



**Statement by Mr. Mahdad Fallah Assadi  
Representative of the Islamic Republic of Iran  
Before the Sixth Committee of the 78th Session  
of the United Nations General Assembly  
On agenda item 81  
“Expulsion of aliens”  
New York, 2 November 2023**

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

**Mr. Chairman,**

“Expulsion of aliens” is a significant topic of international law that is simultaneously concerned with the sovereign prerogative of States and the human rights obligations of States towards non-nationals in their territories.

My delegation reiterates its position which was previously presented in the final work of the Commission at the 72<sup>nd</sup> session of the General Assembly.

My delegation considers it premature to convene a diplomatic conference on the elaboration of a convention and for that we express the following:

**First**, the sensitivity and significance of the matter under consideration requires that the provisions of the draft Convention be based on *lex lata* rather than *lex ferenda*. However, the Commission has gone beyond customary and treaty law in codifying the draft articles and has engaged in the progressive development of international law in which State practice remains limited.

**Second**, legally speaking, a State not only has the right to expel aliens on its territory who pose a threat to its national security or public order but also the right to determine the components of those two concepts in its national laws or regulations. It is therefore unnecessary to draw up an exhaustive list of grounds



that may be invoked to justify the expulsion of aliens, as States do not always have an obligation to specify the grounds for expulsion.

This is certainly without prejudice to the legal fact that expulsion must be conducted with due respect for the fundamental human rights of the person being expelled. The property rights of all persons subject to expulsion must also be respected and guaranteed by the authorities of the expelling State.

**Third**, with respect to appeal against expulsion, it is noteworthy that many national laws make no provision for such appeals, and that there is serious doubt around the existence of customary rules in that area. The right of return to the expelling State cannot be recognized in the case of aliens who were unlawfully on its territory prior to the expulsion. Granting such a right would imply recognition of an acquired right of residence in the territory of a foreign State, something which is unknown in State practice. The Commission, by granting unlawful aliens the right to challenge an expulsion decision, has also gone beyond existing treaty and customary law. Accordingly, equal treatment towards lawful and unlawful aliens present in a State's territory could create an incentive for illegal immigration. Draft article 27 (Suspensive effect of an appeal against an expulsion decision) is also unacceptable because it constituted progressive development without a minimum basis in uniform or convergent State practice.

**Mr. Chairman,**

In light of the aforementioned observations and our previous comments in the 72<sup>nd</sup> Session of the GA, we are of the view that the final product of the Commission could serve as a guideline in inter-State cooperation and national legislative measures regarding expulsion of aliens.

**Thank you.**