

Bridge of civilizations: What are the rights of the Crimean Tatar national minority?

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Introduction

Lately historians have given much attention to the question of ethnic diversity in Ukraine, more specifically, to the more than 130 different nationalities and groups living and coexisting on its territory. The question becomes more complex when the discussion moves onto the issue of Crimean Tatars, a Turkic Muslim minority which inhabits mainly the Crimean peninsula in the Black sea region. The entire community is represented by 248,193¹ persons in the Autonomous Republic of Crimea (hereafter, ARK) and by a large diaspora in Turkey, Romania, Bulgaria and the US. In the context of Ukrainian statehood, the number of Crimean Tatars does not exceed 0.1 % of the total population of the country; nevertheless it is still significant on the local level where the correlation goes up to 14%. The residential density differs from one administrative unit to another; the Crimean Tatar population is mostly present in the Central and Northern parts of ARK, though their number rarely exceeds 20% per administrative unit. The community maintains its own traditions, such as language, folk and Islamic festivities and ethnic traditions. For more than 20 years it has been considered a national minority in a multicultural State. the Crimean Tatar community is fighting for specific rights and a particular position in Ukrainian society “promoting one of the largest and longest national movements on the territory of the former Soviet Union”².

The Crimean Tatar National Movement

In order to grasp the core of the Crimean Tatar question we find it important to have a short look at the historical context of the movement, which is undoubtedly an important element of the entire chain of reasons and consequences. The Crimean Tatar movement emerged in the 1950s, which was a period of massive deportations in the Soviet Union. On May, 18th 1944, the entire population of Crimean Tatars, ethnic Germans and other ethnic groups were deported from Crimea to distant lands in Central Asia. Resettled in special colonies, the first assemblies of Crimean Tatar Youth became possible in the second half of the 1950s mainly in Tashkent, Uzbekistan as a response to the deportation. Initially as a “movement for the return” the main objectives and aims

1 State Statistics Service of Ukraine, 2001 all-Ukrainian population census, <http://www.ukrcensus.gov.ua> [accessed 1-10-2013].

2 Uehling, Greta. *Beyond the memory: The Crimean Tatar's Deportation and Return*. New York: Palgrave Macmillan, 2004, 135

changed according to the political climate in the USSR. At the end of 1960s the movement and its leaders joined the all-Soviet Union movement for Human rights based in Moscow, later known as the Moscow Helsinki Group. Since that time, the Crimean Tatar National Movement has become a part of the wider network of human rights defenders, claiming their “right to return” due to Khrushchev’s Secret Speech in 1956.

The Soviet leader denounced the crimes of the Stalinist regime including the massive deportations of persons on the basis of nationality. Destalinization enabled the return of millions of people to their kin-states, yet the Crimean Tatars were deprived of this right. At the end of the 1960s the movement seemed to be a well-coordinated enterprise. Simultaneously with the policy reform in the USSR the Crimean Tatar movement established wide contacts with diaspora abroad and Human rights defenders. The first assembly of the “Crimean Tatar initiative group representatives” was held in 1987, the Organization “Crimea” who represented the interests of deported nations from the Crimean peninsula was created in 1988; in addition massive home-comings have taken place in the late 80s. Furthermore, the movement was not an isolated action within the territories of the USSR; the national movement in the Chechen Republic was launched in the 1980s, the Nagorno-Karabakh conflict which destabilized the entire disputed region between Armenia and Azerbaijan took place in 1988, the international rhetoric of the Soviet intervention in Afghanistan and many more numerous aspects characterized the political universe of the USSR. It was in this political context that the Crimean Tatar movement functioned and was dislocated to Crimea at the beginning of the 1990s. By a special decree³ in 1954, Crimea, a former region of the RSFSR, was attached to the Ukrainian SSR. Since then, the Autonomous Republic of Crimea is a 25th administrative region of Ukraine with wider prerogatives and internal structure. Thus, with the dissolution of the USSR the movement had to face new political and economic thinking.

Being a Soviet Union wide “movement for the return” it changed and became a local action group for the rights of the minority. At the beginning of the 1990s the number of Crimean Tatars was relatively small. Big waves of repatriation had taken place at the end of the 1980s and at the beginning of the 1990s, since then the home-comings started to decrease. In order to maintain the movement, the Crimean Tatar leaders and activists convoked the First all-Crimean Tatar Assembly in order to coordinate the action and to create its own system of self-representation. Just as the initial aim – return to Crimea – had been partially achieved, the question of new objectives was also raised. The pursuit of accountability for the deportation was another important aspect of the movement, which lost its importance since the State responsible for this crime has vanished from the geopolitical map of Europe. Consequently, the necessity of reshaping the movement became one of the core tasks.

The further development of the Crimean national movement is regarded in the context of Ukrainian statehood. Ukraine proclaimed its independence on the 24 of

3 Drohobycky Maria (ed.). *Crimea: Dynamics, Challenges and Prospects*. Lanham, MD: Rowman & Littlefield: American Association for the Advancement of Science, 1995, 7

August 1991 and has taken symbolic responsibility for the resettlement and repatriation of formerly deported persons from the Crimean peninsula⁴. Since then, an entire set of measures were undertaken in order to normalize the legal procedures for the returnees and their families. At the same time the Crimean Tatar leaders actively participated in the elaboration of governmental programs and legal acts for the repatriates. A special group of Crimean Tatar representatives took part in working out the Constitution of Ukraine. The massive return of Crimean Tatars faced unexpected resistance and misunderstanding among the local population, moreover it spread a fear of alien and foreign culture coming to their homes⁵. The local authorities were aware of their inability to host and resettle the returnees; therefore the Crimean Tatar movement became a refuge for thousands of repatriates whom could express their common claims and demands. Thus, it has transformed into a bridge for dialogue between official authorities and the Crimean Tatar community. Notwithstanding the rising internal opposition within the movement, the *Mejlis* was the only legitimate⁶ and representative body which united the majority of the Crimean Tatar community. The system of self-representation refers to a history which goes back to the time of the Crimean Tatar State – Crimean Khanate, and the aim of which is to represent the voice of the community. Together with the country, the population experienced economic and social difficulties which characterized the region during the 1990s. The movement itself could not coordinate in an efficient way the new waves of repatriates, thus it became more difficult for new comers to settle in the region. The leaders turned the movement into local representation of Crimean Tatars in Ukraine, leaving behind the numerous diaspora in countries of Central Asia. “Cultural Autonomy” as a means of better coexistence in the region was a very important demand of the movement. It encountered strong criticism on the part of officials and the local governance, and even more from the population of the peninsula. The long negotiations and the importance of the question lead both sides into the creation of the consultative Council of Crimean Tatar Representatives at the President of Ukraine in 1999⁷. The composition of the Council had to be chosen by Crimean Tatars themselves and be approved by the President. This solution had a significant impact on further development of the movement. The Crimean Tatar representative bodies maintain the contacts with numerous diaspora; its members take part in the work of International organizations, they are represented in State agencies and governments on local and national levels. Nowadays, the Crimean Tatar national movement can be characterized as a set of measures and means in order to preserve the culture, language, and ethnic traditions of the community based on the values of peace and humanity. Moreover, it is a move-

4 Tyshchenko, Yuliia, Pikhovshek, V'iacheslav. *Return of Crimean Tatars, the chronicle of the events*. Kyiv: Ukrainian National Center of Political Researches, 1999, 31

5 Chervonnaia Svetlana. *The Crimean Tatar national movement (1991-1993)*. Moscow: Institute of Ethnology and Anthology of Russian Academy of Science, 1994, 10

6 *De-jure* the *Mejlis* is not recognized by Ukraine as the institution of Crimean Tatar representation.

7 The President of Ukraine, Decree No 518/99, 18.05.1999: “About the Council of Crimean Tatar People’s representatives”. <http://www.zakon4.rada.gov.ua> [accessed 5-05- 2013].

ment for specific rights and rehabilitation of formerly deported persons, often called a struggle for “restoration of historic truth”⁸.

“National Minority” or “Indigenous People”

The question about the legal position of the Crimean Tatars rights was raised after their return, thus it was necessary to define their either special, or equal status to other minorities and ethnic groups. The latter notion of “national minority” was used and applied to all groups and persons who defined themselves other than Ukrainian. This measure taken by the Ukrainian authorities was chosen in order to stabilize the inter-ethnic relations within its territory, which could jeopardize the borders and the integrity of the country⁹. In addition, the absence of legal experience in the question of national minorities was evident in such a young State as was the case of Ukraine, a fact that constituted an obstacle in the way of negotiations for a long period. Nevertheless, the Crimean Tatar community did not want to share equal position with other national minorities that have, in their majority, kin-states abroad. In the view of Crimean leaders such a vulnerable position makes them quite different from other ethnic groups and minorities: it is the result of more than a hundred years of history that the Russian empire and then the Soviet Union, by means of deportations and other violent actions, tried to assimilate the Crimean Tatars whom became a minority in their own historic “Fatherland”. Moreover, referring to the World Bank Operational Directive 4.20 on Indigenous People, the Universal Declaration of Human Rights 1949, Convention 169 of International Labor Organization and other regulations the leaders developed an explanatory ground which requires adoption of specific status and rights for Crimean Tatars. According to FCNM, Crimean Tatars can be defined as a national minority based on following features:

- Distinctive features (ethnicity, history, language)
- Numerical inferiority
- Non-dominant position
- Common will to preserve distinct identity

Nevertheless, other important characteristics can be added according to the World Bank Operational Directive 1991 which states:

- Close attachment to ancestral territories and to the natural resources in these areas
- Self-identification and identification by others as members of a distinct cultural group

8 Crimean Tatar People's *Qurultay*, Decree of December 10, 2005: About the recognition of the deportation of Crimean Tatars on May 18, 1944 as an act of genocide, decades of its violent detentions in places of exile and the consequences related to these crimes. [http://cidct.info/uk/studii/5-6\(05\)/2.html](http://cidct.info/uk/studii/5-6(05)/2.html) [accessed 14-05- 2013].

9 Kopylenko, Oleksandr. Conference intervention in *Crimean Tatars: National minority or Indigenous People? Political and legal aspects of the question*. Ukrainian Centre of Political Researches, February 5, 1999, 34-35. Kyiv, 1999.

- Indigenous language, often different from the national language
- Presence of customary social and political institutions

In addition, the historic Fatherland, which is situated in the territory of Ukraine nowadays, is equally crucial for the advocacy actions of indigenous rights of the Crimean Tatars due to the fact that they do not possess any other Nation-state outside of Crimea. Therefore, one can argue that the combination of the aforementioned characteristics clearly show the particular position of this community which in the legal framework of Ukraine is regarded as a national minority. The contradiction to national legislation comes from the use of terminology, according to which the term “Crimean Tatar people” cannot be used in legal acts since the Constitution uses for this notion to the entire “Ukrainian people” which unites all minorities, different nationalities and ethnic groups in its definition¹⁰. Thus, the Crimean Tatars are a part of the Ukrainian people but the same document guarantees the protection and conservation of distinctive culture of all ethnic groups living in the country¹¹. The legislative dilemma led the Crimean initiatives to a dead end. Art. 11 of Constitution mentions the notion of “indigenous people” but does not specify the right for self-determination. The absence of a rehabilitation act for formerly deported people created a necessity for regulation of this question. The draft-law “About the status of the Crimean Tatar people” was initiated in 2003 and defined its indigenous character and particular position according to six main criteria:

1. The historic Fatherland where the Crimean Tatar people (hereinafter – they) were formed and built up is situated in today’s territory of Ukraine
2. They preserve their own ethnic identity, which differs from Ukrainian identity and other national minorities, thus they strive for its development and preservation
3. They are holders of a distinctive language and culture
4. They develop and preserve their own customary ethnic institutions
5. They do not possess an ethnically identical national State or Fatherland outside of Ukraine
6. They identify themselves as an indigenous people of Ukraine

Some of the statements refer to the aforementioned World Bank Directive; nevertheless the draft-law was rejected and redirected for additional revision. The main criticism was linked to the notion of “people”, which contradicts the Constitution; in addition it conflicts with the principle of equality of all citizens proclaimed by the Constitution.¹² Ten years now, the draft-law is still under revision.

The return to the same question emerges much later, this time around the adoption of the UN Declaration for the rights of Indigenous people¹³. The document which

10 Constitution of the Ukraine, preamble.

11 Constitution of the Ukraine, art. 11.

12 Central Scientific Expert Department of the Verkhovna Rada of Ukraine. The counsel on the draft-law No 4098, 3.09.2003: “About the status of Crimean Tatar People”. http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?id=&pf3516=4098&skl=5 [accessed 7-09-2013].

13 The United Nations (UN). Declaration for the rights of Indigenous people № 61/295, 13.09. 2007. www2.ohchr.org [accessed 7-09-2013].

became a sort of victory of more than 30 years of collaboration was a significant stage in the history of human rights protection. In the late 80s the Crimean Tatar leaders actively participated in workshops and committees for drafting the Declaration, thus one can see the personal outcome resulting from its adoption for Crimean leaders. With the change of the political situation in Ukraine and the arrival of democratic forces to power in 2004, the Crimean Tatar leaders launched discussions around the UN Declaration and its necessity for resolving the “Crimean question”. However, Ukraine together with twelve countries abstained from voting at the General Assembly. Youri Reshetnikov, the chief of Committee for Nationalities, expressed the official position of Kyiv as follows:

“The position of Ukraine in this question is simple and clear: the international documents don’t have to be used as a basis for separatist sentiments and therefore for violation of the integrity of the State”¹⁴.

Legally viewed as a national minority, the Crimean Tatars lost their position in a long struggle for indigenous rights. Absence of political dialogue and internal confrontation in the Crimean region makes impossible the normalization of this question by legal constitutional means, along with the terminological obstacles in national legislation. The “quiet diplomacy” of HCNM-OSCE and UNHCR plays a significant role dialoguing with official Kyiv¹⁵, despite the complexity of the issues and tensions among the actors.

Will we meet half-way in the “Crimean Tatar” question?

Much has been done in the regulation of the so-called “Crimean question”, the term which is used in order to emphasize the problematic area in ethno-politics of Ukraine. The notion itself had changed its initial meaning: referring mostly to the problems of resettlement of Crimean Tatar returnees in early 1990s, nowadays it calls into the question the legal status of this minority and their fight for “cultural autonomy”. The inter-governmental negotiations brought new aspects and possible consensus to this question which was a new undiscovered land in national legislation. Ukraine did not follow the example of the Moldavian initiative in regard to the Gagauz population due to many reasons; one of them is the disproportional density of Crimean Tatars in the peninsula. Thus, the creation of compact autonomy vanished from the list of possible solutions. Since the initiative of a former president of Ukraine – Leonid Kravchuk – the Council of Crimean Tatar Representatives was created in 1999 and functions to the present day. This consultative body was created for better coordination of the Crimean question, albeit its importance has decreased with every next president and

14 Andreev, Evgenii. Kyiv explained to Crimean Tatars why Ukraine did not support the UN Declaration for the rights of Indigenous people. *Kommersant*. 15-02-2010. <http://kommersant.ru/doc/80032/print> [accessed 7-09-2013].

15 Ivzhenko, Tatiana. The Crimean Mejlis claims its official recognition. *Novaya Gazeta*. 3-09-2013. http://www.ng.ru/cis/2013-09-03/1_crym.html [accessed 7-09-2013].

government in power. Thus, the efforts to create an independent agency for Crimean Tatar dilemma have come close to zero.

As a response to the impossibility to build coherent relations the Crimean Tatar movement devoted all efforts in order to construct them on its own. First step for the inclusion of Crimean Tatars into the local State agencies was the pilot project which guaranteed 14 permanent seats in the Parliament of ARK. Launched only once, the project was abandoned and since then Crimean Tatars do not have permanent seats in a local legislative body. Instead, the members of the *Mejlis*¹⁶ are included in the lists of the Ukrainian political party – “Popular Movement”. Crimean Tatars are represented by two deputies in the National Parliament and by five deputies in the regional Crimean Parliament. Despite the fact that this cooperation allows them to have their own deputies in Parliaments, the weight and influence of their activity is extremely low. Likewise, the creation of their own political force will not change the situation since the number of the Crimean Tatar population within all of Ukrainian is very low and corresponds to only 0.1 % of the total population of the country. Even though the main arena of political and social activity is focused on Crimean Autonomy, the mechanisms and decision-making are to be undertaken in Kyiv and the obligations of their fulfillment is applied to lower administrative level of regions and ARK.

Another important question is the legitimacy of the Crimean Tatar system of self-representation. Being founded in the beginning of 1990s, the *Qurultay* (as general Assembly) and *Mejlis* (as official representative and executive force) are two elements of the entire hierarchy. Its functioning resembles that of a system of State power division into executive and legislative branches. Every five years within the community Crimean Tatars elect their own representatives to *Qurultay*, which selects the 33 members of the executive *Mejlis*. The latter is an important actor playing the role of the common voice of Crimean Tatars in Ukraine and abroad. The Greater *Mejlis* has branches in Crimea and in Kyiv, as well as having its own representatives in foreign countries. The main concern here is the official position of this hierarchy in the legal framework. Ukraine does not recognize these institutions as legally competent since they are not registered in State institutions. The government came with the proposition to register these organizations in the Ministry of Justice. This proposal met with denial from the part of Crimean leaders, justifying their position as following:

“We are completely against such propositions. Firstly, the *Mejlis* of the Crimean Tatar people is not an organization, not even a group of interests but an elective body, elected by its people. That is why it is unacceptable to be considered one of 2,000 other organizations in Crimea.”¹⁷

16 *Mejlis* is a representative body of Crimean Tatars which unites 33 members. Its functioning is based on elections every 5 years by the delegates of *Qurultay*; the latter corresponds to the tradition of assemblies practiced by Turkic people in ancient times.

17 Mustafa Jemilev, interview by ATR, Simferopol, Ukraine (18”25), 27-12- 2012. <http://atr.ua/#!archive&filter=perekrestok&video=2012-12-27-20-48-16-5805957> [accessed 7-09-2013].

In this regard it would be difficult to find a place for these institutions in the national legislation. Nevertheless, Ukraine recognizes them *de facto* as a major actor which represents the common will and interests of the Crimean Tatar population. Since the 1990s several round-tables on the problem of the recognition of *Qurultay-Mejlis* were organized, albeit there is no evidence for its possible solution. The functioning and financing are run in an autonomous way and have the support of the OSCE-HC-NM; the recent elections to *Qurultay-2013* were backed up by international observers, journalist and political activists.

Another initiative for recognition of the rights of formerly deported people was undertaken by the parliamentary committee in recent months. The draft-law covers many previously discussed subjects, such as the act of deportation, the restitution and State guarantees towards returnees and the members of their families. According to the document Ukraine condemns the act of deportation and all related violent actions against persons based on nationality, thus it restates the main remarks of the Declaration 1989. But the important contribution of this document lies in the legal mechanisms of restitution and State support in the process of resettlement. Thus, it can facilitate the return of a great number of Crimean Tatars which, due to various social and financial reasons, could not return to Crimea within the first waves in the 1990s.

Still remaining a “particular” national minority, the Crimean Tatars possess quite a unique system of representation which enables them to actively participate in political debates at national and international levels. The further development of this question depends a lot on the political ground in the country and the changes it may bring. The rise of internal opposition in the Crimean Tatar community itself, coupled with the geopolitical vectors of Ukraine will partially influence the evolution of the regulation of the “Crimean Tatar Question”.

Conclusion

Within this short outline we tried to give a general understanding of the inter-ethnic relations in Ukraine based on the case of the Crimean Tatar national minority. The deportation, life in exile and the return are the three important elements of the Crimean Tatar National movement. The dissolution of the USSR turned another page in history and changed the lives of thousands of people, who returned to their homes. Ukraine inherited the Crimean peninsula from the Soviet past together with numerous and complex issues such as diverse ethnic composition. By the initiative of the first president of the independent state, Kyiv took the responsibility for the resettlement and repatriation of deportees and their families in Crimea. The necessity of the integration of the peninsula came together with the question of “Crimean Tatars”, which became a means of negotiation between Kyiv and Simferopol. Several versions were proposed in order to meet the demands of Tatar leaders and the requirements of the government but none of them were able to last for a long period. The rise of in-

ternal opposition in the Crimean Tatar community in recent years can be regarded as a breakdown, since various legal tools and measures were exhausted. One can see the interest on the part of authorities growing weaker, yet a new wave of active debates can be expected during the next years with the newly elected leader of the movement.

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