces some challenges, the International Day of Democracy provides an opportunity to review the state of it on a global level. It serves as a powerful reminder that real democracy can only be enjoyed by everyone and everywhere, when collective efforts both by the governing bodies and the citizens -who have the power of transforming the world by voting- exist.¹

Established through a resolution passed by the UN General Assembly in 2007 and first observed in 2008, the International Day of Democracy, celebrated on September 15th, encourages the governments all over the world to reconsider the state of democracy and engage with actual initiatives to protect and strengthen it. Throughout all these years hundreds of parliamentary events have been held worldwide, ranging from photo competitions to meetings with civil society organisations, aiming to raise modern democracy standards.² Every year, the International Day of Democracy highlights and elaborates on a specific theme, suggested by the United Nations. Last year's theme was "Empowering the next generations", focusing on strengthening the voices of young people³, as they embody the future.

Consequently, it is understandable that collective efforts to improve the state of democracy are more than essential, since the absence of it affects the future of society in various ways. To give a prominent example, a functional and efficient criminal justice system relies on the application of democratic principles. This goes vice versa as well, given that in a democratic society criminal justice shall meet and respect some standards, so that justice is properly administered and the fundamental human rights of people are protected. This proves how strong the link between criminal justice and democracy is, as it is clear that criminal justice and democracy cannot work without one another.

Having talked about the interconnection between criminal justice and democracy, it is high time to elaborate on the principles of democracy that constitute the pillars of a criminal justice system that serves its purpose:

Accountability: First and foremost, a democratic system is nothing without the accountability standards, aiming to hold elected leaders accountable for their actions. Criminal justice shall respect accountability standards as well, meaning that judicial officers' work should be checked

¹[United Nations | International Day of Democracy, 15 September](#)

²[Inter-parliamentary Union | International Day of Democracy](#)

³[United Nations | International Day of Democracy, 15 September](#)

through check and balances mechanisms in order to avoid any abuse of public power, resulting in unfair and intransparent results in the administration of justice.

Protection of human rights: The protection of fundamental human freedoms is undoubtedly at the core of a healthy democratic system. This principle shall be taken into consideration by criminal justice services at every stage of the process. The human rights of both the victim and the defendant should be respected, from trial before the judges to imprisonment. Justice should be administered in a manner that both vindicates the victim and ensures the defendant is treated with dignity during detention. This common ground needs to be established.

Fairness: Fairness, often associated with equality before the law, is an essential principle of a well-functioning democratic system, where similar cases are treated alike, while different cases are treated differently. This principle shall be also applied in a “self-respecting” criminal justice system, which guarantees both equal access and equal treatment. Regarding equal access, everyone has the right to equal access to judicial services. No one should be denied access to legal advice or representation simply because they cannot afford it. As for equal treatment, as said before for the democratic societies in general, different cases should lead to different outcomes, because justice is administered based on the special characteristics of a case, e.g. its nature, its severity etc. What is undoubtedly unfair and unacceptable is unequal or different outcomes as a product of violation of procedural fairness.⁴

Transparency: Democratic systems typically invest in transparency policies in government operations, as a measure to tackle corruption which is provoked by the abuse of power by public officials. It is highly essential to secure transparency in criminal justice systems as well, given that when this principle is not applied, unfair outcomes arise. Besides, an independent judiciary is the centre of democracy, as it protects the rule of law and human rights. Establishing an independent judiciary can be turned into reality by properly training the judicial personnel, ensuring appropriate salaries -so it is not vulnerable to bribery- and conducting transparent, credible investigations against its work.

Overall, the interconnection between democracy and criminal justice is obvious and profound. Democratic principles not only define the standards for criminal justice, but criminal justice also plays a crucial role in strengthening democracy. **Strengthening democracy automatically means strengthening human rights protection and making a step towards a more just world. And that’s what ELSA stands for.** Let’s make use of this International Day to reflect on the benefits a healthy, democratic society provides. In a free society, concepts such as democracy often get taken for granted, whereas in other societies they are a dream far from reality. This International Day is a call to, also, reflect on how this dream for many can be turned into reality through collective efforts on an international level.

2. The Law

⁴[Justice and fairness | Fairness Foundation](#)

Since there is no explicit provision for the right of individuals to live in a democratic society, there are conventions and other pieces of legislation safeguarding various freedoms/rights that shape the notion of what democracy is -or should be. Some of the principles that serve as prerequisites or guarantees for democratic societies are, inter alia, the right to political participation, free elections, free expression, and a fair judicial system. This part of the Supporting Materials, illustrating the link between democracy and criminal justice, shall focus on the right to a fair, transparent judicial system and how it is safeguarded.

2.1 International Conventions

2.1.1 The Universal Declaration of Human Rights

The right to a fair, independent trial should not be considered as a privilege some individuals are able to enjoy; it is a fundamental human right, stipulated by various international pieces of legislation, such as the **Universal Declaration of Human Rights**. This milestone in the world of human rights stipulates in Article 10 that *“Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”*⁵ This proves that the democratic principles of fairness and transparency shall apply to every trial, regardless who it may concern.

2.1.2 International Covenant on Civil and Political Rights (ICCPR)

Adopted by the United Nations General Assembly on 16 December 1966 and entered into force on 23 March 1976, the Covenant elaborates further on the civil and political rights and freedoms listed in the Universal Declaration of Human Rights.⁶ In particular, Article 14 touches upon the rights all individuals shall have before the judiciary, in a fairly extensive way; thus in these Supporting Materials we address only some aspects of it. To illustrate this with example, paragraph 1 of Article 14 states that *“ All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.”* Furthermore, the presumption of innocence is stipulated in paragraph 2, meaning that *“Everyone charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law.”*⁷

The International Covenant on Civil and Political Rights, also, safeguards some minimum guarantees that everyone is entitled to while in determination of any criminal charge against him, such as a) prompt and in detail information in a language which he understands of the nature and cause of the charge against him, b) adequate time and facilities for the preparation of his defence and communication with counsel of his own choosing, c) trial without undue delay, d) trial in his presence, and defence of himself in person or through legal assistance, e) examination of witness, meaning that the attendance and examination of witnesses on his behalf shall be under the same conditions as witnesses against him, f) free assistance of an interpreter if he cannot understand or

⁵ [Universal Declaration of Human Rights](#)

⁶ [Council of Europe|The International Covenant on civil and political rights](#)

⁷ [UN Office of the High Commissioner for Human Rights|International Covenant on Civil and Political Rights, Article 14](#)

speak the language used in court, g) the right to not be compelled to testify against himself or to confess guilt.⁸

2.1.3 The European Convention on Human Rights

The standards set by the previous international pieces of legislation are also safeguarded by the European Convention on Human Rights, which is the first Council of Europe's convention. The very famous Article 6 safeguards the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. The presumption of innocence and the minimum rights that should be guaranteed for everyone charged with the criminal offence, as set by the International Covenant on Civil and Political Rights, are also safeguarded by Article 6 of the ECHR.⁹

2.2 National Law

In this subsection we elaborate on the provisions that safeguard the right to a fair trial in Denmark. Denmark's approach to fair trial standards is worthy of mention, given that it has the highest rule of law index in Europe. The Danish Constitution, in Article 62, stipulates that *“The administration of justice shall always remain independent of the executive power. Rules to this effect shall be laid down by Statute.”*¹⁰ This implies that judicial officers must perform their duties without any influence or pressure from the other branches of government, as otherwise their work is undermined. Furthermore, Article 71 stipulates the standards of fair trial by stating that *“Outside criminal procedure the legality of deprivation of liberty which is not by order of a judicial authority, and which is not warranted by the legislation dealing with aliens, shall at the request of the person who has been deprived of his liberty, or at the request of any person acting on his behalf, be brought before the ordinary courts of justice or other judicial authority for decision. Rules governing this procedure shall be provided by Statute.”*¹¹

3. Current Trends and Challenges

The justice system -criminal or not- faces challenges and problems that threaten its future, as well as the future of democracy. The interconnection between justice and democracy has been already explained. In a society where the principles of democracy rule every aspect of public life, these principles are also reflected in its justice system. And vice versa, when a judicial system is corrupt, it cannot serve its purpose of strengthening democracy, as it fails to hold people accountable for their misconduct, leading to impunity.

3.1 Judicial Independence Issues

The Eurobarometer Survey of 2023 revealed that the level of perceived judicial independence has increased compared to the previous survey. In particular, compared to last year, the general

⁸ [UN Office of the High Commissioner for Human Rights|International Covenant on Civil and Political Rights Article 14](#)

⁹ [Council of Europe|European Convention on Human Rights](#)

¹⁰ [Constitute Project|Denmark 1953, Article 62](#)

¹¹ [Constitute Project|Denmark 1953, Article 71 par.6](#)

public's perception of independence has been improved in 12 Member States as well as 8 of the Member States facing specific challenges.¹² However, in two Member States, the level of perceived independence remains particularly low, making us wonder how independent is the judicial system in reality.

Unfortunately, sometimes money and power play a significant role in the judicial system. Judges may receive bribes to dismiss a charge, fast-track a case or slow down a trial, or even may receive pressure from political factors¹³ to promote some people's specific interests.

Furthermore, judicial independence is also undermined when the legislative and executive branch of power interfere in the judicial system, as the example of the unsuccessful judicial reforms in Poland back in 2015 reveals. Over a period of two years, the executive and legislative branches had been politically interfering in the composition, powers, administration and functioning of the judicial branch by introducing more than 13 laws that affected the entire structure of the justice system. This excessive intervention of the other two branches raised questions regarding the rule of law and the quality of democracy in Poland, drawing the European Commission's attention.¹⁴

3.2 The need for sufficient financial resources

The effective function of a justice system requires, inter alia, a sufficient budget, guaranteeing that the system's needs are covered adequately. To give an example, financial resources are more than essential to ensure humane and viable conditions in prisons so they can fulfil their rehabilitative function.¹⁵ In addition, financial resources play a significant role in ensuring judicial officers' independence through proper remuneration, corresponding to their status and responsibilities. Adequate remuneration functions as a counterweight against corruption, since judges will not have any motive to indulge in corrupt practices for their own financial interests if their salaries are sufficient. As expected, the resources in EU Member States are generally limited, thus it is highly important to use them efficiently to cover judicial independence needs as well.¹⁶

3.3 The unfamiliarity with gender-sensitive approaches

It has been revealed that one in three women worldwide has experienced physical or sexual violence, mostly from an intimate partner. Besides, one in two women victims of homicide is killed by their partner or family members. These statistics highlight how large and alarming the plague of violence against women is. They serve as a call to criminal justice systems worldwide to focus on social issues such as these, properly respond to them and condemn them, as their effects on victims' well-being and health are long-lasting and disastrous.

¹² [European Commission | The 2023 EU Justice Scoreboard](#)

¹³ [Transparency International | Judiciary and law enforcement](#)

¹⁴ [European Commission | Rule of Law: European Commission acts to defend judicial independence in Poland](#)

¹⁵ [United Nations Office on Drugs and Crime | Integrated approaches to challenges facing the criminal justice systems](#)

¹⁶ [Council of Europe | European judicial systems CEPEJ Evaluation Report](#)

In many societies, violence against women is taken into consideration as a serious offence that threatens the human life of women, with responsible authorities offering their services to properly investigate any incidents and support victims in seeking justice. Nevertheless, in some other societies, this level of attention to violence against women cases is not that common, with incidents going unreported and unaddressed by justice systems.¹⁷ The situation described perpetuates a vicious circle of violence, undermining women's human rights. Any tolerance to this vice circle should be condemned, as it does not correspond to the democratic societies we strive to establish. Hence, a cross-functional approach, and consequently collaboration, between the health, social, police and justice sectors is vital to ensure that the victims are protected and supported.

4. Potential Topics for Events and Advocacy

- The right to a fair trial
- Establishing Judicial Independence
- Tackling corruption in the judicial system
- Prisoners' rights
- Women prisoners

5. Further Reading

- [About Democracy and Human Rights](#)
- [United Nations and the Rule of Law | Access to Justice](#)

¹⁷ [United Nations Office on Drugs and Crime | Integrated approaches to challenges facing the criminal justice system](#)

II. October: Mental Health in the penitentiary system

World Mental Health Day, 10th of October

1. A short Introduction

Mental Health is undoubtedly one of the main highlights topics of our century but, unfortunately, that doesn't mean enough progress has been made in order to guarantee access to health care and treatment to those who suffer from mental illnesses.

The World Health Organization (WHO) states that mental health is more than the absence of mental health conditions. Rather, it is a state of mental well-being that enables people to cope with the stresses of life, realise their abilities, learn well and work well, and contribute to their communities.

A report made by the European Commission to the State Members in 2023, revealed that 62% of EU citizens think that recent world events (the COVID-19 pandemic, the Russian aggression against Ukraine, the climate crisis, unemployment, and the food and energy costs) “somewhat” or “greatly” affected their mental health.¹⁸ It also concluded that the most important factors to achieve good mental health are living conditions (60%), followed by financial security (53%), physical activity and social contact (both 41%).

However, these numbers increase when we verse on mental illnesses and specially on prisoners with mental disorders. People suffering from mental illnesses are ten times more likely to be incarcerated than they are to be hospitalised. Every year, about 2 million arrests are made of people with serious mental illnesses making it the most prevalent condition among people in prison.

As thousands of people with mental illness come into the criminal justice system each year, it is necessary that their human right to mental health and adequate support and treatment is guaranteed.

On this day, let us reflect on the key element that mental health represents to a life lived with full well-being, as it is crucial not only on a personal level but also to community and socio-economic development.

2. The Law

Integrity, Transparency, and Accountability are fundamental principles to combat corruption and promote good governance. These principles can be enforced through various national and international legal frameworks, including but not limited to:

¹⁸ [European Union | Flash Eurobarometer 530 Mental Health June 2023](#)

2.1 International Conventions

International Laws in this matter can be hard to find, however, we can count with **The United Nations Standard Minimum Rules for the Treatment of Prisoners**¹⁹, also known as the Nelson Mandela Rules, that compiles the essential elements of good principles and practice in the treatment of prisoners and prison management.

In the first rule it is established that *“All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification.”*, and to what dignity and value as human beings concerns, Mental Health is being seen, more and more over the years, as a basic human right for all people, by the World Health Organization.

Rule 24 also states that *“The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status”*, emphasising the dignity inherent to prisoners and the necessity to guarantee and promote their access to health care.

The background and basis for the Nelson Mandela Rules, adopted in 2015, was the need to reform and develop the **Basic Principles for the Treatment of Prisoners**,²⁰ promulgated by The United Nations Office of the High Commissioner for Human Rights in 1990, with their principles enforcing their value as human beings and the application of the Universal Declaration of Human Rights.

Finally, the Council of Europe also dedicated its effort making **The European Prison Rules**,²¹ setting out standards on the management of prisons and the treatment of people in prison. They apply in all 47 Council of Europe countries and provide critical guidance to prison staff on how to protect and safeguard the human rights of people in prison.

2.2 National Laws

As there is no life sentence in Portugal, it is expected that all prisoners will sooner or later finish their sentences and return to society. Due to this, their need to have support during their stay in prison to stabilise and treat mental disorders it's mandatory.

In Portugal, an inter-ministerial agreement was established in 2009 that allowed for all people in prison to be covered by the Portuguese National Health Service (P-NHS) by law. Portugal is one of the countries where health care in prisons is fully covered by the P-NHS, with arrangements and protocols established for transferring people in prison to specialised institutions to treat severe mental health disorders and cancer.

¹⁹ [The United Nations Standard Minimum Rules for the Treatment of Prisoners](#)

²⁰ [Basic Principles for the Treatment of Prisoners](#)

²¹ [The European Prison Rules](#)

This may be a giant step in order to promote access to health care, however, according to the Order of Portuguese Psychologists, in 2018, for 14 thousand prisoners, there were only 30 Psychologists in Portuguese prisons. These and other conditions were the basis for Portugal's conviction by the European Court for poor prison conditions in early 2024.

3. Current Trends & Challenges

While progress has been made in addressing corruption, several persistent trends and challenges still require attention. Some of these key trends and challenges include:

3.1 Overcrowding

In the Report previously mentioned in these Materials, “*Status report on prison health in the WHO European Region*”, as 36 countries provided data, it was able to state that 1 in 5 Member States report overcrowding, which has various negative consequences for health.

Overcrowding, as well as related problems such as lack of privacy, can also cause or exacerbate mental health problems, and increase rates of violence, self-harm and even suicide, with it being the most common cause of death in prisons, with a much higher rate than in the wider community.

In the alternative, there should be explored and analysed non-custodial measures for offences that do not present a high risk to society and where more effective measures exist, such as diversion to treatment for drug use disorders.

3.2 Limited Resources and Funding

Mental health services in prison often suffer from inadequate funding, which leads to limitations in staffing, treatment options, and resources. These constraints can result in *inadequate care* for inmates with mental health disorders, exacerbating their conditions and potentially leading to long-term negative consequences.

As stated in the Portuguese case, referred to in the National Laws, a National Health Care system that provides access to Mental Health Care can be the first step to providing better support to those who need it. Nevertheless, the percentage of psychologists and psychiatrists in the number of prisoners continues to be insufficient which leads to long waiting lists for appointments and a not fast enough response system to help requests, possible panic attacks, relapses and crises.

3.3 Discriminatory Practices And Punishments

Individuals with mental health conditions often face unfair treatment and abuse at every stage of involvement with the juvenile and criminal justice systems. From sentencing youth to life in prison without parole to holding convicted sex offenders in mental health treatment facilities

indefinitely post-incarceration, there are many instances where practices in the juvenile and criminal justice systems can cause serious harm.

Apart from the obvious stigma associated with criminal justice contact, and incarceration in particular, those within this group are typically also members of several other social groups which suffer discrimination, including those with drug and alcohol problems, those of lower socio-economic status, ethnically diverse communities and those with mental ill health. In order to ensure that the criminal justice system truly aims for justice, we must consider cases in their context and the ways in which legal practices disproportionately impact individuals with mental health conditions at each stage of involvement.

4. Potential Topics for Events and Advocacy

- Mental Health as a Human Right
- Human Rights violations in prisons: Mental Health as a fundamental right
- Mental Health and Juvenile Justice
- Mental Health stigma in the Criminal Justice system
- The impact of overcrowding on Mental Health in Prisons

5. Further Reading

- [Mental Illness and the Provision of Mental Health Services in Prison](#)
- [United Nations System Mental Health and Well-being Strategy for 2024 and beyond](#)

III. November: The Need to End Violence Against Women

International Day for the Elimination of Violence Against Women, 25th of November

1. A short Introduction

The European Commission states that *“Violence against women is gender-based violence directed against a woman because she is a woman or that affects women disproportionately. It includes all acts of gender-based violence that result in or are likely to result in physical, sexual, psychological or economic harm or suffering, including threats of such acts. It encompasses offences such as sexual violence, including rape, female genital mutilation, forced marriage, forced abortions or sterilisation, human trafficking for the purposes of sexual exploitation, stalking, sexual harassment, femicide, hate speech and crimes on the basis of sex and various forms of online violence (‘cyber violence’), including non-consensual sharing or manipulation of intimate material, cyber stalking and cyber harassment. Such violence is rooted in gender inequality being a manifestation of structural discrimination against women.”*²² It is part of this European Institution action, but also a main core of the EU values, to ensure that the EU Charter on Fundamental Rights is upheld and that the combat of violence against women is being taken into account.

Violence against women and domestic violence are pervasive throughout the EU and are estimated to affect 1 in 3 women in the EU as it remains to be one of the most prevalent human rights violations in the world.

On this day, let us reflect on the numbers of women and girls that suffer from violence from any genre and that see their lives as non-valuable, having negative consequences from the abuse they were victims of for the rest of their days. It is more urgent than ever to offer the adequate support and protection to these victims as well as a criminal justice system that protects their dignity and pursues their values.

2. The Law

2.1 International Conventions

Firstly the United Nations General Assemblies, in 1979 adopted the **Convention on the Elimination of All Forms of Discrimination against Women**²³ and years later, in 1993, promulgated the **Declaration on the Elimination of Violence Against Women**²⁴, which defines violence against women as *“any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”*

The **Beijing Declaration and Platform for Action**,²⁵ adopted by 189 Member States at the 1995 Fourth World Conference on Women, also sets forth governments’ commitments to

²² [European Commission | What is gender-based violence?](#)

²³ [Convention on the Elimination of All Forms of Discrimination against Women](#)

²⁴ [Declaration on the Elimination of Violence against Women](#)

²⁵ [The Beijing Declaration and Platform for Action](#)

enhance women's rights. Member states reaffirm and strengthen the platform constantly during the global five-year review of progress.

The **Istanbul Convention**,²⁶ adopted in 2011 by the Council of Europe, is also one of the most important documents regarding the end of violence against women, with it becoming the second legally binding regional instrument on violence against women and girls.

One year later, The UN Human Rights Council also adopted a **Resolution on Accelerating Efforts to Eliminate All Forms of Violence against Women**.²⁷

The European Commission has also made a **Proposal for a Directive of the European Parliament and the Council on combating violence against women and domestic violence**,²⁸ in 2023.

Lastly, The United Nations also counts with the **United Nations Commission on the Status of Women** which is dedicated to the promotion of gender equality, the rights and the empowerment of women.

2.2 National Laws

As mentioned before, violence against women can incorporate different forms and different offences, to levels that extend much more than the physical aggressions.

Due to this, and considering that violence against women and girls is a national threat, the United Kingdom government provided a statistical report in 2022 reflecting the number of cases in the country.

It led to 9% of women aged 16 and over being victims of domestic abuse; 3% of women aged 16 and over being victims of sexual assault; 9% of women aged 16 and over being victims of stalking; 8% of women aged 18 to 74 experienced abuse before the age of 16 and 2,887 cases of Honour Based Abuse related offences were recorded by the police in the last year.

In March 2020, the government introduced the **Domestic Abuse Bill**²⁹ to increase awareness of domestic abuse, strengthen support for victims and improve the effectiveness of the justice system. The bill received royal assent on 29 April 2021 to become the Domestic Abuse Act 2021.

In the same year, the government published the "**Tackling Violence Against Women and Girls strategy**",³⁰ which set out three ambitions: to increase support for victims and survivors, ensuring they have access to quality support; to increase the number of perpetrators brought to

²⁶ [The Istanbul Convention](#)

²⁷ [Resolution on Accelerating Efforts to Eliminate All Forms of Violence against Women](#)

²⁸ [Proposal for a Directive of the European Parliament and the Council on combating violence against women and domestic violence](#)

²⁹ [Domestic Abuse Bill](#)

³⁰ [Tackling Violence against Women and Girls Strategy](#)

justice, including an increase in the number of crimes reported to the police and increased victim engagement with the police and wider public service response and to reduce the prevalence of violence against women and girls.

Later, in March 2022, it was also published the “**Tackling Domestic Abuse Plan**”,³¹ which the government said was “fully aligned” with the November 2021 Tackling Violence Against Women and Girls strategy. The pillars of it were the prioritising of prevention, the support for the victims, the pursuit of the perpetrators and to building of a stronger system.

The government is also active in publishing reports and bills on rape, domestic homicides and protection from sex-based harassment in public.

3. Current Trends & Challenges

3.1 Impunity/Lack of criminalisation

Regarding this subject, there are some challenges that are transversal through the years and one of them is, undoubtedly, the impunity of crimes against women. In 2012, the Office of the High Commissioner for Human Rights of the United Nations emphasized that this a global concern as the United Nations Secretary General at that time stated that “*Impunity for violence against women compounds the effects of such violence as a mechanism of control. When the State fails to hold perpetrators accountable, impunity not only intensifies the subordination and powerlessness of the targets of violence, but also sends a message to society that male violence against women is both acceptable and inevitable*”.

More than a decade after this statement, it remains a reality. In the commemoration of this International Day, in 2022, International women’s right experts called on States to bridge the gap of impunity for violence against women across the world and issued a statement reinforcing that “*In a context of multiple crises, including armed conflicts, climate change, forced migration and displacement, a lingering pandemic and economic downturn as well as the current backlash on women’s rights, women’s access to justice, reparation and empowerment is increasingly at risk of being further deprioritized, and requires sustainable safeguards*”.

In 2022, the UN published a report on gender-related killings of women and girls showing that 48,800 women and girls became victims of fatal violence at the hands of their intimate partners or family members. On average, more than 133 women or girls lose their lives every day due to familial or personal partner violence.

Criminal laws, criminal procedures and evidentiary laws may not be sufficiently aligned with legislation on violence. As a result, effective laws on violence against women may coexist with other legal provisions and procedures which do not allow women to testify on an equal basis as men or force them to marry the perpetrator. In other situations, specific gaps in criminal laws, such as the non-criminalization of marital rape continue to exist.

³¹ [Tackling Domestic Abuse Plan](#)

It is mandatory to strengthen victims' access to justice and rights to appropriate protection responding directly to the specific needs of victims of violence against women and domestic violence.

3.2 Cyber-harassment: the use of internet in the 20th century

Cyber violence against women and girls includes a range of different forms of violence perpetrated by means on the grounds of gender or a combination of gender and other factors (e.g. race, age, disability, sexuality, profession or personal beliefs).

The acts of cyber violence can start online and continue offline such as in the workplace, at school or home; start offline and continue online across different platforms such as social media, emails or instant messaging apps; be perpetrated by a person or group of people who are anonymous and/or unknown to the victim; be perpetrated by a person or group of people who are known to the victim such as an (ex) intimate partner, a school mate or co-worker.

Digital platforms are often seen as a possibility for equal opportunities for public self-expression, regardless of one's identity and status. Yet, not everyone is welcome in cyberspace. The digital arena has become a breeding ground for a range of exclusionary and violent discourses and beliefs, expressed and disseminated in a context of anonymity and impunity.

Of course, both women and men can be victims of cyber violence, nevertheless, evidence shows that women and girls are highly exposed to it. Not only are they more likely to be targeted by cyber violence, but they can suffer from serious consequences, resulting in physical, sexual, psychological, or economic harm and suffering.

Cyber violence against women and girls is often dismissed as an insignificant and virtual phenomenon. However, it is an act of gender-based violence that is perpetrated through new technologies but is deeply rooted in the inequality between women and men that persists in our societies.

The lack of a common definition of technology-facilitated violence against women and girls impacts the lack of comparable data at a global level but the high prevalence rates are undoubted.

One in 10 women in the European Union has experienced cyber-harassment since the age of 15, including having received unwanted and/or offensive sexually explicit emails or SMS messages, or offensive and/or inappropriate advances on social networking sites.

4. Potential Topics for Events and Advocacy

- Strengthening legal protections: enhancing laws to combat violence against women
- Justice for All: addressing biases in the criminal justice system
- Preventing Gender-Based Violence: The Role of Education and Awareness

5. Further Reading

- [United Nations Entity for Gender Equality and the Empowerment of Women \(UN-Women\) Strategic Plan 2022–2025](#)
- [Protection Women against Violence - Best Practices from all over Europe](#)
- [A Practitioner's Toolkit on Women's Access to Justice Programming | MODULE 3: Ending Violence Against Women](#)

IV. December: Human Rights in the Criminal Justice

Human Rights Day, 10th of December

1. A short Introduction

On 10 December 1948, the Universal Declaration of Human Rights was adopted by the General Assembly of the United Nations, marking a significant milestone in the history of human rights.³² In commemoration of this pivotal moment in history, the Human Rights Day is annually observed on 10 December, serving as a reminder to the global community of the necessity to take action in order to safeguard the rights that benefit us all.

The 75th anniversary of the Universal Declaration of Human Rights (UDHR) was commemorated last year under the theme “Freedom, Equality, and Justice for All”.³³ However, the theme for this year has yet to be determined at the time of drafting these Supporting Materials. It is of the utmost importance to recall the fundamental messages conveyed during the 75th anniversary, irrespective of the chosen theme. The UDHR not only enshrines the rights of all human beings, but also serves as a “common standard of achievement for all peoples and all nations”, thereby providing a global blueprint for international, national, and local laws and policies. Furthermore, the UDHR constitutes a foundational element of the 2030 Agenda for Sustainable Development.³⁴ Additionally, the UDHR has inspired numerous struggles for stronger human rights protections, thereby helping to ensure that these rights are more widely recognised and upheld.

Notwithstanding the plethora of initiatives aimed at celebrating human rights and the existence of legal instruments that guarantee their protection, the free enjoyment of fundamental liberties in democratic societies is increasingly threatened by issues within the criminal justice system. In light of this, international human rights mechanisms have made numerous recommendations to state governments, urging them to reinforce the rule of law, guarantee fair trials, and prevent abuses within criminal justice systems in order to effectively uphold and protect human rights.³⁵

2. The Law

Human rights are inherent to all human beings, regardless of nationality, gender, age, religion, language or other status. They encompass a wide range of fundamental rights, including the right to life, and many other entitlements that, when protected, enhance the quality of life of individuals. The importance of these rights is underscored by the multitude of legal instruments, both national and international, that enshrine them as inalienable freedoms to be enjoyed by all.

2.1 International Conventions

³² [UN | Universal Declaration of Human Rights](#)

³³ [International days | Human Rights Day](#)

³⁴ [Office of the United Nations High Commissioner for Human Rights | Key messages](#)

³⁵ [Office of the United Nations High Commissioner for Human Rights | Law enforcement and human rights](#)

2.1.1 The Universal Declaration of Human Rights

On 10 December 1948, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights, which comprises 30 articles and no more than 1,800 words. This declaration has significantly influenced the development of international human rights law, particularly with regard to civil and political liberties. The declaration commences with the article that establishes the fundamental premise that all individuals are born free and equal in dignity and rights.³⁶ In accordance with this principle, Article 5 of the Declaration states that “*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*”³⁷ Furthermore, the Declaration prohibits arbitrary arrests, detentions or deportations, and it upholds the right of all individuals to due process, the rule of law, and the presumption of innocence, which are fundamental tenets of democratic criminal justice systems.

2.1.2 International Covenant on Civil and Political Rights (ICCPR)

As previously stated, the International Covenant on Civil and Political Rights (ICCPR) offers a comprehensive framework for the protection of individual rights in judicial proceedings. Article 14 sets out several fundamental principles, including the equality of all before the courts, the presumption of innocence, and the right to a fair and public hearing by an independent and impartial tribunal. Furthermore, the Covenant guarantees several essential rights, including timely information on charges, sufficient time for defence preparation, the right to legal representation, the right to cross-examine witnesses, access to interpretation services, and protection against self-incrimination. These provisions are fundamental to ensuring justice and fairness within the criminal justice system.³⁸

2.1.3 The European Convention on Human Rights

The signature of the Convention for the Protection of Human Rights and Fundamental Freedoms on 4 November 1950 represented the conclusion of a process initiated by member states of the Council of Europe. This process was designed to facilitate the implementation of rights set forth in the Universal Declaration of Human Rights through a framework of regional cooperation. By establishing this framework, the Council of Europe aimed to ensure the universal and effective application of the Declaration's principles, thereby fulfilling the document's original intent.³⁹

In alignment with the tenets set forth in the Universal Declaration of Human Rights, the Convention acknowledged and enshrined the fundamental right to liberty and security for all, explicitly delineating the circumstances under which a person may be deprived of their liberty. In addition to explicitly providing for cases of deprivation or restriction of freedom, the Convention has set out a number of special guarantees for persons whose freedom has been deprived or restricted.⁴⁰ These include the requirement that every arrested person must be informed without delay and in a language they understand of the grounds for their arrest and of any charge against

³⁶ [Universal Declaration of Human Rights](#)

³⁷ [Universal Declaration of Human Rights](#)

³⁸ [UN Office of the High Commissioner for Human Rights | International Covenant on Civil and Political Rights](#)

³⁹ Schabas WA, *The European Convention on Human Rights: A Commentary* (Oxford University Press 2017)

⁴⁰ [Council of Europe | European Convention on Human Rights](#)

them. They also include the requirement, as appropriate, that the person be brought before a judge or other officer authorised by law to exercise such functions without delay. Furthermore, the Convention sets out the right of the person to be tried within a reasonable time or to be released pending trial. Furthermore, the Convention, in accordance with the principles set forth in the Universal Declaration of Human Rights, stipulates that *“Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.”*⁴¹

One of the most significant provisions of the Convention in this regard is Article 6, which not only establishes and guarantees the standards of a regular legal process, but also guarantees the minimum standards of rights that a person accused of a crime must have.⁴² In addition to the principle of presumption of innocence, this article sets out the minimum standards that must be observed in criminal proceedings. The non-retroactivity of criminal laws, the prohibition of imprisonment for debt, the abolition of the death penalty, as well as the prohibition of trial or punishment twice for the same criminal offence, and the right of appeal in criminal cases, are provided as essential standards for the guarantee of human rights in criminal proceedings.⁴³

2.2. National Laws

A constitution's fundamental purpose is to protect individuals' rights. This entails a clear obligation on the government to take all necessary measures to guarantee that individuals are able to fully enjoy their fundamental freedoms. Conversely, constitutions mandate that the government refrain from unwarranted encroachment upon the exercise of these freedoms. In the context of criminal law, constitutions assume particular significance as they constitute a primary source of legal principles that uphold human rights. Key constitutional provisions, such as the principle of non-retroactivity of criminal laws and the presumption of innocence, are of paramount importance in protecting individuals within the criminal justice system. These principles guarantee that criminal law is applied in a fair and just manner, thereby safeguarding individuals from arbitrary and unjust prosecution.

3. Current Trends & Challenges

3.1 Decriminalisation

The process of decriminalisation involves the removal of criminal law status from certain acts, thereby rendering these behaviours no longer subject to criminal sanctions.⁴⁴ Globally, there is a growing movement towards decriminalisation, which indicates a change in how societies view behaviours that were previously criminalised. These movements argue for the removal or reduction of criminal penalties for activities such as drug use, sex work, and minor infractions, on the grounds that punitive measures often cause more harm than good. The objective of these decriminalisation initiatives is to alleviate the burden on criminal justice systems, address the

⁴¹ [Council of Europe | European Convention on Human Rights](#)

⁴² [Council of Europe | European Convention on Human Rights](#)

⁴³ [Council of Europe | European Convention on Human Rights](#)

⁴⁴ [Elgar Encyclopedia of Crime and Criminal Justice | Criminalization and Decriminalization](#)

social and health issues associated with criminalisation, and foster more humane and effective approaches. To illustrate, the decriminalisation of drug possession has resulted in enhanced public health outcomes, including enhanced access to treatment and a reduction in the incidence of overdose and HIV transmission, in certain countries.⁴⁵ This phenomenon also demonstrates an increasing recognition that the criminalisation of certain behaviours has a disparate impact on marginalised communities, thereby exacerbating social inequalities.

3.2 Encrypted communications and the balance between the rights

The role of encrypted communication platforms such as EncroChat and Sky ECC in debates surrounding privacy, security and law enforcement has become increasingly significant. These platforms, which are designed to facilitate secure and private messaging, have attracted users who wish to safeguard their communications from interception, including those who are engaged in criminal activities. The mass interception of messages on these platforms by law enforcement agencies has given rise to significant human rights concerns, particularly with regard to the balance between public safety and the right to privacy. While these operations, which have led to 6,500 arrests and the seizure of €900 million,⁴⁶ have been instrumental in disrupting criminal networks and securing evidence for prosecutions, they give rise to complex legal and ethical questions concerning the extent to which authorities are permitted to monitor private communications.

The mass interception of encrypted chats raises significant human rights concerns, particularly in relation to the right to privacy and the right to a fair trial. The right to privacy, enshrined in international human rights law, is at risk when authorities engage in widespread surveillance of encrypted communications without clear and specific legal frameworks. The potential for abuse and overreach is significant, as individuals' private communications can be monitored and used as evidence without their knowledge, raising serious concerns about due process. Furthermore, the lack of transparency surrounding these operations can impede the accountability of law enforcement agencies, making it challenging to ensure that such measures are proportionate and justified.

The fundamental challenge is to achieve a balance between the protection of public safety and the safeguarding of individual rights. While the interception of encrypted communications represents a powerful tool for combating serious crimes, it must be carried out within a framework that respects human rights and the rule of law. This includes ensuring that surveillance measures are authorised by a court, proportionate to the threat, and subject to robust oversight. Absent such safeguards, mass interception risks eroding public trust in the justice system and could lead to the normalisation of widespread surveillance, with profound implications for privacy and civil liberties. As technology continues to advance, the debate over encrypted communications and mass interception will remain a critical issue at the intersection of security and human rights.

⁴⁵ [World Health Organisation | Joint United Nations statement on ending discrimination in health care settings](#)

⁴⁶ [Europol | Dismantling encrypted criminal EncroChat communications leads to over 6 500 arrests and close to EUR 900 million seized](#)

4. Potential Topics for Events and Advocacy

- Human Rights in the Age of Digital Surveillance: Protecting Privacy in Criminal Investigations
- The Future of Encrypted Communications: Challenges and Opportunities for Law Enforcement
- Decriminalisation vs. overcriminalisation
- Police Accountability and Human Rights: Addressing Excessive Use of Force

5. Further Reading

- [On the lawfulness of the EncroChat and Sky ECC-operations](#)
- [Case C-670/22, of the Court of Justice of the European Union](#)

Contact us

Do you have comments, suggestions, or ideas?

We'd love to hear from you! We hope you find these resources useful in helping to plan rewarding, meaningful, and enjoyable sessions for your group. If you have any suggestions for how we can improve these background materials, or if there are particular topics/international days you would like to see included in a future edition, let us know!

Please send any feedback, ideas, or suggestions to director.humanrights@elsa.org