



LEGAL

STUDY GUIDE



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1. Letters

1.1 Letter from the Secretary-General

Esteemed participants,

I am honored to welcome you all here as the Secretary General of the first edition of MUNEA'25.

Our Academic team has created these guides to lead a pathway in your journey. They are meant to support your research and make your experience more productive, both during your sessions and throughout the conference. We will be inspired to closely watch your progress in the committees as both the Academic and Organization team.

In addition, I would like to extend my special thanks to my DSGs, Alp Arslan Şahin and Yağız Eren Şahin who helped me a lot and also tired me out. Even though we disagreed on most of the points we discussed, I am really proud of them.

As the Secretary General of the conference, and with our goal of contributing the development of a qualified Turkish youth, I wish all our participants, from first timers to experienced ones, a meaningful three-day journey in advancing their diplomatic skills and knowledge.

Best regards,

Melis Eda YILMAZ

Secretary General of MUNEA'25

1.2 Letter from the Under-Secretary-General

Honorable Delegates,

I am Tuğra Gürün, and I will serve as your Under-Secretary-General for the Sixth Committee of the General Assembly (LEGAL).

I am a senior at Ankara High School. We will be debating the term reciprocity and non-citizen rights. We will be having amusing, enlightening, and innovative discussions. Dora and I worked hard for this committee, and we hope you will learn much from it and use this information in this committee and your future life. I would like to thank Melis Eda Yılmaz for giving us this opportunity. The Erman Ilıcak Science High School MUN team prepared a great conference, which I expect will flourish. We hope you find peaceful and productive solutions to the Right to Self Determination on your approaching committee. We hope this guide will be enough for your understanding of the topic; if not, I encourage you to do further reading. We wish you good luck and hope you will be effective on the committee.

You can contact me with questions regarding this committee and the study guide at my e-mail address (tugragurun@gmail.com).

Regards,

Tuğra Gürün

Under-Secretary-General of the Legal Committee

1.3 Letter from the Academic Assistant

Dear delegates,

I am Alin Kayali, and I am honored to serve as your Academic Assistant MUNEA for the Legal Committee. I am a first-year student at Yüce IB High School.

Our Under-Secretary-General, Tuğra Gürün, Academic Assistant Dora Demir, and I have put a lot of time and effort into this committee for you. This committee focuses on international law and legal issues, deals with treaties, sovereignty, and diplomatic immunity, which are some of the best topics to speak, discuss, or debate upon.

First, I would like to thank our Secretary-General, Melis Eda Yılmaz, for organizing this conference and always being a great friend of mine. Our Under-Secretary-General, Tuğra Gürün, for inviting me to this conference, our Academic Assistant, Dora Demir, for his contributions and help with everything. Furthermore, of course, my special thanks to my dearest friends, Ekin Toprak, the Academic Assistant of NATO, for always being there whenever I needed her, and Şimal Doğanoglu, the Under-Secretary-General of NATO, for making my MUN experiences much more entertaining.

I wish you good luck! You can contact me at my email address (alinkayali@gmail.com) with any questions about the study guide or the committee.

Best Regards,

Alin Kayalı

Academic Assistant of the Legal Committee

1.4 Letter from the Academic Assistant

Honourable Delegates,

With great pleasure, I welcome you to the Legal Committee of MUNEА. I am excited to witness the vibrant discussions, arguments, and collaborative problem-solving during our committee's sessions.

My name is Dora Demir, and I will be your Academic Assistant for this committee. I am an undergraduate student at the Faculty of Law at Bilkent University. It is an immense pleasure for me to attend this conference as your Academic Assistant and accompany all of you in the committee's proceedings.

Firstly, I would like to thank Melis Eda Yılmaz, our Secretary-General, for organizing this conference, Tuğra Gürün, our Under-Secretary-General, for inviting and allowing me to be the Academic Assistant of this committee, and Alin Kayalı, our Academic Assistant, for her immense help in the conference and this study guide.

This committee will address arguments concerning the principle of reciprocity and its relation to fundamental rights. You will argue about the scope of reciprocity and states' discretion concerning the fundamental rights of non-citizens. This committee will present advisory opinions on current issues based on international relations, the theory of fundamental rights, and political science. Based on past incidents and cases, I hope to hear various perspectives on balancing human rights and reciprocity.

Please do not hesitate to ask me any questions regarding this committee and the study guide. You can also ask me for information about any sources you encounter in the study guide and on the internet. My e-mail address is dora.demir@ug.bilkent.edu.tr

Again, I express my warmest welcome to all participants. Your decision to be part of this committee is greatly appreciated, and I eagerly await your insights regarding the agenda and the energy you will bring to the committee.

Kindest Regards,

Dora Demir

Academic Assistant of the Legal Committee

The Principle of Reciprocity and the Fundamental Rights of Non-citizens

2. Introduction to the Agenda

Hello delegates, our topic concerns the principle of reciprocity and fundamental rights of noncitizens. We will introduce the concept of reciprocity in the following clauses of the guide. In the context of international relations, reciprocity means mutual treatment. If you give me this, I will provide you with that. For example, A country grants diplomats from another country the same rights, privileges, and immunities that its diplomats receive in return. These rights are generally universal; however, in some states, these rights are determined by reciprocity.

The topic of the rights of noncitizens is highly worth debating since it covers one of the most recent and crucial topics of international law: refugees, immigrants, and asylum seekers. Refugees, immigrants, and asylum seekers have been one of the main concerns of states in the last decade, especially in Europe, with several ongoing wars and conflicts that have led to migration. This raises questions about the rights of noncitizens, especially immigrants.

Reciprocity is vital for noncitizen rights. States often treat each other's citizens with reciprocity. Visa policies are a good example of the topic since their dynamics are significantly determined by reciprocity.

We expect you to read and understand both topics. We will debate both issues simultaneously, since reciprocity and fundamental rights of non-citizens are linked. We expect you to discuss both problems and the issues combined. Reciprocity is not a topic to directly debate, so we will talk about instances of reciprocity and their basis in international relations.

3. Introduction to the Legal Committee

The Legal Committee (otherwise known as the United Nations General Assembly Sixth Committee or C6) is one of the six central committees of the United Nations General Assembly. It is the main forum for considering international law and other legal issues concerning the United Nations. While international law-making negotiations occur in multiple UN-specialized bodies, discussions related to general international law are usually held at the Legal Committee.

One of the main items is an annual report of the International Law Commission. The International Law Commission is a subordinate body of the General Assembly, created in 1947, which assists the GA in discharging art. 13 of the United Nations Charter. The Sixth Committee also receives and considers reports of other subsidiary bodies of the General Assembly in legal matters.

The Sixth Committee also works on other legal issues that the Bureau of the Assembly refers on an annual or biannual basis. These include the annual resolution on “Measures to eliminate international terrorism”, under which the General Assembly adopted a resolution on terrorism.

The C6 meets every year for six weeks in parallel with the General Assembly’s annual session, with its work beginning after the general debate and finishing by mid-November. Before the committee's work begins, the GA assigns a list of agenda items to be discussed. Usual agenda items include promoting justice and international law, Drug control, Crime prevention, and others.

3.1 History of the Legal Committee

The Legal Committee was established at the first session of the United Nations General Assembly in London on 11 January 1946, with its primary function being the examination of legal issues in the Programme of the General Assembly. The central committees were established based on the Preparatory Commission of the United Nations (UN) recommendation that the significant fields of responsibility of the United Nations General Assembly should have their corresponding committees, as defined in the Charter of the United Nations. As one of the central committees for Rule 98 United Nations Rules of Procedure of the General Assembly of 2007, the Sixth Committee allocated the General Assembly agenda items dealing with legal issues. It is responsible for fulfilling the UN General Assembly's role in encouraging the codification and progressive development of international law provided under Art. 13 of the UN Charter. The committee's annual session runs from early October to mid-November. Also within the framework of the Sixth Committee takes place "International Law Week", during which the annual meeting of Legal Advisers of various countries convenes. In that week, the report of the CDI is presented, and an interactive dialogue is maintained with Special Rapporteurs of the Commission. The reports of the International Court of Justice (ICJ) and the International Criminal Court (ICC) are also presented this week to the Plenary of the General Assembly. The Legal Committee's most successful accomplishments in advancing the progressive development of international law are the Vienna Convention on Diplomatic Relations (1961) and the United Nations Convention on the Law of the Sea (UNCLOS).

4. Definition of the Principle of Reciprocity

We explained what reciprocity is, but what is it? In international law, reciprocity is a principle that ensures states grant each other equivalent rights, obligations, and mutual exchange. Reciprocity is a peaceful principle since it ensures equality between states and builds trust. Under the Vienna Convention of 1969, reciprocity ensures that if a state breaches a bilateral treaty, the other may suspend its obligations in response. International trade agreements often use reciprocity to ensure mutual respect and balanced compromises. For example, if a country grants another country access to its markets or lowers tariffs on imports, it expects something similar in return, which is called bilateral reciprocity. Reciprocity has a natural tendency to cause retaliation. In the US-China dispute 2018, the United States imposed tariffs on Chinese goods. In response, China did the same, which led to conflict. This is where the problem begins. Reciprocity may cause unlawful actions as given in the example, since the World Trade Organization (WTO) clearly states that retaliatory tariffs must be justified, proportionate, and lawful.

5. Regime of Fundamental Rights

The regime of fundamental rights in international law is included in fundamental documents such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. It set out protections for human rights for the first time. The ICCPR is a key international human rights treaty, providing a range of protections for civil and political rights. The ICCPR, the Universal Declaration of Human Rights, and the International Covenant on Economic, Social, and Cultural Rights are considered

the International Bill of Human Rights. These documents establish a framework for protecting inherent human rights and freedoms, obligating states to respect, protect, and fulfill these rights. Regional mechanisms such as the European Convention of Human Rights further strengthen these rights by allowing individuals to bring lawsuits against states, thereby increasing accountability. The Sixth Committee has an essential role in this regime by discussing and negotiating legal issues related to human rights and ensuring the development and codification of international law.

5.1 Fundamental Rights of Non-citizens

Non-citizens have five basic fundamental rights. Their first right is the **right to life, liberty, and security**. Non-citizens have an inherent right to life, therefore the state cannot deprive non-citizens of their right to life. They also have the right to liberty. They must be treated with humanity and respect for their person's inherent dignity. They must not be subjected to torture or cruel, inhuman or degrading treatment or punishment, and may not be held in slavery or servitude. Detained non-citizens have the right to contact officials, and the receiving State must notify them of this right. In short, no person under the authority and control of a State, regardless of their circumstances, is devoid of legal protection for their fundamental and non-derogable human rights.

Their second fundamental right is **protection from refoulement**. Non-citizens enjoy the right to be protected from refoulement or deportation to a country in which they may be subjected to persecution or abuse. This non-refoulement principle exists in several international instruments with slightly varying coverage. Expulsions of non-citizens should not be carried out without taking into account possible risks to their lives and physical integrity in the countries of destination. Concerning non-refoulement, article 3 of the Convention against Torture and Other

Cruel, Inhuman or Degrading Treatment or Punishment provides that a person must not be sent to another country if there are substantial reasons to believe they would face torture there and that authorities must consider all relevant factors, including consistent patterns of severe human rights violations in the destination country when assessing such risk.

Torture victims cannot be expected to recall entirely consistent facts relating to events of extreme trauma, but they must be prepared to advance such evidence as there is in support of such a claim.

Their third right is **liberty of movement and the right to enter one's country**. Persons do not have the right to enter or reside in countries of which they are not citizens. However, non-citizens who are lawfully within the territory of a State have the right to liberty of movement and free choice of residence. Restrictions and other quotas on where such non-citizens can settle in a State, especially those restrictions and quotas involving an element of compulsion, may violate their right to liberty of movement. States are encouraged to ensure that the geographical distribution of non-citizens within their territory is made according to the principle of equity and does not lead to the violation of their rights as recognized under the International Convention on the Elimination of All Forms of Racial Discrimination. Asylum-seekers should be guaranteed freedom of movement wherever possible. All non-citizens shall be free to leave a State. States are urged to ensure that the residence permits of non-citizens who are long-term residents are withdrawn only under exceptional and clearly defined circumstances, and that adequate recourse to appeal against such decisions is made available. Requiring lawfully permanent residents of a State to obtain return visas to re-enter that State may not comply with Article 12(4). Any State with such a provision should review its legislation to ensure compliance with Article 12 (4).

Their fourth right is **protection from arbitrary expulsion**. A non-citizen may be expelled only to a country that agrees to accept them and shall be allowed to leave for that

country. States may not use deception to detain non-citizens in planned operations aimed at expulsion. Authorities cannot mislead individuals into reporting under pretenses to facilitate detention or deportation. Such acts may violate the European Convention on Human Rights, especially Article 5, which protects the right to liberty and security. While states may enforce immigration laws and deport those unlawfully present, they cannot arbitrarily exercise this. Deportation must consider the specific circumstances of the individuals involved and should not violate their rights under international human rights law. Non-citizens—including those suspected of serious offenses—must be allowed to challenge their expulsion. However, the International Covenant on Civil and Political Rights (ICCPR) provides such procedural protections only to those lawfully within a state's territory.

Their fifth right is **freedom of thought and conscience**. Non-citizens have the right to freedom of thought and conscience and to hold and express opinions. They also have the right to peaceful assembly and freedom of association. Membership in political parties, for example, should be open to non-citizens.

Their sixth and last right is **protection from arbitrary interference with privacy, family, home, or correspondence**. The state cannot arbitrarily interfere with non-citizens' privacy, family, or correspondence. Article 8 of the European Convention on Human Rights, for example, states;

1. *“Everyone has the right to respect for his private and family life, his home and his correspondence.*

2. *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of*

disorder or crime, for the protection of health or morals, or the protections of the rights and freedoms of others.”

Where a non-citizen has real family ties in the territory of a State from which they are deported and the deportation would jeopardize those ties, the deportation is justified under Article 8 only if it is proportionate to the legitimate aim pursued. In other words, the deportation is warranted if the interference with family life is not excessive compared to the public interest to be protected. The public interest, often balanced against the right to respect for family life, is the State's interest in maintaining public order. There's no right of a migrant non-citizen to enter or to remain in particular country after having committed a serious criminal offence, but to remove a person from a country where close members of their family are living may amount to an infringement of the right to respect for family life as guaranteed in article 8(1) of the Convention, especially where the individual concerned poses little danger to public order or security.

6. History of the Principle of Reciprocity

In ancient Greece and Rome, non-citizens were given fundamental rights, often based upon reciprocity: Governments would grant rights to foreigners if their home cities had similar policies for their citizens or traders. Another example would be the Ottoman era, when the Ottoman Empire gave capitulations and privileges to European merchants in exchange for similar treatment of Ottoman merchants.

In the past states would deny certain peoples rights in their own country; colonized people would not get any rights hence they did not have a competent government in their homelands, in the 19th century states would have reciprocal policies towards foreigners and rights of non citizens were often denied to a similar level of their home countries policies towards the states'

citizens. As you can imagine, this led to many human rights violations, which unfortunately were merely present in those days.

In 1948, the United Nations General Assembly drafted and adopted the Universal Declaration of Human Rights. States began to give up on their reciprocal policies against non-citizens since the declaration denied any mistreatment of people from around the world.

7. Framework for Reciprocity in International Law

Framework in international law refers to the combination of laws, treaties, conventions, and principles that define how states and international actors should behave.

Previously, we mentioned that the Universal Declaration of Human Rights hindered states from taking reciprocal actions towards non-citizens. This is a clear case of the framework for reciprocity.

The Vienna Convention on Consular Relations is a critical topic on this agenda due to its reciprocal nature and its regulations regarding non-citizens. The CCR is a key treaty in international law that governs the rights and responsibilities of consular officials and diplomats who assist their country's citizens in a foreign country. One of its most important functions is protecting the rights of non-citizens arrested, detained, or facing legal proceedings abroad. This treaty sets many boundaries for policies against non-citizens, giving them crucial rights when non-citizens face arrest in a foreign country. However, this convention also condemns reciprocal policies, stating these rights are not expected to be given in case the detainee's home country gives similar rights to its citizens. We anticipate the committee will debate this particular treaty.

8. Contentious Topics for Reciprocity

When it comes to non-citizen rights, reciprocity is a topic that concerns many states and is still an issue that has led to many debates. Primary concerns are about reciprocal policies. Some states defend limiting non-citizen rights on national security concerns, whereas some argue that there should be mutual and universal rights for non-citizens for the safety of people.

We stated before that asylum seekers and refugees are critical topics and are one of the main concerns of first-world countries. Some states believe accepting refugees or asylum seekers should be reciprocal, so if other states accept refugees, they will too. However, refugee law obliges states to offer protection regardless of how different states behave, hindering these requests and making this topic worth debating.

9. Past Incidents of Violations of the Fundamental Rights of Non-citizens

The fundamental rights of non-citizens were given in previous parts; now, let us mention incidents that violate these rights.

After the 9/11 attacks, the government of the USA detained thousands of non-citizens, especially people from muslim countries, without clear charges, violating the right to liberty and security of person. Detainees were frequently denied access to legal representation, held in secret locations, or subjected to closed immigration hearings. This contravened both domestic constitutional protections and international human rights standards.

U.S officials justified these actions by stating that measures were necessary and that other states would take similar approaches, mentioning some reciprocal policy.

In 1982, after the Myanmar citizenship law, Rohingya were systematically denied citizenship, which left them stateless and made them non-citizens in their own country. Under

these terms, Rohingya people cannot vote, or access education, healthcare, or employment on equal terms. UN reports and human rights organizations have concluded that the actions may amount to genocide, crimes against humanity, and ethnic cleansing. The International Court of Justice (ICJ) is currently investigating Myanmar for violating the Genocide Convention.

10. Past Cases Defending the Fundamental Rights of Non-citizens

As you know, we talked about the fundamental rights of non-citizens. Nevertheless, we should not forget how they were defended. For that, I will explain the most important cases defending the fundamental rights of non-citizens.

10.1 Yick Wo v. Hopkins (1886) - United States Supreme Court

The plaintiff in error, Yick Wo, on August 24, 1885, petitioned the Supreme Court of California for the writ of habeas corpus, alleging that he was illegally deprived of his liberty by the defendant as sheriff of the city and county of San Francisco. The sheriff made return to the writ that he held the petitioner in custody under a sentence of the police judge's court No.2 of the city and county of San Francisco, whereby he was found guilty of a violation of specific ordinances of the board of supervisors of that country, and adjudged to pay a fine of 10 dollars, and, in default of payment, be imprisoned in the country jail at the rate of one day for each dollar of fine until said fine should be satisfied; and a commitment in consequence of non-payment of said fine.

10.2 Boumediene v. Bush (2008) - United States Supreme Court

This case centered on the constitutional rights of non-citizen detainees held at the U.S. military base in Guantanamo Bay. After their arrest in Bosnia in 2002, six men were transported to Guantanamo and, along with others, sought to challenge their detention through the writ of habeas corpus—the right to appear before a court and contest unlawful imprisonment. The U.S.

government, relying on the Military Commissions Act (MCA), argued that federal courts had no jurisdiction over Guantanamo detainees, as they were non-citizens held outside the U.S. sovereign territory.

The Supreme Court held that the detainees have the constitutional right to habeas corpus, despite their non-citizen status and offshore location. The court ruled that the MCA's attempt to strip courts of jurisdiction was unconstitutional, reaffirming that basic legal protections apply even to non-citizens in the U.S custody.

10.3 Chahal v. United Kingdom (1996) - European Court of Human Rights

In this case, the United Kingdom sought to deport Mr. Chahal, an Indian national and Sikh political activist, because he posed a threat to national security. Chahal argued that if he returned to India, he would face a real risk of torture and inhuman treatment due to his political activities. The UK government maintained that national security concerns justified the deportation, and Chahal was held in prolonged detention without judicial review.

The European Court of Human Rights ruled that deporting Chahal would violate Article 3 of the European Convention on Human Rights, which prohibits torture, regardless of the circumstances. The Court emphasized that even individuals considered security risks cannot be sent to countries where they face such dangers. It also found that Chahal's detention without proper legal recourse violated his rights to liberty and an adequate remedy. The decision reinforced that fundamental human rights apply universally, even to non-citizens facing deportation.

11. Questions to Be Addressed

1. To what extent should the principle of reciprocity influence the rights granted to non-citizens?
2. Can a balance be struck between state sovereignty and universal human rights?
3. What safeguards can be implemented to prevent discrimination under reciprocity-based systems?
4. How can international cooperation improve the legal protections of non-citizens worldwide?
5. Should international law evolve to prioritize non-citizen rights over bilateral reciprocity?