

UDC 342.7

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## THE RIGHT TO EDUCATION OF THE INDIGENOUS PEOPLES OF UKRAINE IN THE CONDITIONS OF DEOCCUPATION AND REINTEGRATION OF THE AUTONOMOUS REPUBLIC OF CRIMEA AND THE CITY OF SEVASTOPOL

*This article characterizes the state educational policy regarding the indigenous peoples of the United States and, taking into account the experience of the United States, offers are developed regarding the areas of improvement of the legislation of Ukraine and the practice of its application in the education of the indigenous peoples of Ukraine. It is emphasized that today the Russian Federation, having committed aggression against Ukraine in 2014, annexed Crimea. Russia, exercising effective control over this territory through the military and a fully subordinate civil administration, grossly violates the right of the indigenous peoples of Ukraine to education. It is emphasized that already today Ukraine is taking measures to effectively ensure the right to education of the indigenous peoples of Ukraine in the conditions of the reintegration of the ARC and the city of Sevastopol. The US experience shows that the process of desegregation is long-term and complex. Taking into account the experience of the United States, the author makes the following proposals regarding its consideration by Ukraine: 1. creation of legal prerequisites for effective provision of the right to education of the indigenous peoples of Ukraine during the deoccupation and reintegration of the ARC and the city of Sevastopol: in the preambles of the normative legal acts of Ukraine on education, outline those problems, which take place when ensuring the right to education of indigenous peoples of Ukraine as a result of part of the territory of Ukraine being under the occupation of the Russian Federation; to establish barriers in the legislation of Ukraine on the segregation of education of the indigenous peoples of Ukraine; to define in detail in the legislation of Ukraine the powers of local self-government bodies in the field of education of representatives of indigenous peoples of Ukraine and to improve the monitoring mechanism for the effectiveness of their implementation; 2. directions for improvement of the legislation of Ukraine and the practice of its application regarding the education of indigenous peoples of Ukraine: 1) forming groups of children in preschool educational institutions and primary schools: no more than 8 children in a group/class of different nationalities, prohibiting the formation of classes from children of the same nationality if there are accepted for the education of children of different nationalities for one year of education; 2) material and technical base of preschool educational institutions, primary schools: systematic inspection of the state of schools, their material and technical base; 3) to develop a toolkit that would allow children to organize their extracurricular life in such a way that poverty, lack of upbringing in the family, or the negative influence of the environment do not affect their studies; 4) independent systematic real monitoring of the quality of learning material by children and the quality of teaching; 5) introduce the position of assistant teacher, who would have a higher education in child psychology.*

**Key words:** human rights, education, the right to education, the principle of equality, discrimination, occupation, annexation, Russian aggression, state policy in the field of education, segregation, desegregation, indigenous peoples, de-occupation, reintegration, the right to quality preschool education, the right to quality education in primary grades.

**Formulation of the problem.** The issue of the right to education of indigenous peoples is one of the most delicate in law. Indigenous peoples have no homeland other than the one where they live. Three indigenous peoples of Ukraine live on

the territory of the Autonomous Republic of Crimea - Crimean Tatars, Krymchaks and Karaites. Ukraine has created a normative-legal and organizational-legal mechanism to ensure their right to education, taking into account international human rights acts.

The Russian Federation, having committed aggression against Ukraine in 2014, annexed Crimea. Russia, exercising effective control over this territory through the military and a fully subordinate civil administration, grossly violates the right of the indigenous peoples of Ukraine to education. So, first of all, as experts note, «out of 230,000 children who studied in Crimean schools this year, and 53,000 children - in Sevastopol schools, in the temporarily occupied Crimea, only 197 schoolchildren studied in the Ukrainian language this year. There is one school near the city of Feodosia, where 182 children studied in Ukrainian until the 9th grade. Also, 15 children studied Ukrainian at a Sevastopol school. That is, a total of 197 children studied in their native language in Crimea» [1]. Since 2014, Russia has not provided education for children - representatives of the indigenous peoples of Ukraine - in the language of the indigenous people at all [2].

Ukraine is fighting for the return of all territories of Ukraine that were captured by Russia and is improving the mechanism of deoccupation and reintegration of the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol. Therefore, the study of the issue of ensuring the right to education of indigenous peoples of Ukraine in the context of deoccupation and reintegration of the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol is relevant.

In the study of the constitutional law of Ukraine, the following scientists investigated the issue of the right to education: V. Bonyak [3], O. Melnychuk [4], V. Prodan [5], O. Yakushina [6] and others. The issue of ensuring the right to education, as well as other basic human rights, was studied by Y. Bysaga [7-9], V. Volkov [10], G. Nechiporuk [11] and others. The change in social relations – Ukraine's return of territories occupied by Russia – necessitates the study of the right to education of the indigenous peoples of Ukraine in the context of deoccupation and reintegration of the Autonomous Republic of Crimea and the city of Sevastopol.

At the same time, it seems appropriate to emphasize that taking measures to effectively ensure the right to education of the indigenous peoples of Ukraine, it is necessary to establish in the legislation barriers to the segregation of the education of the indigenous peoples of Ukraine. The US experience shows that the process of desegregation is long-term and complex. Therefore, Ukraine should take into

account the experience of the USA in order not to create such a normative-legal and organizational-legal mechanism for ensuring the right to education of the indigenous peoples of Ukraine, which, while not pursuing the goal of segregation, will nevertheless result in the segregation of the education of the indigenous peoples of Ukraine.

**The purpose of this article.** The purpose of this article is to characterize the state educational policy regarding the indigenous peoples of the United States and, taking into account the experience of the United States, to develop proposals for improving the legislation of Ukraine and the practice of its application in the education of the indigenous peoples of Ukraine.

**Presenting main material.** It is well known: segregation (lat. segregatio – separation) is a type of discrimination, which consists in the actual or legal separation within one society of those social groups that are distinguished by certain characteristics, and in the subsequent legislative limitation of their rights. Such a policy was expressed in the US in the field of education in the period after the Second World War by creating various social barriers, such as segregated education, demarcation of seating areas (whites sit in the front), etc.

One of the first steps on the way to desegregation was the official recognition of the problems of racial discrimination in the field of education. It can be seen that during the reintegration of the ARC and the city of Sevastopol, it is worth paying attention to this, outlining in the normative legal acts of Ukraine on education all the problems that occur in ensuring the right to education of the indigenous peoples of Ukraine as a result of part of the territory being under the occupation of the Russian Federation.

As you know, the Supreme Court made a significant contribution to desegregation in the field of education in the United States. He issued a coercive decree on the desegregation of schools. But the experience of the USA shows that the main problem of its implementation was the lack of a mechanism to control and ensure the desegregation of schools in a large number of school districts. Therefore, taking into account the experience of the USA, it is advisable for Ukraine during the reintegration of the ARC and the city of Sevastopol to establish real and effective control mechanisms for the implementation of normative legal acts in the field of education of representatives of indigenous peoples of Ukraine. It will be an unacceptable situation if a normative legal act (even a qualitative one) remains «a normative legal act only on paper».

Another important step in desegregation in the USA was the Civil Rights Act of 1964 [12]. It affirmed the rights of citizens and determined the powers of the federal government in the areas of public housing, voting rights, education, and employment. This experience should be borrowed from Ukraine: to define in detail in the legislation of Ukraine the powers of local self-government bodies in the field of education of representatives of indigenous peoples of Ukraine; establish that groups in preschool educational institutions, classes in schools and groups in institutions of higher education should be formed from representatives of different nationalities. It is seen that it is necessary to prevent a situation where groups/classes would be formed on the basis of nationality, even with such a purpose as maintaining the cultural traditions of one or another indigenous people of Ukraine, the level of language proficiency, etc.

L. Sidoon rightly points out that Article IV was of great importance: «1) it enabled the control of public schools, since funding became a method used by the federal government to shape school policy on the ground; 2) The Federal Office for Education became the body for the formation of the general educational policy, which was responsible for determining the facts of segregation in the educational environment and, where appropriate, took appropriate measures.» It seems that it would be expedient for Ukraine to more widely use such a tool as «funding of schools» [13].

Colman A. notes that «The measures taken did not completely eliminate the problem of segregation of national minorities, as evidenced by specially conducted studies» [14] commissioned by the Department of Health, Education and Social Security. The purpose of this study was to assess the capabilities and achievements of schoolchildren representing national minorities in comparison with their light-skinned peers. The experiment covered 5% of all schools in America and 645,000 students. Children were offered tests of various types, information was collected about the social status of schoolchildren and their opinion about education, school leaders filled out questionnaires [14].

As a result, interesting data was discovered:

1. Minority students (except Asian-Americans) scored lower on all test scores than their light-skinned peers, and this trend continued from 1st through 12th grade. The cause of this phenomenon was seen in the conditions of children's extracurricular life - poverty, lack of upbringing in the family, the influence of the environment [15]. It

seems that Ukraine needs to take this into account and develop a toolkit that would allow children to organize their extracurricular life in such a way that poverty, lack of upbringing in the family, or the negative influence of the environment do not affect their education. For example, provide free electives for children representing indigenous peoples of Ukraine, clubs, tutors, etc.

«2. Most of the children studied in segregated schools at the time the study was conducted. There was a tendency for children to be taught by a teacher of the same race.

3. Socio-economic basis of schools, living conditions in the family, social status of students were decisive factors in achieving a certain level of success of students. This fact was unexpected and became the reason for establishing recommendations that schools should combine to create a diverse environment in this way» [15].

It seems that Ukraine also needs to take this experience into account by conducting a real systematic inspection of the state of schools and their material and technical base.

«4. The curriculum and the level of technical support were not a determining factor in achieving a high level of success. In fact, it did not differ significantly in schools for blacks and in schools for light-skinned people;

5. At the same time, a higher level of provision of physical, chemical, language laboratories, manuals, availability of access to college programs was found in educational institutions for light-skinned schoolchildren, more qualified teachers worked in schools» [15, p.104-105]. It seems that it would be expedient for Ukraine to develop a toolkit that would allow monitoring the quality of learning material by children and the quality of teaching. The tool that is currently used, for example, mutual visits by teachers to each other's classes, open classes, according to the teachers themselves, is of a formal nature.

Another important stage in the desegregation of education in the USA was the law «On equal educational opportunities». This Act was designed to reduce discrimination; to improve the education of underprivileged and handicapped children; to finance the development of curricula, manuals, equipment and to ensure the salary of teaching assistants, who could devote more time to the educational process. Also, this Law contained provisions on improving the quality of preschool education for children from disadvantaged families and facilitating the transition of students from school to the world of work. It seems that this

US experience should also be taken into account by Ukraine. Thus, in the Autonomous Republic of Crimea and the city of Sevastopol, children will be disadvantaged (whose parents died as a result of the Russian war, whose parents were tortured by Russia as political prisoners; children who were kidnapped from their families and placed in boarding schools, etc.). There will also be children who did not go to school because Russia during the occupation did not provide these children with their right to education, etc. In view of this, it is considered appropriate to apply an approach that would provide for groups of children of no more than 8 people in preschool educational institutions and also in classes in schools (primary school) - no more than 8 people. It is also considered appropriate for the teacher to have a teacher's assistant who has a higher education in child psychology. As for such a full-time unit in a school as a psychologist, experts have repeatedly noted that it formally exists in schools. It is also seen that the work of social services with disadvantaged families will need to be improved.

There is also a need to improve the effectiveness and policy of teaching children with mental retardation, autism spectrum disorder, and other diseases. In particular, it can be seen that when teaching such children, the individual educational trajectory of each student should be formed, and not an approach according to which there is a program for a subject and the teacher, regardless of whether the student has mastered the material or not, teaches new and new material, regardless of the fact that the student is no longer able to learn it. The teaching method also needs to be changed, because a number of students, for example, with autism spectrum disorder, cannot accept loud teaching, strict address or many prohibitions, because the teacher teaches very loudly - the child physically hurts from the sound and the child covers his ears, there are many prohibitions or a strict attitude - increase anxiety in children. Schools cannot ignore the difficulties in teaching and raising children with disabilities.

Scientist Sidun L. notes in her article that «One of the largest US federal education programs (1981) - Chapter 1 ECIA - also became a certain stage in the achievement of educational equality. The program is addressed to children of low social status and representatives of ethnic minorities. The program provided for annual subsidies in the amount of 500 million dollars. These funds are used for schools where children of the specified population categories study. They receive additional

equipment, invite specialists-consultants, raise teachers' salaries. According to the program, 90% of educational districts received additional subsidies. The program covered 27% of African-American schoolchildren, 14% - Hispanic, 4% from other small ethnic groups» [13, p. 32]. It seems that this experience must be borrowed from Ukraine. In particular, it is considered expedient to provide subsidies to schools where children from low-income families, children with disabilities, and children from indigenous peoples of Ukraine study. It can be seen that the use of these funds should be targeted - additional technologies, equipment, specialist consultants, teachers who speak the languages of the indigenous peoples of Ukraine, psychologists. The use of these funds by schools by state authorities should also be effectively monitored.

In the report «One nation, many peoples. Declaration of Cultural Independence» (Department of Education, New York, 1991) talks about the importance of civic responsibility and the importance of awareness and recognition of the USA as a multicultural society and the need for civic responsibility in this context, as well as the need to develop methods of teaching critical thinking, reflective reading, and social action [13]. It can be seen that during the reintegration of the ARC and the city of Sevastopol, it is important to educate children in the spirit of respect for human rights, civic responsibility and critical thinking.

L. Sidun notes in his scientific work that «in the year 2000, discussions about the segregation of the second generation began in the USA. Segregation of the second generation is a form of racial segregation, which is characterized by such forms of educational practice as division into streams, grouping of students according to abilities. Unlike previous segregation, second-generation segregation can be implemented in schools with a balanced national composition, for example, all light-skinned students can be assigned to one stream, and African-Americans and Hispanic-Americans to another» [13]. The search for the most optimal solution to the problem of equality of educational opportunities continues.

### **Conclusions.**

The experience of the USA in the resegregation of the education of indigenous peoples allows us to express the following proposals regarding its consideration by Ukraine:

1. creation of legal prerequisites for effective provision of the right to education of the indigenous peoples of Ukraine during the deoccupation

and reintegration of the ARC and the city of Sevastopol: in the preambles of the normative legal acts of Ukraine on education, outline the problems that occur in ensuring the right to education of the indigenous peoples of Ukraine as a result of the stay parts of the territory of Ukraine under the occupation of the Russian Federation; to establish barriers in the legislation of Ukraine on the segregation of education of the indigenous peoples of Ukraine; to define in detail in the legislation of Ukraine the powers of local self-government bodies in the field of education of representatives of indigenous peoples of Ukraine and to improve the mechanism of control over the effectiveness of their implementation.

2. directions for improvement of the legislation of Ukraine and the practice of its application in relation to the education of indigenous peoples of Ukraine: 1) formation of groups of children in preschool educational institutions and primary schools: no more than 8 children in a group/class of different nationalities, prohibiting the formation of classes from children of the same nationality if there are accepted for the education of children of different nationalities for one year of education; 2) material and technical base of preschool institutions of higher education, primary schools: systematic inspection of the state of schools, their material and technical base; 3) to develop a toolkit that would allow children to organize their extracurricular life in such a way that poverty, lack of upbringing in the family, or the negative influence of the environment do not affect their studies; 4) independent systematic real monitoring of the quality of learning material by children and the quality of teaching; 5) introduce the position of assistant teacher, who would have a higher education in child psychology.

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**Дешко Л. М. Право на освіту корінних народів України в умовах деокупації та реінтеграції Автономної Республіки Крим та міста Севастополь.**

*В цій статті охарактеризована державна освітня політика щодо корінних народів США та з врахуванням досвіду США розроблено пропозиції щодо напрямів вдосконалення законодавства України та практики його застосування щодо освіти корінних народів України. Підкреслюється, що сьогодні російська федерація, здійснивши агресію щодо України в 2014 році, анексувала Крим. Росія, здійснюючи ефективний контроль над цією територією через військових та повністю підпорядковану цивільну адміністрацію, грубо порушує право корінних народів України на освіту. Наголошується, що вже сьогодні Україна вживає заходи щодо ефективного забезпечення права на освіту корінних народів України в умовах реінтеграції АРК та міста Севастополь. США пройшли довготривалий і складний процес десеєрації. З врахуванням досвіду США автор висловлює такі пропозиції щодо його врахування Україною: 1. створення правових передумов для ефективного забезпечення права на освіту корінних народів України при деокупації та реінтеграції АРК та міста Севастополь: в преамбулах нормативно-правових актів України з питань освіти окреслити ті проблеми, які мають місце при забезпеченні права на освіту корінних народів України в результаті перебування частини території України під окупацією російської федерації; встановити бар'єри в законодавстві України з сегрегації освіти корінних народів України; детально в законодавстві України визначити повноваження органів місцевого самоврядування в сфері освіти представників корінних народів України та вдосконалити механізм моніторингу за ефективністю їх виконання; 2. напрями вдосконалення законодавства України та практики його застосування щодо освіти корінних народів України: 1) формування груп дітей в дошкільних закладах освіти та початковій школі: не більше 8 дітей в групі/класі різних національностей, заборонити формувати класи з дітей однієї національності при наявності прийнятих на навчання дітей різних національностей одного року навчання; 2) матеріально-технічна база дошкільних закладів освіти, початкової школи: системне інспектування стану шкіл, їх матеріально-технічної бази; 3) розробити інструментарій, який би дозволив так організувати позашкільне життя дітей, щоб бідність, відсутність виховання в родині чи негативний вплив середовища не позначалися на навчанні; 4) незалежний системний реальний моніторинг якості засвоєння навчального матеріалу дітьми та якості викладання; 5) запровадити посаду помічника вчителя, який би мав вищу освіту з дитячої психології.*

**Ключові слова:** права людини, освіта, право на освіту, принцип рівності, дискримінація, окупація, анексія, агресія росії, державна політика у сфері освіти, сегрегація, десеєрація, корінні народи, деокупація, реінтеграція, право на якісну дошкільну освіту, право на якісну освіту в початкових класах.