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The Revocation of Dual Citizenship in Turkmenistan

by Lynn Shaver

IN 2002, PRESIDENT SAPARMURAT NIYAZOV used an alleged assassination attempt on his life as a pretext for cracking down on Turkmenistan's Russian population, which he views as a threat to his power. The culmination of these efforts was the renunciation of the 1993 Dual Citizenship Agreement with Russia. By retroactively enforcing this decision, over 100,000 dual Turkmen-Russian citizens in Turkmenistan would be forced to choose between their homelands and their freedom. While Russia and Turkmenistan continue to debate the terms of the agreement, thousands of innocent Russians are being forcefully deported from Turkmenistan.

When the Soviet Union collapsed in 1991, 25 million Russians were living outside of Russia. To ensure that Russian minorities in the "near abroad" were adequately protected, Russia and the former Soviet Republic of Turkmenistan entered into an agreement permitting dual nationality. The 1993 Dual Citizenship Agreement recognized that Russians living in Turkmenistan had competing ties, allegiances, and loyalties. It also reflected the uncertainty at that time about what would become of the newly independent states and offered a degree of protection and reassurance to concerned Russians living throughout the former Soviet Union. Ten years later, the need for external protection of Turkmenistan's Russian population is even greater than ever.

Under President Niyazov, human rights violations have become everyday occurrences. Russians, in particular, have been the targets of unceasing persecution by the government. Those able to leave have already left, but there are still over 350,000 ethnic Russians living in Turkmenistan today, many of whom were born there and consider it their homeland.

BACKGROUND

TURKMENISTAN RANKS AS ONE OF THE MOST OPPRESSIVE dictatorships in the world, matching North Korea and Hussein's Iraq in its failing scores for political freedoms and civil rights. Since abandoned in 1991 by its only form of centralized government, Turkmenistan is characterized today by a cult-of-personality reminiscent of Stalin's, an utter disregard for the rule of law, increasing isolation, and widespread human rights violations.

President Niyazov has ruled Turkmenistan since 1985, when he was appointed Chairman of the Council of Ministers of the Turkmenistan Soviet Socialist Republic. After serving as the First Secretary of Turkmenistan's Communist Party, he became Chairman of the Supreme Soviet in 1990. In 1992, following the dissolution of the Soviet Union, Niyazov was elected president of Turkmenistan with 99.5 percent of the popular vote. Despite a constitutional provision of a five-year presidential term, in 1999 the *Halk Maslahaty* (People's Council), which is charged with deciding issues of security and statehood, elected Niyazov president for life. As president, Niyazov has exercised dictatorial control, assuming the powers delegated to each branch of Turkmenistan's government. There is no independent constitutional court to ensure separation of powers, guard the primacy of international law over domestic law, or review the constitutionality of enacted laws. As head of the country's only official political party, the Democratic Party of "Neutral and Independent" Turkmenistan, Niyazov has employed censorship, show trials of those who question his policies, and frequent replacement of key government officials to ensure the security of his rule. After making the People's Council the country's highest legislative body, Niyazov founded

an institute devoted entirely to the study of his pseudo-spiritual guidebook, the *Rukhnama*, which dictates every aspect of Turkmen life.

Despite his strong ties with Russia and the Communist Party, Niyazov has managed to maintain some popularity in Turkmenistan by promoting a strong Turkmen national identity. He created numerous Turkmen holidays, glorified Turkmen life in his *Rukhnama*, and deemed the 21st century Turkmenistan's *Altyn Asyr*, or "Golden Century." Niyazov has also placed himself at the core of the Turkmen national identity by depicting himself as the heroic figurehead of the Turkmen people. He has even suggested that he is a prophet of Mohammed. In Turkmenistan, where his portrait graces every wall, book, entranceway, and newspaper, he is not called "President Niyazov," but rather *Beýik Turkmenbashi*, or "Great Father of the Turkmen People."

Any visitor to the country can attest to the great amount of time and energy devoted to praising Niyazov and "Neutral and Independent" Turkmenistan. The vast majority of people in Turkmenistan, however, are painfully aware of the harsh economic and political realities of their situation. In his efforts to increase national pride in the Turkmen people, Niyazov has focused on decreasing Russian influence on Turkmen culture. As a result, the Russian population is increasingly discriminated against. Less than five years ago, Niyazov eliminated Russian as a national language and changed the Turkmen alphabet from Cyrillic to Latin. Currently, Russians are increasingly being fired from their jobs because they cannot speak Turkmen, the official language of Turkmenistan. Niyazov censors all forms of foreign media, most notably news from Russia. Travel is limited both within and outside Turkmenistan, and all telephone and internet communication is monitored. In the past few years, the vast majority of Russian schools have been closed, and schooling for all children was changed from 11 years to 9 years, a significant portion of which students are forced to spend in the fields picking cotton for the government. By sheltering the Turkmen people, Niyazov guarantees greater success in his endeavor to make people in Turkmenistan truly believe that they are living in Turkmenistan's "Altyn Asyr," or "Golden Century."

NIYAZOV'S ELIMINATION OF "BETRAYERS OF THE MOTHERLAND"

ON NOVEMBER 25, 2002, during an alleged assassination attempt, shots aimed from a nearby vehicle were fired at Niyazov's motorcade. Questionable circumstances surrounding the alleged assassination attempt, however, suggest that Niyazov staged the incident as a pretext for the Turkmen government's crackdown on ethnically "impure" citizens. Whereas roads are routinely closed off for Niyazov's motorcade, the perpetrators' vehicle was somehow able to approach the motorcade without notice. Further, although Niyazov emerged unscathed and initially claimed not to have even noticed the incident while it took place, he was somehow able to recount on national television the event in full detail and identify the attackers as political opponents. Shortly thereafter, reaffirming his trust and faith in the Turkmen people and referring to foreign nationals living in Turkmenistan, Niyazov accused "dishonest" people, those "[not] even know[ing] their native language and religion," of trying to oust him from office.

Following the alleged assassination attempt, Turkmen authorities made widespread arrests of individuals believed to be involved in the conspiracy to assassinate Niyazov and unlawfully detained up to 700 people,

including women, children, and elderly persons. A large percentage of them were of Russian descent, and many held dual Russian-Turkmen passports. Although the lack of reliable reporting leaves the true numbers and circumstances of the detainees unclear, numerous detainees have reported government use of brutal interrogations, forced confessions, and torture. Many detainees have been further victimized in show trials, and those found guilty by "trial" have been labeled "betrayers of the motherland," "enemies of the people," and terrorists.

In the aftermath of the assassination attempt, Niyazov announced that Turkmenistan must "rid society of those who have lost respect"—namely, the ethnically "impure" Turkmen citizens with Russian passports who "betrayed the motherland." By this, Niyazov implied that all dual nationals living in Turkmenistan were potential "enemies of the people." To minimize the risk these "enemies" presented, Niyazov found a way to remove present and future dissidents from the country: renunciation of the 1993 bilateral agreement with Russia allowing for dual Russian-Turkmen citizenship.

By retroactively revoking dual citizenship in Turkmenistan, Niyazov could force dual citizens to prove their loyalty to Turkmenistan or leave the country. Those who chose to keep their Russian passports would lose ownership of their homes and property in Turkmenistan, be forced to obtain visas to stay in Turkmenistan, and have to live under the watchful eye of the KGB. Those who chose to keep their Turkmen passports would lose the ability to leave Turkmenistan without an exit visa, risk their ability to visit relatives outside of the country, still live under the watchful eye of the KGB, and still risk a great probability of losing their jobs. Even worse, those renouncing their Russian citizenship and remaining in Turkmenistan would have to live in Turkmenistan without any promise of protection from the Russian embassy. The revocation of the dual citizenship agreement ultimately allowed Niyazov to neutralize political opposition within Turkmenistan and limit travel to and from Russia.

REVOCATION OF THE 1993 DUAL CITIZENSHIP AGREEMENT

AT AN APRIL 10, 2003 summit in Moscow, Russian President Putin and Niyazov agreed to revoke the 1993 agreement permitting Russian-Turkmen dual nationality. Russia's willingness to dissolve the agreement came only after instability in the Persian Gulf region increased its need for a new supply of natural energy resources. To that end, Putin and Niyazov secured a deal in which Russian Gazprom would buy \$200 billion worth of natural gas from Turkmenistan over the next 25 years. Russia, calculating future profits of \$300 billion from the deal, also agreed to revise its national policy to allow for the extradition of "terrorist" suspects to Turkmenistan.

Less than two weeks after this agreement was reached, Niyazov decreed that all dual nationals would have less than two months to

choose their citizenship. Responding to outrage from concerned Russians and the international human rights community, Putin defended his position by arguing that the Russian Duma had not yet ratified the agreement. He also asserted that a revocation of the 1993 agreement could not

be retroactive. Senior officials at the Russian embassy in Turkmenistan, struggling to cope with the hundreds of distraught Russians gathering outside the embassy each day, said it would take years to process all the outstanding applications for Russian passports.

The status of the agreement to revoke Russian-Turkmen dual citizenship remains unclear. While both Putin and Niyazov agreed to the revocation, their subsequent understandings of the terms and scope of the agreement have differed significantly. Russia insists that it will continue to recognize dual citizenship until the agreement is ratified by the Duma. Even then, it will not enforce it retroactively. Niyazov, much to the dismay of the Russian Duma, ratified the agreement only two weeks after the summit and unilaterally selected a date for beginning to enforce the new citizenship policy. Upon the demand of the Russian government, Niyazov stated that Russian citizens in Turkmenistan would not be punished for choosing Russian citizenship over Turkmen citizenship. However, he has not guaranteed residence visas for them. Russia and Turkmenistan further disagree over the number of ethnic Russians living in Turkmenistan. Russia estimates that approximately 100,000 dual citizens live in Turkmenistan, and the Turkmen government recognizes only 47 such cases. While the Turkmen and Russian governments

debate the fate of these people, hundreds of Russian families are reported to be leaving Turkmenistan each week for uncertain futures in Russia.

COMPLIANCE WITH TURKMEN AND INTERNATIONAL LAW

THE REVOCATION OF DUAL CITIZENSHIP in Turkmenistan is not consonant with national and international law. Both the Turkmen Constitution and the Law on Republic Citizenship protect against the deprivation of citizenship. International law suggests that arbitrary deprivation of citizenship contradicts the current trend to recognize multiple nationalities, and also suggests that such deprivation may constitute a violation of fundamental principles of human rights.

COMPLIANCE WITH TURKMEN LAW

Although Turkmen law and other individual rights in Turkmenistan are not highly regarded and lack government protection, the Turkmen Constitution and the Law on Republic Citizenship may assist the international community in pressuring the Turkmen government to comport with international legal standards and in promoting the rule of law in Turkmenistan. Particularly, Article 7 of the Turkmen Constitution states that "No one can be deprived of his citizenship or the right to change his citizenship. A citizen of Turkmenistan may not be turned over to another government, driven out of Turkmenistan, or lim-



*Ruhnama is President Niyazov's spiritual guidebook which dictates all aspects of Turkmen life.
Credit: courtesy of the author*

Revocation of Dual Citizenship

ited in his right to return to his native land.” Similarly, the Law on Republic Citizenship states, “Turkmenistan recognizes dual citizenship” and “[a] citizen of Turkmenistan may not be deprived of his citizenship.”

The revocation of dual citizenship contradicts both of these Turkmen laws and others. In direct violation of the Turkmen Constitution and the Law on Republic Citizenship, dual nationals who renounce their Turkmen citizenships will effectively be forcefully deported without allowance of reentry except upon receipt of a visa. Some Russians have already been deprived of their homes and property, persecuted for political convictions, refused the right to participate in government, and discriminated against in employment. In almost every realm of society, Russians have not been treated as equals before the law, as Article 17 of the Constitution guarantees. As a result, Niyazov’s attempt to rid Turkmenistan of “enemies of the people” leaves little enforced legal protection of Russians under Turkmen law.

COMPLIANCE WITH INTERNATIONAL DUAL NATIONALITY AND HUMAN RIGHTS STANDARDS

Additionally, international human rights standards and anti-discrimination principles suggest that the revocation of Turkmen-Russian dual nationality contradicts the current international trend to recognize multiple nationalities and also constitutes a human rights violation. As a member state of the United Nations, Turkmenistan is bound by the main UN instruments. Article 15 of the Universal Declaration of Human Rights (UDHR) states that everyone has the right to a nationality and that no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality. While this article does not directly address cases of dual nationality, it suggests that states should avoid statelessness. In contravention of Article 15, Turkmenistan’s revocation of dual citizenship encourages statelessness of ethnic Russians living abroad.

A corollary to the principle of having the right to a nationality is that states must act in good faith in cases warranting the revocation of nationality. The United Nations recognizes five grounds for withdrawing nationality: prolonged time abroad; participation in activities generally considered for nationals; fraud; lack of good character; and disloyal acts, particularly in times of armed conflict. The enumeration of these five grounds suggests that other reasons for withdrawal of nationality may be arbitrary. In the case of Turkmenistan, the revocation of the 1993 Dual Citizenship Agreement is based not on any of above factors, but on Niyazov’s personal desire to rid the country of a particular group of people. Thus, the forced deportation of Russians from Turkmenistan may be considered arbitrary and reflects an act of bad faith by the Turkmen government.

Although Turkmenistan is not a party to United Nations Convention on the Reduction of Statelessness or the International Convention on the Elimination of Racial Discrimination, the prohibition of discriminatory denationalization reflects the general principle of non-discrimination that permeates international human rights standards. Specifically, Article 9 of the 1961 United Nations Convention on the Reduction of Statelessness provides that “A contracting state may not deprive any person or group of persons of their nationality on racial, ethnic, religious, or political grounds.” Unlike Article 15 of the UDHR, this prohibition is not subject to the condition that it would create statelessness. “Arbitrary” deprivation of nationality may therefore be defined as meaning discriminatory deprivation of nationality. The International Convention on the Elimination of Racial Discrimination further links the right to nationality with the right to equal treatment for all people and the prohibition of discrimination. The Turkmen government, priding itself on its status as a neutral country and recognizing the primacy of international law, should comply with the principles and norms of

the United Nations by not revoking the dual citizenship of its largest minority group.

As a whole, however, international laws concerning citizenship offer little support for challenging Niyazov’s revocation of dual citizenship and fall short of addressing the full range of issues concerning a nation’s withdrawal of dual nationality privileges. No individual right to a particular citizenship exists in international law, and existing practice and jurisprudence suggest that deprivation of nationality is not *illegas per se*. Although deprivation of nationality where it results in statelessness is strongly discouraged by international law, states may still determine their nationals.

In the past, international law has favored reducing cases of multiple nationalities where possible. In 1963, the Council of Europe’s Convention on Reduction of Cases of Multiple Nationality and Military Obligation in Cases of Multiple Nationality, expressly sought to reduce cases of multiple nationalities. In today’s world, however, where over 185 million people live outside their countries of nationality, a nation’s acceptance of dual nationality has come to reflect an acknowledgement of the wide range of affiliations, ties, and loyalties that individuals enjoy. This recognition, along with increased migration and more lenient laws on renouncing citizenship, has resulted in increased instances of dual nationality. Thus, the Second Protocol to the 1963 Convention, which recognized the importance of the conservation of nationality, represented a drastic change in the understanding of dual nationality. To note, Turkmenistan is not a party to the Second Protocol to the 1963 Convention.

CONCLUSION

CONTINUED RECOGNITION of the 1993 dual citizenship agreement between Turkmenistan and Russia is crucial. In a country where widespread human rights violations are already apparent, the revocation of the Turkmen-Russian Dual Citizenship Agreement points not only to further violations of general principles of international law but also to an increasing disregard for international human rights standards.

While the global community moves towards increased recognition of the many affiliations, ties, and loyalties that people enjoy, the Turkmen government seems to be moving in the opposite direction, creating a society in which diversity and criticism are met with retribution. The revocation of the 1993 Agreement is Niyazov’s latest effort to shield himself from criticism, this time by neutralizing potential political opponents. To rid Turkmenistan of people labeled “betrayers of the motherland,” Niyazov is willing to compromise the well-being of many innocent people. The international community should recognize that the forced deportation of Russians from Turkmenistan is contrary to Turkmen and international law, call on the Turkmen government to recognize dual citizenship, and insist that the Turkmen government honor its commitment to global human rights standards. *HRB*

The author, who has elected to use a pseudonym, has extensive experience on the ground in Turkmenistan and now advocates for human rights from outside the country.