

REPUBLIC OF KAZAKHSTAN: NEGLECTING REFUGEES, ENGENDERING STATELESSNESS

In multi-ethnic Kazakhstan, while the situation for refugees is tenuous, that of stateless persons remains unknown. This obscurity has less to do with the relatively small numbers of persons affected than with timid legislation, inadequate implementation of the more than 40 international conventions that the country is party to, and the practical implications of these shortcomings.

Background

In the post-Soviet land grab, independent nations sprung up in alien shapes that have been compared to puzzle pieces. While the territory of Kazakhstan is more coherent than some of its Central Asian neighbors, its border slices through once-discrete communities, effectively cutting off Chinese Uighur communities in the east and formerly unified communities of Kazakh, Uzbek and Kyrgyz in the south. In addition, Stalin's practice of mass displacement left groups of peoples of ethnic minorities isolated from their historical homelands with Soviet passports destined to become obsolete.

1. A Discriminatory and Convoluted Process of Naturalization

With the rise of independent states came a rise in nationalism and subsequent discrimination against ethnic minorities. While according to its 1991 law on citizenship, every person residing on the territory of Kazakhstan has the right to apply for naturalization, the process favors ethnic Kazakhs and effectively, though not overtly, bars other ethnicities from gaining citizenship.

Convoluted bureaucratic procedures, unchecked corruption within the relevant agencies and a requirement that applicants, excluding ethnic Kazakhs, prove financial solvency to a minimum of KZT 1,400,000 (approximately U.S. \$11,700) make pursuing the application process an exercise in futility. One woman seeking to regularize her status was instructed at the passport desk, "Bring us money, and we can make it happen," while another was reportedly told that the main obstacle to her application was her insistence on doing it all legally.

Coupled with the difficulty, expense and time required to gain citizenship, the previous requirement that applicants renounce their current citizenship at the outset of the process engendered a form of de facto statelessness. Though applicants are issued residence permits, which technically gives them the right to work and to access public services, they cannot vote and job opportunities are limited by shrinking quotas for foreign workers and employers who are willing to complete additional forms and pay higher tax rates.

These problems plagued even ethnic Kazakhs in the program for *Oralman* (literally, returnee), who repatriated upon invitation of the government and under its sponsorship. Many later had no choice but to return to their surrogate home countries. Though the requirement to renounce citizenship was amended for *Oralman* in 2002, only in the past year has the bureaucratic backlog been cleared to the point that *Oralman* are no longer considered to be a population at risk of statelessness.

2. Counting the Unrecognized

The number of stateless individuals in Kazakhstan is not known, and estimates vary widely. The government reports 7,538 persons without

Policy Recommendations

1. The Republic of Kazakhstan refrain from refoulement; adopt a comprehensive refugee law; and ensure due and equal process for all refugee applicants.
2. UNHCR more actively monitor refugee protection and statelessness, including implementing timely third country resettlement, and systematically assess the denial of citizenship.
3. Third country governments expedite resettlement to reduce risk of human rights abuses and the creation of statelessness.

citizenship from countries of the Commonwealth of Independent States and 449 from other countries registered as stateless. The actual number is believed to be higher. One rights worker said, "There are no statistics." Another described in detail the cases of a number of stateless individuals who had approached the office and noted that the size of the problem of statelessness in Kazakhstan may in fact be "large." The fact that the number is indeterminate says more about the situation of statelessness than any statistic could: Statelessness is neither a priority nor a problem for the government.

Furthermore, refugees are vulnerable to statelessness because the government officially recognizes only Afghan asylum seekers as refugees. As of January 2007, of the 582 recognized refugees, 580 of them were Afghans. Afghans are an exception in a legal vacuum where, despite being party to the 1951 Convention Relating to the Status of Refugees and making progress toward drafting new legislation, Kazakhstan has no refugee-specific law.

In this environment, refugees live and work, if they can find employment, for years, but their only support may come from relatives in Kazakhstan. If they can neither return to their homelands nor achieve legal status through regular channels, they become stateless upon the expiry of their passports. Alternatively, since obtaining status as a stateless person is easier than acquiring citizenship, some actively become stateless to have the right to live and work in Kazakhstan.

Uighurs, for example, are underground and illegal, due to neglect by government bodies and non-governmental organizations (NGOs), coupled with intimidation from the Chinese government, until such time as they exchange their unofficial status of refugee for that of stateless. An estimated 2,000 Ingush are in the country on temporary visitor's permits. "The government won't give citizenship to newer arrivals, asserting that there is no war in Ingushetia." So individuals play hopscotch among countries on temporary permits, going from Kyrgyzstan to Russia to Kazakhstan, if they don't go underground.

The current number of Chechen refugees in Kazakhstan has dropped from nearly 15,000 to approximately 5,000. They reside without official recognition and despite a discriminatory policy that provides them with fewer than the standard period of 180 days to register. The government insists that conditions of granting political asylum in Kazakhstan are identical for all people. In addition, the steady influx of Uzbeks threatens to increase as conditions in Uzbekistan continue to deteriorate. Since 2003, UNHCR has identified 343 individuals from Uzbekistan as refugees, though they are not officially recognized.

3. Going Underground

"It is very difficult to get citizenship," reported one lawyer. "If there is no legal way to get citizenship people will resort to illegal means." The unofficial policy of discouraging citizenship has the effect of encouraging individuals to go underground. They work illegally, marry unofficially, and give birth to unregistered children.

Women who reside in this state of limbo are less likely to access public health services, including maternity care and, subsequently, birth certificates. Without a birth certificate, a child may have difficulty enrolling in public school or proving residency in order to qualify for a passport at the age of sixteen.

Stateless children can be found in Centers for Temporary Isolation and Rehabilitation of Children, set up in 2002 to manage the growing number of street children. If a child turns out to be foreign or stateless, deportation is the only permanent resolution available at present to the government. And while the Ministry of Labor and Social Security is drafting a law on social services in which children will be guaranteed basic rights, the right to identity and nationality are not included.

4. Prioritizing Political Relations over Human Rights

The government is making some positive efforts and these should be recognized. It is considering new draft legislation on refugees, having discarded the 2000 draft, and is actively cooperating with UN bodies and NGOs to formulate the National Human Rights Action Plan for 2007 – 2011. At the same time, however, the government of Kazakhstan is equally concerned with placating its powerful neighbors.

"In principle there are no refugees," Refugees International was told. Chechen refugees, who can at best avoid deportation by registering with UNCHR as asylum seekers, apply for citizenship in vain. To recognize Chechens as refugees, and especially to grant them citizenship, is to acknowledge the state of things in Chechnya and to censure, however indirectly, the policy of the Russian Federation. The situation with China, whose record of torture and execution of deportees is documented, and Uzbekistan, whose abysmal human rights record is well known and worsening, and was recently highlighted by a Human Rights Watch report on torture in the criminal justice system, is similar.

NGOs appreciate the presence of the Office of the UN High Commissioner for Refugees (UNHCR) in a country officially unconcerned with issues of asylum and statelessness, but they also repeatedly noted that to be effective in Kazakhstan the agency needs to demonstrate more back bone. Lack of protection for asylum seekers, refugees, and stateless persons in Kazakhstan is systemic. The solution can be too.

Senior Advocate for Statelessness Initiatives Maureen Lynch, accompanied by consultant Nathan R. Cox, recently assessed the situation for stateless people in Central Asia.