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UNITED NATIONS GENERAL
ASSEMBLY SIXTH COMMITTEE LEGAL
STUDY GUIDE

**Agenda Item: Addressing the Legal Framework and Procedures for the
Expulsion of Aliens**

Academic Assistant: Cansu Solmaz Hurşitoğlu

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2. Glossary

Expulsion: Expulsion refers to the action taken by a public authority requiring an alien to depart from the country where they currently reside or stay. It is typically enforced through the imposition of penalties or, if necessary, by compelling their departure from the territory.

Alien: In the draft articles of the UN, the expression “alien” is defined as *an individual who does not have the nationality of the State in whose territory that individual is present*.

Jus in Bello: International humanitarian law (IHL), also known as jus in bello, pertains to the regulations governing the conduct of warfare. IHL solely focuses on humanitarian objectives, aiming to minimize the suffering inflicted during armed conflicts. It differs from jus ad bellum, which addresses the justifications for war, its prevention, and the conditions under which states may resort to armed force.

Persona non-grata: As a legal concept, it pertains to the act of a state preventing a diplomat from entering the country in their official capacity or reprimanding a diplomat already present in the country for engaging in actions inconsistent with the expected conduct of a diplomat.

Ad hoc diplomats: Ad hoc diplomats are individuals specifically selected by the president for short-term and temporary assignments, and they hold a notably crucial role in dealing with international crises, conducting treaty negotiations, and executing foreign policy. Ad hoc diplomacy essentially includes a variety of special missions.

Consular Relations: Consular relations refer to the diplomatic interactions between two countries facilitated by their appointed consuls. Consuls serve as representatives of their respective countries in foreign territories, aiding and assisting their citizens residing or traveling in the host country.

Non-Refoulement: Non-refoulement is an imperative principle of international law that prohibits a country that receives asylum seekers from repatriating them to a nation where they would likely face persecution or significant harm.

3. Introduction

The issue of expelling foreigners gained significant social importance following World War I, as the primary immigration-receiving countries enacted laws to restrict the admission of immigrants and impose stricter controls on those already admitted. The aftermath of the economic depression of 1929 made matters even worse, leading many countries to limit the opportunities for employment for foreigners, urge their departure, and call for direct and indirect expulsion measures. The frequent use of expulsion powers and growth of legislative authority in this area show an extensive mistrust towards foreigners, a boost in the tendency to harsher treatment of aliens, and increased separation between these individuals and the citizens.

The expulsion of aliens impacts thousands of people annually, and obtaining precise global statistics on expulsion incidents can be challenging. The individuals subjected to expulsion come from diverse regions worldwide and travel to various countries for different reasons. They include children of all ages, women, and men with distinct languages, ethnicities, races, and religious backgrounds. Their education levels vary widely, ranging from executives to highly skilled professionals and unskilled laborers. Wrongful expulsions may result in significant economic losses for those affected. Despite their diversity, these individuals share a common factor: they have journeyed to a foreign state where their presence is not accepted anymore.

The expulsion can happen in various ways, such as the deportation of undocumented migrants, the removal of individuals with criminal records, or the expulsion of those considered a national security risk. While states possess the inherent authority to manage their borders and establish immigration policies, it is important to uphold international legal norms and uphold the dignity of individuals when implementing expulsion measures.

It is also beneficial to mention that the topic of the expulsion of aliens intersects with various branches of international law, encompassing the rights of children and families, human rights, stateless people, refugees, migrant workers, treatment of aliens, immigration, nationality, and territorial sovereignty. Additionally, during armed conflicts, the expulsion of aliens necessitates the consideration of *jus in bello*, involving human rights law and international humanitarian law. The challenge is addressing this issue by exploring the applicable rules derived from different areas of international law to develop a comprehensive framework of regulations governing the crucial aspects of alien expulsion in modern international law.

4. Aliens and Their Presence in Foreign Territories

The presence of aliens in foreign territories is a complex issue, with various legal and political considerations. One important distinction is between aliens with special privileges, such as consular officers and diplomats, and aliens without such privileges. The types of presence of aliens also vary. Some aliens are present in a foreign territory lawfully, such as students, tourists, or workers with valid visas. Others are present unlawfully, such as undocumented immigrants.

a. Aliens with Special Privileges

There are specific classes of aliens, such as international civil servants, members of special missions, consular officers, and diplomats, who are granted special privileges and immunities, making them exempt from expulsion. However, despite their privileged status, there may be situations where their presence becomes inimical to the benefit of the host country. Concerning these cases, the individual can be compelled to depart the land. The mandatory departure of these individuals falls under a distinct legal regime instead of the principles of international law governing the deportation of foreigners.

i. Diplomats

Diplomats can be pronounced as *persona non grata* in some instances, and then be asked to depart the host country according to the country's applicable standards of international law governing diplomatic relations. They are not dependent on deportation or alien registration laws. Nevertheless, the host State has the authority to declare any diplomatic staff member or the head of a mission as *persona non grata* at any moment. In these cases, the sending country is obligated to call the concerned individual back or end their diplomatic task. Suppose the sending State does not comply or take action within a reasonable timeframe. In that case, the host State can choose not to acknowledge the individual as a member of the diplomatic team. Consequently, immigration or other different applicable laws would come into effect. However, before reaching this point, diplomats are required to be granted a moderate period to make their departure arrangements.

ii. Consular Officers

Consular officers can likewise be designated as *persona non grata* and compelled to depart from the host state based on the applicable standards of international law governing consular relations. These standards, considered new and not as firmly constructed as the rules governing diplomatic relations, have caused instances of consular expulsions in the past. However, a more recent trend has emerged, where consular officers are granted privileges similar to the ones benefitted by diplomats.

iii. Members of Special Missions

Special mission representatives can similarly be announced as *persona non grata*, necessitating their departure from the State, following the pertinent standards of international law that regulate special operations or *ad hoc* diplomats. Like consular relations, these rules regulating special operations in international law are considered new and may not be as firmly demonstrated as the ones governing diplomatic relations.

iv. International Special Servants

The obligatory departure of an official from an international organization is subject to the rules specified in the organization's constituent instrument, along with any pertinent settlements, including host country treaties or agreements among Member States. The status of representatives and officials of international organizations isn't entirely established and primarily relies on the terms outlined in treaties.

v. Aliens without Privileges

An alien is commonly defined as a natural person who is not a national of the State where they are currently residing. This category encompasses foreign nationals as well as stateless individuals. The determination of an individual's nationality, concerning legal matters, relies on the applicable rules of both municipal and international law.

b. The Presence of Aliens

Being a national of a State implies being subject to its laws and regulations. However, since a State's legal jurisdiction is limited to its territory, a national can escape that jurisdiction by leaving the country. Upon leaving, the individual enters the legal authority of a different

entity, as there is virtually no “unclaimed land” left on Earth. At this point, in the eyes of the new country's jurisdiction, the individual develops into an alien, while also being considered a citizen abroad by their national State. There are three types of presence in a foreign State.

i. Lawful Presence

The status of lawful presence in a country is typically granted to aliens who have been officially admitted and have stayed in the country's region according to its laws. The qualifications for being lawfully present can include possessing a valid travel document or passport, complying with the terms of entry, and adhering to the requirements for ongoing presence. In some states, an individual who initially entered the state illegally can later be allowed to receive lawful presence status.

ii. Transitory Presence

An alien can be allowed to enter a specific region inside a country's district for a limited duration and for a particular reason without undergoing formal admission under its immigration law. The conditions and reasons for terminating the temporary status of an alien differ significantly from one country to another. The concept of transitory existence primarily involves two specific groups of aliens: (1) passengers who briefly stay in the transit area of international transportation facilities, like airports, before resuming their journey to their last destination in a different country, and (2) crew of aircraft or ships who briefly stay near an airport or seaport in another State's territory or pass through.

iii. Physical Presence

An alien who enters a State, where they are not a national, without proper admissions or compliance with national immigration laws, is physically present therein. However, whether the State's action to enforce the departure of such illegal aliens is categorized as expulsion or another process like non-admission is a matter of contention. The presence of the alien in the region might be considered a factual presence, but not one recognized legally. In such cases, the relevant national law concerning the denial of entry or admission would apply. The treatment of illegal aliens and the procedures for their departure can differ depending on the national law of the relevant country. As a result, the process can be referred to as non-admission, expulsion, or another designation under national law.

5. Various Expulsion Practices

Countries expel individuals on grounds of numerous reasons, however, the most common ones include political reasons, diplomatic spats, national security concerns, ethnic and religious reasons, and violations of immigration laws.

a. Diplomatic Spats

Diplomatic spats often result in the expulsion of diplomats, or sometimes also civilians. It is a common way for countries to respond to incidents.

i. Russia

In 2014, sanctions were imposed on Russia by the United States on grounds of Russia helping separatists in Ukraine. Russia annexed Eastern Ukraine, which resulted in the U.S. interfering. However, Russia was not content with this intervention and expelled 130 American diplomats from the country. These expulsions were one of the largest mass expulsions of diplomats since the Cold War.

ii. Iran

In March 2018, Sergei Skripal, a former Russian spy, was poisoned in England. Iran was allegedly involved in this poisoning along with Russia. In response to these allegations, the UK revoked the diplomatic status of Iranian officials. In retaliation, Iran expelled 60 British diplomats and accused the UK of interfering in its internal affairs as well as spreading ungrounded lies about the country.

iii. Saudi Arabia

In 2019, 20 Lebanese nationals were expelled by the Saudi Arabian government. This action was seen as a response to the Lebanese government's reluctance to crack down on Hezbollah, a Lebanese Shiite militant group. Since Hezbollah is a powerful force in Lebanon's politics, it is claimed that the state has been resistant to getting involved in the issue. However, Hezbollah is known to be a close ally of Iran, which continues to displease Saudi Arabia.



Hezbollah's secretary-general, Hassan Nasrallah, refused any intentions of the group to interfere with Lebanon's balance of power among Shiites, Sunnis, and Christians.

b. National Security Concerns

i. The United States

In 1994, Haitians in the United States, who were fleeing from the political turmoil in their country, were faced with expulsion due to the suspicion of a national threat. The 1981 Migration and Naturalization Act permits the government to expel aliens, who are considered to be a national security threat. However, accusations were made against America that the Haitians were not a national danger and were simply escaping persecution and violence in their country.

ii. India

In 2020, a deadly border clash between India and China caused the Indian government to make accusations of Chinese nationals interfering in India's internal affairs, posing a national security threat, and involving in espionage activities. 200 Chinese were expelled due to these accusations. India stated that these expulsions were necessary to protect the country's security, while the Chinese government condemned the expulsions and accused India of violating the rights of Chinese citizens.

iii. Belgium

In October 1999, 51 Slovak Gypsy refugees were invited to a Belgian police station in October 1999 to finish their asylum applications. Instead, they were apprehended and transported to a prison in Slovakia. Gypsy refugees in Tienen received similar invites, and up to 100 of them were also forced to be deported to Slovakia. Despite a plea from the European Court of Human Rights to put off the process, Belgium expelled 74 Slovak Gypsies in October 1999 using special ink that would not come off to mark their seat numbers on their wrists or arms.

c. Ethnic and Religious Reasons

Expulsion based on ethnicity and religion is a unique kind of discrimination that has been practiced throughout history. In recent years, there have been innumerable instances of such expulsions, like the Uighur Muslims in China and Rohingya Muslims in Myanmar. Even though the United Nations has denounced expulsions due to ethnic or religious reasons, such practices continue to be enacted.

i. China

The Uighurs are Turkic-speaking people dwelling in Xinjiang for many centuries. Their distinctive culture and religious beliefs have resulted in the Chinese government marginalizing them. In 2017 this dissociation evolved into the act of expelling 200,000 Uighurs who were detained without any sound charges and deported. This issue has concerned human rights organizations all across the world.

ii. Myanmar

The Rohingya are a stateless Muslim minority group oppressed in Myanmar for many decades. In 2017, the Myanmar army launched a repression act against the Rohingya, killing thousands and expelling millions of others from their land. Approximately 1 million refugees have since lived in cramped camps in Bangladesh, which has highly bothered the United Nations.



Kutupulung Refugee Camp, Bangladesh

6. The Impact of the Expulsion of Aliens

The expulsion of aliens has far-reaching effects that extend beyond just immigration policies. This practice significantly impacts both the individuals being expelled and the societies involved. Furthermore, the expulsion of aliens raises important ethical questions regarding human rights and the treatment of vulnerable populations. Thus, the impact of the expulsion of aliens is not confined solely to legal considerations but also encompasses a complex web of social, economic, and moral implications.

a. Effects on Individuals

Concerning the majority of instances, the arrival of an expelled person in their country of birth is perceived as a burden. Even the returning alien's family, if they have one, may not be entirely welcoming, and the return of individuals who are sick, criminals, elderly, or dependent can pose additional challenges to the country receiving them. The impact of expulsion on immigrants is profound, as their removal from the established country severely affects their financial, social, and moral standing as well as that of their families. They are deprived of the positive gains of their time spent in the country, including personal, economic, and social relationships of value, housing, residential needs, and personal plans. Since individuals may be forced to separate from their loved ones, expulsion also often leads to families breaking down.

Returning to their place of origin can present significant difficulties and hardships, especially for expelled persons who cannot afford the costs of their return or are not accepted by any country. Additionally, refugees who may face danger to their lives or freedom if they return to their country of origin are faced with particular challenges. For resident immigrants facing the threat of removal through expulsion or exclusion or the uncertainty and stress, especially when it occurs due to reasons beyond their control such as unemployment, illness, or disability, hinders their adjustment to the environment and assimilation process.

b. The Problem of Statelessness

The repercussions of World War II and the redrawing of national borders led to the formation of a significant number of stateless people. This caused the inclusion of Article 15 in the 1948 Universal Declaration of Human Rights stating that "everyone has the right to a nationality" and can not be deprived of it at random. Statelessness is a problem prevalent almost in all parts of the world. Still, it is often overlooked and not officially recognized by governments. A stateless person is defined as somebody who does not hold citizenship of any country under national laws. This can be due to a variety of factors which include being born to stateless parents, being refugees, or being denied citizenship by their country of origin. There are two main types of stateless people: *de jure* stateless persons, who are not recognized as citizens by any state, and *de facto* stateless persons, who are not acknowledged by any state as citizens although they may have claimed citizenship of one or more states under national laws.

As stateless people are not recognized by any nation as citizens and are therefore not afforded any legal protection, their deportation might have serious consequences. These people usually have limited access to fundamental rights and deal with a variety of daily difficulties. One of the most serious consequences of expelling a stateless person is that they may be left without any nationality at all. This situation complicates their already hard access to basic rights. They may have to face considerable issues in terms of law and administration after expulsion. These individuals might additionally endure detention if not able to repatriate or re-establish. Expelled people often struggle to have access to basic amenities such as education, healthcare, employment, and social services. They may even have to get detached from their families because of the deportation process as members of the family members could hold different nationalities or legal positions.

c. The Economic Consequences

The expulsion of aliens can yield certain favorable economic outcomes for states. On the one hand, it can result in cost savings concerning social welfare programs like healthcare and education as expelled aliens are rendered ineligible for such programs. Furthermore, the expulsion of aliens who engage in criminal activities or burden the economy in other ways can free up valuable resources that can be redirected toward benefiting citizens. For instance, the expulsion of an alien who would have otherwise been incarcerated in a state prison relieves the state from incurring costs associated with their imprisonment.

Conversely, the expulsion of aliens can lead to a range of adverse economic ramifications for states. Notably, expelling skilled workers can trigger shortages within specific industries, negatively impacting the economy by driving up production expenses and diminishing overall productivity. Moreover, the expulsion of entrepreneurial aliens can result in a loss of innovations and economic advancement. Entrepreneurs frequently play a pivotal role in founding new enterprises and generating employment opportunities. The establishment of new businesses and the creation of new job opportunities often dwindle, when these individuals are expelled.

In addition to these direct repercussions, the expulsion of aliens may also have negative indirect economic effects. For instance, foreign investment and tourism may experience a reduction. Tourism is a crucial revenue source for all countries and the expulsion of aliens may lead to a decline in the number of tourists visiting. Foreign investment is similarly vital for stimulating economic growth and the expulsion of aliens can trigger a reduction in the influx of foreign investments into a country.

7. Balancing Human Rights and National Security

a. Human Rights Considerations

According to some countries and individuals, during expulsion practices, the protection of human rights must be the prime concern due to ethical reasons. Since most expulsion policies have a disproportionate impact on vulnerable populations, such as refugees and asylum seekers, upholding this principle would ensure that these individuals would no longer be subjected to harm and would also allow them to seek protection. In order to achieve this, security measures must be proportionate, be targeted, ensure that expulsions are based on legitimate grounds, and respect fundamental rights.

i. The Rights of Family

Numerous international and regional instruments recognize the principle of family unity, which is why the expulsion of aliens should be consistent with international human rights law on family rights. States may often be required to provide stronger justifications for deporting the individual, if expulsion results in the separation of family. For instance, aliens whose family unity is at risk may be more likely to be expelled if the ground for expulsion is more serious, such as criminal law violations instead of immigration law violations. The possibility of family members accompanying the expelled alien may also influence the impact of expulsion on family unity. However, it is important to mention that there have been inconsistencies and exceptions regarding the relevant practices.

ii. Freedom of Expression

The expulsion of aliens must comply with international law of human rights, especially on the topic of freedom of expression. In the case of *France v. Piermont*, the applicant's expulsion from French Polynesia was found to violate her right to freedom of expression by the European Court of Human Rights. The incident of expulsion was a response to the person's taking part in a political debate and her criticism over nuclear testing as well as the French presence in the Pacific. The Court determined that the expulsion did not indicate just equity between the public interest in preventing disorder and Mrs. Piermont's freedom of expression, particularly given the peaceful and authorized nature of the demonstration, which did not result in any disorder.

iii. Property Rights

The expulsion of aliens must adhere to international human rights law, which governs their economic interests and property rights. If the removal involves illegal confiscation, destruction, or expropriation of property, it may be deemed unlawful. Such unlawful taking of property is against the purpose and function of expulsion. In 1985, the General Assembly adopted the Declaration on the Human Rights of individuals who are not nationals of the country in which they live, which emphasizes that no alien should be unfairly stripped from their lawfully obtained assets.

iv. The Principle of Non-Discrimination

This principle, which ensures the protection of human rights without prejudice depending on factors like race or religion, should be taken into consideration during the discussion of the expulsion of aliens. While the leading human rights treaties don't explicitly state the principle of non-discrimination, they do restrict protection against discrimination to the rights recognized in each specific document. Since expulsion isn't permitted for nationals, the principle of non-discrimination is not violated when aliens are subject to expulsion as opposed to nationals. However, the principle becomes relevant if expulsion violates a right secured under the settlement, such as the right to family unity. Consequently, a state's capability to expel is limited to compliance with the principle of non-discrimination.

b. Security Considerations

National security threats are diverse and can emerge from various sources, including terrorism, organized crime, espionage, and instability in neighboring areas. Some countries prioritize national security over human rights in the issue of the expulsion of aliens. In contrast to the countries that prioritize human rights, they claim that since it is their responsibility, governments possess a valid interest in safeguarding their citizens, preserving territorial integrity, and upholding social order, even if that may sometimes mean ignoring human rights.

There are multiple considerations states should contemplate while expelling aliens on security grounds. The alien's nationality or country of origin, criminal records, links to extremist or criminal groups, and possession of sensitive information can be given as justified

reasons for expelling aliens. The nature of the threat posed by the individual in question and the likelihood of possible future threats should also be taken into account. However, the impact of expelling aliens should also be considered since it may cause multiple problems, which is why other options, such as monitoring and deportation, should first be reviewed.

8. Current Conflicts Between Countries

The expulsion of aliens sometimes leads to tensions and conflicts between countries, since there are misconceptions about expulsion rights or the definition of aliens. Countries may expel aliens due to security, economic, or political reasons however, when the other country disagrees about the reason for expulsion and argues that it is violating human rights, conflicts may occur.

a. Pakistan - Afghanistan Conflict

After Afghanistan's takeover by the Taliban in 2021, the Pakistani government claimed that the Taliban protects terrorists and creates a safe environment for them in the country. Despite the Taliban's denial, Pakistan declared that they had evidence about the matter. On August 30, 2021, Pakistan gave Afghan diplomats 72 hours to leave the country to pressure the Taliban to suppress terrorism. 100 Afghan diplomats were expelled, which only worsened the tension between the two countries.

b. China - Canada Conflict

In 2018, Meng Wanzhou, the chief financial officer of Huawei Technologies, was blamed for violating U.S. sanctions against Iran in a business deal with Iran. She was arrested in Vancouver, Canada, and was released on bail in 2019 and was able to return to China. After this incident, two former diplomats Canadians were arrested by the Chinese government due to the charges of espionage. Micheal Kovrig and Micheal Spavor were in detention for nearly two years. China also expelled two Canadian diplomats and although these incidents are suspected of being retaliation moves, China denied these allegations.

c. India - Pakistan Conflict

The partition of India in 1947 started with the British granting independence to India due to administrative problems. However, the event quickly turned violent. During the partition, millions of Muslims and Hindus faced expulsion because the Indian government suspected the Muslims, and the Pakistani government feared the Hindus would threaten the newly independent country. This expulsion caused widespread violence, approximately 500,000 deaths, and millions of people being displaced. Both of the countries suffered from economic downturns and loss of cultural heritage.

Map of proposed Pakistani territories dating from about 1940

Chaudry Rahmat Ali's plan for a future Pakistan. It shows areas of British India with large Muslim populations



d. **Iran - European Union Conflict**

In 2018, the United States withdrew from a treaty known as the Joint Comprehensive Plan of Action (JCPOA), which was settled to put restrictions on Iran's nuclear plan while lifting sanctions. The settlement was compromised between Japan, Germany, Italy, the United Kingdom, and the United States, and when the U.S. withdrew and reimposed those implications, the Iranian government responded by increasing enriched uranium to produce nuclear weapons. After these incidents, the European Union decided to apply sanctions on Iran to convince the country to return to the provisions of the JCPOA. However, Iran's Foreign Ministry expelled 61 European diplomats from Belgium, the Netherlands, the United Kingdom, Italy, France, and Germany with the allegation of engaging in "subversive" activities. The EU condemned the Iranian government. The expulsion of Iranian diplomats from the EU and the closure of the Iranian embassy in Belgium were also triggered by the spat.



9. Timeline of the Previous Legal Actions Taken

- **1889:** The International Law Association (ILA) adopted a resolution on the expulsion of aliens in 1889, which stated that aliens could solely be expelled for serious reasons, such as public order or national security.
- **1921:** The International Convention on the Treatment of Aliens was adopted by The League of Nations, which included provisions for the expulsion of aliens. The Convention stated that aliens could just be expelled on grounds of public order, public health, or national security.
- **1933:** The Convention on the International Right of Correction was adopted, which provides that aliens expelled from a country have the right to publish a statement of their views in the expelling country.
- **1961:** The European Convention on Human Rights was adopted, which includes a provision that prohibits the expulsion of aliens who would face a risk of persecution in their home country.

- **1977:** The Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) was adopted, which prohibits the expulsion of protected persons except for imperative reasons of security.
- **1998:** The European Convention on Human Rights was amended to include a provision prohibiting the expulsion of people to states where they would be endangered by ill-treatment or torture.
- **2005:** The Council of Europe Convention on the Expulsion of Aliens (Expulsion Convention) is adopted. The Expulsion Convention sets out the procedural safeguards that should be taken into consideration when expelling aliens, including the rights to a fair hearing and appeal.
- **2011:** The Declaration on the Rights of Human Persons Subjected to Forced Internal Displacement was adopted by The United Nations Human Rights Council. The Declaration sets out the rights of internally displaced persons, including the right to be protected against expulsion.
- **2016:** The New York Declaration for Refugees and Migrants was adopted by The United Nations General Assembly. The New York Declaration reaffirms the right of all migrants to be protected against expulsion, and it calls on countries to uphold this right.
- **2020:** The United Nations High Commissioner for Human Rights (OHCHR) publicized a guidance note about the protection of the rights of refugees and migrants against expulsion during the COVID-19 pandemic. The guidance note sets out the steps countries should take to guarantee that the expulsion of refugees and migrants during the pandemic complies with international law.

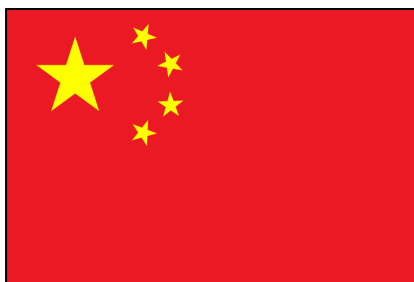
International Law Commission

- In 2004, in its fifty-sixth session, the International Law Commission (ILC) decided to include the topic “Expulsion of Aliens”. Subsequently, the Commission has deliberated on the matter during seven additional sessions, the most recent of which occurred in 2014. The report of these discussions includes topics of significant importance, such as the protection of vulnerable groups, alternatives to expulsion, and the non-refoulement principle, among many others.

(For further research, visit: <https://legal.un.org/ilc/reports/2014/english/chp4.pdf>)

- **2006 International Law Commission - Memorandum by Secretariat:**
https://legal.un.org/ilc/documentation/english/a_cn4_565.pdf
- **2006 OHCHR Discussion Paper - Expulsion of Aliens In International Human Rights Law:** <https://www.unhcr.org/us/media/29517>

10. Stakeholders and Major Parties Involved



China: China: It is a well-known fact that the Chinese government holds a zero-tolerance stance regarding illegal immigration and China has deported millions of aliens in recent years, mostly based on national security. There are various laws and policies authorizing the expulsion of aliens as well as several enforcement agencies focusing on the implementation of these expulsions. The way that China has been treating the Uyghur Muslims has also been a point of criticism.



The United States: The United States has a rather long history when it comes to the expulsion of aliens, including those fleeing persecution, and for its use of arbitrary detention; the country has thus been severely criticized by human rights activists and agencies. The U.S. runs several laws and regulations regarding the deportation of aliens, in the meantime bestowing financial aid to countries burdened with the influx of migrants.



Russia: Russia is another nation that has carried out a large number of expulsions. The Russian government has been blamed for expelling aliens based on discrimination; they have justified so far these acts on grounds of public order and national security. Russia has several laws and policies in place allowing the deportation of aliens. Meanwhile, the government has also been denounced for adopting expulsion as a means to repress any opposition.



India: Since India is a major destination for illegal immigrants, there have also been expulsion cases of illegal immigration. The government has expelled thousands of aliens due to these reasons, however, these efforts have been met with mixed reactions. While some people support the government and argue that they are necessary for national security, others claim that the actions of the government are unfair and discriminatory against certain groups, specifically targeting Muslims and Bangladeshi.

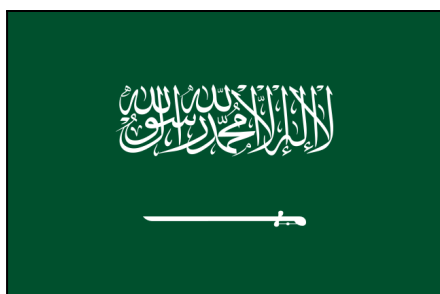


Canada: Canada generally prioritizes human rights considerations over security concerns in the expulsion of aliens, as it upholds principles of international law and human rights standards. Current Canadian law and policy prioritize ensuring that individuals facing expulsion are provided with due process and have access to legal representation. However, Canada also considers security concerns seriously and takes

measures to protect its borders and national security interests. An incident that illustrates Canada's approach is the case of Maher Arar. Maher Arar, a Canadian-Syrian citizen, was detained by U.S. authorities in 2002 while transiting through New York's JFK Airport. He was subsequently deported to Syria, where he was tortured and held in prison for a year without charge. His deportation was based on faulty information provided by Canadian authorities to U.S. officials. This incident prompted a significant public outcry in Canada and led to a comprehensive inquiry known as the Arar Commission. The commission's findings highlighted serious deficiencies in Canadian security practices and emphasized the importance of respecting human rights in matters of expulsion and deportation. As a result, Canada has since taken steps to improve oversight and accountability in its deportation processes while emphasizing the protection of individuals' rights.

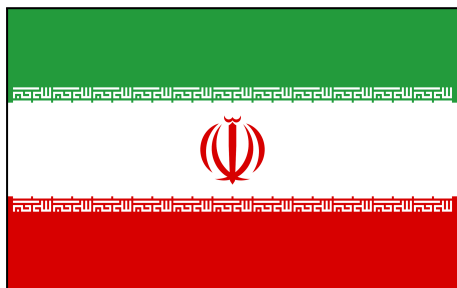


Australia: The Australian government places significant emphasis on protecting national security and maintaining border integrity, often implementing stringent measures to deter irregular migration and combat threats posed by individuals deemed to be a risk to public safety. While Australia acknowledges human rights principles, such as ensuring due process and avoiding arbitrary expulsion, security considerations often take precedence in its decision-making processes. An incident that exemplifies Australia's approach occurred in 2015 when the Australian government canceled the visa of a controversial figure, Sheikh Mansour Leghaei, an Iranian-born Muslim cleric who had been living in Australia for over 20 years. The government cited undisclosed security concerns as the basis for the visa cancellation, leading to Sheikh Leghaei's eventual deportation. Despite his long-term residency and the support he garnered from various community members and legal advocates, the government's decision underscored its commitment to prioritizing security imperatives in expulsion cases, even if it generated controversy and criticism from human rights advocates.



Saudi Arabia: Saudi Arabia's approach to the expulsion of aliens, including individuals and diplomats, often prioritizes security concerns over human rights considerations. The Saudi government places significant emphasis on maintaining internal stability and

safeguarding national security, which can lead to stringent measures being taken during expulsions. While there are legal provisions in place to ensure the rights of individuals, including aliens, Saudi authorities tend to exercise broad discretion in deportation cases, often without extensive due process. Security concerns, particularly related to potential threats posed by individuals or diplomats, are closely scrutinized and may outweigh other considerations. One incident highlighting this approach is, Saudi Arabia expelling a group of foreign diplomats, citing national security concerns and alleged interference in internal affairs. While the move drew criticism from some quarters for its perceived lack of transparency and adherence to human rights norms, Saudi authorities defended the action as necessary to safeguard the country's sovereignty and stability.



Iran: Iran's approach to the expulsion of aliens, including individuals and diplomats, typically prioritizes security concerns over human rights considerations. The Iranian government often justifies expulsions based on perceived threats to national security or political tensions with other countries. While Iran does recognize

some human rights principles, such as the right to due process, freedom from arbitrary detention, and protection from torture, these rights may be secondary to security considerations in practice. One incident illustrating Iran's approach to expulsions occurred in 2019 when Iran expelled the British ambassador, Rob Macaire, amid protests in Tehran over the downing of a Ukrainian passenger plane. The expulsion was seen as a response to perceived British involvement in the protests and was framed within the context of Iran's national security interests rather than human rights considerations.



European Countries: The general approach of EU countries towards the expulsion of aliens varies based on a combination of factors, including legal frameworks, diplomatic considerations, and security concerns. While EU countries generally aim to uphold human rights standards during expulsion procedures,

there can be instances where security considerations take precedence, especially in cases involving individuals deemed a threat to national security. However, EU countries are bound by international human rights laws and conventions, which require them to ensure that

expulsion processes adhere to principles of fairness, non-discrimination, and respect for the dignity of the individual. Overall, EU countries strive to maintain a balance between security imperatives and respect for human rights in expulsion cases, with the specific approach varying based on individual country policies and the nature of the case at hand.

Sweden is one of the countries known for its strong commitment to human rights and typically prioritizes adherence to legal and humanitarian principles in expulsion cases. However, in instances where individuals are suspected of involvement in terrorist activities or pose a significant security threat, security considerations may play a more prominent role in the expulsion process. One incident that illustrates this balance between security and human rights concerns occurred in 2019 when Sweden expelled an Iranian diplomat over suspicions of his involvement in a plot to assassinate Iranian dissidents in Denmark. While the expulsion was motivated by security concerns, Swedish authorities ensured that the process complied with legal standards and due process, demonstrating a commitment to upholding both security and human rights principles.



The Office of the High Commissioner for Human Rights

(OHCHR): The United Nations Human Rights Office (UN Human Rights) is the principal UN organization dedicated to human rights. OHCHR's mission is to advocate for the

safeguarding and advancement of all human rights for every individual, empower people to exercise their rights and support those tasked with upholding these rights in guaranteeing their effective implementation.



The International Organization for Migration (IOM): The IOM aims to foster international collaboration on migration matters, facilitate the organized and sensitive management of migration, and offer aid in finding practical resolutions to migration challenges. The organization also provides humanitarian support to migrants in distress, including refugees and internally displaced individuals. With the issue of

expulsion of aliens, IOM implements various programs aimed at assisting countries in conducting expulsion procedures fairly and humanely.

11. Possible Solutions

- To solve the problems faced by stateless individuals during and after expulsion, protection could be provided to these people by states. Granting them temporary or permanent residence status, or helping them to earn citizenship are possible solutions regarding the issue.
- Vulnerable individuals can be afforded protection through the establishment of specialized support mechanisms and provisions, such as legal assistance, counseling, accommodation, and related services.
- Legal aid programs can be established and strengthened to provide legal representation for aliens facing expulsion, ensuring that qualified legal professionals can offer guidance and assistance. Member States can also collaborate with relevant legal and non-governmental organizations to ensure the implementation of these legal aid programs.

12. Points to Cover

1. How could national security concerns and the protection of human rights be balanced?
2. How could the rights of stateless individuals facing expulsion be safeguarded?
3. What should be done to solve the problems faced by individuals who experienced expulsion?
4. How could existing international legal frameworks be improved?
5. How could family unity be safeguarded during expulsion?
6. How could the principle of non-discrimination be upheld during the expulsion of aliens to ensure fair treatment and respect for human rights?

7. What are the criteria and justifications for expelling an alien from a host state?
8. How could it be ensured that aliens facing expulsion are provided with access to legal representation and due process to protect their rights?
9. What alternatives to expulsion can be considered for addressing national security concerns?

13. Resources and Links for Future Research

<https://www.bbc.com/news/world-us-canada-58682998>

<https://www.bbc.com/news/world-south-asia-62467438>

<https://www.nytimes.com/2019/02/01/world/middleeast/hezbollah-lebanon.html>

<https://www.unrefugees.org/news/rohingya-refugee-crisis-explained/>

<http://encyclopedia.uia.org/en/problem/expulsion-immigrants-and-aliens>

<https://www.unhcr.org/us/media/29517>

https://www.echr.coe.int/documents/d/echr/fs_collective_expulsions_eng

https://legal.un.org/ilc/documentation/english/a_cn4_565.pdf

<https://www.jstor.org/stable/10.5305/amerjintelaw.107.1.0164?seq=14>

<https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/expulsion-aliens>

<https://www.jus.uio.no/english/services/library/treaties/01/1-02/ilc-draft-expulsion-aliens.html>

<https://harvardhrj.com/wp-content/uploads/sites/14/2016/06/Neuman.pdf>

<https://www.geneve-int.ch/international-organization-migration-iom-0>

https://www.ohchr.org/en/ohchr_homepage

<https://www.globalsecurity.org/wmd/library/news/israel/2020/israel-200824-voa01.htm>

<https://www.state.gov/other-policy-issues/statelessness/#:~:text=What%20Does%20It%20Mean%20To,an%20individual%20%E2%80%93%20in%20any%20country.>

<https://epdf.tips/gale-group-worldmark-encyclopedia-of-the-nations-united-nations.html>