

Forum: Legal Committee

Issue: Legality of the expulsion of resident foreigners

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Introduction

In recent years, debates surrounding immigration policies and the treatment of foreign residents have increasingly captured global attention. Different countries have been approaching these issues with multiple stances but their legality remains a contemporary question whose answer changes every day. The expulsion of foreign citizens should concern anyone living in this age since there are foreign residents in every part of the world and also anyone can become a resident of a foreign country at any time for any reason. The subject is not only complicated on a legal ground but also raises different questions such as political, economical, social and ethical ones. Governments are obliged to adapt various policies regarding the different situations that take place within their borders. This delicate and complicated matter also brings to light the conflicts between a state's international duties, individual rights, and national sovereignty.

Pre-existing laws and practices regarding the expulsion of foreigners continue to be the reason for many other challenges in a world where people are moving around more and more. Into the 21st century, the situation is only continuing to expand its areas of effect as the number of immigrants increase whether it would be for ecological, educational or political reasons (The Economist, 2023).

Apart from its intricate legal, political and social aspects, the removal of foreign residents is linked to broader concerns about worldwide migratory trends and humanitarian emergencies. Expulsion of foreign inhabitants can worsen precedent issues as individuals migrate for a number of reasons, including escaping war, environmental deterioration or economic opportunity. Expulsion of foreign residents is a worldwide topic since the international community is being called upon more and more to address the rights and protections of migrants and refugees. As a result, in evaluating the legality of expulsion policies, one must also take into account the ramifications for global migratory control as well as humanitarian duties.

As the number of foreign residents in every country changes every day, the power dynamics between them is also impacted. Therefore, it is crucial to note that actions taken in this framework may appear national but they definitely have an international effect. One policy adopted by one government can and will affect other governments. While navigating through this fragile matter, improving relationships between different states should preserve its place as a priority.

The issue relates to the Legal Committee with the practices and approaches that governments choose to adapt. Not all the policies or strategies implemented are legal or comply with fundamental rights. The committee should focus on creating ways of developing that are in line with a government's political stance and the rights of all its citizens.

Definition of Key Terms

Expulsion: “Expulsion” means a formal act or conduct attributable to a State, by which an alien is compelled to leave the territory of that State; it does not include extradition to another State, surrender to an international criminal court or tribunal, or the non-admission of an alien to a State. (Yearbook of the International Law Commission, 2014)

Removal: Also referred to as deportation or, sometimes, expulsion, the act, following a deportation, expulsion or removal order by which a State physically removes a non-national from its territory to his or her country of origin or a third country after refusal of admission or termination of permission to remain. (International Organization for Migration)

Immigration policy: Immigration policy includes all of those policies whereby states control the influx of persons who want to establish residence within their borders: rules regarding rights of access to the territory (entry and residence), permission to participate in the labor market (work permits), the rights of asylum seekers and refugees, the rights of immigrants to bring family members (family reunification), and rules for the acquisition of citizenship by immigrants and their family members (naturalization). (Sofia A. Perez, 2015)

Alien: “Alien” means an individual who does not have the nationality of the State in whose territory that individual is present, also named foreign resident. (Yearbook of the International Law Commission, 2014).

Citizenship: The particular legal bond between an individual and their State, acquired by birth or naturalization, whether by declaration, choice, marriage or other means according to national legislation. (European Commission)

Non-refoulement: The prohibition for States to extradite, deport, expel or otherwise return a person to a country where his or her life or freedom would be threatened, or where there are substantial grounds for believing that he or she would risk being subjected to torture or other cruel, inhuman and degrading treatment or punishment, or would be in danger of being subjected to enforced disappearance, or of suffering another irreparable harm. (International Organization for Migration)

Humanitarian visa: A visa granting access to and temporary stay in the issuing State for a variable duration to a person on humanitarian grounds as specified in the applicable national or regional law, often aimed at complying with relevant human rights. (International Organization for Migration)

General Overview

History of expulsion

Expulsion of foreign residents stems from a nation's sovereign power to refuse sanctuary to some foreigners while maintaining the right to deport those who are deemed undesirable. The 19th century saw a significant change in Europe as expulsion became a mechanism for controlling enormous migration movements rather than a politically driven tactic. This development took place outside of established legal structures. However, this would stretch the definition of expulsion, which usually involves government action or, at the least, acceptance of a *fait accompli*. (Durand, 2023)

As a result of growing refugee movements during the European Revolution, countries changed their asylum laws to allow for more expulsions. Streamlining expulsion proceedings by law was established in Belgium, the Netherlands, France, and Spain. The mid-1800s saw a sharp increase in expulsions, which led to diplomatic discussions between countries on which of the expelled people they would take.

Expulsion evolved into a strategy for controlling economic migration and choosing immigrants who were allowed to enter the country by the late 19th century. Reductions in border restrictions coincided with an increase in expulsions. During this time, the focus shifted from border enforcement to expulsion as a means of controlling migration. In nations such as Belgium and the Netherlands, expulsion emerged as the principal method of managing migration. In the latter half of the 20th century, authorities increased the number of expulsions as a means of controlling poverty migration.

In our day and world, the term foreign resident can represent individuals with many different situations such as permanent residents, temporary residents, refugees and asylum seekers, migrant workers, and undocumented immigrants. The legality of the policies held in our century is shaped by a combination of national laws, international agreements, and human rights considerations.

International Legal Framework

Every country has its own legal procedures for expelling resident foreigners. These procedures may vary depending on the conditions of residency, reasons or duration of stay. While the legal requirements may differ from country to country, all nations must comply with certain international laws and agreements.

The international legal framework governing the expulsion of resident aliens includes provisions derived from the main human rights instruments. Article 3 of the Convention against Torture prohibits the expulsion, return or extradition of persons to States where they would be in danger of being tortured, without exception for reasons of public security. The Committee on the Elimination of Racial Discrimination (CERD) makes its contribution by recommending that national laws on expulsion should not discriminate on grounds of race or ethnicity, by guaranteeing equal access to challenge

expulsion orders and by preventing the return of people to countries where they are at risk of serious human rights violations.

In addition, it is unlawful to expel a person in violation of the International Covenant on Civil and Political Rights (ICCPR) if it violates their fundamental rights, including the right to life and the prohibition of torture. According to the Human Rights Committee, the provisions of the ICCPR include protections against expulsion in situations where there is a risk of torture or other cruel treatment. The above-mentioned international treaties and Committee rulings are designed to safeguard the fundamental principles of human rights and defend the rights and dignity of every person, regardless of their immigration status.

Human Rights Implication

Since the expulsion of resident aliens violates a number of fundamental rights and principles recognized in international human rights law, it has a significant impact on the legitimacy of such actions. Principles including nondiscrimination, the right to a fair trial, protection from torture and other cruel treatment, and the right to a family life must all be respected during the expelling process. The total nature of protection against torture is demonstrated by the express prohibition of deportation from nations where individuals are at risk of torture, as stated in the Convention against Torture. Similar to this, expulsions that would result in the violation of basic rights—like the right to life or the prohibition against torture—are forbidden by the International Covenant on Civil and Political Rights. The International Covenant on Civil and Political Rights is understood by the Human Rights Committee to include protections against deportation in situations where there is a possibility of torture or other cruel treatment. Furthermore, the Committee on the Elimination of Racial Discrimination places a strong focus on the non-discrimination of expulsion proceedings, ensuring that every person, regardless of race, ethnicity, or country, receives equal treatment and protection. In general, respect for international legal norms is necessary to preserve the rights and dignity of every person, and the legality of expelling foreign residents is inextricably tied to the defense of human rights.

Major Parties Involved and Their Views

The United Kingdom

In the United Kingdom, the term "deportation" refers to the forced removal, by the Home Office, of foreign nationals who have committed offenses or who pose a threat to public safety. Administrative deportation is the consequence of not having a residence permit. There are two types of removal strategy: forced removal and consensual removal. Unlike voluntary departure, which allows people to leave to avoid future bans, forced removal is reserved for serious offenses or risks to national security. Prolonged sentences, repeat offenses or actions detrimental to the well-being of society as a whole can result in deportation. Although British nationals are often exempt, loss of citizenship can result in

deportation. The procedure includes notification, appeals and legal redress. Human rights violations, asylum seekers, family relationships, length of stay and medical issues are among the exceptions that allow people to challenge deportation and possibly remain in the UK.

The European Union

Both national and EU regulations govern the expulsion of foreign residents in the European Union. Expulsion policies generally have to protect fundamental rights, such as the right to privacy and family life. Within the EU, people have some rights regarding movement; nevertheless, expulsion is only possible in particular circumstances, usually when there is a grave threat to public safety or order. If a foreign national poses a threat to public health, public safety, or public policy, their removal may be taken into consideration. Due process, including the ability to appeal rulings, must be provided for in legal proceedings. Before expelling someone, certain conditions including length of stay, family relationships, and integration should be taken into account.

USA

The Due Process Clause of the Constitution, among other laws and court rulings, governs the legality of removing foreign residents in the United States. According to the Supreme Court's ruling, foreign nationals who are physically present in the nation are granted certain procedural rights prior to their expulsion under the Due Process Clause. More due process is offered via formal deportation procedures, which include hearings and chances to make a case. Nevertheless, depending on elements like links to the US and legal status, these safeguards may not always be as strong. The Court defers to Congress on restrictions for other kinds of aliens contesting their expulsion, even as it recognizes the right to due process for aliens with established links. Even with its extensive immigration jurisdiction, the Court aims to take into account national security and human rights considerations when making deportation judgments.

France

A foreign national who poses a severe threat to public order or state security may be administratively removed from France by being expelled. This order, which can be issued by the Prefect or the Interior Minister, could include being sent back to one's home country or abroad. There needs to be a rationale for this controlled, extraordinary operation. As determined by the authorities based on behavior, grounds for deportation include unlawful presence in France and a grave threat to public order. Family and medical relationships do not often provide absolute protection from deportation, however there are exceptions. The defense can be given during an expulsion commission hearing. Unless a court ruling forbids it, a forced return may occur if an expulsion judgment is made.

Timeline of Events

Pre-20th Century	Foreign residents were frequently expelled arbitrarily, at the whim of the ruling class, and with no monitoring or legal protection.
1948	The United Nations General Assembly adopts the Universal Declaration of Human Rights, which upholds the freedom of movement and residency within national borders as well as the ability to leave and return to any country, including one's own.
1951	Adoption of the Convention Relating to the Status of Refugees establishes the non-refoulement principle, which forbids sending refugees back to nations where their freedom or lives would be in danger.
1967	The 1951 Convention's time and geographic restrictions are lifted by the Protocol Relating to the Status of Refugees, allowing refugees outside of Europe to be covered by the original agreement.
1976	The International Covenant on Civil and Political Rights comes into effect, affirming everyone's right to protection from being forcibly removed from their own country and their right to apply for asylum in order to avoid persecution.
1990s	Protections against arbitrary expulsion for foreign residents inside their respective jurisdictions are reinforced by a number of regional human rights agreements, including the American Convention on Human Rights and the European Convention on Human Rights.
2000s-Present	With a focus on ensuring compliance with international human rights standards, such as the principle of non-refoulement and the prohibition of arbitrary detention and expulsion, legal challenges and court decisions in various nations continue to shape the interpretation and application of laws governing the expulsion of foreign residents.

UN Involvement

The involvement of the UN in this topic has mostly remained related to international law and human rights. This has been assured through different bodies, committees, and organizations. Here are some that have been useful in the past:

- Office of the United Nations High Commissioner for Human Rights (OHCHR): The OHCHR monitors, legally analyzes and promotes compliance with international human rights law to ensure that the expulsion of foreign residents is lawful. It supports the rights to a fair trial, freedom from prejudice and protection from unjust arrest and deportation. The OHCHR works with governments and civil society to promote awareness of the protection of the fundamental rights and dignity of everyone, regardless of immigration status, and to intervene in situations where rights are violated.
- United Nations Human Rights Council (UNHRC): The UNHRC assesses compliance with international human rights standards to ensure that the expulsion of foreign residents is legitimate. It examines the rights to a fair trial, to be free from prejudice and to be protected against unjust arrest and expulsion. It strives to protect the rights and dignity of every person, regardless of their immigration status, by interacting with Member States and raising public awareness.
- International Organization for Migration (IOM): IOM has already trained governments on the legality of expelling foreign residents, carried out legal analyses and provided technical assistance. It has worked with stakeholders to create and implement fair and open expulsion processes that comply with global human rights standards. The IOM has also promoted the defense of immigrants' rights and facilitated legal recourse for the parties concerned.
- Committee on the Elimination of Racial Discrimination (CERD): By reviewing State reports, investigations, and recommendations aimed at ending unfair expulsions, CERD has contributed to the legitimization of the expulsion of foreign nationals. It evaluates adherence to international human rights norms, including the rights to a fair trial and nondiscrimination. By holding countries responsible for discriminatory acts, CERD promotes the defense of the rights and dignity of every individual, regardless of race or nationality.

Relevant UN Documents

- Resolution adopted by the General Assembly - Expulsion of aliens (10 December 2014, A/69/498)
- Expulsion of aliens : Resolution / Adopted by the General Assembly (7 December 2023, A/RES/78/110)
- Expulsion of aliens : Resolution / Adopted by the General Assembly (16 December 2020, A/RES/75/137)
- Expulsion of aliens : Resolution / Adopted by the General Assembly (8 December 2017, A/RES/72/117)
- Draft Report on the International Law Commission on the Work of its 57th Session - Expulsion of Aliens (20 July 2005, A/CN.4/L.674)

Evaluation of Previous Attempts to Resolve the Issue

Numerous international initiatives have been made to address the legality of removing foreign citizens; notable instances of these attempts may be found in a number of treaties, conventions, and institutions.

First, the rights and obligations of refugees and States are outlined in the 1951 Convention relating to the Status of Refugees, which was drafted by the United Nations. It expressly forbids deporting or sending refugees back to nations where their freedom or lives would be in danger due to their ethnicity, religion, nationality, affiliation with a certain social group, or political beliefs.

Second, guidelines for the defense of human rights in Europe are established by the European Convention on Human Rights (ECHR). While Article 8 ensures respect for private and family life, Article 3 forbids torture and cruel or humiliating treatment. Countries where people are at risk of receiving such treatment can benefit from these measures, which provide protection against deportation.

Thirdly, the United Nations convention known as the International Covenant on Civil and Political Rights (ICCPR) forbids arbitrary expulsions and ensures that everyone has access to a meaningful remedy in the event that they are taken. This clause aims to guarantee that those facing expulsion have access to the legal systems in order to contest the ruling.

Lastly, a number of regional agreements, such those of the Organization of American States and the African Union, together with extra procedures, have been established to govern the eviction of foreign nationals from these particular regions.

In order to defend foreign residents' fundamental rights against arbitrary or violent deportations, these international efforts aim to create universal and legally enforceable norms. This will support the advancement of social justice and human dignity on a worldwide level.

Possible Solutions

A balanced approach must be taken to the legality of removing foreign residents, taking into account both the legitimate interests of the State and the fundamental rights of each individual. Ensuring compliance with human rights standards and international law is one possible solution. Governments should respect agreements and treaties, such as the International Covenant on Civil and Political Rights and the Convention relating to the Status of Refugees, which prohibit sending people to countries where they are at risk of serious harm or persecution.

It is imperative to have transparent and unambiguous standards for expulsion. Transparent standards that clearly define the conditions under which foreign residents can be expelled can help prevent

arbitrary judgements and ensure that expulsions take place for justifiable reasons, such as breaches of immigration law or threats to national security.

Ensuring legal safeguards and due process rights is also essential. Foreign nationals who are about to be expelled have to be entitled to a fair trial, access to legal counsel, and appeal channels. Ensuring procedural fairness can protect people from being expelled without cause and guarantee that decisions are made legally.

Investigating alternatives to expulsion is an additional option. For example, foreign residents who have committed minor misdemeanors or immigration infractions may be subject to probation, community service, or expulsion with conditions. Without using expulsion, these actions can address fundamental concerns in a more reasonable and efficient manner.

The necessity for deportation can be reduced by funding integration initiatives and assistance for non-citizens. Offering them access to healthcare, language training, job training, and cultural orientation programs might help them integrate into society and lessen the possibility of immigration-related problems.

International collaboration is essential. Together, we can address the underlying causes of migration and advance sustainable, compassionate solutions. Examples of such collaborative initiatives include exchanging best practices, coordinating migration policies, and offering support to nations under heavy migratory pressure.

Finally, putting processes in place for accountability and monitoring is essential. The establishment of independent oversight bodies, documentation guidelines, and accountability structures helps ensure that dismissals are conducted lawfully and in accordance with human rights standards. By putting in place a thorough and rights-based plan, governments may effectively handle the legality of expelling foreign nationals while adhering to their obligations under international law and protecting everyone's rights.

Notes from the Chair

It is important for delegates to do specialized research after reading this report. As it is a legal matter, every delegate needs to know in detail the position of the nation that they represent. International affairs that they will need to know in order to come to a common ground is presented in this report. As for further research, delegates can read more on the subjects in which they are more interested in. The UN has a variety of documents about this issue, unfortunately they all can not be resumed into this report. To have more information on the humanitarian side of the topic, delegates can look into [UNHCR's website](#) or [OHCHR's website](#). Finally, when trying to find solutions to the problem, it is important to remember that they must respect the vast majority of laws in force in most countries.

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