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United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés



Organization for Security and
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Centre in Ashgabat

REGIONAL CONFERENCE ON PREVENTION AND REDUCTION OF STATELESSNESS AND PROTECTION OF STATELESS PERSONS IN CENTRAL ASIA

ASHGABAT, TURKMENISTAN 9-10 DECEMBER 2009

Summary Overview

Introduction

In Central Asia, statelessness was one of several challenges successor States had to deal with following the break-up of the Soviet Union. These problems have been compounded in recent years by a combination of complex laws and procedures as well as international migration. Although significant progress has been made in resolving the situation of stateless persons by granting them an effective nationality, tens of thousands of individuals in the region remain stateless or with undetermined nationality. In recognition of these challenges, during 2009 UNHCR organized a regional process with governments, which included a series of national roundtables and culminated in a Regional Conference in Ashgabat, Turkmenistan on 9-10 December 2009.

The Regional Conference on Prevention and Reduction of Statelessness and Protection of Stateless Persons in Central Asia was organised by UNHCR in cooperation with the Organization for Security and Cooperation in Europe and the Government of Turkmenistan. Among the goals of the Conference were the sharing of best practices related to the identification of stateless persons and solutions to statelessness, including legislative reform to bring nationality laws into line with international standards and thereby prevent new cases of statelessness. The conference also sought to reach agreement among the government representatives present on a set of recommendations on how to address remaining problems and gaps related to statelessness in the region.

The Conference followed national roundtables held in Kyrgyzstan, Tajikistan, Kazakhstan and Turkmenistan. In these roundtables, governments demonstrated a commitment to the identification of stateless persons through population census and surveys. Governments also indicated a willingness to consider amending legislative provisions in order to eliminate gaps which cause statelessness. They also expressed willingness to work to ensure that stateless persons and persons of undetermined nationality can acquire or confirm nationality and enjoy basic rights. On the basis of



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these discussions, action plans on statelessness are being developed with participating governments. The prevention of statelessness and resolution of existing situations generally require the joint efforts of several government agencies – and at times even the cooperation of other States. It was thus recognized that a regional conference may serve as a forum to engender greater information exchange and cooperation between States in matters relating to nationality and statelessness.

This overview summarizes the discussions and presentations at the Regional Conference in Ashgabat. During the conference, presentations were made by government participants from Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan, experts from UNHCR and the Office of the United Nations High Commissioner for Human Rights, as well as government experts from Ukraine and the Slovak Republic who explained how they had tackled statelessness in their own countries. Representatives of UNFPA, UNICEF and NGOs from each of the four Central Asian states also participated in the discussions, which were also attended by representatives from the diplomatic community in Ashgabat. The summary which follows has been structured along the lines of the four main themes of the Conference: identification, prevention and reduction of statelessness and the protection of stateless persons. Each topic was introduced by UNHCR which shared the preliminary findings on identification, prevention and reduction of statelessness and protection of stateless persons of the regional project on statelessness. For each topic, the office underlined best practices and progress made in the field of legislative and administrative reform in Central Asia.

I. Identification of statelessness

After the hosts from the Government of Turkmenistan, UNHCR and OSCE had welcomed the participants, UNHCR introduced its mandate on the prevention and reduction of statelessness and protection of stateless persons. Implementing this mandate requires that stateless persons are identified and that factors which create statelessness are well understood. UNHCR's Executive Committee has instructed the Organization to support the effort of governments to identify stateless persons and to cooperate with other UN agencies on programmes which could be used for this purpose, including population census and use of data from birth and voter registration.

Participants from Turkmenistan shared the experience gained in identifying persons with undetermined nationality and stateless persons through a registration program carried out by the State Migration Service of Turkmenistan. The delegation from the Kyrgyz Republic explained how three NGO surveys supported by UNHCR in Kyrgyzstan had permitted the identification of approximately 10,000 stateless.



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persons. No similar registration campaign or survey has thus far been carried out in Kazakhstan or in Tajikistan. Nonetheless, the Kazakhstan delegation explained that 8,730 persons are registered by the government in Kazakhstan as stateless, the majority of them (7,006 persons) hailing from other CIS countries. The representative of the State Statistical Committee in Tajikistan mentioned, however, that 2,300 persons identified themselves as stateless in the last census in Tajikistan in 2000, while 326 persons are officially registered as stateless in the country.

Participants underlined the joint efforts which have been undertaken by governments and specialized UN agencies in the region to implement national population census. UNFPA mentioned the joint agreement between UNFPA, UNICEF, UNDP and UNHCR to support the preparations for the national census in Turkmenistan in 2012 as a good example of inter-agency cooperation in this area.

It was noted that census questions may be formulated in such a way that they can serve to identify stateless persons. In other situations targeted surveys can be carried out with this aim after the census has been completed. The Deputy Chairperson of the State Committee on Statistics in Tajikistan made a concrete proposal to the UN agencies present to undertake such a survey jointly with the Government of Tajikistan after the national census has been carried out in late 2010.

At the same time, participants noted that identification of statelessness on an ad-hoc basis and inadequate standing procedures to identify stateless persons in the countries of Central Asia mean that not all cases are identified. Participants agreed that identification of stateless persons and persons with undetermined nationality is the first step towards solutions to statelessness. National population census, government registration programs and surveys not only help to uncover cases of undocumented persons but can also be the starting point for efforts to clarify whether these persons hold a nationality and to regularise their stay in the country.

Recommendations: In the area of identification of statelessness, participants recommended the following:

- to continue efforts to identify stateless persons, including through population census, surveys and registration campaigns;
- to strengthen cooperation between States to confirm the identify and nationality of specific individuals;
- to ensure that individuals who lack valid identity documents, including holders of expired USSR passports, are issued with documentation,¹ thereby confirming their legal status in the State.



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¹ National passport, passport of a foreign State or identity document for stateless persons.



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II. Prevention of Statelessness

Statelessness can be prevented by ensuring that nationality laws and related procedures prevent statelessness from occurring either at birth or as a result of change, loss or deprivation of nationality. Birth registration is also important because it constitutes a key form of proof of the link between an individual and a State and thus it is essential in ensuring the right of every child to acquire a nationality.

The only country in Central Asia which has undertaken a major reform of its nationality legislation since independence is Kyrgyzstan. The new nationality law in 2007 recognizes stateless persons who have been permanently resident in Kyrgyzstan for the last five years as citizens and also introduced a partial safeguard against statelessness occurring from renunciation of citizenship. Both provisions are regional best practices.

The government representatives from Kazakhstan described the bilateral and multilateral agreements concluded with the states which seek to avoid statelessness when persons change nationality. Also in Kazakhstan, special conditions for acquisition of nationality apply for ethnic Kazakhs, *Oralman*, who arrive for permanent residence in the country. These include a waiver of the residence requirement, the obligation to prove financial solvency and the requirement to renounce other nationalities before applying for Kazakhstan nationality.

The delegation from Tajikistan highlighted that home births remain quite common in rural areas, although the number has dropped since the 1990s. In many cases these children are not registered at birth. The government is working intensively on measures to address this problem and to simplify the procedures for birth registration, including by issuing the medical certificate and birth certificate simultaneously when the child is born in hospital.

Under its mandate to prevent statelessness, UNHCR has offered technical advice to governments with the aim to close gaps in legislation which could lead to statelessness. In the four Central Asian States, it has cooperated either bilaterally or through inter-agency working groups with relevant government authorities on improvement of nationality legislation and administrative practices.

Government experts from Ukraine and the Slovak Republic shared experiences related to the prevention and reduction of statelessness. The Ukrainian expert explained how his country had resolved numerous cases of statelessness by ensuring acquisition of Ukrainian nationality by persons who had been deported from Ukraine during the Soviet era and their descendants, in particular the Crimean Tatars. Steps to



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prevent new cases of statelessness in this situation included the conclusion of a bilateral agreement with Uzbekistan, where many of the Crimean Tatars were residing. Ukraine also introduced a series of amendments to its nationality law, which removed the requirement to renounce the previous nationality before applying for Ukrainian citizenship. Ukraine also simplified its procedures.

The Slovak expert spoke about how statelessness was avoided in the Slovak Republic after the dissolution of Czechoslovakia by allowing all citizens of Czechoslovakia the right to opt for either Slovak or Czech citizenship. There was no requirement that persons who were citizens of the Czech Republic had to renounce their nationality to become Slovak citizens. Slovakia also avoided problems because it generally permits dual nationality. Slovakia also became party to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness in 2000, after a compatibility study between the Conventions and Slovak legislation had found that the legislation was generally in line with the Convention obligations. The Slovak expert also explained how these Conventions have been implemented.

Participants agreed that procedures for acquisition of nationality at birth and proper birth registration, as well as guarantees against statelessness when persons migrate from one nationality to another are good practices which serve to prevent statelessness. It was recommended that States consider accession to the 1961 Convention on the Reduction of Statelessness and to introduce these standards into domestic laws to avoid statelessness and resolve existing statelessness situations in the region.

Recommendations: In the field of prevention of statelessness, participants recommended the following:

- to ensure that all children born on the territory of the State are registered at birth;
- to reform legal provisions and administrative practices which cause statelessness in Central Asia, specifically provisions and practices under which:
 - a. some children born on the territory of the State or to nationals abroad are at risk of statelessness due to lack of adequate legal safeguards to prevent statelessness at birth;
 - b. a citizen is permitted to renounce his/her citizenship without possessing another citizenship or the assurance of acquiring one;



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- c. prolonged residence abroad without consular registration can lead to loss of citizenship.
- to consider accession to the 1961 Convention on the Reduction of Statelessness.

III. Reduction of Statelessness

In their presentations, government participants referred to efforts that have been made by Central Asian States to reduce statelessness through naturalization of stateless persons, as well as current statistics of people who recently acquired nationality. In Turkmenistan, 10,158 stateless refugees from Tajikistan were granted nationality by presidential decree in 2005 and more than 2,000 persons received permanent residence rights. In the Kyrgyz Republic, the new citizenship law adopted in 2007 recognized stateless individuals who had arrived in the Republic after independence as citizens if they had resided there permanently for at least five years. Approximately 6,000 individuals have thus been confirmed on this basis as Kyrgyz citizens. In Kazakhstan, 1,120 decrees have been adopted to grant nationality to approximately 658,000 individuals since 1992, many of whom were stateless. Some 60,000 *Oralman* of various other citizenships have been granted citizenship of the country to date.

The government delegation from Tajikistan highlighted that problems relating to lack of valid identity documents affect women in rural areas disproportionately. The network of women's committees has thus been engaged in identifying cases of women who possess expired USSR passports and assisting them to acquire new documents.

Participants agreed that granting nationality to persons who are stateless and have been residing in the country for several years is an effective way to reduce existing instances of statelessness. However, several cases referred to during the conference indicated that the particular requirement that stateless persons who apply for citizenship need to show proof that they do not possess any other nationality often poses a serious obstacle to acquisition of nationality. Many practical problems may be associated with acquiring such a certificate from another State, in particular when the State has no diplomatic representation in the country of residence. Some States also fail to respond or respond only after a long delay.



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Recommendations: In the area of reduction of statelessness, participants recommended the following:

- to reform legal provisions and administrative practices which pose obstacles to the reduction of statelessness in Central Asia, specifically provisions and practices under which stateless persons applying for residence permits or citizenship are required to submit a certificate to confirm they do not possess the nationality of other States with which they have links, without providing for exceptions for situations where the States concerned fail to reply.
- facilitating acquisition of nationality for stateless persons through simplified procedures, including through reduced residency and documentation requirements and waiving of fees.

IV. Protection of Stateless Persons

The speaker from the Office of United Nations High Commissioner for Human Rights noted the importance of universal and regional human rights instruments, which apply to every human being, regardless of nationality or statelessness. It was emphasized, however, that statelessness and lack of proper identity and travel documents often prevent persons from enjoying basic rights, such as education, health care, property ownership and formal employment. Efforts should thus be made by governments to remove administrative obstacles and grant stateless persons a legal status which enables them to enjoy all basic human rights and freedoms.

During the conference, several delegations spoke about the national legal regimes applicable to stateless persons. They stressed that stateless persons are either treated on the same footing as nationals of the countries with respect to certain rights and freedoms or treated similarly as other foreigners in the same circumstances. This implies that national standards of protection of stateless persons in many respects are in compliance with international standards in this field and reflected in international instruments such as the 1954 Convention relating to the Status of Stateless Persons.

UNHCR concurred that the legislation governing the legal status of aliens, including stateless persons, in the four Central Asian States is close to the standards of relevant international instruments. However, it was also noted that enjoyment of the rights and freedoms of domestic laws in the four countries often is subject to formal possession of statelessness status and identity documents issued by the state of residence. Those who have not been documented as stateless persons face much greater obstacles enjoying these rights and freedoms. The procedures for recognizing statelessness



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status are not always fair and efficient. Moreover, persons applying for residence registration as stateless persons are usually required to submit proof that they do not possess any other nationality, and face the same problems obtaining it as persons applying for acquisition of nationality.

Recommendations: In the field of protection of stateless persons, participants recommended the following:

- to work further on establishing formal procedures for the determination of statelessness status
- to grant a legal status, basic rights and identity documentation to stateless persons for an interim period until they are able to acquire a nationality
- to consider accession to the 1954 Convention relating to the Status of Stateless Persons.

Conclusion

Participants noted that the Conference had been a useful forum for sharing best practices and discussing remaining problems in the areas of identification, prevention and reduction of statelessness and protection of stateless persons in the Central Asian region. Many of the government participants also expressed a desire to broaden their cooperation on these issues with international and non-governmental organisations, as well as among themselves. At the close of the Regional Conference, the participants welcomed the upcoming 50th anniversary of the 1961 Convention on the Reduction of Statelessness and agreed to review the progress to address the areas outlined in the conference report and conclusions after one year.



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