

**RELEVANT ISSUES OF EXPLORATION THE CONCEPT OF
INDIGENOUS PEOPLE IN THE INTERNATIONAL LEGAL
INSTRUMENTS AND UKRAINIAN LEGAL DOCTRINE**

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Abstract: In this paper, the problem of determination of the legal personality of indigenous people as a subject of international law is considered. Hence, the problem articulated above leads to the issue related to aspects of practical realization and protection of rights and freedoms of indigenous people enshrined in international legal instruments, which is revealed. The confusion of the term “indigenous people” with that of “national minorities” can be avoided by the subjects of international law. However, one cannot find a solution to this problem without envisaging written rules on the concept of ingenious people in one obligatory, for contracting parties, an international legal instrument. Thereafter, the concept of indigenous people must be unified and, consequently, used by all international legal community. The relevance of this study is due to the need to determine the legal status of indigenous peoples in Ukrainian law. Ukraine has recently acceded to the UN Declaration on the Rights of Indigenous Peoples, which defines the need to implement these provisions in national legislation and ensure the practical implementation of the rights and freedoms enshrined for indigenous peoples. To date, the Constitution of Ukraine makes a distinction between the categories of national minorities and indigenous peoples, but there is no specialized comprehensive law that would determine the legal status of indigenous peoples in Ukraine, in the presence of such a law on national minorities. Thus there is a need to determine the concept of indigenous peoples in Ukrainian legislation.

Keywords: indigenous peoples, international legal instrument, legal personality, self-identification, self - determination.

1. Introduction

There are legal terms that are commonly used but are not clear enough. The reason lies in the lack of agreement regarding their precise meaning among those who use them. One of these ambiguous legal terms is certainly that of “indigenous people”.

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The definition concerning the concept of indigenous people in international law needs to be clarified, although this concept is enshrined in international legal instruments. Thus, the article is devoted to the consideration of the concept of indigenous people in international legal instruments.

Due to the differences in enshrining the concept of "indigenous people" in international legal instruments, the legal vision of states concerning this category is different. Therefore, due to the lack of a single regulation of the concept of "indigenous people", the existing international legal acts in this area need comprehensive consideration.

On account of the lack of a comprehensive law, there are no procedures for recognizing the people as indigenous, the criteria for such recognition, moreover, there is no clear definition of the category of "indigenous people" in Ukrainian's legislation. This creates opportunities for abuse by public authorities, causing the impossibility of indigenous peoples to exercise the rights and freedoms enshrined in the UN Declaration on the Rights of Indigenous Peoples. Finally, it violates the fundamental right of indigenous peoples to self-identification, without which the existence of indigenous peoples' legal personality is not possible. Therefore, due to the lack of a single comprehensive legal act that would determine the legal status of the indigenous people in Ukraine, the acts of national legislation, draft regulations governing this issue requires deep analysis.

2. Relevant issues of exploration of the concept of indigenous people in the international legal instruments

In international law, there is no clear definition of "indigenous people". However international law recognizes "indigenous people" as a distinct category which have been respectively incorporated in the international legal instruments. Contemporary international legal protection of indigenous population formally emerged at the first Berlin Conference on Africa which took place in 1884 and was initiated by France and Germany in order to stem mounting tensions over competing imperial claims of sovereignty to various regions of Africa. As a consequence of the Berlin Conference, what was a justification for excluding indigenous peoples from the distribution of sovereign power-their perceived lack of civilization-began also to form the basis of an international legal duty borne by imperial powers to exercise their sovereign authority in ways that improve moral and material conditions in colonies under their control.

The conversation on the problem of indigenous peoples on the universal international level began in the early twentieth century. The first impetus to the discussion was made through the visit of American Indians to London in 1906 and

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1909 and to the Paris Peace Conference in 1919 when they declared themselves as a separate people. During the previously mentioned conference, the first intergovernmental organization devoted to the protection of human rights was established. It was the League of Nations, one of the tasks of which was to determine the need to ensure the rights of national minorities. Despite this fact, the rights of indigenous peoples were not envisaged in the Charter of the League of Nations, since the indigenous peoples were considered exclusively in the context of colonies and territories controlled by colonial powers. However precisely from that time the study of the concept of "indigenous people" began.

The issue of indigenous peoples was first addressed in more detail by a specialized agency of the League of Nations afterward of the United Nations (UN) namely the International Labour Organization (ILO). Until the 1970s, the ILO was the only member of the UN system to have consistently expressed an interest in indigenous people's rights. Discrimination and exploitation of indigenous and tribal workers directly inspired the adoption of labor standards, such as the ILO Forced Labour Convention, 1930 (No. 29). For the period 1936 – 1957 ILO adopted numerous conventions aimed at worker's protection including some which apply to indigenous and tribal workers.

In 1953, ILO published its first study precisely based on the issue of the "indigenous people" namely "Indigenous Peoples: Living and Working Conditions of Aboriginal Populations in independent countries". After a while, in 1957 this study was incorporated into the ILO Convention concerning the Protection and Integration of Indigenous and Other Tribal and Semi – Tribal Populations in Independent Countries (hereinafter, Convention №107) together with the Recommendation No. 104 on the same subject. This document for the first time in international law enshrined the term "indigenous people" and became the first act that was entirely devoted to the problems of indigenous peoples. Nevertheless, the abovementioned Convention №107 was adopted at the time when the dominant political elements in domestic and international circles placed little or no value on indigenous cultures, thus Convention №107 contained rules aimed at assimilation of the indigenous peoples.

Meanwhile, it should be mentioned that Convention №107 enshrined the category of "indigenous population", which differs from the consideration of this concept in later international legal instruments. Such consolidation defines an "indigenous population" as a part of the people of a particular state that is endowed with a number of specific features that are defined in the aforementioned Convention. In particular, this is a lower stage of socio-economic development compared to the rest of the nation, whose legal norms are determined in whole or in part by their customs, traditions or legislation (general aspect), as well as the territorial aspect,

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which ties the people to their roots belonging to a certain territory. Analyzing such aspects, it can be argued that there are discriminatory provisions in the Convention in the context of the definition of "indigenous population", as evidenced, in particular, by the restriction of this category to exclusively tribal and semi-tribal populations, that does not correspond to the relevant concept of indigenous peoples.

Problematic is the fact that the Convention №107 remains in force for States that have ratified it and not denounced it due to the adoption of the ILO Convention No. 169. Following the adoption of the new Convention, the ILO Convention №107 is currently closed for ratification, however, remains in force for 17 States. This fact may become the cause of the problems of guaranteeing and protecting the rights and freedoms of indigenous peoples, as a special subject of its realization, in these 17 states.

Since the adoption of the Convention №107, the ILO has regulated the rights of indigenous peoples in some of its documents, drawing attention to their special status. There also were numerous meetings of experts on the issue of "indigenous peoples", one of such meetings under the auspices of the ILO in 1986 concluded that the "integrationist language" of the Convention №107 is "outdated" and "destructive in the modern world", consequently, the Convention №107 was recommended to be revised. Thus the 1957 Convention №107 was revised and in 1989 the ILO adopted the Convention on Indigenous and Tribal peoples №169. The newly established ILO Convention №169 represents a marked departure in world community policy from the philosophy underlying the only previously existing international legal instrument expressly addressed to the topic namely ILO Convention №107.

The preamble to ILO Convention No 169 states that the change in the legal status of indigenous peoples has necessitated the adoption of new international rules in order to eliminate the focus on assimilation. The abovementioned Convention enshrined and clarified the rights of indigenous peoples, their legal status, and determined which peoples could be classified as indigenous. According to the content of the Convention No 169, indigenous peoples are: (a) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations; (b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective

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of their legal status, retain some or all of their own social, economic, cultural and political institutions.

It is worth to mention that the ILO Convention No 169 does not provide a clear definition of indigenous peoples, but only outlines the scope of the document. The document also states that the main criterion for recognizing the people as indigenous is their own identification as such. Factually, the ILO, recognizing the impossibility of formulating the term "indigenous people", combined objective and subjective approaches in defining this concept.

Despite the frequent reference to indigenous peoples, Convention No. 169 makes no reference to a right of self – determination, which according to the International Covenant on Civil and Political Rights and the judicial decisions of the International Court of Justice, vests in all peoples. To foreclose the argument that its reference to "peoples" links an indigenous population to the right of self -determination, the Convention stipulates that "the use of the term 'peoples' ... shall not be construed as having any implications as regards the rights which may attach to the term under international law." Thus, Convention No. 169 continues the trend, begun thirty-two years earlier by Convention No. 107, of enhancing international indigenous protection within existing States, while shielding the international distribution of sovereign power among States from the redistributive potential of the right of self-determination.

To date, only 22 states have acceded to the ILO Convention located in Latin America, Asia, Africa and Europe. Such a state of affairs is due to the impossibility of ratifying the ILO Convention No 169 with reservations, as well as the need to fully ensure the rights and freedoms provided for in it, which states have to report annually.

Thus, the main conceptual change in the relations of states and the international community with indigenous peoples was that the latter began to transform from objects into full-fledged subjects of international law. Accordingly, it has become increasingly important to understand that indigenous peoples are not a temporary phenomenon in the turbulent times of globalization of economy, politics, and culture, but are quite stable entities that must be integrated by ensuring full participation in all socio-political processes without losing their identity. Thus, the international community recognized the unique contribution of indigenous peoples to the development and diversity of world heritage, the important role of preserving the identity of such peoples for the further development of human civilization.

The issue of indigenous peoples is also addressed by the United Nations (UN). In 1948, the Bolivian government proposed a subcommittee of the United Nations to study the social problems of indigenous peoples. At that time, the UN did not pay attention to this problematic issue, and the proposed commission was not

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established. However, after a while, the organization decided to address the issue of ensuring the rights and recognition of indigenous peoples. In accordance with the Declaration on Principles of International Law Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations and the UN General Assembly Resolution 2625 (XXU) of 1970, international law for the first time enshrined the idea that within an independent state, in addition to the titular ethnos, different peoples can coexist, each of which has the right to self-determination.

Due to the increased interest in ensuring the rights of indigenous peoples, in 1982 the UN set up a Working Group to draft the UN Declaration on the Rights of Indigenous Peoples. During its work, the problem of defining the concept of "indigenous peoples" was exacerbated. Leading UN experts, as well as representatives of such peoples in the Working Group, were convinced that the wide range of specific circumstances and situations of the world's indigenous peoples did not allow them to be generalized within a single universal definition. At the same time, government experts insisted on the need for a "universal" definition that could be used by all UN member states when considering whether certain ethnic groups fall into this category.

In 1981-1984 Jose Martinez Cobo presented his groundbreaking study to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, where he introduced the clear definition of indigenous peoples for the first time. According to his report, "Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural, social institutions and legal systems."

The Special-Rapporteur outlined a number of factors that may be relevant for identifying indigenous peoples. This emphasizes their historical continuity, for an extended period reaching into the present, and includes: a) occupation of ancestral lands; b) common ancestry with the original occupants of these lands; c) culture; d) language; and e) residence in certain parts of the country, or in certain regions of the world.

The Special-Rapporteur included self-identification as indigenous as a fundamental criterion: An indigenous person is one who belongs to an indigenous people

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through self-identification as indigenous (group consciousness) and is recognized and accepted by the group as one of its members (acceptance by the group).

Erica-Irene Daes was a well-known "fighter" for the rights of indigenous peoples. At her initiative, 1993 was declared the International Year of the World's Indigenous People, the next ten years the International Decade of the Indigenous People, 2005-2014 the Second Decade of the Indigenous People, and August 9 the International Day of the Indigenous People.

One definition was also suggested by the Chairperson of the Working Group on Indigenous Populations, Erica-Irene Daes, inspired by the Jose Martinez-Cobo Report. Erica-Irene Daes believed that there can be no universal definition of indigenous peoples, the recognition of a nation as indigenous should be individual, but taking into account the general recommendations. She singled out the following criteria: a) priority in time over the settlement and use of a territory; b) voluntary preservation of a separate cultural identity, which, in particular, may be manifested in the preservation of language, community organization, religion and spiritual values, mode of production; c) self-awareness of a particular community; d) feelings of enslavement, robbery, exclusion from participation in public life or discrimination, regardless of whether such a phenomenon still exists.

Thus, the inconsistency of positions on the definition of indigenous peoples hampered joint activities and delayed the emergence of the final text of the UN Declaration on the rights of indigenous peoples. As a result, this extremely important document was adopted by the UN General Assembly only in 2007, after more than twenty years of negotiations between indigenous peoples and States and consequent numerous revisions. At the same time, the UN Human Rights Council established a special Expert Mechanism on the Rights of Indigenous Peoples as a separate structural unit that conducts research makes recommendations to the Human Rights Council and convenes annual sessions attended by representatives of states, leading international organizations and indigenous peoples, experts, scientists.

The aforementioned Declaration did not provide a clear definition of "indigenous peoples", however reaffirmed the right of indigenous peoples to consider themselves "different and to be respected as such". The Declaration also stated, "that all peoples contribute to the diversity and richness of civilizations and cultures which constitute the common heritage of humankind. " 143 UN member-states voted for this Declaration. Four opposed the adoption of the Declaration, namely the United States, Canada, Australia and New Zealand, and 11 respectively abstained, including the Russian Federation and Ukraine. The Declaration made an invaluable contribution to the rights and recognition of indigenous peoples and became the first UN document to exclusively regulate the rights of indigenous

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peoples. Following the ILO Convention №169, the adoption of the Declaration was a new step in the development of international protection of the rights of indigenous peoples. In particular, this is evidenced by the fact that only 22 states acceded to the convention, and 143 voted in favor of the Declaration.

Issues on the indigenous peoples are also addressed by such an important international organization as the World Bank. One of the areas of its financing is the development of indigenous peoples, preservation of their identity. Operational Directive 4.20 states that no single definition can capture all the diversity of the world's indigenous peoples. At the same time, the World Bank highlights certain features that are often shared by indigenous peoples, namely: a) close attachment to ancestral territories and to the natural resources in these areas; b) self-identification and identification by others as members of a distinct cultural group; c) an indigenous language, often different from the national language; d) the presence of customary social and political institutions; e) primarily subsistence-oriented production.

Thus, a compromise was eventually found, which consisted in the development of a number of so-called "working definitions" and criteria that were recommended for use by the legislators and governments of the states concerned.

At the present stage, the most acceptable is the approach of the World Bank, which has adopted a functional view of indigenous peoples. The International Labor Organization, while acknowledging the lack of a universal definition of indigenous peoples, has also declared a "pragmatic approach" to the problem - the application of both subjective and objective criteria. The main subjective criterion is the self-determination of the people as indigenous; the main objective is the origin of the population that lived in a particular country or geographical region during the enslavement, colonization or establishment of modern state borders, as well as the preservation, full or partial, of their own social, economic, cultural and political institutions, regardless of official legal status. However, there is still a need to provide a single definition of the concept of indigenous people, which will be used by international organizations and states.

Nowadays, states and international organizations interpret the meaning of the concept of indigenous peoples differently. Conventionally, all the positions of states on the concept of indigenous peoples can be divided into 3 broad categories: a) states that have legally recognized the existence of indigenous peoples and in which the rights of the latter are to some extent protected by national law; b) states which have not legally recognized the existence of indigenous peoples on their territory, however believe that such exist; (c) states which consider that they do not have their own indigenous peoples however recognize the paramount importance

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of protecting their rights in the regional and global aspects; d) states which consider that they do not have their own indigenous peoples and are indifferent to the need to ensure their rights. States that have legally recognized the existence of indigenous peoples enshrine this category in different ways, most often in the Constitution.

In particular, the legislation of the Russian Federation contains such a concept as "indigenous peoples", which is directly enshrined in Article 69 of the Constitution. It states that Russia guarantees the rights of indigenous peoples in accordance with the general principles and norms of international law. A specialized act regulating the rights of indigenous peoples in the Russian Federation is the law "On guarantees of the rights of indigenous peoples of the Russian Federation." However, it does not contain criteria, grounds and procedures for defining the people as indigenous. Russia is currently discussing the adoption of the ILO Convention No.169. The Convention emphasizes, in particular, that the people recognized as indigenous by the State must be entitled to ownership of the land on which they reside. In this context, the land issue is particularly problematic for Russia. The Russian Federation is considering adopting a Convention No.169 with reservations, while the ILO considers ratification of the latter with reservations to be unacceptable, so the issue remains open.

Instead, the United States did not enshrine the term "indigenous people" in its Constitution, leaving the right to recognize the people as indigenous individually to the states. Since the United States operates through the Anglo-Saxon legal system, precedents play an important role as a source of law, thus it is on their basis that the people are recognized as indigenous. Having adopting no international instruments governing the rights of indigenous peoples, the United States is ahead of other countries in terms of ensuring their rights. In particular, indigenous peoples are recognized as having ownership of land on which the state creates a reservation that has certain features of autonomy (its own judiciary, education system, legislation, authorities, etc.).

Summing up the above, we would like to emphasize that the current international regulations are not enough to solve the problems of indigenous peoples. There are no uniform criteria for recognizing the people as indigenous, international documents are not perfect, that prevents states from adopting them. In particular, such rights as the right to self-government, land, subsoil and natural resources, and most importantly - the right to self-identification and self-determination remain completely unregulated.

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3. Relevant issues of exploration of the concept of indigenous people in the Ukrainian legal doctrine

Since the proclamation of Ukraine's state independence, the Ukrainian people have acquired the status of a titular state-building ethnos. At the same time, modern international legal documents concerning indigenous peoples define the latter as "stateless nations", i.e. those that do not have their own statehood, however live in the territory of states where other ethnic groups dominate. That is why democracies with indigenous peoples are committed to guaranteeing their rights and providing the conditions for their further development. Thus, the current tendency to give indigenous peoples a different legal status than national minorities can be seen as a kind of compensation for the lack of their own statehood.

The problem of indigenous peoples was raised in Ukraine only in 2014 concerning aggression of the Russian Federation in Crimea. The parliament of Ukraine recognized the Crimean Tatar people as indigenous. Meanwhile, the concept of "indigenous people" is not regulated by current Ukrainian legislation. There is no special law that would define this concept, the rights of indigenous peoples in Ukraine, the procedures for recognizing the people as indigenous. The phrase "indigenous people" was first enshrined in 1996 in the Constitution of Ukraine, namely in Articles 11, 92, and 119.

In particular, Article 11 states that "The state promotes the consolidation and development of the Ukrainian nation, its historical consciousness, traditions and culture, as well as the development of the ethnic, cultural, linguistic and religious identity of all indigenous peoples and national minorities of Ukraine." That is, in fact, this article makes a distinction between the concepts of "indigenous peoples" and "national minorities". Meanwhile, the 1992 Law on National Minorities in Ukraine actually equaling abovementioned categories, leveling the special legal status of indigenous peoples. According to Article 3 of this Law, "national minorities include groups of citizens of Ukraine who are not Ukrainians by nationality, show a sense of national self-awareness and community among themselves."

In accordance with provision 3 of Article 92 of the Ukrainian's Constitution, the rights of indigenous peoples and national minorities are determined exclusively by the laws of Ukraine. However, for the present moment, no law has been enacted to define the rights of indigenous peoples, despite the existence of a specialized law on national minorities. This necessitates the development of concepts of the state policy of Ukraine in the field of indigenous peoples' rights, urgent development and adoption of relevant laws.

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Article 119 of the Ukrainian's Constitution regulates the activities of local state administrations in the relevant territory, in particular, paragraph 3 of Article 119, as one of such areas establishes "ensuring the implementation of state and regional programs of socio-economic and cultural development, environmental protection programs, and in the places of compact residence of the indigenous peoples and national minorities - also programs of their national and cultural development ". The aforementioned article guarantees indigenous peoples the implementation by local state administrations of programs for their national and cultural development, which is a kind of guarantee of preserving their identity, but this raises questions about the practical implementation of the content of this article. Due to the lack of a specialized law, it is difficult to define the concept of compact residence of indigenous people and also the content of such programs that should be provided by the local state administrations.

The problem of indigenous peoples actualized in Ukraine only in 2014, when in connection with the aggression of the Russian Federation in Crimea, the Verkhovna Rada of Ukraine recognized the Crimean Tatar people as indigenous. However, de facto recognition took place in 1995, when the Ukrainian government approved the participation in the Mejlis (the representative body of the Crimean Tatars) as an indigenous organization in the UN Working Group on the Draft UN Declaration on the Rights of Indigenous Peoples. In addition, representatives of the Majlis regularly participated in the annual sessions of the UN Permanent Forum on Indigenous Issues. Thus, the Crimean Tatar people became a member of the international community of indigenous peoples, which contributed to the international legitimization of its status as an indigenous people of Crimea and Ukraine.

De jure, the status of the indigenous Crimean Tatar people was granted on March 20, 2014, which was defined in the resolution of the Verkhovna Rada "On the Statement of the Verkhovna Rada of Ukraine on guarantees of the rights of the Crimean Tatar people within the Ukrainian state." According to the resolution "Ukraine guarantees the preservation and development of the ethnic, cultural, linguistic and religious identity of the Crimean Tatar people as an indigenous people and all national minorities of Ukraine." This provision enshrines the special legal status of the Crimean Tatar people. The document also states "The Verkhovna Rada of Ukraine declares its support for the United Nations Declaration on the Rights of Indigenous Peoples, as well as Ukraine, normative legal acts of Ukraine, which define and consolidate the status of the Crimean Tatar people as the indigenous people of Ukraine". Thus, by means of this document, Ukraine actually joined the UN Declaration on the Rights of Indigenous Peoples.

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Meanwhile, there is currently no law in Ukraine that implements UN norms on the rights of indigenous peoples. On April 4, 2017, a draft law of Ukraine "On the status of the Crimean Tatar people in Ukraine" was submitted to the Verkhovna Rada. However, according to the permanent representative of the President of Ukraine in the Autonomic Republic of Crimea - B. Babin, the submitted bill does not implement the provisions of the UN Declaration in Ukrainian legislation. The abovementioned bill defines only the status of the Crimean Tatar people, the basic principles of state policy towards the Crimean Tatar people, the representation of the Crimean Tatar people. However, it does not determine the rights of indigenous peoples, the peculiarities of their legal status, the procedures for recognizing the people as indigenous est. In addition, in 2015, the UN stated that the law on individual peoples, in the context of ensuring the rights of indigenous peoples, has signs of racism. Therefore, accordingly, this bill cannot be considered the implementation of the provisions of the UN Declaration, as it regulates only the status of the Crimean Tatar people as indigenous.

In the context of recognizing the Crimean Tatar people as indigenous, the issues of recognizing other peoples as indigenous and the existence of such in Ukraine are bypassed. In particular, in 2015, a draft law "Draft Law of Ukraine on Supporting the Identity of the Karaite and Crimean Peoples in Ukraine" was submitted to the Verkhovna Rada, but it was not adopted.

In 2014, a draft law on the rights of indigenous peoples was submitted. It had to comprehensively regulate the rights of indigenous peoples, on the basis of international acts was given a clear definition of the concept of indigenous people, defined the rights of indigenous peoples, the order of their implementation. This act was in fact supposed to implement into national law the provisions of the ILO Convention No.169 and the UN Declaration, however, it was withdrawn from consideration and nothing similar has been proposed so far. Insofar, to date, no legislation regulates the rights of the Crimean Tatar people in connection with the new status and what this status gives this status internationally.

In the context of acceding to the UN Declaration, Ukraine should adopt certain legislative acts that would bring national legislation in line with international law. In connection with the adoption of the UN Declaration, legislative work should unfold in two directions: amendments to Section X of the Constitution of Ukraine and the adoption of a specialized law that would determine the legal status of indigenous peoples in Ukraine. There are currently several draft laws regulating the concept of "indigenous peoples", but none of them has been adopted. Thus, the adoption in Ukraine of a separate law that would regulate this issue is becoming increasingly important in the context of ensuring the rights guaranteed by

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international instruments and the legislative consolidation of their special legal status.

4. Conclusions

There is no clear definition of the concept of "indigenous peoples" in international law, despite the recognition of such a category by the international legal community and its enshrinement in international legal instruments. The following international organizations deal with the problems of indigenous peoples namely the United Nations, the ILO, and the World Bank. The international documents of the aforementioned organizations enshrine various features that define certain peoples as indigenous, however there is no unity in these acts, and they in some parts refute each other.

An important step in regulating the rights of indigenous peoples was the adoption in 2007 of the UN Declaration on the Rights of Indigenous Peoples, which enshrined the right to self-identity and self-determination as a fundamental right to which indigenous peoples is entitled.

Through the analysis of the concept of "indigenous people" in international legal instruments, we have drawn attention to the lack of a single concept of this category to which each member of the international legal community could appeal. The problem of defining the concept itself creates the problem of identifying the "indigenous people" as a full-fledged subject of international law. Accordingly, the implementation and protection of the rights and freedoms of indigenous peoples enshrined in international legal acts are problematic.

On this basis, states consider the legal personality of indigenous peoples in different ways, which is also complicated by the lack of a single international legal instrument binding for all the states. To date, the ILO Convention No. 169, to which only 22 States have acceded, is a binding international instrument that is open to ratification by States. This indicates the existence of problems in guaranteeing and protecting the rights and freedoms of indigenous peoples at the national level and identifies shortcomings in existing international legal instruments, which prevents states from adopting them.

Summarizing all the above, it is necessary to emphasize the need to develop a single concept of "indigenous people" and enshrine the latter in a single comprehensive international legal instrument that will determine the legal status of indigenous peoples as a full subject of international law and will be binding on participating states.

We found out that the current Ukrainian legislation does not regulate the concept of "indigenous people". There is no special law that would determine its rights on the territory of Ukraine, the procedures for recognizing the people as indigenous est.

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This problem becomes especially relevant in the context of the adoption of the Resolution of the Verkhovna Rada "On the Statement of the Verkhovna Rada of Ukraine on Guarantees of the Rights of the Crimean Tatar People within the Ukrainian State." Along with the aforementioned act, Ukraine joined the Declaration, thus the problem of adopting a national legislative act that would implement the relevant rules of international law into national legislation became acute.

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