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Repairing the Consequences of Ethnic Cleansing

John Quigley*

In situations of international or civil war, population groups depart from their home areas. Typically, they depart in order to avoid danger. They may depart because one of the warring parties instills in the population a fear that it will harm them if they remain. A warring party may organize the departure, literally or figuratively at gunpoint. A warring party may demonstratively shoot and kill individuals to let others know that it is unsafe to remain. Less explicitly, it may communicate to the population group information that leads the group to believe that it is unsafe to remain, for example, by reminding the group of atrocities that the warring party has committed in the past.

When a warring party brings about the departure of a population group, the term "ethnic cleansing" applies to its action. Unfortunately, this phenomenon of ethnic cleansing has been a feature of many recent conflicts, as one population group seeks to exert control over territory to the exclusion of another. Experts appointed by the United Nations ("U.N.") Security Council to analyze the phenomenon¹ defined ethnic cleansing as "rendering an area ethnically homogeneous by using force or intimidation to remove persons of given groups from the area,"² and as "a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographic areas."³ The Security Council determined by resolution that ethnic cleansing was occurring in the former Yugoslavia and found that ethnic cleansing there constituted "a threat to international peace and security."⁴

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1. S.C. Res. 780, U.N. SCOR, 47th Sess., 3119th mtg., U.N. Doc. S/RES/780 (1992); S.C. Res. 787, U.N. SCOR, 47th Sess., 3137th mtg., U.N. Doc. S/RES/787 (1992).

2. Letter dated from the Secretary-General to the President of the Security Council, (Feb. 9, 1993); Annex, Interim Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), January 26, 1993, at 16, U.N. Doc. S/25274 (1993).

3. Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), U.N. SCOR, Annex, at 3, 33, U.N. Doc. S/1994/674 (1994) [hereinafter "Final Report"].

4. S.C. Res. 808, preambular ¶¶ 6, 7, Res & Decs 28, U.N. Doc. S/INF/49 (1994); see also S.C. Res.

The term “ethnic cleansing” has not entered the legal lexicon. It is used descriptively, but it does not have a normative meaning. Acts described as ethnic cleansing may include deportation, which is prohibited internationally, although deportation need not involve an ethnic element. The projected International Criminal Court is to have jurisdiction over what is defined as a crime of deportation.⁵ Article 7(1)(d) of the draft Elements of Crimes, prepared by the Preparatory Committee for the International Criminal Court, is titled “Crime against humanity of deportation or forcible transfer of population.”⁶ Article 7(1)(d)(1) defines the crime as follows: “the perpetrator deported or forcibly transferred, without grounds permitted under international law, one or more persons to another state or location, by expulsion or other coercive acts.”⁷ The draft provides a definition of the term “forcibly” that indicates that force is “not restricted to physical force, but may include threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression, or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment.”⁸ Other subparagraphs of Article 7(1)(d) require, additionally, that the conduct was part of a widespread or systematic attack against a civilian population, and that the victims must be lawfully present in the area from which they are deported or transferred.⁹

Acts of ethnic cleansing may constitute genocide, if the elements defined in the Genocide Convention are present.¹⁰ These acts would typically be acts of violence directed against a group that frighten members of the group into fleeing. The International Court of Justice found a *prima facie* case of genocide in 1993 in acts of violence against Bosnian Muslims that prompted many to flee.¹¹

The international community has reacted to the phenomenon of ethnic cleansing in a number of ways. One has been to impose individual penal responsibility at the international level on the perpetrators, as reflected in the inclusion of the crime of deportation in the list of crimes cognizable before the

827, ¶¶ 3, 4 (expressing alarm at “reports of mass killings, massive, organized and systematic detention and rape of women, and the continuance of the practice of ‘ethnic cleansing,’ including for the acquisition and the holding of territory.”)

5. Statute of the International Criminal Court, U.N. Doc. A/CONF.183/9 (1998), 37 I.L.M. 999 (1998).

6. U.N. Preparatory Commission for the International Criminal Court, Addendum: Finalized draft text of the Elements of Crimes, Article 7(1)(d), U.N. Doc. PCNICC/2000/1/Add.2 (Nov. 2, 2000).

7. *Id.*

8. *Id.*

9. *Id.*

10. Convention on the Prevention and Punishment of the Crime of Genocide, arts 2-3, 78 U.N.T.S. 277 (1951).

11. Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro)*), 1993 I.C.J. 3 (order of April 8, 1993); *id.* at 325 (order of September 13, 1993).

International Criminal Court.¹² Individuals may, on occasion, be brought to justice in penal proceedings for expelling a population.¹³ Such proceedings may exert a deterrent impact on the future perpetration of such acts. Repairing the consequences of an episode of ethnic cleansing, however, can most effectively be achieved by enlisting the states involved and in particular those states from whose territory persons have been displaced. Where an episode of ethnic cleansing has occurred, the predominant approach has been to insist that the state from which displacement occurred offer repatriation to the displaced. This approach has been based on two rationales. The first is that the displaced are legally entitled to reside in their home areas and that the state in control of the territory is obliged to repatriate them. The second is that the existence of an exiled population may remain a source of instability and therefore that the restoration of peace requires repatriation.

A. *Repatriation as a Matter of Right*

The U.N. Security Council has deemed repatriation to be legally required following displacement in a military conflict. In the face of a substantial outflow of Georgians from the Abkhazia region of former Soviet Georgia, the Council called on local authorities to repatriate the displaced Georgians. It referred to “the right of all refugees and displaced persons affected by the conflict to return to their homes in secure conditions in accordance with international law.”¹⁴

In the Balkans conflict, repatriation was likewise deemed to be legally required.¹⁵ In a resolution on Kosovo, the U.N. Security Council spoke of “the right of all refugees and displaced persons to return to their homes in safety.”¹⁶ Regarding Serbs displaced from the Eastern Slavonia region of Croatia, the Council similarly characterized return as a matter of right, insisting that Croatia “in conformity with internationally recognized standards . . . respect fully the rights of the local Serb population including their rights to remain, leave or

12. See *supra* notes 5-8.

13. International Criminal Tribunal for Former Yugoslavia, Initial Indictment (Radovan Karadzic and Ratko Mladic), July 24, 1995, para 25 (charging “deportation”). To date, the two indictees have not been arrested.

14. S.C. Res. 971, U.N. SCOR, 50th Sess., 3488th mtg., U.N. Doc. S/RES/971 (1995); see also S.C. Res. 993, U.N. SCOR, 50th Sess., 3535th mtg., U.N. Doc. S/RES/993 (1995); S.C. Res. 1065, U.N. SCOR, 51st Sess., 3680th mtg., U.N. Doc. S/RES/1065 (1996).

15. Eric Rosand, *The Right to Return Under International Law Following Mass Dislocation: The Bosnia Precedent?*, 19 MICH. J. INT’L. L. 1091 (1998).

16. S.C. Res. 1244, U.N. SCOR, 54th Sess., 4011th mtg., U.N. Doc. S/RES/1244 (1999).

return in safety . . . [and] create conditions conducive to the return of those persons who have left their homes.”¹⁷

In a follow-up resolution on the Serbs displaced from Croatia, the Council demanded that Croatia “respect fully the rights of the local Serb population including their right to remain or return in safety.”¹⁸

Repatriation must be offered by the territorial state even if the circumstances of departure did not amount to ethnic cleansing. Any displaced group is entitled to return to its home area.¹⁹ Under customary law, a state is required to re-admit its nationals.²⁰ Clearly, however, the principle of international law that requires a state to re-admit its nationals and persons entitled to its nationality covers those who have been forced out via ethnic cleansing.

Even if sovereignty changes, as sometimes occurs during a conflict, the new sovereign is required to offer repatriation to the displaced, as was recently confirmed by the International Law Commission. According to the International Law Commission’s Draft Articles on Nationality of Natural Persons in Relation to the Succession of States, nationals of a predecessor state whose “habitual residence [is] in the territory affected by the succession of States are presumed to acquire the nationality of the successor state on the date of such succession.”²¹ The Draft Articles provide, further, that a person’s status as a habitual resident “shall not be affected by the succession of States,” and to that end, the successor state “shall take all necessary measures to allow persons concerned who, because of events connected with the succession of States, were forced to leave their habitual residence on its territory to return thereto.”²²

In formulating these propositions, the International Law Commission was restating what it understood to be customary international law. Affirmance of a right to be repatriated is found in major human rights instruments as well. The Universal Declaration of Human Rights provides, “Everyone has the right to leave any country, including his own, and to return to his country.”²³ The International Covenant on Civil and Political Rights provides, “[n]o one shall be arbitrarily deprived of the right to enter his own country.”²⁴ The International Convention on the Elimination of All Forms of Racial Discrimination provides that a state may not deny, on racial or ethnic grounds,

17. S.C. Res. 1009, U.N. SCOR, 50th Sess., 3563rd mtg., U.N. Doc. S/RES/1009 (1995).

18. S.C. Res. 1019, U.N. SCOR, 50th Sess., 3591st mtg., U.N. Doc. S/RES/1019 (1995).

19. John Quigley, *Mass Displacement and the Individual Right of Return*, 68 BRIT. Y.B. INT’L L. 65, 67-82 (1997).

20. *Id.* at 67-68.

21. *Report of the International Law Commission on the Work of its Fifty-First Session: Draft Articles on Nationality of Natural Persons in Relation to the Succession of States*, U.N. GAOR, 54th Sess., Supp. No. 10, art. 5, U.N. Doc. A/54/10 (1999).

22. *Id.* at art. 14.

23. Universal Declaration of Human Rights, G.A. Res. 217(A), U.N. Doc. A/810, at 71 (1948).

24. International Covenant on Civil and Political Rights, 1976, art. 13, ¶ 2, 3d Sess., Res. 71, ¶ 4, 999 U.N.T.S. 171.

the opportunity "to return to one's country."²⁵ The U.N. Commission on Human Rights used the language of right in a resolution on the Arabs displaced from Palestine in the Middle East hostilities of 1948 and 1967. The U.N. Commission "[r]eaffirm[ed] the inalienable right of the Palestinians to return to their homeland, Palestine, and their property, from which they have been uprooted by force."²⁶

B. Repatriation in Peace Agreements

The U.N. Security Council has at times acted on these matters while exercising its powers under U.N. Charter Chapter VII, which gives it the role of ensuring international peace. While it has viewed repatriation as a matter of right, it has also viewed repatriation as a necessary element in bringing peace. Article 39 of Chapter VII enjoins the Security Council to resolve conflict situations and to take measures necessary to "restore international peace and security."²⁷

One rationale for seeking repatriation is that so long as there are populations of exiles from a conflict area, stability cannot be assured. Repatriation of the displaced has been included as an element in peace arrangements, if the displaced remained outside at the time of such arrangements. The Dayton agreement on Bosnia is an example. Strongly promoted by the U.N. Security Council, the Dayton agreement provides: "All refugees and displaced persons have the right freely to return to their homes of origin. . . . The Parties confirm that they will accept the return of such persons who have left their territory, including those who have been accorded temporary protection by third countries."²⁸

Similarly with Eastern Slavonia, the U.N. Security Council promoted the conclusion of an agreement whereby Serbia and Croatia agreed that "[a]ll persons have the right to return freely to their place of residence in the region and to live there in conditions of security."²⁹

When repatriation following a peace agreement has not gone smoothly, the U.N. Security Council has insisted on proper implementation. Following the Dayton agreement on Bosnia, many potential returnees experienced difficulty

25. International Convention on the Elimination of All Forms of Racial Discrimination, Jan. 4, 1969, art. 5(d)(ii), 660 U.N.T.S. 195.

26. *Situation in Occupied Palestine*, Commission on Human Rights, E.S.C. Res. 1987/4, art. 2, U.N. ESCOR, 43rd Sess., Supp. No. 5, at 20, U.N. Doc. E/1987/18, E/CN.4/1987/60 (1987).

27. U.N. CHARTER art. 39, ch. 2.

28. General Framework Agreement for Peace in Bosnia and Herzegovina: Annex 7: Refugees and Displaced Persons, art. 1, Dec. 14, 1995, 35 I.L.M. 75, 136 (1996) [hereinafter *Dayton Agreement*].

29. Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium, art. 7, 35 I.L.M. 186 (1996).

in returning, either in the form of physical violence against them or in the form of a refusal of local authorities to allow them to re-occupy their homes and properties. Many of the homes of the displaced had been given to other local families by local governments on a temporary basis, and thus the repossession by the owners involved the eviction of the temporary possessors.³⁰ The Security Council called on the relevant authorities to assure that returnees would be accommodated in safety.³¹

C. Repatriation Prior to a Peace Agreement

Even though the U.N. organs have advocated the inclusion of repatriation clauses in peace agreements, they have not hesitated to call for immediate repatriation in advance of a peace agreement. Turkey's 1974 intervention in Cyprus generated a flight of Greek Cypriots out of northern Cyprus and of Turkish Cypriots out of southern Cyprus. The U.N. General Assembly resolved "that all the [Cypriot] refugees should return to their homes in safety" and called upon the parties concerned "to take urgent measures to that end."³² The U.N. Security Council endorsed the General Assembly's call.³³ When repatriation was not forthcoming, the U.N. General Assembly "call[ed] for respect of the human rights of all Cypriots and the instituting of urgent measures for the voluntary return of the refugees to their homes in safety."³⁴ At the time, it was apparent that a political solution of the overall conflict in Cyprus was not at hand. The Security Council and the General Assembly viewed repatriation as required on an immediate basis.

Similarly in Namibia, which was enmeshed in warfare aimed at independence from South Africa, the U.N. Security Council urged repatriation even as hostilities continued, calling on South Africa to "accord unconditionally to all Namibians currently in exile for political reasons full facilities for return to their country."³⁵ In the face of a large-scale displacement of Arabs from Israel in 1948, the U.N. General Assembly resolved that Palestinians "wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date."³⁶ The U.N. General Assembly made this call in December 1948, at a time when there was no prospect of an early peace settlement between Israel and neighboring Arab states. The U.N. General Assembly viewed repatriation as an immediate obligation of Israel.³⁷

30. Rosand, *supra* note 15, at 1101-1105.

31. S.C. Res. 1088, ¶ 11, U.N. SCOR, 51st Sess., U.N. Doc. S/RES/1088 (1996).

32. G.A. Res. 3212, U.N. GAOR, 29th Sess., Res. 3, U.N. Doc. A/9631 (1974).

33. S.C. Res. 365, U.N. SCOR, 29th Sess., Res. & Decs. 11, U.N. Doc. S/INF/30 (1975).

34. G.A. Res. 37/253, U.N. GAOR, 37th Sess., Supp. No. 51, at 48, U.N. Doc. A/37/51 (1983).

35. S.C. Res. 385, ¶ 11(d), U.N. SCOR, 31st Sess., Res. & Decs. 8, U.N. Doc. S/INF/32 (1976).

36. G.A. Res. 194, ¶ 11, U.N. GAOR, 3d Sess., Res. 21, U.N. Doc. A/810 (1948).

37. SALLY V. MALLISON & W. THOMAS MALLISON, *THE PALESTINE PROBLEM IN INTERNATIONAL LAW AND WORLD ORDER* 179 (1986) (stating that Resolution 194 was "written on the assumption that

In 1967, when Arabs were again displaced from Palestine during hostilities, the U.N. Security Council called on Israel to "facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities,"³⁸ and the U.N. General Assembly did the same, calling on Israel "to take effective and immediate steps for the return without delay of those inhabitants who have fled the areas since the outbreak of hostilities."³⁹ At that time as well, it was apparent that peace in the region was not at hand. Yet the U.N. organs viewed repatriation as immediately required.

Repatriation has been pursued even in circumstances of extreme political instability in the areas from which displacement occurred. The international community has not, to be sure, sought repatriation while conditions were so fraught with danger as to be a risk to the lives of those who would be repatriated. If returnees could not return safely, then their return has not been sought. The U.N. Security Council has, however, called on the state from which displacement occurred, and even on rebel groups in cases of civil war, to create conditions under which the displaced may return safely.

For example, responding to civil warfare in Tajikistan that had led many Tajiks to flee abroad, the U.N. Security Council called on the contending Tajik parties to arrange "the voluntary return, in dignity and safety, of all refugees and displaced persons to their homes."⁴⁰ In the case of Bosnia, the U.N. Security Council stated that "all displaced persons have the right to return in peace to their former homes"⁴¹ and "insist[ed] that all displaced persons be enabled to return in peace to their former homes."⁴² Thus, repatriation has been pursued even where safe conditions are absent but where there is a possibility of creating safe conditions.

D. The Practicality of Repatriation

The remedy of repatriation may confront difficulties of practicality. Often following a mass displacement, the character of the territory changes. A new population group may occupy the homes and lands of the displaced. Tension between the displaced and the group presently in occupation may be strong. These circumstances create pressure to settle the displaced outside their home areas.

the principle of right of return was not in issue and that the central task was achieving practical implementation of repatriation.")

38. S.C. Res. 237, U.N. SCOR, 22nd Sess., Res. 5, U.N. Doc. S/INF/22/Rev.2 (1967).

39. G.A. Res. 2452A, U.N. GAOR, 23rd Sess., Supp. No. 18, at 21, U.N. DocA/7218 (1969).

40. S.C. Res. 999, ¶ 8, U.N. SCOR, 50th Sess., 3544th mtg., U.N. Doc. S/RES/999 (1995).

41. S.C. Res. 779, ¶ 5, U.N. SCOR, 47th Sess., 3118th mtg., U.N. Doc. S/RES/779 (1992).

42. S.C. Res. 787, ¶ 2, U.N. SCOR, 47th Sess., 3137th mtg., U.N. Doc. S/RES/787 (1992).

Two instances in which resettlement elsewhere resulted are sometimes viewed as examples of successful non-repatriation where population groups could not live peacefully together. These instances are population exchanges arranged after World War I between Greece and Bulgaria and between Greece and Turkey. The major powers of the day had a hand in arriving at these arrangements. A 1919 Greece-Bulgaria treaty provided for the transfer of ethnic Greeks in Bulgaria to Greece, and of ethnic Bulgarians in Greece to Bulgaria. However, the treaty provided that no one would be compelled to leave to the other state unwillingly.⁴³ Since the treaty did not require anyone to resettle, it is not an example of a refusal to repatriate.

A 1923 treaty between Greece and Turkey provided for an exchange of Greek inhabitants of Turkey to Greece and of Turkish inhabitants of Greece to Turkey.⁴⁴ Unlike the Greece-Bulgaria agreement, no stipulation was concluded about the consent of the individuals involved, and many were transferred against their will.⁴⁵ The 1923 treaty was concluded, however, not on the basis of the advisability of separating the two population groups, but rather as a matter of expediency. By the time the treaty was concluded, Turkey had unilaterally expelled many Greeks and was showing no disposition to repatriate them. A Four-Power statement of World War I allies indicated support for the treaty, on the ground that it represented the "most efficacious way of dealing with the grave economic results which must result from the great movement of populations which has already occurred."⁴⁶ This was a reference to fact that the Greeks whom Turkey had expelled had no means of livelihood in Greece, and that if Turks were forced out of Greece, land would be made available to these Greek transferees.

Although the treaty provided for the compulsory transfer of Turks to Greece and prohibited the departed Greeks from returning to Turkey, it did not represent a view of the major powers of the propriety of repatriation elsewhere as a method of resolving an episode of ethnic cleansing. It represented rather a way to cope with what was acknowledged to be a wrong already committed by Turkey in expelling Greeks. One analyst referred to the forced transfer of Turks from Greece under the treaty as "compensation" gained by Greece for

43. Interpretation of the convention between Greece and Bulgaria respecting Reciprocal Emigration, signed at Neuilly-sur-Seine on November 27, 1919 (Question of the "Communities"), 1930 P.C.I.J. (ser. B), no. 17 (adv. op.) at 19 (noting that the Greek Bulgarian agreement contemplated voluntary emigration only).

44. Convention concerning the Exchange of Greek and Turkish Populations (Lausanne), Jan. 30, 1923, art. 1, 32 L.N.T.S. 75.

45. *Id.* ("As from the 1st May, 1923, there shall take place a compulsory exchange of Turkish nationals of the Greek Orthodox religion established in Turkish territory, and of Greek nationals of the Moslem religion established in Greek territory. These persons shall not return to live in Turkey or Greece respectively without the authorisation of the Turkish Government or of the Greek Government respectively.")

46. STEPHEN P. LADAS, THE EXCHANGE OF MINORITIES: BULGARIA, GREECE, AND TURKEY 338 (1932).

Turkey's prior forcible expulsion of Greeks.⁴⁷ Lord Curzon in particular said of the treaty that he regretted the compulsory character of the mutual transfer, calling it "a thoroughly bad and vicious solution, for which the world would pay a heavy penalty for a hundred years to come."⁴⁸

Despite the practical difficulties, repatriations have been carried out. Tajiks displaced during civil warfare of the 1990s were repatriated to Tajikistan.⁴⁹ Repatriation has proceeded even when it threatened civil stability. In Rwanda, repatriation was carried out following the end of civil warfare, although it was apparent that repatriation would engender renewed violence. Hutus were repatriated even though many of them had participated in atrocities against Rwanda's Tutsi population. Incidents of the killing of Tutsi by returned Hutus occurred.⁵⁰

Even after the passage of a considerable period of time, repatriation may be achieved. In 1995, Lennart Meri, President of Estonia, offered to repatriate Baltic Germans (including descendants) who had been forced out of Estonia and Latvia under 1939 Soviet-German agreements.⁵¹ Thousands of Crimean Tatars were forced out of Crimea in 1944. They were repatriated in the 1990s, even though their original population centers in many instances no longer existed, and despite an influx of others during the intervening half century.⁵²

E. Dangers of Non-repatriation

Although repatriation presents difficulties, non-repatriation does as well. Resentment may survive for a long period and engender conflict. An example is the Sudeten Germans. Several million Germans were expelled from the Sudeten area of Czechoslovakia from 1945 to 1946. They sought repatriation by Czechoslovakia, and, since the breakup of Czechoslovakia, by the Czech

47. E. Reut-Nicolussi, *Displaced Persons and International Law*, 1948 (II) *Recueil des cours* (Hague Academy of International Law) 1, 29.

48. LADAS, *supra* note 46, at 341.

49. S.C. Res. 1030, ¶ 14, U.N. SCOR, 50th Sess., U.N. Doc. S/RES/1030 (1995) (noting success in repatriating persons displaced from Tajikistan during civil war).

50. James C. McKinley Jr., *Searching in Vain for Rwanda's Moral High Ground*, N.Y. TIMES, Dec. 21, 1997, (Week in Review) at D3.

51. *Neubauer Welcomes Estonian President's Call as Model for Czechs*, Czech News Agency, CTK NATIONAL NEWS WIRE, Oct. 10, 1995 (available in NEXIS, News library).

52. V.M. Broshevan, *Deportatsiia: zhitelei Kryma* [The Deportation of the Residents of Crimea], in *Krims'ki Tatari: Istoriia i suchasnist'* (do 50-richchia deportatsii Krims'kotatars'kogo narodu): *materiali mizhnarodnoi naukovoii konferentsii, Kiiiv, 13-14 travnia 1994 r.* [The Crimean Tatars: History and the Present Day (towards the 50th anniversary of the deportation of the Crimean Tatar people): materials of the International Scholarly Conference, Kiev, 13-14 May 1994] 44 (I. Kuras ed. 1995).

Republic. They have constituted themselves a strong lobby group to demand repatriation.⁵³

Efforts by a displaced group to return may survive attempts by the state of displacement and the state of refuge to resettle the group rather than repatriate it. The case of the Sudeten Germans again provides an example. In 1997, by a joint declaration of Germany and the Czech Republic, Germany expressed regret for occupying Czech territory in 1938, and the Czech Republic expressed regret for expelling the Sudeten Germans. The declaration indicated that Germany would not pursue claims on behalf of the Sudeten Germans, and that Germany would support the Czech application for membership in the European Union.⁵⁴ In 1999, however, even though Germany and the Czech Republic had appeared to put the matter to rest, it was raised in the European Parliament, in connection with the Czech application for admission to the European Union. The European Parliament adopted a resolution calling on the Czech Republic to repeal the expulsion decrees of 1945 to 1946 as a condition of admission to the European Union.⁵⁵ The European Parliament viewed the Czech refusal to readmit the Sudeten Germans as a violation of human rights.

The attachment of people to territory is typically quite strong. Even in an age of globalization and instantaneous communication, displaced population groups have insisted on repatriation, seeking a community of persons from which they have been torn. International practice and human rights principles have given voice to these aspirations. The strength of the attachment may vary from one people to another and among individuals within a particular population group. The attachment is viewed by international law as worthy of respect, even when repatriation may cause considerable inconvenience to the territorial state or its population.

International law may well impose limits on the lengths to which other states can go, either individually or collectively, in order to effectuate repatriation of a displaced population group. In particular, action involving the use of force is subject to the provisions of international law relating to the circumstances under which, and the procedures by which, military action may be taken against a state.⁵⁶ Although that issue is beyond the scope of the present discussion, the general principle emerges clearly: namely, that states from which population groups have been evicted are under an obligation to repatriate. In dealing with conflict situations, the international community has made it clear that repatriation is a matter of right and a necessary component of restoring the peace.

53. Craig R. Whitney, *Germans and Czechs Try to Heal Hatreds of the Nazi Era*, N.Y. TIMES, Jan. 22, 1997, at A3.

54. *Id.*

55. *European Parliament Calls for Quick Admission of New Members*, CTK CZECH NEWS AGENCY, April 16, 1999 (available in 1999 WL 15623973).

56. See, e.g., Mary Ellen O'Connell, *The UN, NATO, and International Law After Kosovo*, 22 HUM. RTS. Q. 57 (2000), (arguing that the 1999 NATO military action against Serbia to secure the repatriation of Kosovar Albanians was not lawful).