

Crimean Karaites and Krymchaks as Indigenous Peoples of Crimea in the Modern Conditions

Borys Babin^{1,*} and Anna Prykhodko²

¹*Department of International Law and Comparative Jurisprudence of International Humanitarian University (Odesa, Ukraine)*

²*Postgraduate of Legislation Institute of Verkhovna Rada of Ukraine (Kyiv, Ukraine)*

Abstract: *Objectives:* This study aims to determine the qualification of the statute of two indigenous peoples residing in Crimean peninsula (Crimean Karaites and Krymchaks) in conditions of current interstate conflict.

Materials and Methods: Coherent analysis was made according to the common principles of law, norms of international human right law, to the provisions of Ukrainian and Russian legislation and to the present scientific publications devoted to the history and ethnic origin of Crimean Karaites and Krymchaks

Results: Author proved the duty of Ukraine to finish the procedure of official recognizing the Krymchaks and Karaites as the indigenous peoples (with the procedure in analogy for parliamentary Statement on Crimean Tatar People's statute on March 20, 2014) and to adopt the Law on the Status of Indigenous Peoples fixing the prescriptions of the UN Declaration on Rights of Indigenous Peoples on the principles of subsidiarity.

Conclusion: collective political, economic, social and cultural rights of indigenous peoples must be defended despite any politic and military circumstances an situations of interstate conflict.

Keywords: Annexation, Occupation, Crimean karaites, Krymchaks, Indigenous peoples, UN legal standards.

INTRODUCTION

The historical, legal, ethical preconditions of application the international legal mechanisms may give ground for protection and promotion the rights of the indigenous peoples as specific ethnic groups in Ukraine, including some Crimean ethnic groups. Traditionally relevant issues are connected with the Crimean Tatar People (CTP) as indigenous people (IP) officially recognized in 1995-2014 by Ukrainian government and UN structures. While several other ethnic groups of Ukraine may be qualified with the corresponding status. Those Crimean IPs are the almost unique example for recognizing the UN IP standards for European autochthon ethnic groups. So the repercussions of such recognition for their ethnic situation and development are the important object of research not for legal or politic sciences, but for anthropology also.

MATERIALS AND METHODS

Author researched the legal, normative and program acts of UN structures, Ukraine, Russia and Crimean autonomy, devoted to the issue of indigenous peoples, including aspects of interethnic relations. The present scientific publications devoted to the history

and ethnic origin of Crimean Karaites and Krymchaks are lighted at, materials of media are watched. The hermeneutic, formal legal, program, statistic and historic methods were implemented in the article.

DISCUSSION

Crimean Karaites (Karays) and Krymchaks before 2014

Crimean Karaites (Karays) and Krymchaks appeared as separate ethnic groups in the Crimea in the early Middle Ages. Their ethnic origin is undetermined certainly, both groups have Turk, Hebraic and Goth roots and is not clearly determined. Anyway they had the actual national-cultural autonomy mechanisms, reflected in the normative acts and governing practice of the Crimean Khanate, Russian Empire and the Crimean Autonomous Soviet Socialist Republic (A.S.S.R., to 1945). In legal acts of the Crimean Khanate, the Russian Empire, the Crimean A.S.S.R., the USSR and the Republic of Crimea these ethnic groups were called as peoples and were recognized as indigenous population; they had features of collective state-legal status [1, p. 189]. Non-numerous character of these ethnic groups has led to their almost complete annihilation due to Hitler's genocide against the Krymchaks. Also it was lead by the destruction the religious authorities of both ethnic groups during Soviet time, which contributed before to their national consolidation [2, p. 115]. Remnants of

*Address correspondence to this author at the Department of International Law and Comparative Jurisprudence of International Humanitarian University (Odesa, Ukraine); Tel: +380639495556; E-mail: babinb@ukr.net

these ethnic groups, however, cheered the national consciousness in the 1989-1992. The powers of the Crimean autonomy used some organizational and legal measures to maintain their identity. It led to the official legal recognition of these ethnic groups as a "Non-numerous Crimean Peoples."

Newly-founded Crimean A.S.S.R. of 1921-1945 was treated by the Soviets precisely as the National Autonomy of CTP, which it evidenced by the way of its creation, official languages and personnel policies. Crimean Tatars, Karaites and Krymchaks were recognized as IP of Crimea in the official documents and academic journals of Soviet period before II WW. In addition, they recognized many times as a separate nation in legal acts of the Russian Empire, the U.S.S.R. and the Crimean A.S.S.R.

Krymchaks were the object of Nazi genocide in Crimea during 1942-1944. The deportation of CTP in May 1944 took place by order of the People's Commissariat of Defense of U.S.S.R. Presidium of the Supreme Council of the U.S.S.R. on June 30, 1945 adopted the Resolution approving the Law preceded by the Russian S.F.S.R. on June 25, 1945, which directly connects the conversion of the Crimean ASSR into the ordinary region (oblast) with the deportation of the CTP. It caused the further forced assimilation and rusification of Karaites and Krymchaks till the destruction of U.S.S.R in late XX century.

Before this collapse Supreme Council of Ukrainian S.S.R. adopted the Law № 712-XII on February 12, 1991 "On the Restoration of Crimean A.S.S.R." without waiting for the decision of U.S.S.R. authorities. This law transformed the statute of the Crimean oblast of the Ukrainian S.S.R. [3]. However, the former government (executive committee) of the Crimean oblast were proclaimed as thr authorities of the newly created A.S.S.R.; representatives of CTP were not involved into the system. The analysis of these documents may assume that Russian separatists hoped to use the CTP movement with their own purpose. It was to prepare grounds for the secession of Crimea from the Ukrainian S.S.R. to Russian one and to conclude a certain model of cooperation with it.

At the same time the Crimean authorities recognized Karaites and Krymchaks as separate peoples, obviously not having any reasons to worry about any threats from the side of these ethnic groups, as they were on the verge of extinction. Thus, the Council of Ministers of the Crimean A.S.S.R. on

January 21, 1991 recognized the Karaites and Krymchaks as a Non-numerous Crimean Peoples and established a list of measures to maintain their cultural identity [4].

The processes of legal regulations of ethnic phenomenons that began after Ukraine gained independence in 1991 appeared for the factor of the multiculturalism of Ukrainian people. It included as well the formal joining of the non-Ukrainian ethnic groups, which were indigenous ones to Ukraine, to its structure. These processes led the Ukrainian parliament to adopt the Declaration of the Rights of Nationalities, 1991 and the Appeal to the Citizens of Ukraine of All Nationalities, 1991, with recognition by those and many other acts the existence of some "peoples", as a part of the Ukrainian People, including the CTP, and the presence of the collective rights guaranteed by the state for such ethnic groups. However there was not logical legal development describing the rights of those "peoples" later.

After the politic decision of problem of the Crimean autonomy, the Constitution of Ukraine, 1996 did not connect the status of Autonomous Republic of Crimea (ARC) with CTP and/or with other IPs of Ukraine. The Constitution of the ARC, 1998 avoided to mention the rights of the IPs of Crimea as a legal basis of the autonomy also (however, the status of official languages of the ARC was fixed both for the Russian and Crimean Tatar languages).

At the same time the development of the democratic social and legal state institutions and civil society in Ukraine objectively made it necessary to provide the legal status to the NIP of Ukraine as an integral part of the multinational Ukrainian people and to create the preconditions for their development. So the Constitution of Ukraine, 1996 launched a national constitutional institute of IPs. According to Art. 11 of the Constitution of Ukraine, the state shall promote the development of ethnic, cultural, linguistic and religious identity of all IPs of Ukraine; under its art. 92 rights of IPs have to be determined by the laws of Ukraine. Section 3 of art. 119 of the Constitution states, that local state administrations provide on relevant territory, in areas where IPs live, the implementation of the programs of their cultural development. However, practically the similar rights were secured by the Constitution for the national minorities.

The introducing to the text of Constitution those norms of art. 11, 92 and 119 with the "IP" term became

possible due to the peculiarities of the process of adoption of the Constitution in June 1996. In particular it was caused through democratic discussion of amendments to the draft Constitution within the framework of parliamentary Constitutional commission. Alas, Ukraine has not passed later the legislation that would specify those provisions of the Constitution. The rights of some ethnic communities residing in Ukraine are not able to be ensured by the laws on national minorities, including the historical, socio-cultural and political factors that have resulted from their indigenous origin.

According to the governmental draft of the Concept of the State Ethnic Policy of Ukraine, IP is an autochthonous ethnic community, which has its ethnic origin and genesis on the territory in the boards of contemporary Ukraine and is an ethnic minority in the composition of Ukrainian population and does not have own state formation outside the Ukrainian state. Some Laws of Ukraine approved in the 1990s, contain the term "IPs", in particular the Law "On Local State Administrations", 1999 and the Law "On the Supreme Council of the ARC", 1998. Also we may point on some regulative acts of the ARC at the period of 1998-2003, that established *de jure* some special status for Crimean Tatar language in Crimea although in fact they mostly were not realized.

In the independent Ukraine representatives of the Karaites, Krymchaks and Crimean Tatars claimed to be recognized as IPs. The National movements of Karaites and Crimean Tatars have arranged their specific organizational forms. Karaite ethnic group created the representative council – Ulu Beylik, elected by Karaites National Congress in 2003. The compliance of Karaites and Krymchaks towards of the international requirements according with the characteristics of IPs may be noticed for some points:

- the emergence and development of this IPs as separate ethnic groups in Ukraine, the absence of their own historical country abroad of Ukraine and lack of other state or public entity, with which they could connect their own national identity (autochthonous character of these ethnic groups);
- the presence of their indigenous' traditional territory of residence (Crimea) in Ukraine, with a close organic historical and cultural ties for these IPs;

- national, linguistic, cultural and religious identity of this IPs;
- self-consciousness of the representatives of these ethnic groups in a capacity of IPs.

The features of these ethnic groups, imposed by the current national ethno-political situation, did not allow to make a decision about the establishment of the national-territorial autonomy on the traditional and modern territories of their residence of to give them all natural resources and lands of Crimea to the ownership. Such features are: the loss of specified traditional forms of farming and nature management, the lack of a long tradition of existence of modern representative institutions, the being of the absolute paucity in Crimea. Even the formal legal final recognition of those ethnic groups as IPs has not been finished occurring within 23 years of independence of Ukraine.

During first decades of XXI century some acts concerning the IPs issues were adopted in Ukraine. Prescript of Cabinet of Ministers of Ukraine on May 16, 2001 № 187-p ordered to the Ministry of Justice of Ukraine and to the Council of Ministers of ARC to research the issue on compliance the rights of Karaites and Krymchaks and, if it will be able, to give the coherent propositions to the Government [5]. State Program of Secure and Preservation the Intangible Cultural Heritage on 2002-2008, adopted by the Resolution of Cabinet of Ministers of Ukraine on December, 23 2004 № 1732 prescripts to the National Academy of Science and the Council of Ministers of ARC to held the scientific researches the history and cultural heritage of Crimean Karaites and Krymchaks [6]. Ukrainian Law "On Grounds of State Language Policy" adopted on July 3, 2012, provided the minority language statute for Karaite and Krymchak languages [7]. Also we may point on norms of Resolution of Verkhovna Rada of ARC № 582-6/11 on November 16, 2011 "On Measures of Preserving the Historic-Cultural Heritage of Crimean Karaites and Krymchaks for 2012" [8].

Crimean Karaites (Karays) and Krymchaks in Interstate Conflict's Conditions

The occupation and subsequent annexation of Crimea (ARC and Sevastopol) by Russia (RF) held in February-March 2014, greatly exacerbated the problem of the rights and interests of the IPs of Ukraine. Under foreign occupation of Crimea, which grew into its

annexation, the newly formed government of Ukraine paid attention to the issue of IPs; as their natural collective rights were rejected by the authority of RF and separatists "government" of the Crimea.

Therefore, the Ukraine Parliament adopted the Statement of Verkhovna Rada of Ukraine on the Guarantees of the Rights of the CTP as a Part of the Ukrainian State (proposed by p.d. P. Poroshenko), which was approved by Resolution on March 20, 2014 № 1140-VII. The preamble of the Statement contained a reference to the objectives and principles enshrined in Arts. 3, 11, 15 of the Constitution of Ukraine, in Art. 1 of the UN Charter and in the UN International Covenant on Economic, Social and Cultural Rights also as in the Vienna Declaration. By this Statement (point 4) Parliament of Ukraine has declared its support to UN Declaration on the Rights of Indigenous Peoples (DRIP).

At the art. 8 of this Statement Ukraine also strongly condemned any attempt to restrict the political and social rights, civil liberties of Ukrainian citizens of different ethnicities living in Crimea, in particular, Ukrainian, Russian, Crimean Tatars, Armenians, Bulgarians, Greeks, Germans, Karaites, Krymchaks observing as a result of unconstitutional referendum in the ARC. The Statement on March 20, 2014 has the historical character; implementation of the Statement was conducted by Ukraine on the international scene during the regular annual session of the UN Permanent Forum on Indigenous Issues in May 2014 [9]. Permanent Mission of Ukraine to the UN organized event of support for the CTP in Crimea during the forum; on May 13, 2014 the representative of Ukrainian mission made the formal declaration at the session of the Forum about the support of the UN DRIP by Ukraine. We should add that this announcement was made on behalf of the Government of Ukraine. It managed to get rid of ambiguity due to the fact that as usually unilateral acts of states, including their international decisions, are issued by national Government (as it was made by Australia, Columbia, Canada and New Zealand governments for DRIP issue), not by the Parliament.

The relevant adverse events in Crimea contributed to approval of some new regulations, especially the Law of Ukraine on April 15, 2014 № 1207-VII "On Ensuring of the Rights and Freedoms of Citizens and Legal Regime for the Temporarily Occupied Territory of Ukraine". The preamble of the Act the declared as the basis the "protection and full realization of national,

cultural, social and political rights of citizens of Ukraine, including IPs and national minorities" as the ground of the humanitarian, social and economic policy in relation to the population of temporarily occupied territory. This approach supposes that Ukraine considers the collective rights of IPs by this way as a form of exercising the rights of citizens of Ukraine. This is not perfect in terms of the existing international theoretical concept, according to which collective rights may be considered as human rights but not as the rights of citizen.

However, this configuration let us to suggest that the rights of IPs of Ukraine in Crimea are covered by the rules of parts 1, 3 of Art. 5, parts 1, 2 of Art. 17 of this Law, under which Ukraine is taking all necessary measures to guarantee the rights and freedoms of man and citizen stipulated by the Constitution and laws of Ukraine, by international treaties, to all the citizens of Ukraine who live in the temporarily occupied territory. Thus the responsibility for the violation of such rights at the temporarily occupied territory is charged on Russia as the state-occupier in accordance with the norms and principles of international law [10].

According to the rules of Law № 1207-VII in a case of violation of its provisions, state bodies of Ukraine should use the mechanisms provided by the laws of Ukraine and international law, to protect the peace, security, human rights, freedoms and legitimate interests of citizens of Ukraine who are located on the temporarily occupied territory. Also, Ukraine is obliged to take all possible measures, including prescribed by an International Law, to restore the rights and freedoms of human being and citizen undermined as a result of the occupation. It should be added that the DRIP, of course, can be regarded as a collection of relevant norms of the International Law that can be applied by Ukraine to implement the requirements of the Law № 1207-VII. Also norms of part 7 of Art. 5 of the Law № 1207-VII put the responsibility for the protection of cultural heritage in the temporarily occupied territory on Russia as on the state-occupant, according to the norms and principles of the International Law. This must certainly be disseminated on the cultural heritage of the IPs of Ukraine in Crimea.

We may point also on the drafts of the Law on the Status of IPs of Ukraine, introduced to Parliament in March 2014. They are: the draft "About the Restoration of the Rights of IPs of Ukraine Forcibly Relocated from Crimea" № 4434 on March 13, 2014, submitted by MP G. Moskal and the draft "On the Rights of IPs of

Ukraine” № 4501 on March 20, 2014, submitted by deputies V. Karpuntsov, O. Prodan, R. Pavlenko, T. Corner and I. Heraschenko.

It should be indicated that the project № 4434 was made by analogy with a number of previous draft laws, including governmental, previously proposed to solve the deported problem [11]; actually the category of “deportees” in text of № 4434 was replaced by the category of “IPs”. Most of the rules of the project was devoted not determine the status of IPs but to establish the competence of public authorities to organize their return and resettlement in Ukraine; project concerned exclusively the CTP (without notices about Karaites and Krymchaks) [12]. These circumstances led to the rejection of this draft by the Parliamentary Committee.

The draft of the Law № 4501, proposed by mentioned group of democratic deputies is more sophisticated and high-quality document that puts forward the purpose of determining the rights of IPs in Ukraine and the characteristics of their implementation. In fact, this draft is the maximum possible implementation of the norms of the UN DRIP. It presents the list of the rights of IPs set in the DRIP. Therefore, this approach of its authors, provided with the official acknowledgment by Ukraine the significance of this DRIP should be considered as productive one. According to Art. 1 of the draft of this law IPs of Ukraine – are the autochthonous ethnic community, which is densely settled and descent from the territory held within the state border of Ukraine, which is an ethnic minority in the population of Ukraine and does not have own state formation outside Ukraine. Project proposes to determine the Crimean Tatars, Karaites, Krymchaks as IPs Ukraine “compactly residing in ARC – an integral part of Ukraine” [13].

This article (the other provisions of the draft regulations is the transfer of the UN DRIP) actually was borrowed by its authors from the draft of the Concept of National Ethnic Policy of Ukraine, and causing a number of observations. As the issue of ethnic genesis is difficult to be connected with certain territory inside the modern state borders; in addition, Karaites and Krymchaks now live scattered across Ukraine not in Crimea only. Also we must not forget that the traditional territory of residence of the Crimean Tatars in Ukraine, except ARC, is Sevastopol town district (also for Karaites) and areas of Kherson and Zaporizhzhya regions. During parliamentary consideration of this draft Verkhovna Rada of Ukraine sent the project № 4501 for revision and proposed to consider the suggestions

of project № 4434, rejected by the parliamentary committee.

In those conditions a draft of the resolution “On Statement of Verkhovna Rada of Ukraine on Preserving in Ukraine the Originality and Cultural Heritage of Crimean Karaites (Karays) and Krymchaks” № 2680 was registered in Ukrainian Parliament on April 20, 2015. The profile parliamentary Committee on Issues of Culture and Spirituality researched this draft and recommended to adopt it (protocol of session on May 13, 2015 № 13); also this project was adopted by the parliamentary Committee on Human Rights, National Minorities and Ethnic Relations and other committees.

Later the same draft was registered in Ukrainian Parliament on June 16, 2016 № 4827 [14] but was not voted. Then, according to the p. 10 of art. 112 of the Working Plan for realization the National Human Rights Strategy, adopted by Ukrainian Government on November 23, 2015, till the end of 2016 Ministry of Culture of Ukraine together with international experts and NGOs were determined as responsible for the development the draft of the Law on Indigenous Peoples of Ukraine. Such project was developed by the Foundation on Research and Support of the Indigenous Peoples of Crimea and Crimean Tatar Recourse Center, was discussed on UN EMRIP and ODIHR OSCE annual Sessions in 2016, it got positive expert opinion from Legislation Institute of Verkhovna Rada of Ukraine [15].

Crimean Karaites (Karays) and Krymchaks and Policy of Russia

So far as RF as the state-occupier considers today the Crimea’s territory as its own, RF has extended its own national legislation over that one. Therefore, it is necessary to examine separately the legislation of the RF on Indigenous Issues. Imperial nature of Russian State contributed to the compilation of original solutions to the problem of the legal status of Indigenous non-titular population of Russia. Historical background of this view was so-called “inorodetz” law in imperial period; after the revolution in 1917 the Russian S.F.S.R. and the U.S.S.R. borrowed the relevant institutions to solve the problem of the status of the indigenous inhabitants of the North, Siberia and Far East of the Russia. Some other peoples received the status of titular nations of autonomous republics, or were assimilated during the XX cent., till the loss of political and cultural identity.

Current legal regulations of the RF, including federal laws and laws of the federation subjects, which now regulate the legal status of IPs of Russia, were approved under the banner of the provisions of Art. 69 of the Constitution, 1993. This norm obligates RF to guarantee the rights of non-numerous indigenous peoples “in accordance with universally recognized principles and norms of international law and international agreements of the RF”. As a furtherance of these provisions of the Constitution some federal law was approved: “On Guarantees of the Rights of Non-Numerous Indigenous Peoples of the RF” on April 30, 1999 № 82-Ф3, “On General Principles of Organization of Communities of Indigenous Non-Numerous Peoples of the North, Siberia and Far East of the RF” on July 20, 2000 № 104-Ф3 and “On Territories of Traditional Nature Use of the Indigenous Peoples of the North, Siberia and Far East of the RF” on May 7, 2001 № 49-Ф3 [16].

Additionally such acts, as a List of Places of Traditional Residence and Traditional Economic Activities of Non-numerous Indigenous Peoples of the RF, approved by the Government of the RF on May 8, 2009 № 631-p and the Concept of Sustainable Development of the Non-Numerous Indigenous Peoples of the North, Siberia and the Far East of the RF, approved by the Russian Government on February 4, 2009, № 132-p have importance for the determination of the status of IPs in the RF.

These acts of Russian legislation provide a wide range of collective (ethnic) rights for non-numerous IPs, but do not recognize the existence of IPs` rights to political self-determination and limit the rights of collective ownership on traditional areas of residence and coherent natural sources for the IPs. Legal doctrine of the RF recognize the ethnos as IP, according to autochthonous factors and historic grounds, but also with non-numerous criteria, by which IP can be recognized only if its representatives are no more than 50,000 persons, and with condition of preserving the traditional forms of their lifestyle [17].

Such conditions do not allow for a number of ethnic groups in RF to obtain the status of IP – in cases of excess of quantity of their representatives of 50000 persons or in cases of rejection (even partial) of the traditional way of life in terms of modern urbanization. Therefore, in particular, CTP can not get the status of the IP of RF from occupying power and use it to protect their collective rights and interests (as there is approximately 250000 Crimean Tatars in Crimea).

We should add that the government of the RF sets out an exhaustive list of non-numerous IPs living in Russian territory. The first one was the United List of Non-Numerous IPs of RF approved by the Government RF on March 24, 2000 № 255. The next one was the List of IPs of the North, Siberia and Far East of the RF approved by the Governmental Prescript on April 17, 2006 № 536-p. This is interesting that this List was amended several times (some ethnic groups were included and some – excluded without any official explanation); today this List includes 40 ethnic groups, of which only 2 (Sami and Vepses) are living in the European part of RF. During 2009-2011 Russian Government excluded from List such European nations of RF, as Besermians, Vod', Izhors and Seti; we can assume that the Sami is still in the List because of their cross-border status and Vepses – because of ethnic origin of V. Putin.

We must add that the right of a state to determine, which ethnic group is the IP in general is ambiguous (as it borders on the restriction of the right to self-consciousness). But this competence of the state does not include by any way the possibility of cancellation of such recognition of ethnic group as IP because of some subjective factors. Also, abovementioned Federal law on April 30, 1999 № 82-Ф3 gave the special mandate to the State Council of the Republic of Dagestan to establish a separate List of Republican's IPs, to determine their quantity and other characteristics – because of the “unique ethnic composition of the population of the Republic of Dagestan by the number of peoples residing in its territory”. The list of IPs of the Republic of Dagestan was approved by the republican State Council on October 18, 2000 № 191, and soon was adopted by central authorities of the RF. That is noteworthy, that among the 14 IPs of Dagestan this List ethnic Russians were attributed.

For the reason of increasing of the international attention to IPs in Crimea the separatist authorities decided to implement the pointed legislation of the RF in relation to the Crimean Karaites and Krymchaks. This step has a political importance but in practice it is clearly seen that less than 100 of assimilated Krymchaks and some hundreds of Karaites are not considered by the separatist regime also as by authorities of RF as any kind of a threat. So called “State Council of the Republic of Crimea” had adopted a Resolution on June 25, 2014 № 2254-6/14 “About the presentation of the proposal to the Government of

the RF “On the Inclusion the Crimean Karaites and Krymchaks into the Unified List of Indigenous Non-Numerous Peoples of the RF”.

This proposal recognized that in a multi-ethnic community of Crimea special position is occupied by non-numerous IPs – Crimean Karaites and Krymchaks, which had been formed historically precisely on this territory and have a complex and multi-layered ethnic genesis, own ethnic identity, cultural identity and religious independence [18]. This resolution of separatist authorities was the ground for a project of the Resolution of the Government of the RF that was officially proposed for a public discussion for June 27 – August 18, 2014 on governmental web-site but still is not adopted.

There are some “non-governmental” organizations, which today unites officially IPs of the RF, is the Russian Association of IPs of the North, Siberia and Far East of RF (RAIPON) and L’auravet’an Information and Education Network of IP (LIENIP). Those associations used actually as a tool of influence of Russian federal authorities as to the IPs themselves, as to the international structures formed for the problems of IPs (now LIENIP is supported by federal authorities little bit more than RAIPON).

Both of them include only peoples who are appropriate from the point of view of Russian list of non-numerous Indigenous Peoples. So some IPs of Russia have no any chance to the members of those organizations. Despite the active participation of international organizations in the UN system on indigenous issues, RF as the state does not use the rules of international instruments for addressing the issues of IPs residing in RF; RF did not join the DRIP.

It is necessary to point out that the official attitude of the RF to the population of ARC and Sevastopol is defined by the doctrine of the existing the “multinational people of RF”, and by approaches that have been wide spread in the environment in pro-Russian part of the Crimean population. This was proved by the provisions of so-called “Treaty between the RF and the Republic of Crimea on Acceptance the Republic of Crimea to the RF and the Formation of New Subjects of RF” on March 18, 2014.

This act tried to justify the Russian annexation of the Crimea by “free and voluntary will of the Peoples of the Crimea on All-Crimean referendum held in ARC and Sevastopol City on March 16, 2014, during which

the peoples of Crimea agreed the decision on reunification with Russia on the rights of subject of the RF”. The thesis on the “Peoples of the Crimea” is also being in the Art. 3 of this “Treaty”, under which RF guarantees to all the Peoples “residing in the Republic of Crimea and Sevastopol city of federal significance”, the right to preserve their native language and to create the conditions for its learning and development.

It is necessary to point out that the implementation of the right to self-identification by IPs of Ukraine under occupation is complicated by the anti-humane Russian propaganda, by quasi-historic “scientific” theories, which are used by the occupation authorities in order to prove the “non-indigenesness”, “inferiority” of the IPs, and to distort their history. Unfortunately, the relevant efforts were performed in the past by some state authorities and officials of Ukraine and ARC (though not so often and rigid).

This situation is duplicated in the Resolution of the Supreme Council of ARC “On the Independence of the Crimea” on March 17, 2014 № 1745-6/14 which indicated on the “direct expression of the Peoples of the Crimea on a referendum”, which “showed that the Peoples of the Crimea were in favor of joining into Russia, and therefore, for withdrawal from Ukraine and for establishing an independent state”.

It draws the an attention that this model of “Peoples of the Crimea” is discarded as useless, in the so-called “Constitution of the Republic of Crimea” (CRC) approved by the Supreme Council of ARC (naming itself now as the “State Council of the Republic of Crimea”, SCRC), on April 11, 2014. The preamble of CRC has referred to “the will of the multinational People of the Republic of Crimea”; Art. 2 of CRC stated that “the source of power in the Republic of Crimea is in its People, which is the part of the multinational People of the RF”. However, part 2 of art. 5 of the CRC stated that land and other natural resources are the basis of “life and activities of Peoples living in the Republic of Crimea”; in part 4 of art. 37 CRC stated that “the Republic of Crimea creates and provides the equal opportunities for conservation and development of cultures of all peoples living in it”; in point 4 of art. 83 CRC sets on the preservation and development of ethnic and cultural diversity of the “Peoples of the RF residing in the Republic of Crimea”, but also states the “protection of national minorities”. CRC adopts the Crimean official languages in part 1 of art. 10 as the Russian, Ukrainian and Crimean Tatar ones.

CONCLUSION

So we may propose some conclusions for abovementioned. The problem of IPs in Ukraine is a part of the global problem of the status of peoples as holders of a number of collective rights. The specificity of IPs is caused by practical impossibility to implement the sovereignty of such peoples through the formation the national independent state. The issue of IPs' rights was aggravated under conditions of assault by countries of their residence on property, ethnic identity and political structure of IPs. Political and legal fate of IPs of Ukraine, residing in the occupied Crimea is a striking example of those processes.

Collective political, economic, social and cultural rights of IPs are recognized by the world community through the UN DRIP, 2007, which became a huge document of political and legal power. The legal status and actual situation of IPs of Ukraine – Crimean Tatars, Crimean Karaites and Krymchaks – are connected with the tragic history of their historic homeland. Ukraine since 1991 recognized the rights of this IPs de facto. Recognition of his status for CTP and adherence to the DRIP, 2007 was done by Ukraine de jure in 2014 after the occupation of the Crimea by RF.

The occupying authorities of RF in Crimea do not recognize the legal status of all three Crimean IPs. Its protection, restoration and realization are the actual matter for Ukraine and for the whole international community also. Ukraine must recognize the Crimean Krymchaks and Karaites as the IPs, with the same procedure with the Statement on Crimean Tatar People on March 20, 2014. Ukraine must adopt the Law on the Status of IPs, fixing there the UN DRIP's prescriptions on the principles of subsidiarity.

Ukraine must use the UN mechanisms and international non-governmental IPs' mechanisms for the protection of the rights of own IPs in the occupied territories of Ukraine. Also Ukraine should protect the rights of IPs of the RF in conditions of revival the Russian imperialism.

REFERENCES

- [1] Achkinazi IV. Krymchaks: historic ethnographic essay. Simferopol: Dar, 2000.
- [2] Lebedeva EI. Essays for history of Crimean Karaites-Turks. Simferopol: Dar, 2000.
- [3] Law of Ukrainian RSR «On restoration of Crimean Autonomous Soviet Socialists Republic» 1991 [cited 2017 Apr 10]: Available from: <http://zakon4.rada.gov.ua/laws/show/712-12>
- [4] Prescript of Council of ministers of Crimean A.S.S.R. «On measures for preservation the cultural heritage of Karaites and Krymchaks» 1992. Vestnik Soveta ministrov Kryma 1992; 1.
- [5] Disposal of Cabinet of Ministers of Ukraine «On approval of measures for acceleration of social-economic development of Autonomous Republic of Crimea» 2001 [cited 2017 Apr 10]: Available from: <http://zakon0.rada.gov.ua/laws/show/187-2001-p>
- [6] Prescript of Cabinet of Ministers of Ukraine «On approval of State program of defense and preservation the non-material cultural heritage for 2004-2008» 2004 [cited 2017 Apr 10]: Available from: <http://zakon5.rada.gov.ua/laws/show/1732-2004-n>
- [7] Law of Ukraine «On grounds of state linguistic policy» 2012 [cited 2017 Apr 10]: Available from: <http://zakon3.rada.gov.ua/laws/show/5029-17>
- [8] Prescript of Supreme Council of A.R. of Crimea «On measures for preservation of historic-cultural heritage of Crimean Karaites and Krymchaks for 2012» 2011 [cited 2017 Apr 10]: Available from: http://search.ligazakon.ua/l_doc2.nsf/link1/KM110439.html
- [9] Permanent Forum on Indigenous Issues Thirteenth Session 3rd & 4th Meetings HR/5179 (UN Economic and Social Council) [cited 2017 Apr 10]: Available from: <http://www.un.org/News/Press/docs/2014/hr5179.doc.htm>
- [10] Law of Ukraine «On ensuring the rights and freedoms of citizens and legal regime on temporal occupied territories of Ukraine» 2014 [cited 2017 Apr 10]: Available from: <http://zakon4.rada.gov.ua/laws/show/1207-18>
- [11] Draft of law of Ukraine «On restoration of rights of persons deported on national grounds» 2008 [cited 2017 Apr 10]: Available from: http://gska2.rada.gov.ua/pls/zweb_n/webproc4_1?id=&pf3511=33290
- [12] Draft of law of Ukraine «On restoration of rights of indigenous people of Ukraine deported forcibly form Crimean territory» 2014 [cited 2017 Apr 10]: Available from: <http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=50220&pf35401=293990>
- [13] Draft of law of Ukraine «On rights of indigenous peoples of Ukraine» 2014 [cited 2017 Apr 10]: Available from: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=50327
- [14] Draft of prescript of Verkhovna Rada of Ukraine «On declaration of Verkhovna Rada of Ukraine for preservation in Ukraine the originality and cultural heritage of Crimean Karaites (Karays) and Krymchaks» 2015 [cited 2017 Apr 10]: Available from: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?id=&pf3516=2680&skl=9
- [15] Legislative defence of the rights if Indigenous Peoples of Ukraine HDIM.NGO/0036/16/RU (Foundation for Research and Support of the Indigenous Peoples Crimea) [cited 2017 Apr 10]: Available from: <http://www.osce.org/ru/odihr/266981?download=true>
- [16] Federal Laws of Russia «On guarantees of rights of indigenous non-numeric peoples of RF» 1999; «On territories of traditional usage of nature by indigenous non-numeric peoples of North, Siberia and Far East of RF» 2001 ; «On common principles of organization of communities of indigenous non-numeric peoples of North, Siberia and Far East of RF» 2000. [cited 2017 Apr 10]: Available from: <http://constitution.garant.ru/act/right/180406> ; <http://base.garant.ru/12122856> ; <http://base.garant.ru/182356>
- [17] Ananidze FR. Indigenous peoples and right on self-determination. Vestnik RUDN 2001; 2: 66-75.
- [18] Prescript of Government of Russia «On disposing the submission to the Government of Russian Federation «On

including the Crimean Karaites and Krymchaks to the Common List of the non-numerous indigenous peoples of Russian Federation»» 2014 (Pravitelstvo Rossiyskoi

Federatsiyi). [cited 2017 Apr 10]: Available from: http://regulation.gov.ru/project/17036.html?point=view_project&stage=1&stage_id=6158

Received on 12-03-2017

Accepted on 12-06-2017

Published on 06-07-2017

<http://dx.doi.org/10.15379/2410-2806.2017.04.01.02>

© 2017 Babin and Prykhodko; Licensee Cosmos Scholars Publishing House.

This is an open access article licensed under the terms of the Creative Commons Attribution Non-Commercial License

(<http://creativecommons.org/licenses/by-nc/3.0/>), which permits unrestricted, non-commercial use, distribution and reproduction in any medium, provided the work is properly cited.