

## Refugee Review Tribunal

### AUSTRALIA

#### RRT RESEARCH RESPONSE

**Research Response Number:** MNG30829  
**Country:** Mongolia  
**Date:** 24 October 2006

Keywords: Mongolia – Kazaks – Widows – Forced marriage – Police – State protection

This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

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#### Questions

1. Please provide demographic background on Kazaks in Mongolia.
2. Is there a custom of a widow being required to marry her husband's brother? Does it persist today? If so, what is the geographic or social spread?
3. Is any such custom enforced, and if so how?
4. Do the Mongolian authorities provide protection for women affected by such customs?

#### RESPONSE

1. Please provide demographic background on Kazaks in Mongolia.

Source indicate that there are about 100,000 Kazakhs in Mongolia, comprising 3-4% of the population. They are mostly Muslims, and are concentrated in the western part of the country.

A 2003 bulletin on Mongolia by the UK Home Office states:

6.B.9 Ethnic minorities constitute a very small proportion of the population. There are no reports of inter-ethnic conflict. The main minority is the 120,500 strong community of Kazakhs (alt. sp. Khazaks), who are traditionally Sunni Muslims. Most live a nomadic lifestyle in the western side of the country, in the province of Bayan-Olgii, but there are also Kazakhs in Choybalsan to the east [6e]. Akin to Uighurs of China, they speak a turkic language, and in Mongolia, use a Cyrillic ("Russian") script. [6o][5ay] On 16 May 2003, new legislation on state language was adopted. Under the law the street names, squares and organisations would be written in the official Mongolian language. [5bp]

6.B.10 Kazakhs. "Bayan-Olgii is a largely Kazakh administrative unit, where the Kazakh language is used in the primary schools and in local administrative offices. Kazakhs of the Altai traditionally have hunted from horseback with trained golden eagles on their wrists and greyhounds slung across the saddle – both to be launched at game – and pictures of eagle-bearing

Kazakhs are common in Mongolian tourist literature. Mongol is taught as the second language and Russian as the third in Kazakh schools, and bilingual Kazakhs appear to participate in the Mongolian professional and bureaucratic elite on an equal footing with Mongols. Kazakhs also make up a disproportionate number of the relatively highly paid workers in the coal mines of north-central Mongolia; this situation may indicate either limited opportunities in the narrow valleys of Bayan-Olgii Aymag or government efforts to favour a potentially restive minority, or both.” [6a]

6.B.11 Between the Mongols and the Kazakhs, there are traditional prejudices and nationalist sentiments on both sides; though one source has stated that there are no reports of specific tension between the two groups. [6q] A research report for the Kazakhstan government in the mid-1990s highlighted that the Kazakh minority in Bayan-Olgii Aimag felt that the aimag was poorly served in terms of social welfare, but expressed hope for future improvement. [6d] On 16 May 2003 the Government passed legislation on family development policy and state language. Under the main objectives of the latter bill, the Government is obliged to take measures for helping the national minority learn the Mongolian language. [5bp][5br]

6.B.12 Relations between the Mongolian and the Kazakhstan Governments are good. In recent years, thousands of ethnic Kazakhs from Mongolia have relocated to Kazakhstan, where they have been granted citizenship. [5n][5p][5q][6c] In June 2000, it was reported that 30,000 Kazakhs from Mongolia were living in Kazakhstan awaiting Kazakhstani nationality, with 1,882 having been granted citizenship on 21 June 2000. [6e] The Kazakhstan Government is following a policy of open invitation to all ethnic Kazakhs to migrate to Kazakhstan – President Nazarbayev has stated in November 2002 that every ethnic Kazakh is welcome to return to their homeland. [5at] (But has set a quota of 5,000 citizens per year [6e], mindful of the financial concerns raised in the mid-1990s research report [6d]) Over 1.5 million ethnic Kazakhs worldwide have reportedly returned to Kazakhstan in recent years. [5at] (UK Home Office 2003, *Mongolia Bulletin 1/2003*, August [http://www.ind.homeoffice.gov.uk/ind/en/home/0/country\\_information/bulletins/mongoliaq\\_1\\_2003.html](http://www.ind.homeoffice.gov.uk/ind/en/home/0/country_information/bulletins/mongoliaq_1_2003.html) – Accessed 1 September 2004 – Attachment 1).

The 2006 US Department of State report on religious freedom in Mongolia contains a reference to the Kazakhs:

Kazakhs, most of whom are Muslim, were the largest ethnic minority, constituting approximately 4 percent of the population nationwide and 85 percent in the western province, Bayan-Olgii. Kazakhs operated Islamic schools for their children. They sometimes received financial assistance from religious organizations in Kazakhstan and Turkey (US Department of State 2006, *International Religious Freedom Report 2006: Mongolia*, 15 September – Attachment 2).

Two anthropological studies by Gil-White, of Mongol and Kazakh groups of herdsmen living in rural areas, provide some items of information which are of interest.

A 1999 study comments that intermarriages between the different groups “simply do not happen” in that area, although some are known to occur in the capital Ulaanbaatar. This paper also makes the point that the rural Mongols hold very strongly to the idea that a child’s ethnicity is inherited from its father. Thus a child born to a Mongol mother by a Kazakh father would still be considered a Kazakh, even if was brought up from birth in Mongol culture and looked no different to the people around it (Gil-White, F.1999, ‘How thick is blood? The plot thickens...: if ethnic actors are primordialists, what remains of the circumstantialist/primordialist controversy?’, *Ethnic and Racial Studies Volume 22 Number*, 5 September, p.795-7, <http://www.psych.upenn.edu/~fjgil/blood.pdf> – Accessed 21 August 2003 – Attachment 3).

In a 2001 study of the same groups, Gil-White makes the point that it is the Mongol groups who hold this idea most strongly. By contrast, many of the Kazakhs he spoke to believed that adopted children from other areas, for instance, became fully Kazakh as long as they became Muslims and assumed other aspects of Kazakh culture (Gil-White, F. 2001, 'Are ethnic groups biological "species" to the human brain?', *Current Anthropology*, Volume 42, Number 4, August-October, p.528, <http://www.psych.upenn.edu/~fjgil/Species.pdf> – Accessed 21 August 2003 – Attachment 4).

**2. Is there a custom of a widow being required to marry her husband's brother? Does it persist today? If so, what is the geographic or social spread?**

**3. Is any such custom enforced, and if so how?**

No detailed information was found on marriage customs particular to the Kazakhs of Mongolia. Information found on Kazakhs in general indicates that they do have a custom where a widow marries her husband's brother, but it is not clear how strongly it is enforced nowadays, or whether it is followed by all Kazakhs. According to one source, Kazakh women in Mongolia appear to enjoy more freedom than is the case in some other Muslim ethnic groups.

A 1998 scholarly article by Masanov refers to the customary law and structure of Kazakh society (not particular to Mongolia) which conduces to widow remarriage:

Traditional Kazakh society was divided into three zhuz or "hordes" -- the Greater, Middle, and Small. Underlying this division is the principle of genealogical seniority -- elder, middle, and younger brothers. According to this complex and widely-branched system, each zhuz is divided into tribal groups which are, in turn, divided into smaller clans, and so on, all the way down to the concrete individual. According to the norms of customary law, every Kazakh should know his ancestors for forty generations back. **The norms of exogamy, claims to property, leviratic norms (according to which a widow must sometimes be married by a brother of deceased husband)** and many other things are based on the degree of genealogical kinship.

This is a product of the traditional Kazakh mentality which, by virtue of the specific character of the transmission of information (as something secret, only for "one's own") and property (from father to son, from son to grandson, and so on), fosters a clan-based identification of the individual's social space (Masanov, Nurbulat E. 1998, 'The role of clans in Kazakhstan today', *Prism*, Vol.4, Iss.3, 6 February, The Jamestown Foundation website, [http://www.jamestown.org/publications\\_details.php?volume\\_id=5&issue\\_id=249&article\\_id=2838](http://www.jamestown.org/publications_details.php?volume_id=5&issue_id=249&article_id=2838) – Accessed 23 October 2006 – Attachment 5).

Three less authoritative sources also mention the custom among the Kazakhs and in Central Asia generally:

- An item on the Everyculture.com website states that "in the past, if a husband died, his widow had to marry her brother-in-law or another member of the clan". It goes on to state that under new laws, Kazakh women are more free to marry and to divorce ('Kazaks' (2006), Everyculture.com website, <http://www.everyculture.com/wc/Japan-to-Mali/Kazaks.html> - Accessed 24 October 2006 – Attachment 6).
- A newsletter for Kazakh-American adoptive families states that the custom of widow remarriage was called "Amangerstvo". The report indicates that after the Communist Revolution it was abolished ('Culture Connection: Kazakh Marriage Customs' 2001,

*Kazakh Kids*, 27 April, Issue 2,  
<http://kazakhadoptivefamilies.com/KazakhKids/KazakhKid2.pdf> - Accessed 24 October 2006 – Attachment 7).

- Another report states that across Central Asia, the common practice of the widow being obliged to marry “a brother or close relative of her dead husband” was forbidden during the Soviet era “although it still occurred in remote areas”. However, “with the new vulnerability of women in the post-Soviet era, it seems the custom of levirate is continuing” although it is still fairly rare (Tabyshalieva, Anara 2000, ‘Revival of Traditions in Post-Soviet Central Asia’, *World Bank Discussion Paper No. 411, Europe and Central Asia Gender and Development Series*, Institute for Regional Studies website,  
<http://www.ifrs.elcat.kg/Publication/Anara,%20Revival%20of%20Traditions%20in%20Post-Soviet%20Central%20Asia.htm> – Accessed 24 October 2006 – Attachment 8).

Little information was found on Kazakh women in Mongolia itself. A 2001 report on Mongolia by the World Bank contains some relevant remarks:

Maternity rates which are higher in Bayan Olgii than the national average might suggest Kazakh women are more hesitant than other women to visit medical facilities, (although this would need to be substantiated through more in depth research) and claims of lower divorce rates and low levels of intermarriage might also imply that the Kazakh community, more than other ethnic communities, exerts more control over women to stay within traditional social structures, and within their own communities. That said, in the SA team’s interactions with Kazakh women in Bayan Olgii, there were many indications that Islam is interpreted quite moderately among Kazakh in the *aimag*. **Roles and behaviors acceptable for women appear to be much less the subject of debate than they are in some other Islamic countries. Older and middle aged women often appear in public wearing headscarves, but younger women generally do not.** Nor do women appear to be overly restricted in their interactions with male strangers, (as is sometimes the case in other Islamic cultures); for example, when the team was invited to eat lunch with a *sum* governor at his house, they were joined by his wife who sat down to eat with them and actively joined in the discussion (World Bank Documents and Reports 2001, *Mongolia: Sustainable Livelihood Project: Ethnic Minority Development Strategy*, 16 December, Vol.1, [http://www-wds.worldbank.org/external/default/main?menuPK=64187510&pagePK=64193027&piPK=64187937&theSitePK=523679&menuPK=64154159&searchMenuPK=64258544&theSitePK=523679&entityID=000094946\\_02050404111838&searchMenuPK=64258544&theSitePK=523679](http://www-wds.worldbank.org/external/default/main?menuPK=64187510&pagePK=64193027&piPK=64187937&theSitePK=523679&menuPK=64154159&searchMenuPK=64258544&theSitePK=523679&entityID=000094946_02050404111838&searchMenuPK=64258544&theSitePK=523679) – Accessed 23 October – Attachment 9).

#### **4. Do the Mongolian authorities provide protection for women affected by such customs?**

Forced marriage is reportedly illegal in Mongolia, but no information was found among the sources consulted on any protection that might be available to Kazakh women forced to marry against their wishes. However there are reports on domestic violence in Mongolia and the legal protections available to female victims.

The sources consulted indicate that domestic abuse involving women has been a serious problem in Mongolia, and that there is a strong general perception that it remains a family issue. However, women’s lobby groups have increased in power in recent years, and they have achieved new legal protections for women who are victims of violence.

The latest US Department of State report on Mongolia states in the section on women:

Domestic violence against women was a serious problem. Rape and domestic abuse are illegal, and offenders can be prosecuted after formal charges have been filed. During the year there were 209 reported domestic assaults. There was no law specifically prohibiting spousal rape. Rape, including spousal rape, remained a problem. During the year there were 320 cases of rape reported to authorities, down from 378 cases in 2004; however, many rapes are not reported.

In January a new comprehensive law specifically typesetting domestic violence came into effect. By year's end 20 cases had been brought to trial under the law. The law empowers central and local authorities to implement national policy aimed at combating and preventing domestic violence, funding such activities from the national budget, and enlisting the support and cooperation of NGOs in their efforts. The law requires police to accept and file complaints, visit the site of the incidents, interrogate the offenders and witnesses, explain the law, impose administrative criminal penalties, bring victims to refuge, and transfer custody of the relatives if necessary. Police may also detain an offender temporarily, send drunken offenders to "sobering houses," and inform social workers and advise relevant authorities of restrictions to place on an offender. The law outlines the role of social welfare organizations and NGOs and confidentiality provisions for the victims. The law also provides for the following sanctions on offenders: expulsion from home or separate accommodations, prohibitions on the use of jointly owned property, prohibitions on meeting victims, and prohibitions on access to minors, compulsory training aimed at behavior modification, and compulsory treatment for alcoholism.

There were no reliable statistics regarding the extent of domestic abuse, but qualified observers believed that it affected as much as one-third of the female population. Virtually all of those who committed violent crimes in the home were men, and women typically were the victims. In recent years, domestic abuse became more violent, including increases in the number of murders. After many years of government and societal denial, there was increasing public and media discussion of domestic violence, including spousal and child abuse. However, the perception remained that domestic abuse was either a family issue or not a problem. In recent years, economic and societal changes have created new stresses on families, including loss of jobs, inflation, and lowered spending on social and educational programs. Some statistics showed that more than 60 percent of family abuse cases were related to alcohol abuse. The high rate of alcohol abuse contributed to increased instances of family abuse and abandonment and added to the number of single-parent families, most of which were headed by women. Women were hesitant to ask authorities to prosecute cases of domestic abuse because of likely long-term detention of spouses and the resulting loss of household income (US Department of State 2006, *Country Reports on Human Rights Practices: Mongolia*, 8 March – Attachment 10).

The 2003 UK Home Office *Mongolia Bulletin* states of women:

6.B.1 Women have equal rights under the law and this provision is respected. However, domestic violence against women remains a serious problem. There are few statistics, most information being anecdotal. Some statistics indicate that 70% of cases of family abuse are related to alcohol abuse. Alcoholism is widespread, with 20,000 people estimated to be alcoholics, 80% of whom are young men and the remaining 20% women. [3f] A new family law came into force on 1 July 1999, setting out alimony arrangements and parents' rights. There are approximately 36 women's groups, and the National Centre Against Violence (NCAV) has made progress in providing hot line services, shelters and training for police dealing in family situations. The NCAV has document abstracts and contact details recorded in English on the UNIFEM East and South East Asia website. [6j][1a] A further Family Development Act was passed by Parliament on 16 May 2003. The main objectives of the law are to ensure the equal rights and obligations of parents for supporting education, health and care for children, to support the family for having their own dwelling so that the family could live together. The law also contains special provisions for supporting the young families, solving their housing problems, and generating family incomes. [5br]

6.B.2 The Mongolian women's groups are amongst the most successful and popular campaigning for social change. The Liberal Women's Brain Pool (LEOS) is very active and widespread. Women for Social Progress (WSP) is another group, rapidly gaining support from men as well as women. Women are relatively independent, have a high level of education compared to men, and head a large number of households relative to comparable countries. [2a][6b]

6.B.3 The Government has ratified a number of major international conventions regarding women's rights. The Committee on the Elimination of Discrimination against Women is foremost amongst the government monitoring bodies. In its combined third and fourth periodic reports, published January 2001, many problems were highlighted but general progress in terms of legal protection was emphasised. [5af][5ag] A report by the Zuuny Medee newspaper in March 2003 noted that more than 15 women have been elected to public office since 1992, and that currently 63% of lawyers are women. [5bo]

6.B.4 Women make up a large segment of the work force, and have been disproportionately affected by the decline of state sector employment. [3f]

6.B.5 Marriage customs traditionally include common-law marriages as common practice and without stigma, with couples living in a marriage-like state but without formal ceremony or registration. Fathers in common-law relationships are held to be responsible for their children; women in these relationships are accorded full property rights, and children full inheritance rights. Inter-ethnic and inter-religious marriages are permitted by law, but rarely happen. [3d] For kinship, marriage customs, and family structure, refer to source [6a]. (UK Home Office 2003, *Mongolia Bulletin 1/2003*, August [http://www.ind.homeoffice.gov.uk/ind/en/home/0/country\\_information/bulletins/mongoliaq\\_1\\_2003.html](http://www.ind.homeoffice.gov.uk/ind/en/home/0/country_information/bulletins/mongoliaq_1_2003.html) – Accessed 1 September 2004 – Attachment 1).

A 2000 report by Patel states that forced marriage is illegal in Mongolia:

Arranged marriage was prohibited in 1925, shortly after the communist revolution and is no longer a common feature of Mongolia life. A new Family Law enacted in 1999 reiterates this prohibition and states that the basic principles of marriage are mutual consent and equal rights, and there shall be no restrictions based on race, nationality, religion or language. Marriage is only valid if both parties are at least 18, of opposite sexes, not currently married to another person, not immediate relatives (parents, grandparents, grandchildren), and not guardian, ward, adopter, or adoptee. There are no provisions for marriage before the age of 18. The median age for marriage for women is 20 years. In 1998, 7% of women aged 15-19 were married or cohabiting. Between 1989 and 1998, the total number of registered marriages dropped by 10%.

It is a criminal offence to compel a woman into marriage, or obstruct her marriage, punishable by fine of up to 50,000 tg or up to one year's imprisonment (Patel, A.2000, *Reproductive Health, Gender and Rights in Mongolia*, The MOHSW and UNFPA Project MON/97/PO8, June, Section 4.1, [http://www.un-mongolia.mn/~unfpa/reports/rh/rh\\_rights\\_eng.pdf](http://www.un-mongolia.mn/~unfpa/reports/rh/rh_rights_eng.pdf) – Accessed 12 August 2003 – Attachment 11).

Two further reports are attached on the situation of women in Mongolia which may be of use:

- United Nations Development Program 2000, *Gender Briefing Kit: Facts and figures in Mongolia*, p.12, <http://www.un-mongolia.mn/publication/files/gbk.pdf> – Accessed 21 August 2003 – Attachment 12.
- United Nations Committee on the Elimination of Discrimination against Women (CEDAW) 1999, *Consideration of reports by States parties: Mongolia*, CEDAW/C/MNG/3-4, 15 March,

[http://www.bayefsky.com/reports/mongolia\\_cedaw\\_c\\_mng\\_3-4\\_1998.pdf](http://www.bayefsky.com/reports/mongolia_cedaw_c_mng_3-4_1998.pdf) - Attachment 13.

## List of Sources Consulted

### Internet Sources:

Google search engine <http://www.google.com.au/>  
UN Databases

### Databases:

FACTIVA (news database)  
BACIS (DIMA Country Information database)  
REFINFO (IRBDC (Canada) Country Information database)  
ISYS (RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State Reports)  
RRT Library Catalogue

## List of Attachments

1. UK Home Office 2003, *Mongolia bulletin 1/2003*, August  
[http://www.ind.homeoffice.gov.uk/ind/en/home/0/country\\_information/bulletins/mongoliaq\\_1\\_2003.html](http://www.ind.homeoffice.gov.uk/ind/en/home/0/country_information/bulletins/mongoliaq_1_2003.html) – Accessed 1 September 2004.
2. US Department of State 2006, *International Religious Freedom Report 2006: Mongolia*, 15 September.
3. Gil-White, F.1999, ‘How thick is blood? The plot thickens...: if ethnic actors are primordialists, what remains of the circumstantialist/primordialist controversy?’, *Ethnic and Racial Studies Volume 22 Number*, 5 September, p.795-7,  
<http://www.psych.upenn.edu/~fjgil/blood.pdf> – Accessed 21 August 2003.
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5. Masanov , Nurbulat E. 1998, ‘The role of clans in Kazakhstan today’, *Prism*, Vol.4, Iss.3, 6 February, The Jamestown Foundation website,  
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6. ‘Kazaks’ (2006), Everyculture.com website, <http://www.everyculture.com/wc/Japan-to-Mali/Kazaks.html> - Accessed 24 October 2006.
7. ‘Culture Connection: Kazakh Marriage Customs’ 2001, *Kazakh Kids*, 27 April, Issue 2, <http://kazakhadoptivefamilies.com/KazakhKids/KazakhKid2.pdf> - Accessed 24 October 2006.
8. Tabyshalieva, Anara 2000, ‘Revival of Traditions in Post-Soviet Central Asia’, *World Bank Discussion Paper No. 411, Europe and Central Asia Gender and Development Series*, Institute for Regional Studies website,

<http://www.ifrs.elcat.kg/Publication/Anara,%20Revival%20of%20Traditions%20in%20Post-Soviet%20Central%20Asia.htm> – Accessed 24 October 2006.

9. World Bank Documents and Reports 2001, *Mongolia: Sustainable Livelihood Project: Ethnic Minority Development Strategy*, 16 December, Vol.1. ([http://www-wds.worldbank.org/external/default/main?menuPK=64187510&pagePK=64193027&piPK=64187937&theSitePK=523679&menuPK=64154159&searchMenuPK=64258544&theSitePK=523679&entityID=000094946\\_02050404111838&searchMenuPK=64258544&theSitePK=523679](http://www-wds.worldbank.org/external/default/main?menuPK=64187510&pagePK=64193027&piPK=64187937&theSitePK=523679&menuPK=64154159&searchMenuPK=64258544&theSitePK=523679&entityID=000094946_02050404111838&searchMenuPK=64258544&theSitePK=523679) – Accessed 23 October)
10. US Department of State 2006, *Country Reports on Human Rights Practices: Mongolia*, 8 March.
11. Patel, A.2000, *Reproductive Health, Gender and Rights in Mongolia*, The MOHSW and UNFPA Project MON/97/PO8, June, Section 4.10, [http://www.un-mongolia.mn/~unfpa/reports/rh/rh\\_rights\\_eng.pdf](http://www.un-mongolia.mn/~unfpa/reports/rh/rh_rights_eng.pdf) – Accessed 12 August 2003.
12. United Nations Development Program 2000, *Gender Briefing Kit: Facts and figures in Mongolia*, p.12, <http://www.un-mongolia.mn/publication/files/gbk.pdf> – Accessed 21 August 2003.
13. United Nations Committee on the Elimination of Discrimination against Women (CEDAW) 1999, *Consideration of reports by States parties: Mongolia*, CEDAW/C/MNG/3-4, 15 March, [http://www.bayefsky.com/reports/mongolia\\_cedaw\\_c\\_mng\\_3-4\\_1998.pdf](http://www.bayefsky.com/reports/mongolia_cedaw_c_mng_3-4_1998.pdf).