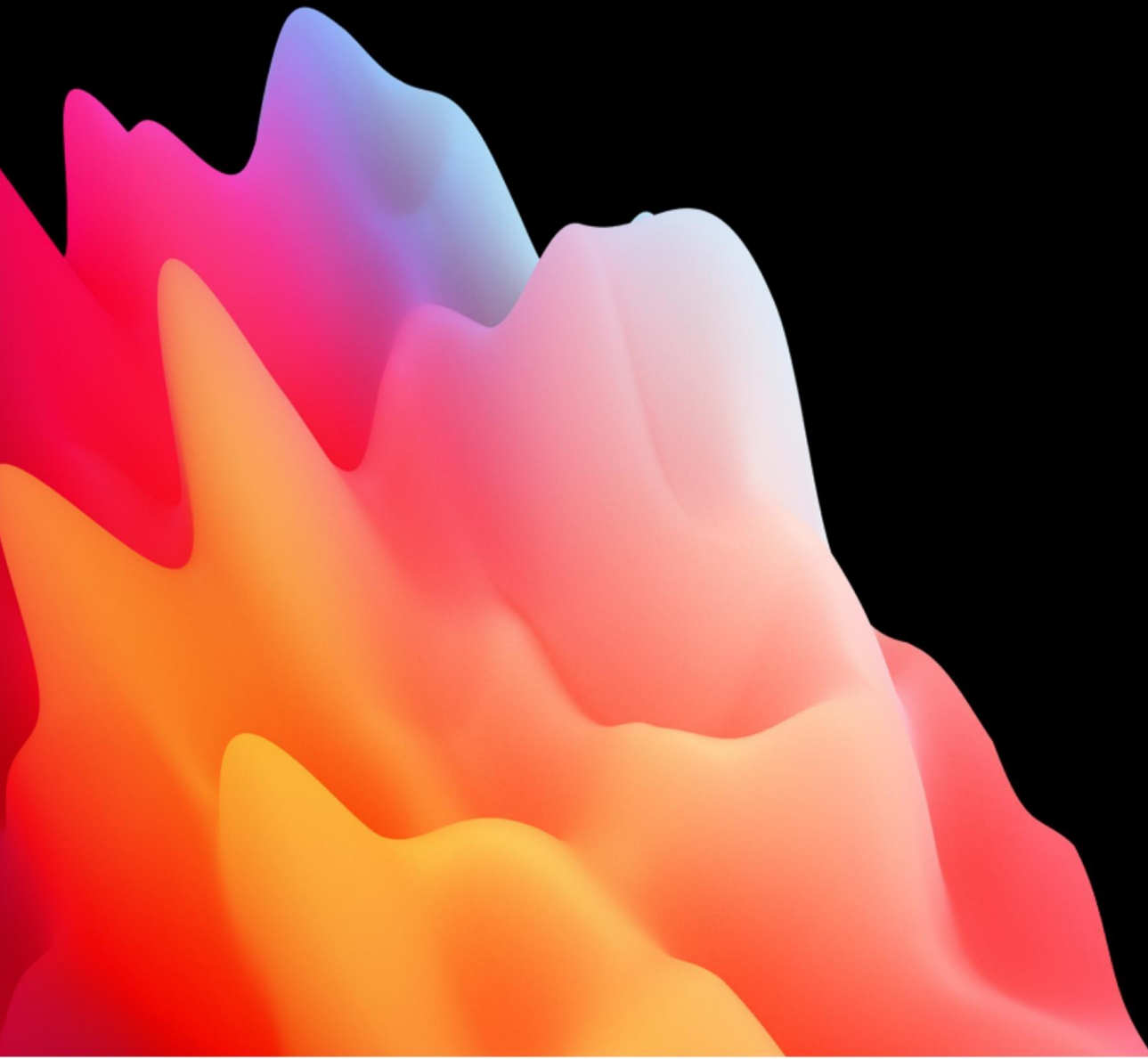




The European Law Students' Association



Supporting Materials on International Days

December 2022

<Annual Human
Rights Campaign>



Genocide Prevention Day, 9th of December

The International Day of Commemoration and Dignity of the Victims of the Crime of Genocide and of the Prevention of this Crime, commonly known as Genocide Prevention Day, was established by the United Nations in 2015.

The day is intended to encourage remembrance of the victims and commitment to take action to prevent future atrocities. The date also commemorates the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide¹ on the same day in 1948. The convention was adopted in the aftermath of the horrors of the Holocaust, following the Nuremberg trials where prominent members of the Nazi leadership were charged with war crimes and crimes against humanity. The international community affirmed the position that crimes like this should never happen again.

The Genocide Convention was also an important milestone on the path to the establishment of the International Criminal Court in 2002, the world's only permanent, independent court for the investigation and prosecution of the most heinous crimes.

The Genocide Convention - Definition of genocide the so called “crime of crimes”

In 1944 a Polish lawyer named Raphaël Lemkin introduced the terminology “genocide” in his book *Axis Rule in Occupied Europe* in response to the Holocaust and other heinous crimes in history – genos (from Greek) meaning race or tribe and -cide (from Latin) meaning killing.²

Genocide was codified and recognised as an individual crime in 1948 by the Genocide Convention, which has been ratified or acceded to by 153 States, the latest accession being Zambia

¹ Convention on the Prevention and Punishment of the Crime of Genocide, adopted 9th December 1948, in force 12th January 1951, 78 UNTS 277.

² [UN | Genocide Prevention](#).

on the 20th of April 2022.³ Although the Convention hasn't been ratified by all States, the principles are universally recognised as forming part of general customary international law as stated by the ICJ. The Court declared that prohibition of genocide itself has the character of a peremptory norm (*jus cogens*), which means that no derogation is permitted.⁴

According to Article I Genocide Convention, the Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and punish.

Article II of the Convention defines genocide as the following:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

While Article III punishes the following acts in relation to genocide:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

It is understood that genocide includes two main elements – a physical element—the commission of one or more of the acts (a)-(e)—and a mental element (the intent to destroy the group in whole or in part).⁵ Challenges arise, particularly with regard to the mental element:⁶ The perpetrators need to have special intent (*dolus specialis*), referred to as “intent to destroy.”⁷ Both cultural destruction and merely dispersing a people are insufficient (although this is now captured under the international crime of ethnic cleansing – a crime against humanity).

³[United Nations Treaty Collection](#).

⁴*Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda), Jurisdiction and Admissibility, Judgment, I.C.J. Reports 2006*, p. 6, para. 64; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia), Judgment, I.C.J. Reports 2015*, p. 3, paras. 87-88.

⁵[UN | Genocide Prevention](#).

⁶[UN | Genocide Prevention](#).

⁷This element was discussed extensively in the *Croatia v. Serbia case, above*.

The ICJ is currently dealing with two genocide cases, one involving Russia's accusation that Ukraine has committed genocide against the Russian-speaking population in eastern Ukraine and the other involving the genocide committed against the Rohingya in Myanmar.

Prevention of Genocide and the responsibility to protect

The root of genocidal conflict is related to identity. There is a tendency toward genocide in societies with different national, racial, ethnic, or religious groups embroiled in a clash of identities. These clashes can inter alia be fuelled by the perception of discrimination e.g. in terms of unequal access and lack of fundamental rights and freedoms in comparison to the enemy group.

To prevent genocide discriminatory practices must be detected and eradicated. The Framework of Analysis for Atrocity Crimes⁸ serves as a tool for prevention. According to the Framework, some of the common risk factors are the existence of situations of armed conflict or other forms of instability, the record of serious violations of international human rights and humanitarian law, and the weakness of State structures. While, for example, specific risk factors are signs of an intent to destroy in whole or in part a protected group, and signs of a widespread or systematic attack against any civilian population.

The responsibility to protect emerged from the 2005 World Summit's outcome document (A/RES/60/1).⁹ As response to the failures of the international community in the Balkans, Rwanda and Kosovo, a process was set in motion to finally commit to the prevention of such atrocities. The States agreed that it is primarily their responsibility to protect their citizens as part of their sovereignty but accepted a collective responsibility when such actions can't be fulfilled by the States themselves. Further, actions must be taken in a "timely and decisive" manner in accordance with the United Nations Charter (peaceful means under Chapters VI ad VIII or coercive means, including those in Chapter VII). Furthermore, the 2009 Report on Implementing the Responsibility to protect ([A/63/677](#)) formulates a three-pillar strategy based on the protection responsibilities of the State, international assistance and capacity-building, and timely and decisive responses.


Potential Topics for Advocacy and Events

- Types of mass atrocities: crimes against humanity, ethnic cleansing, genocide, war crimes
- Elements of the crime of genocide
- Difference between genocide and crimes against humanity

⁸ [Framework of Analysis for Atrocity Crimes](#).

⁹ [A/RES/60/1](#), paras. 138, 139.

- Enforcing the law on genocide and effectiveness/limits of international law
- How can genocide be prevented?
- War crimes
- Genocides in history (inter alia Tutsi in Rwanda 1994, Holocaust 1941-1945, Rohingya 2017-present; Uyghurs.)
- Role of the ICJ
- Current cases before the ICJ (*Ukraine v. Russian Federation* or *The Gambia v. Myanmar* cases) and former cases (*Bosnia and Herzegovina v. Serbia and Montenegro*, *Croatia v. Serbia*)
- The Genocide Convention and accountability
- ICC's Rome Statute
- Criminalising genocide denial/punitive memory laws



Human Rights Day, 10th of December

Every year, on 10 December, the international community celebrates the Human Rights Day¹⁰, commemorating the day when, in 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights.

The Universal Declaration of Human Rights sets out a broad range of fundamental rights and freedoms to which all of us are entitled. It guarantees the rights of every individual everywhere, without distinction based on nationality, place of residence, gender, national or ethnic origin, religion, language, or any other status.

Although the Declaration is not a binding document, through ratifications by Member States, much of the UDHR is now codified into binding human rights obligations. It also inspired more than 60 human rights instruments¹¹ which together constitute an international standard of human rights.

Starting this December, the UN will start a year-long campaign to celebrate the 75th Anniversary of the UDHR¹²- held on 10 December 2023 - by focusing on its legacy, relevance and activism.

The human rights ideal has been one of the most constructive movements of ideas in human history, but today that progress is under threat. We are currently seeing pushbacks for instance on gender rights, including sexual and reproductive right and also LGBTIQ+ rights.

Legal reforms, both on an international and national level, implementations of corporate social responsibility and improving individual awareness are some of the prospective solutions to minimise existing problems in the sphere of human rights.

¹⁰ [OHCHR | Human Rights Day.](#)

¹¹ [OHCHR | International Human Rights Law.](#)

¹² [https://www.ohchr.org/en/get-involved/campaign/human-rights-day.](https://www.ohchr.org/en/get-involved/campaign/human-rights-day)

This day is an opportunity to address current human rights issues¹³, regarding to gender equality, sexual minorities, regional discrimination, and human rights issues for children, older people and people with disabilities.

Initiatives such as seminars, conferences, roundtables or media posts raising awareness on selected human rights categories, discussing current challenges related to human rights violations, analysing the impact and insights of the UDHR are welcomed and encouraged.

Potential Topics for Advocacy and Events

- Women's rights in Iran
- Migrant workers and the Qatar World Cup
- The protection of unaccompanied migrant minors
- Human rights in elderly people: elimination of ageism and age discrimination
- People with disabilities and the protection of their inherent dignity
- EU protection of LGBTIQ rights

¹³ [Current Major Human Rights Issues and Problems - Hidden Story Channel \(humansrightsworld.com\)](https://www.humansrightsworld.com/hidden-story-channel).

International Migrants Day, 18th of December

According to the Universal Declaration of Human Rights Article 13 (2) “everyone has the right to leave any country, including his own.” Article 14 (1) states that “everyone has the right to seek and to enjoy in other countries asylum from persecution.” According to The International Organisation for Migration (IOM) migration can be defined as a term that covers “all cases where the decision to migrate is taken freely by the individual concerned for reasons of ‘personal convenience’ and without intervention of an external compelling factor.”¹⁴ Another entirely distinct group of people are those, who must flee their home countries because of serious external threats and are referred to as refugees.¹⁵ However, in many cases the reasons behind leaving one’s home country are complex and intertwined with the situation of the home country and personal reasons.¹⁶

Estimates indicate that 281 million people – which is approximately 3.6 % of the world’s population – live outside their country of origin. Borders of European countries and immigration are in constant interest of European politics, human rights, and EU law. Furthermore, the Central Mediterranean route is the most dangerous migration route in the world and many lose their lives in European waters.¹⁷ Lack of human rights-focused governance often leads to violations of migrants’ rights as migrants tend to be vulnerable to e.g., exploitation of migrant workers and discrimination based on one’s origin. Many human rights challenges are also related to migration e.g. concerning access to services such as education and health care, especially with vulnerable groups such as underage migrants.¹⁸ When refugees are in question, these human rights issues can be even more prominent. One of the fundamental elements of refugee protection is the principle of non-refoulement – regulated e.g., in Articles 18 and 19 of the EU Charter of Fundamental Rights and 1951 Refugee Convention Article 33 (1).

¹⁴ [Glossary on Migration](#).

¹⁵ [UNHCR at the Global Forum on Migration and Development. Brussels, 9-11 July 2007](#).

¹⁶ [CoE | Compass on Migration](#).

¹⁷ [Migration: Key Fundamental Rights Concerns, Agency for Fundamental Rights 2020](#), p. 9.

¹⁸ [OHCHR | About Migration and Human Rights](#).

Migration represents positive values that human rights associations and ELSA stand for: a world of opportunities and cultural diversity. Too often, migrants are demonised in political discourse. When conversations around migration focus on the supposed threats that migrants pose, migrants' rights come under threat. One solution for this problem is building human rights-based narratives around migration and hearing the voices of migrants.¹⁹

The 18th of December was the day when the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was adopted by the Assembly of the United Nations in 1990. The core idea of the Migrants Day is to raise awareness about the challenges of international migration²⁰ but at the same time highlight the benefits of migration and cultural diversity connected to it.

Potential Topics for Advocacy and Events

- **Refugees in Europe and border control.** How are refugees' human rights protected? How questions related to border control can be approached from a human rights perspective? You can, for example, invite an officer from your local refugee organisation to speak at your event.
- **Migrant workers' rights and human trafficking.** What does labour-based migration mean? Which factors make migrant workers a potential group for exploitation? This is an interesting theme for a lecture or other educational events.
- **Migration narratives.** What kind of narratives are related to migration and how are they often harmful? How can a human rights-based approach affect migration narratives? We suggest you hear migrant stories and research around these narratives by e.g. organising a panel discussion.

¹⁹ [OHCHR | Reframing narratives on migration.](#)

²⁰ [UN | Migrants Day Background.](#)