

STATE BUILDING, DISPLACEMENT AND STATELESSNESS

Dilorom Karomat

All of the Central Asian States, with the exception of Uzbekistan,¹ have acceded to the 1951 Refugee Convention and adopted national refugee laws, however the level of refugee protection does not always comply with international standards. No one still knows how many stateless or undocumented people reside in five Central Asian countries. Often individuals are not registered as being stateless, data may be incomplete, or figures may be withheld for political reasons. Drawing on official figures, the UNHCR has recorded 46,886 stateless persons at the end of 2009. Certain problems have been faced by stateless people. They may not have access to education, health care, job market, ability to travel and usually cannot register a marriage or birth of a child, can't apply for social benefits and to get own property. The lack of citizenship papers makes women, minors and stateless persons who stay in nursing homes, mental hospitals, etc. more vulnerable. There are several reasons for becoming Stateless at Central Asia.

State building

With the collapse of the Soviet Union in 1991, the five Central Asian republics (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan) have one primary task which was the creation a nation-state, and a national identity within their newly inherited state boundaries.² Thus, nation-state building was a particularly critical issue for new state leaders who needed to avert secessionism, prevent the redrawing of borders, and create respective state institutions and identities that would garner legitimacy from their multiethnic, multi-confessional, and multilingual populations. The new Central Asian regimes have engaged in active nation-building and, on the whole, the Central Asian republics have been successful in accomplishing set goals and avoiding potentially catastrophic outcomes. However, many expert scholars and foreign observers believe that the achieved statehood is quite weak and the political systems in the region remain volatile. The events in Kyrgyzstan in spring and summer 2010 perhaps best illustrate this fragility³

Indeed, the notion of nation is central to the contemporary international state system, because of its close connection with the notion of sovereignty. The Soviet model of nationalities left difficult legacies. Although, Soviet model told about integration and blending of all nationalities, but at the same time ethno-national identities were created by Soviet nationalities policy. This

policy had led to the creation of titular ethno-national republics (the titular ethnic group within each titular ethnic republic), whose artificially drawn borders included many non-titular minority peoples. So, first of all in ethno-national policies it was necessary to maintain peace between the titular group and other minorities (Russians and especially Central Asian ones). This stability has been achieved through a variety of measures. First, the states have adopted a "civic nationalism," granting equal rights and citizenship to any ethno-nationality living within their territory at the time of the Soviet collapse. Turkmenistan and later on Tajikistan have allowed to Russian diaspora hold 'dual citizenship' with Russia. Official state policies have continued the Soviet model of 'Friendship of the peoples'. At the same time adopting language laws (giving status of "state language" to the languages of the titular group) and other issues brought to light several challenges, like a gap between de jure "interethnic equality" and the de facto potential for non-titular groups to succeed economically or to gain political representation in each republic.

Displacement and human security

State- and nation-building in Central Asian countries have been important factors in the formation and crystallization of identity, which, in turn, have increased ethnic tensions between titular group and minorities. Also, the stimulated migration flows in the name of economic and political exigencies by the Soviet government has become reinforced ethnic tensions in many independent Republics of Central Asia. During the next decade after disintegration of USSR, there was a complete reversal of the North-South migration pattern. Thus, since 1989 over million Russians are left Central Asian countries and have moved to Russia for a variety of reasons: to escape conflict (the over 25 percent came from Tajikistan), because they perceive themselves as victims of actual or potential persecution or discrimination. The Russian authorities have designated these two categories of displaced Russian-speakers as "forced migrants" or for economic motives. Non-titular ethnicities are started felt themselves as minorities and become a real challenge for nation-states. The minorities often found themselves marginalised and excluded from the core of society (Bukharian Jews, Uzbeks in Kirgystan, Central Asian gypsies etc). Socially, economically and politically marginalised, they are experiences discrimination in every aspect of their lives, and feel like second-class citizens.⁴ However; the presence of minorities within state territory does not necessary lead to human displacement. But in cases, when the minorities challenged the sovereignty of the state, they can either become targets for persecution or be expelled from the state's territory (both situations leading to human displacement). The numerous ethnic conflicts within region have emerged the complex refugee and displacement problems.⁵ Human displacements, as a result of political and social displacement, were the case of several events of forced resettlements. Some of them are:

- i) in the early 2000s, following alleged armed incursions by the outlawed Islamic Movement of Uzbekistan (IMU) from Tajikistan, the government of Uzbekistan violently forced the relocation of ethnic Tajiks from nine mountainous villages in Sukhandaria province to the areas in the desert of Kashkadarya.

- ii) in Turkmenistan, forced resettlement and violent relocation occurred in 2002–03, although the extent of it is unknown due to lack of freedom of press and of humanitarian organizations' activities.
- iii) in June 2010 Kyrgyzstan experienced an outburst of inter-ethnic violence predominantly against Uzbeks in the southern cities of Osh and Jalal-Abad which displaced 375,000 ethnic Uzbeks. The displacement proved short lived but outstanding issues include the exclusion of ethnic Uzbeks from sources of income, and the risk of delayed completion of reconstruction of houses damaged during the violence.⁶

Since 1991, UNHCR has established their presence in that part of the world where until recently they had been absent. It has been active in addressing refugee and displacement -related problems. One of the most serious conflicts since the disintegration of the Soviet Union has been in Tajikistan, where in 1992 a civil war broke out. It continued almost till the end of the 90-es (1997). Then, Tajikistan was in the midst of civil conflict, during which any pressure for political reform was long subverted. Hundreds of thousands of Tajik refugees fled to Afghanistan, Kazakhstan, Kyrgyzstan, Turkmenistan, Uzbekistan and Russia. They are settled in different republics and got the status of refugees and some of them up to date were stateless.⁷ The conflict in Tajikistan had major implications for the entire sub-region also because Tajikistan's porous border with Afghanistan and the fear of the spread of Islamic fundamentalism in Uzbekistan especially. At the time of civil war in Tajikistan it has provided humanitarian assistance and protection to tens of thousands of the displaced and endeavored to promote repatriation under conditions of security and safety. But still Tajikistan faces a range of socio-economic challenges affecting both Tajik nationals and refugees. Refugees do not have the freedom to establish their place of residence, and are banned from living in major cities. Through advice, workshop, training and technical assistance, UNHCR has also helped the newly independent countries in the region begin building an institutional capacity to deal with refugees and migrants.

Afghanistan presents a number of real threats to its Central Asian neighbors, both directly to the integrity and stability of their borders, and indirectly to their populations. No regional organization exists to provide concrete assistance or act quickly in the event of a Taliban Afghan attack, a refugee crisis, or the more likely scenario. It is already seen when a thousand refugees from Afghanistan are seeking asylum in Central Asian countries. Actually, the Afghan refugees are one of the largest in the world.⁸ Central Asian countries also hosted some of them. Most of Afghan refugees are waiting in Tajikistan (often used country as a provisional asylum) and in Kyrgyzstan (waiting for decades for naturalization). While the situation after with draw of Foreign Forces the socio-political environment is not expected to change dramatically, UNHCR does not exclude the possibility of mixed migratory movements from Afghanistan and within the sub region. The Office will continue to cooperate with government ministries in Central Asia and partner agencies on overall emergency preparedness, in particular for a possible influx of refugees from Afghanistan.⁹

The conception of human security is become very important for post-Soviet Central Asian region (included Afghanistan). The concept of human security is relatively new on the international scene but is gaining more attention as it aims at complementing more conventional approaches to security. It comes at a time of growing awareness that collective efforts are needed to reduce human suffering and insecurity where it is most acute and prevalent. Threats to the security of people in the region include potential or actual conflict, population displacement, economic deprivation, unemployment, deterioration of basic services, human rights violations, etc. The post-Soviet period has thrust new states into multiple transitions, like identity and nation-state building; economic liberalization; social reform, and political liberalization. Each of these (interrelated) transitions has had profoundly negative implications at the human level, i.e., for human security. With the growing of numbers of migrated by force and stateless people had grown number of trafficking's victims ("Hard prostitution" and the sale of women) and recruits (for Taliban and ISIS etc.), who have exiled themselves from their communities and become stateless. Four important issues of political reform which are directly related to human security were accepted by governments. They are:

- i) promoting democracy and empowerment of people,
- ii) advancing a responsible media and mass information,
- iii) curbing the rise in corruption,
- iv) understanding the causes of the rise of Islamic activism.¹⁰

Among others the rise in corruption and organized crime, increasing social inequalities and decline in social services have negative impact for human security and it affecting first of all refugees and stateless people as more vulnerable. That kind of people can be, for example, between those 7,000, to whom State Registration Service, with the participation of officials of the Social Fund, illegally issued Kyrgyz passports.¹¹

The real trouble brings to population of the region the arbitrarily demarcated borders by the Soviets. The demarcation of borders were not really important at the Soviet time and inhabitants of border areas is intermixed with each other (as they traditionally used to do hundred years before), but after disintegration most of them are found themselves cut off from their relatives in neighboring independent countries and even stateless in their families (border brides). Besides that, states are preoccupied with cross-border/transnational threats and national security, which impacts asylum policy and the protection of refugees. The border between Kyrgyzstan and Uzbekistan, for example, has a total length of 1,378 kilometers and 320 kilometers of the border are still outstanding. Moreover, more than 50 areas of outstanding sections of the border between the two countries are the reason for frequent occurrence of unpleasant incidents. Additionally, the existing enclaves are make own contribution to the peace in this region.

Statelessness as a result of State dissolution and the formation of new states

In the latter period of the Cold War and following the collapse of the USSR, these countries underwent political and social upheavals that have caused voluntary and forced migrations on internal and international levels. However, a high level of population mobility in its various forms – as related to pastoralism, trade, pilgrimage, conquest, but also administrative impositions or planning schemes such as collectivization – has marked the region's socio-political landscape throughout its history.¹²

State dissolution and the formation of new states is one of several causes of statelessness in the world today. Only Kazakhstan, for example, hosts approximately 600 refugees and asylum-seekers, and around 7,000 officially-registered stateless people. When Tajikistan hosts approximately 4,000 asylum-seekers and refugees (97 per cent are of Afghan origin), the largest refugee population in Central Asia. The statelessness of thousands remains a challenge. On the territory of the former USSR, stateless persons (mostly old people, residents of villages at periphery) are usually holders of old Soviet passports, who did not claim their nationality for various reasons and became stateless. For the replacement of old passport they need pay a big amount of the fine, which is charged for the fact that the document has expired; must to produce the quite a large number of different references (seven to fourteen). Some governments is already considering a new regulation to reduce the number of these inquiries, then it became easier to obtain documents. Thus, for the period of 1 January 2009 to 1 January 2014 more than 27,641 people exchanged Soviet passports for passport of Kyrgyzstan.

But still about 10,000 people have living within borders of Kyrgyzstan (70% of stateless are in South region) without valid citizenship documents. Along with the outdated Soviet papers, many of them have just lost their documents or have failed to renew identification papers as necessary. Kyrgyzstan's problems with statelessness began with implementation of its citizenship law in 1994, which provided automatic citizenship for all those living on the territory at the time. For everyone else who had no *propiska*, or registration of residence, citizenship would have to be gained. The application process was so complicated that many individuals avoided it, citing numerous forms, a lengthy and inconsistent list of requirements, delays, and bribery. The 2010 ethnic riots in the southern part of the country is increase the number of stateless persons and persons at risk to remain without citizenship. Thousands of people lost their identity documents, passport office in Nariman district, for example, has completely burned down together with the archive and as a result many Kyrgyz citizens are facing serious difficulties in obtaining new documents. The UNHSR, Government bodies and the Osh-based NGO Lawyers of the Fergana Valley Without Frontiers have worked to provide legal assistance to those seeking to restore their identities and to reintegrated some 375,000 people affected by the conflict

The legislation of the countries is not harmonized with each other and the bureaucratic procedures are very, very difficult.

A growing number of Uzbekistani women ("border brides") who marry men from across the border in Kyrgyzstan are ending up citizens of neither, meaning they have officially ceased to exist. Most of them didn't know that when they first came to Kyrgyzstan they should have registered with the Uzbek Embassy in Bishkek. After five years of residence outside Uzbekistan, the national passport of a person without consular registration becomes invalid. Kyrgyz officials cannot give them residence permits to help them obtain the status of migrants or Kyrgyz citizenship: they don't have access to the naturalization process due to their invalid passports. There is no legislation in Kyrgyzstan to help these "border brides," and without valid passports they cannot go back to Uzbekistan to get their papers renewed.

The same problem of "border brides" has facing also the residents of Tajikistan, who married citizens of Uzbekistan. In some cases, they can have a photocopy of their former Soviet passports, certificate of statelessness from Uzbekistan, which was issued after marriage and old school records from the state archives, but due lacks of two crucial documents: written confirmation that they are not a citizen of Uzbekistan and a certificate showing that Uzbekistan was their last place of registered residence, they are cannot restore their citizenship in Tajikistan. Some waiting for decade and all that time can be stateless or persons at risk of statelessness. Civil war in Tajikistan in the 1990s was a reason that the thousands of individuals who fled out ended up without a nationality and became refugees or stateless at neighboring countries.

Stateless children.

Stateless parents are often failed in registration of the birth of children. But also not all parents, even with documents in hand, to seek registration of the child's birth. They simply do not understand the harm for their children in this case. At Kyrgyzstan, until the law on citizenship was updated in 2007, only children of citizen fathers became citizens at birth. All others, despite being born on Kyrgyz soil or to Kyrgyz mothers, had to apply for it. Recently, in the countries which not recognize multiple nationality, has been recorded a growing number of stateless children. In many cases their parents have taken foreign citizenship (in most cases - Russian) in order to facilitate their staying and working at new place. But in the petitions for Russian citizenship or Green Card they are not mentioned minor children, or mentioned only one-two and left others. Thus, it brought to legal conflict and as result the children of migrants become stateless. These children faced several legislation problems and often they cannot attend schools etc.

Since gaining independence, Turkmenistan is the first and only country in Central Asia to accede to both the 1954 and 1961 UN Statelessness Conventions. The refugee laws of Kyrgyzstan, Turkmenistan provide refugees the same rights granted to aliens with regard to movable and

immovable property. Other countries follow a different approach. Turkmenistan allow refugees to engage in wage-earning and self-employment on par with nationals. The domestic refugee laws of Kyrgyzstan deal with wage-earning and self-employment but do not set the standards. They simply state that the refugees' rights are supposed to be in conformity with other laws, without specifying the laws. The refugee laws of Kirgizstan and Turkmenistan do not have provisions dealing with housing for refugees. The refugee laws of Turkmenistan guarantee refugees with the right to education without defining the standard of treatment. While Kyrgyz refugee laws do not deal with the refugees' right to education. Both, the refugee laws of Kirgizstan and Turkmenistan, do not specifically deal with social protection, they provide that refugees have the same rights as nationals, unless otherwise provided by other laws.

The UNHCR, the government, NGO's and other civil organizations are working to reduce statelessness at region. The UNHCR has also helped the Governments to revise its citizenship law. Thus, the Government of Turkmenistan has promulgated a new nationality law including the right of refugees to apply for naturalization. The Government has also agreed to waive citizenship fees for stateless people registered jointly by the authorities and UNHCR in 2011. The Roundtables on Statelessness were organized by UNHCR at Dushanbe (Tajikistan) in April 2007, Ashgabat (Turkmenistan) in December 2009 and Almaty (Kazakhstan) in October 2013. They were aimed at looking at the phenomenon of statelessness in Central Asia, exchanging experiences and practices relating to statelessness determination procedures and law reform for the reduction and prevention of statelessness. The discussions during the Roundtables allowed the participants to see the remaining challenges in the framework for the reduction and prevention of statelessness. During these events, the governments of Central Asia agreed to take steps to examine their nationality laws and administrative practices for further actions in the area of prevention and reduction of statelessness and a number of positive developments have occurred across the region. Also were organized a series of national workshops in Kyrgyzstan, Kazakhstan, Turkmenistan and Tajikistan.

UNHCR reports are stated: UNHCR continues to advocate residence permits for mandate refugees who are not eligible for naturalization, and pursues resettlement for a small number of Afghan refugees. In July 2014 has been introduced identification and travel documents for refugees and stateless people, which are compliant with the standards of the International Civil Aviation Organization (ICAO) and will be issued free of charge for refugees. The UNHCR Seeds for Solutions initiatives in Kazakhstan, Kyrgyzstan and Tajikistan in 2014 have been designed to target ending statelessness within the next decade. The activities include on-the-spot registration of undocumented and stateless people by multifunctional mobile teams. The budget for Central Asia has gradually decreased from USD 33.3 million in 2010, reflecting the activities initiated after the conflict in Kyrgyzstan in 2010, to USD 16.7 million in 2014. For 2015, the sub regional budget stands at USD 14.7 million.

UNHCR in Central Asia maintains contingency plans for possible population movements from Afghanistan in the event of any political or social instability. Should there be any significant

refugee influxes from Afghanistan to Central Asia, the mobilization of additional funding would be required.¹³

UNHCR 2015 budgets for Central Asia (USD)					
Operation	2014 Revised budget (as of 30 June 2014)	2015			
		Refugee programme PILLAR 1	Stateless programme PILLAR 2	IDP projects PILLAR 4	Total
Total	16,680,100	9,052,161	3,959,898	1,657,546	14,669,605
1. Includes activities in Uzbekistan.					
Kazakhstan Regional Office[1]	7,428,386	4,742,400	2,526,919	0	7,269,319
Kyrgyzstan	6,298,968	1,857,413	747,425	1,657,546	4,262,384
Tajikistan	2,093,364	2,180,013	263,265	0	2,443,279
Turkmenistan	859,383	272,335	422,289	0	694,624

Source: [UNHCR Global Appeal 2015 Update](#)

¹ Uzbekistan hosts a significant stateless population. The country is not a party to the 1951 Convention relating to the Status of Refugees, nor to either of the two Statelessness Conventions. The Office of UNHCR has not been present in Uzbekistan since 2006.

² Nation-State Building in Central Asia: A lost Case? Author: Pinar Akçali , Source: Perspectives on Global Development and Technology, Volume 2, Issue 3, pages 409 – 429

³ Stable Outside, Fragile Inside? Post-Soviet Statehood in Central Asia, in Insight Turkey, Vol. 14, No. 3, 2012, p. 205, at <http://www.insightturkey.com/stable-outside-fragile-inside-post-soviet-statehood-in-central-asia/book-reviews/180>

⁴ *Kyrgyzstan: Uzbeki otkazyvayutsya ot svoey etnicheskoy prinadlejnosti*, Dec.9, 2014, at <http://russian.eurasianet.org/node/61561>

⁵ Bohdan Nahaylo, Population displacement in the former Soviet Union, Dec.1, 1994, [Refugees Magazine](#) Issue 98 (After the Soviet Union) , at <http://www.unhcr.org/3b540eae4.html>

⁶ Joanna P. De Berry Benjamin Petrini, Forced Displacement in Europe and Central Asia, at <http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resources/244362-1265299949041/6766328-1265299960363/ECA-Regional-Displacement-Profile.pdf>

⁷ During the civil war in Tajikistan, approximately 12,000 refugees of Turkmen ethnicity arrived in Turkmenistan between 1992 and 1997. Most were able to integrate into Turkmen society, obtain land, and attend schools; however, they did not receive Turkmanistani citizenship. These people qualify for citizenship under the criteria established in Article 18 of the 1992 Turkmen Nationality law but have been denied citizenship. In 2006, the Turkmenistan government granted

citizenship or legal residency to over 16,000 individuals; most were Turkmen who had fled Tajikistan's civil war in the early 1990s, Russians, and ethnic Uzbeks.

⁸ 2015 UNHCR regional operations profile - Asia and the Pacific at <http://www.unhcr.org/pages/4a02d8ec6.html>

⁹ 2015 UNHCR subregional operations profile - Central Asia, at <http://www.unhcr.org/pages/49e4872e6.html>

¹⁰ Transition in Central Asia and Human Security, April 22-24, 2002, at http://www.unocha.org/humansecurity/chs/activities/outreach/ashgabad_bgpaper.html

¹¹ E.Beyshenbek qizi, *V Kirgizii skandal bokrug 7 tysiach nezakonno vydannyh pasportov*, 24.02.2015, source: rus.azattyk.org, at <http://www.centrasia.ru/newsA.php?st=1424753340>

¹² Alessandro Monsutti and Bayram Balci, Forced Migration in Broader Central Asia, in *The Oxford Handbook of Refugee and Forced Migration Studies*, Elena Fiddian-Qasmiyeh, Gil Loescher, Katy Long, and Nando Sigona eds., OUP, 2014.

¹³ 2015 UNHCR subregional operations profile - Central Asia, at <http://www.unhcr.org/pages/49e4872e6.html>