

January 31, 2011

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## LATVIA: THE PERILOUS STATE OF NATIONALITY RIGHTS

Two decades after Latvia reasserted its independence during the breakup of the former Soviet Union, references to its traumatic past still surface in the media and during political debates. Often the Russian-speaking minority is blamed for the crimes of the Soviet regime. Divisive rhetoric of us and them reflects social schisms based on ethno-centric power-grabbing and vilification of “the other.” In the mid 1990s, the Latvian government created a category of “non-citizens”, which continues to impede hundreds of thousands of people from enjoying their right to a nationality. This status should be abolished, and Russian-speaking Latvians should be provided the same rights as other citizens, including the right to vote.

### BECOMING NON-CITIZENS

Officially, there is no statelessness in Latvia. The Latvian government does not publicly identify as stateless the 336,000 Russian-speaking non-citizens of the country that comprise fifteen percent of the population. Both at home and abroad, the problem of nationality which arose in 1990 for over 700,000 persons is considered resolved, or soon to be, by the wholly unique official status of “non-citizen.” By all appearances, Latvians consider the question of statelessness a non-issue.

But statelessness in Latvia has not been resolved. For the Russian-speaking population, the term “non-citizen” simply reflects an antagonism toward Russia and the role it played in defining the place and status of Latvia and Latvians in the last century. They also believe that the term’s purpose is to emphasize who is now in power or even to serve as a type of payback for the past.

Although a Russian minority existed on the territory before Soviet times, periodically the Communist Party deported Latvians *en masse* to Russia and other Soviet republics and brought in huge numbers of Russians,

### POLICY RECOMMENDATIONS

- The U.S. and the E.U. should encourage and assist Latvia to abolish the temporary status of non-citizens and actively work toward inclusion and practical integration of all minorities. This would allow all people on its territory to enjoy the right to an effective nationality by ensuring full political participation, removing inequalities in access to jobs and professions, and giving all children the right to a name and a nationality at birth.
- Latvia provide support and funding for free instruction in Latvian language and history to adults, and ensure the right of all minorities to learn and utilize their own languages.
- The U.S. and other governments recognize Latvia’s efforts to ensure the rights of non-citizens and strongly encourage full implementation of the country’s obligations under international humanitarian and human rights law.
- UNHCR establish a protection presence in Latvia for refugees, stateless, and other persons of concern, offer its expertise to the Saeima, and provide technical assistance as requested.

by request of the Latvian Communist Party, to build industry and fill a labor gap. Latvians refer to this period as the occupation during which the number of people who spoke Russian rose significantly while the proportion of Latvians in the population dropped to little more than half, leading to a credible fear among Latvians for the existence of the Latvian ethnoses.

This year marks the twentieth anniversary of Latvia's declaration of full independence from the Soviet Union. There are two very different, though historically parallel, accounts of the origin of the problem of statelessness for Russian speakers in the country. Upon the restoration of independence, Latvia, with her Baltic neighbors Lithuania and Estonia, claimed it had never been part of the USSR *de jure* under the principle of state continuity. Only those who were Latvian citizens in 1940 or their descendants could restore their citizenship *de jure*. Others fell into legal limbo. Today, as one observer noted, anyone using the terms occupation and occupier "incorrectly" is *a priori* disloyal to Latvia.

For their part, Russian speakers, if they refer to that period as an occupation at all, treat the term with irony and see their individual role in these events as incidental, apolitical and beyond their control. They may consider themselves to be ethnically Russian, Ukrainian or Belarusian, but they do not feel tied to the politics of either the former Soviet Union or the Russian Federation. One young professional able to naturalize while still in secondary school explained, "I'm a European and a Latvian. I need Russian culture, not its political system." After all, many of the Russian-speaking community were migrant workers forced by Soviet policy to move to and work in Latvia. A large number of them worked and voted for Latvia's independence together with ethnic Latvians and the Latvian Popular Front.

At the time of independence, non-Latvians were promised citizenship based on their residency in Latvia, but the full rights of that status were then denied. In the confused aftermath of the regime change, five years passed before the Russian-speaking minority gained a second-rate, albeit official status of "non-citizen." This so-called status carries limited rights and seems to primarily serve the nonsensical purpose of emphasizing what the person lacks, namely citizenship.

Latvia is a small country next to a big one, to paraphrase one Latvian academic, and both it and its language were severely traumatized. Today, it is once again an independent country within which lives a large minority of various ethnicities. The result is a brand-new nation with one state language that has no native word to describe its own multiculturalism and where, thanks to manipulation by the political elite of the borrowed term, there is almost no place for the concept. In Latvia today, there is still an ongoing tit-for-tat between two factions that define their affiliations by the language they speak in the home and the cultures those languages have produced and furthered. RI was told, "We have two minorities that fear for their language and culture and hold disparate views of history." Both sides understand that the group that makes the laws will preserve its language, its culture and, ultimately, its identity and the right to determine its future.

#### THE EXPERIENCE OF THE OUT-GROUP

After the collapse of the USSR, no one was really sure how to categorize the more than half a million former Soviet citizens who found themselves on Latvian territory. Poles, Ukrainians, Belarusians, and other former Soviet nationalities were all broadly included, and called "Russian" despite the inaccuracy of the term. RI spoke, for example, with one citizen who described a family tree grafted from multiple branches: on her father's side, Polish and Latvian parents; on her mother's, Ukrainian and Russian. Many contemporary Russian activists refer to themselves as "Russian speakers", though Latvians do not like this term.

Latvia's citizenship law was adopted in 1994. Subsequently amended in 1995, 1997, and 1998, it defines Latvian citizenship by the *jus sanguinis* principle, which is rooted in the continuity of Latvian citizenship as established in 1919. According to the law, nationals of Latvia are persons and their descendants, who were nationals on the date of occupation, unless they had acquired the nationality of another state. This includes people whose permanent place of residence is Latvia, who have registered in accordance with the procedures set out in law, and who have completed a full course in general education schools in which the language of instruction is Latvian, or completed the Latvian stream of courses in a

primary or secondary school that teaches in multiple languages.

This principle of ethnic membership created a large group of resident foreigners with no nationality and no rights until 1995, when access to naturalization was granted. However, it was limited for some time by quotas, or “windows” (based on age), which were lifted by referendum in 1998. Since joining the EU in 2004, however, Latvia has escaped the kind of international pressure that brought about the original citizenship law in the first place, and so a resolution to the issue of non-citizenry has stagnated.

To Latvia’s credit, early on it recognized the social and economic rights of the non-citizens, albeit with some discriminatory provisions. These rights include diplomatic protection and a special passport that permits visa-free entry to the Schengen region (thus including Switzerland, Iceland and Norway in addition to EU countries) and to return to Latvia. Unlike third-country nationals, non-citizens cannot be deported. Additionally, all residents of Latvia have equal access to social benefits, allowances and services. Section 2 of the Law on Social Security forbids any discrimination based on racial or ethnic origin, skin color, sex, age, disability or health conditions, religious, political and other convictions, national or social origin, material or family status or other circumstances. Anyone with a temporary residence permit, however, cannot claim state social allowances.

However, non-citizens are not granted political rights and are barred from practicing certain professions. Restrictions exist on owning land. A few disparities have disappeared, e.g., after an appeal to international courts, a decision last month gave non-Latvians the right to spell their given and surnames on official documents without the obligatory Latvian “s” at the end. But it is still too early to tell how the ruling will be implemented. While some argue that these non-citizens possess a functional Latvian nationality, they cannot be defined as nationals.

In large part non-citizens are not nationals because they lack the right to vote and, therefore the possibility to determine their future. Latvians fear the survival of their ethnos. For non-Latvians living in Latvia, they also fear the eventual loss of their native tongue from one generation to the next and, with it, loss of their cultural heritage. Thus, a major complaint of

non-citizens is the absence of political power, or the ability to vote, either in parliamentary or in municipal elections. The discrimination inherent in this second-class status should end.

Non-citizens, of course, can choose to undergo a naturalization process and become able to vote, which, according to the head of the naturalization board, meets the standard set by the European Union. The process, which includes Latvian language and history tests, was even simplified in 2005 to facilitate the naturalization of the remaining population of non-citizens. For example persons over the age of sixty-five must take only an oral language exam (instead of both an oral and a written) and fees for students and pensioners was reduced to 3 Lats, not 30 (US \$5.50 and US \$55.50, respectively). Further efforts to streamline the process are in the planning stages, including an information campaign in 2011, the posting of free trial examinations on the Internet and combining birth registration and citizenship application for a child born to non-citizen parents.

Since 1995 more than 130,000 non-citizens have naturalized. Some naturalized to gain access to voting rights. Others did so in order to run for office to help counter the partiality of a Latvian-dominated parliament, which threatened from 1998 – 2004 to ban Russian instruction in the primary and secondary levels. Others naturalized for pragmatic reasons: the right to travel and work in EU countries, the right to access professions denied to non-citizens in Latvia, including in the civil service and the judiciary. Yet, some 336,000 individuals have chosen to maintain their status for a variety of reasons. If the situation remains in its nearly static position, it is likely many of these persons will die as non-citizens either for lack of language knowledge, or for refusing on principle, to take a test for citizenship or to capitulate from their version of history to that of the status quo. One Member of Parliament suggested that only time will resolve the issue. Indeed, as time passes away, so will the aging population of non-Latvians who are protesting, on principle, against their exclusion and disenfranchisement.

Despite symbolic efforts, the government has largely failed to integrate ethnic Latvians and other ethnicities. From 2002 to 2004, the Social Integration Department of the Ministry of Justice, and then the secretariat of the Special Assignments Minister for

Social Integration Affairs organized ministerial level discussions to develop indicators of progress. Databases were created and a number of sociological surveys and other studies on various aspects of integration were conducted. The United Nations, the Organization for Security and Cooperation in Europe and the Council of Europe put the issue of social integration on their Latvian agendas, primarily in the context of human rights, but all to little avail. It has been a chronic case of too-little, too-late.

One Russian speaker pointedly asked, “If the government doesn’t recognize and respect my language, why should I recognize and respect theirs?” Herein lies the paradox: to protect itself from a power that had threatened its very existence, the Latvian state achieved independence from that power, identified non-Latvian members as threatening, and barred them from participating in the formation of the state and its day-to-day management. This xenophobic move resulted in turning a virtual threat into a real one. In the words of one non-Latvian, “Because we’re not integrated into societal structures, we don’t feel responsible for, or to it.”

The unwillingness within the ruling coalition of the Saeima (parliament) to consider amending the citizenship law and the lack of interest from the international community in the status of non-citizens in Latvia suggests that Latvian powers-that-be are counting on time and attrition to make the problem go away. But, as Ilze Brands Kehris, the director of the Latvia Human Rights Centre and board chair of the EU’s Fundamental Rights Agency, has written, “Exclusion from citizenship and therefore from full political participation represents a deficit in democracy and goes against the goal of the EU to close the gap in rights between permanent residents and citizens.” What’s more, in Latvia this fissure represents broken promises and mismanagement by the state. As a result, minorities fail to naturalize, except for practical purposes, because that step represents belonging to a state that, *a priori*, doesn’t seem to want them. Their feelings of disillusionment are clear.

## MOVING FORWARD

One lawyer argued, “Time is necessary, but it’s not enough. We need to introduce a new paradigm in order to dismantle these persistent, disabling stereotypes.” Despite a lack of faith among non-citizens

and concerned parties in the power or the will of domestic and international political or juridical bodies to improve the situation in the near future, there are a few positive signs of change. After recent elections, the ruling coalition, for example, offered the Russian-dominated political party, Harmony Center (whose constituency is about one-third ethnic Latvian), to join them with the condition that it acknowledge the Soviet occupation. The offer is a sign that dialogue may be possible for the first time in years, and perhaps, compromise and cooperation.

But time may be short. Some fear a growing threat from Russia not unlike its conflict in 2008 with Georgia over South Ossetia. Others fear demographic anemia due to a surge of young Latvians and non-Latvians alike who choose to live, study and work in the United Kingdom and Ireland. In addition, there is a growing influx of migrant workers from EU and other countries. This growing multicultural landscape presents a new challenge to Latvia and introduces an additional threat to its ethnos. “Multicultural” may be a byword, but it is becoming more and more accurate in depicting Latvia’s population, as the country’s leadership considers redefining its citizenship law. As Latvia is already party to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, efforts to end exclusion should extend to all persons, especially the thousands of non-citizen children.

The government can develop inclusive initiatives on integration policy in recognition the country is both losing people by eflux and at the same time attracting new labor migrants, asylum seekers and refugees. Without such efforts new problems will further compound the challenges bequeathed by Soviet rule.

Moreover, it is increasingly difficult to justify the exclusion of such a large number of tax-payers from voting even at the local level, where decisions are made that directly affect them. Even newcomers from other EU member states have such rights. Over time, this situation will become more untenable. As one non-citizen explained, “We don’t want a Russian takeover. There’s no foundation for fear. We want Latvia to grow. We want respect. Just respect.”

*Senior Advocate for Statelessness Initiatives Maureen Lynch and RI Consultant Nathan R. Cox visited Latvia last month.*