

**UDC 316**

**V. Shvydkaya, I. Marchuk**

k. of pedagogical sciences, associate professor  
Department of Sociology, Odessa National University  
French Bul., 24/26, Odessa, 65058, Ukraine  
tel.: 8 (0482) 686092, e-mail: [vlada.17@mail.ru](mailto:vlada.17@mail.ru)

**INDIGENOUS PEOPLES OF UKRAINE**

The article has an aim to show the position of indigenous peoples of Ukraine. Consider the problem of determining the constitutional and legal status of indigenous peoples as a guarantee of their rights and analyze in what ways the rights of indigenous peoples protected in other countries. Define the characteristics of the processes of ethnic, political, cultural and legal development of certain ethnic groups, giving a legal opportunity to recognize these ethnic groups indigenous peoples.

**Key words:** Indigenous peoples of Ukraine, rights, legal status, protection.

The problem of indigenous peoples and protecting their rights belonging to a number of topical issues of the international community. This question became of particular importance in the twentieth century.

Problems arise minorities in many countries and are usually both domestic and interstate character. Within the state are directly related to the defense of human rights. Development in Ukraine a democratic state institutions and civil society as an objective necessitates the provision of legal status of indigenous peoples Ukraine as an integral part of the Ukrainian people and to create preconditions for their development. The problem of determining the constitutional and legal status of indigenous peoples as a guarantee of their rights and collective rights and freedoms of citizens of Ukraine, belonging to them, makes research in this area.

The objective is to study the characteristics of the processes of ethnic, political, cultural and legal development of certain ethnic groups, giving a legal opportunity to recognize these ethnic groups indigenous peoples.

The problems of determining the status of indigenous investigated Ukraine political scientists V. Vasil'chenko, Y. Zinchenko, SG Yefimovych, scientists, historians I. V. Achkinazi, F. I Pace, Y. Polkanov. Works of Russian scientists AH Abashidze, FR Ananidze. I. Andrvchenko. IP Blyshchenko, NA Bogdanova and Western scholars — Bourinha 13., D. Webber, E.-I. Daes, I.-Kapotorti played an Important role in the study of indigenous peoples.

For example, A. H. Abashydzhe in the book «The protection of minorities in international and domestic law» comprehensively examines the legal protection of minority issues at the national, regional and universal levels, analyzes the activities of international organizations in the protection of minorities, such as the UN, OSCE, The Council of Europe and the CIS, reveal a rulemaking powers for the protection of minorities.

The practical significance of the results of the dissertation is that R & D results obtained complement the theory of constitutional and legal status of ethnic groups; in the educational process of materials can be used in some disciplines studied.

Despite the cultural and ethnic diversity, often striking similarities discover problems, aspirations and the same expression displeasure various indigenous peoples, which is reflected in a similar presentation of these issues at international forums. Participation of communities and organizations indigenous peoples in conferences taking place within the United Nations helps to draw attention to this similarity.

There are many examples where indigenous peoples are making save its own identity, cultural heritage, is particularly interesting in this regard during the emergence of new countries in the wake of decolonization after World War II. Widely recognized is the fact that the policy assimilation and integration that seeks to fully incorporate these groups into the mainstream of development.

The work of NGOs on the one hand, and initiatives intergovernmental organizations on the other, were complementary. In 1977, in Geneva, the first international conference on the problems of non organization indigenous population. Following was another conference NGOs on issues of indigenous peoples and tenure (Geneva, 1981). These conferences, and special study of the United Nations, which at that time was close to completion, influenced the course of events, resulting in 1982 was created Work Group on Indigenous Populations of the United Nations.

At the United Nations and the International Labour Organisation recognizes that securing and protecting the rights of indigenous peoples is an important aspect of human rights issues and legal basis for the concern of the international community. The two organizations show greater activity in the development and implementation of rules aimed at ensuring respect for existing rights of indigenous peoples and giving them new rights.

The problem of the legal status of indigenous peoples emerged in international law and national constitutional above all, the right of individual countries after entering their member residence areas of indigenous peoples.

Within the UN Indigenous problem discussed since the early 80's. Twentieth century. Owing to the previous increase in the activity of international non-governmental organizations of the indigenous population. Ambiguous attitude of some multinational states into this problem and determine the theoretical difficulties that the UN has not adopted the Declaration of the Rights of Indigenous Peoples and did not create the definition of indigenous peoples, which would have legal force.

Within the UN Indigenous problem discussed since the early 80's. Twentieth century. Owing to the previous increase in the activity of international non-governmental organizations of the indigenous population. Ambiguous attitude of some multinational states into this problem and determine the theoretical difficulties that the UN has not adopted the Declaration of the Rights

of Indigenous Peoples and did not create the definition of indigenous peoples, which would have legal force.

The relevance of this issue for Ukraine as a unitary state with a multiethnic structure of the population escalates the uncertainty of the legal States of Crimean Tatars, Crimean few endangered ethnic groups — Krymchaks and Karaite.

The aim of the work is to clarify the constitutional and legal status of indigenous peoples as subjects of constitutional law and study the differences of their constitutional status to the status of national minorities and other ethnic groups.

At present there is no existing international legal instruments that would outline the status of indigenous peoples and could be ratified by Ukraine, the European law problem Alaskan mentions but does not solve.

Constitutional Law of Ukraine can perceive only general legal doctrine of international law that is used in the discussion of indigenous peoples. It provides a somewhat different legal status of national minorities and indigenous peoples and significant differences between indigenous peoples and nations in the international legal sense.

Analysis of the majority of the doctrinal definitions of indigenous peoples suggests conformity to the majority of criteria Crimean Tatars, Karaites and Krymchaks.

Compliance with these ethnic groups separate international requirements for signs of indigenous peoples may be the basis for the recognition of indigenous peoples Ukraine, but does not mean acquiring these ethnic groups rights, international law can recognize indigenous peoples.

The most developed and original is the appropriate legal institutions of USA, Canada and Russia. Indigenous peoples in these countries is completely or partially integrated into the modern national life, that this situation is true for Ukraine.

At present there is no existing international legal instruments that would outline the status of indigenous peoples and could be ratified by Ukraine, the European law problem Alaskan mentions but does not solve.

Constitutional Law of Ukraine can perceive only general legal doctrine of international law that is used in the discussion of indigenous peoples. It provides a somewhat different legal status of national minorities and indigenous peoples and significant differences between indigenous peoples and nations in the international legal sense.

Other ethnic Ukraine in accordance with the Constitution and the law of national minorities in Ukraine «status were considered as constitutional and legal entities and the appropriate collective rights were guaranteed. Unfortunately, the legal doctrine of Ukraine has so far generally accepted understanding of the status of indigenous peoples of Ukraine and the list of their collective rights, which we propose to call ethnic.

Among ethnic groups of Ukraine only Crimean Tatars, Karaites and Krymchaks have some reason to get the constitutional status of indigenous peoples of Ukraine. They are able to use the collective rights of the legal in-

stitution for its ethnic preservation and development. These ethnic groups were called in legal acts of the Crimean-Khanate, the Russian Empire, the Soviet Union and the Republic of Crimea as separate «nations» and were recognized as indigenous people who had specific characteristics of the collective state-legal status.

But the question of indigenous peoples belonging to minorities in general, on the one hand, and to the nations in the international legal sense — on the other hand, is still controversial. This situation requires an urgent solution to the problem of constitutional and legal status of indigenous peoples.

The discussion in international bodies of human rights shows that despite the progress made, to do a lot more to settle unresolved problems associated with the need to combine the interests of indigenous peoples and national development objectives or development of a particular sector and public policy, provide the means for the existence and preservation of the peoples lifestyle. Worth mentioning the positive contribution that can make indigenous groups in environmental protection.

Many governments claim to understand the complexity of problems faced by indigenous people living on their territory, and they know the factors due to which they have become one of the most vulnerable ethnic communities. In some parts of the world continues uninterrupted dialogue. In other places between indigenous peoples and governments started and conducted direct negotiations to improve relations and provide protection for the rights of indigenous peoples.

In some countries, local and regional self-governing institutions organized and launched programs specifically designed for indigenous peoples. These measures are intended to improve the state in areas such as health, housing, employment and education, and also facilitate as far as possible, the preservation of traditional lifestyles and cultures. Violated many of the issues addressed in discussions of human rights of indigenous peoples.

The United Nations is more actively involved in the promotion and protection of the rights of indigenous peoples. Its role will grow even if the public understands the complexity of the main problems of the industry. Therefore, the United Nations seeks to increase public interest in the problems of indigenous peoples and their understanding of, and significant role played in this activity within the World Public Information Campaign on Human Rights.

Given that in the course of our research significant political changes that have not been given a proper assessment of the status of Crimea interpreted ambiguously, rather arbitrary becomes the following definition: «Indigenous peoples Ukraine are Karaite, Crimean Tatar and Crimchaks as communities (ethnic groups) of Ukraine's Crimean Tatar, Karaite and Crimchaks nationality, experiencing ethnic self-consciousness and to communicating with each other.

### References

1. Abashidze A. H., Ananidze F. R. The legal status of minorities and indigenous peoples / A. H. Abashidze, F. R. Ananidze // International legal analyze. — M., 1997. — P. 224.
2. Alfredson H. Minority rights: equality and non-discrimination / H. Alfredson, N. P. Yuhneva, X. L. Crag // Leningrad Minority Rights Conference. — 1991. — P. 12-35.
3. Arutyunov S. Ethnicity objective reality / S. Arutyunov // Ethnographic Review. Ethnicity objective reality. 1995. — № 5. — P. 7-10.
4. Comparative characteristics of conventions № 107, № 169 International Labour Organization Access mode: <http://www.ilo.org/ilolex/russian/docs/conv107.htm>
5. Constitution of the Autonomous Republic of Crimea, adopted at the second session of Ver- hovnoyi ARC and approved by the Law of Ukraine on December 23, 1998 № 350-XIV. — <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=350-14>
6. Constitution of Ukraine adopted by the Verkhovna Rada of Ukraine on 28 June 1996. — Lviv: For a free Ukraine, 1996.
7. Convention concerning Indigenous and Tribal Peoples, Tribal Peoples in Independent Countries [No. 169] 1 Adopted on 27 June 1989 by the General Conference of the International Labour Organisation at its seventy-sixth session. — Access mode: [http://www.un.org/ru/documents/decl\\_conv/conventions/iol169.shtml](http://www.un.org/ru/documents/decl_conv/conventions/iol169.shtml)
8. ILO Convention number 107 [electronic resource] // International Labour Organization official site.
9. Information Centre of the Crimean Tatars. — Access mode: <http://www.cidct.org.ua/uk/studii/7/11.html>
10. Law of Ukraine «On National Minorities in Ukraine» [electronic resource] // official website of the Verkhovna Rada of Ukraine. — Legislation.
11. Law of Ukraine: On National Minorities in Ukraine. — Access mode: <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2494-12>
12. Scientific Library of dissertations and disserCat: Kuropyatnyk Marina Stepanovna/St. Petersburg/ 2006/. — Access mode: <http://www.dissercat.com/content/korennye-narody-v-protse-sotsiokulturnykh-izmenenii>
13. The United Nations Declaration on the Rights of Indigenous Peoples Adopted resolution 61/295 of the General Assembly on 13 September 2007. — Access mode: [http://www.un.org/ru/documents/decl\\_conv/declarations/indigenous\\_rights.shtml](http://www.un.org/ru/documents/decl_conv/declarations/indigenous_rights.shtml)
14. United Nations Declaration on the Rights of Indigenous Peoples [E-resource] // Official site of the United Nations. — Documents. Declaration.
15. Vasiliev T. A. Legal status of ethnic minorities in Western Europe / T. A. Vasiliev // State and law. — 1992. — № 8. — P.133-142.
16. Virtual J. I. Selected works on sociology/ J. I. Virtual // The problem of minorities — M., 2005. — P. 152-177.

*Стаття надійшла до редакції 05.10.2014*

**В. А. Швидка, І. П. Марчук**  
кафедра соціології ОНУ імені І. І. Мечникова  
Французький бул. 24/26, м. Одеса, 65058, Україна

#### **КОРИННІ НАРОДИ УКРАЇНИ**

##### **Резюме**

Стаття має на меті показати становище корінних народів України. Розглянуто конституційно-правовий статус корінних народів як суб'єктів конституційного права та проаналізовано, яким чином права корінних народів охороняються в інших країнах. Визначено характеристики процесів етнічного, політичного, культурного та правового розвитку деяких етнічних груп, даючи правову можливість визнання їх корінними народами.

**Ключові слова:** корінні народи України, права, правовий статус, захист.

**В. А. Швыдкая, И. П. Марчук**  
кафедра социологии ОНУ имени И. И. Мечникова  
Французский бул. 24/26, м. Одесса, 65058, Украина

#### **КОРЕННЫЕ НАРОДЫ УКРАИНЫ**

##### **Резюме**

Статья призвана показать положение коренных народов Украины. Рассмотрен конституционно-правовой статус коренных народов как субъектов конституционного права и проанализировано, каким образом права коренных народов защищаются в других странах. Определены характеристики процессов этнического, политического, культурного и правового развития некоторых этнических групп, имея правовые основания признать эти этнические группы коренными народами.

**Ключевые слова:** коренные народы Украины, права, правовой статус, защита.