

Human Rights Violations in Crimea: Ending Impunity

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The following briefing note is prepared by the Crimean Human Rights Group (CHRG), the Ukrainian Helsinki Human Rights Union (UHHRU), the Human Rights Information Centre (HRIC)¹ and Human Rights House Foundation (HRHF).

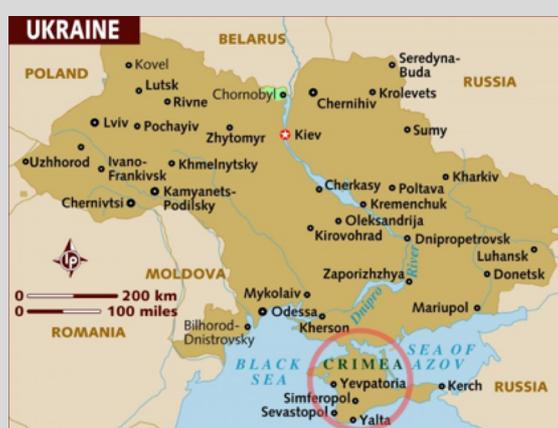
Overview

Since the occupation of Crimea by the Russian Federation, the human rights situation has seriously deteriorated. The Russian Federation has unlawfully imposed its laws and justice system in Crimea, and imposed new authorities who have conducted a severe crackdown on civil society and perceived political opponents.

The imposition of a new citizenship and legal framework and the resulting administration of justice have significantly limited the enjoyment of human rights for the residents of Crimea. The Russian Federation has extended its laws to Crimea in violation of international humanitarian law. In many cases, they have been applied arbitrarily.

Russian Federation authorities in Crimea have supported groups and individuals loyal to the Russian Federation, including among national and religious minorities, while preventing any criticism or dissent and outlawing organized opposition, such as the Mejlis. The space for civil society to operate, criticize or advocate has considerably shrunk. Media outlets have been shut down, disproportionately affecting the Crimean Tatar and Ukrainian communities, their right to information and to maintain their culture and identity. Grave human rights violations affecting the right to life, liberty and security have not been effectively investigated. The judiciary has failed to uphold the rule of law

Quick facts about the human rights situation in Crimea



- 20 February 2014, beginning of the temporary occupation of Crimea by the Russian Federation
- 16 March 2014, a so-called referendum organised by the Russian-occupation authorities for justification of occupation
- 18 March 2014, the Russian Federation attempted to annex the Crimean Peninsula by signing so called agreement on accession of Crimea to the Russian Federation
- 27 March 2014, the United Nations General Assembly adopted resolution 68/262 affirming Ukraine's territorial integrity and underscoring the invalidity of the so-called Crimean referendum
- 19 December 2016, the United Nations General Assembly adopted resolution 71/205 condemning the temporary occupation of part of the territory of Ukraine – the Autonomous Republic of Crimea and the city of Sevastopol – by the Russian Federation, and reaffirming the non-recognition of its annexation

¹ Human Rights Information Centre website: <http://humanrights.org.ua/>

and exercise proper administration of justice. There is an urgent need for accountability for human rights violations and abuses and providing the victims with redress”².

This situation is exacerbated by concerted efforts to prevent Ukrainians and international human rights monitors, journalists, and others from traveling to Crimea. Governments, international organizations, and human rights organizations must take steps to bear witness to the on-going situation in Crimea and do their best to put a stop to it.

Human rights violations in Crimea: Key issues

Responsibilities relating to Ukraine

The underlying responsibility for the human rights crisis in Crimea lies with the Russian authorities who are to be held accountable as occupying power. At the same time, there are several areas in which the Ukrainian authorities have the possibility to take steps to improve the human rights situation in Crimea.

Since the illegal annexation of Crimea by the Russian Federation, the Ukrainian authorities have adapted their legislative framework to face this new situation. However, a number of measures undertaken by the Ukrainian authorities do not go in the direction of protecting the rights of the Crimean people.

Following Russian occupation of Crimea in 2014, local residents found themselves in a vulnerable position, not only because of abuses of the de facto authorities, but also as a result of the discriminatory policies imposed by the Ukrainian state. Thus, Crimean residents who were not registered as IDPs face discrimination using bank services in Ukraine. According to the resolution No.699 of the National Bank of Ukraine (NBU) all Crimeans were considered as non-residents and they cannot open bank account, receive payments or change money in Ukrainian banks e.c. This approach demonstrates discriminatory and unequal treatment of the Ukrainian State to its own citizens.

The Government of Ukraine limited the property rights of Crimean residents by the Decree No. 1035. Thousands of Crimeans have faced challenges on a daily basis to move or evacuate their property through the checkpoints from the occupied peninsula to the mainland Ukraine. The decree limits the types and quantities of socially important goods that may be transported to and from Crimea. Thus, the total value of such items shall not exceed UAH 10 000 (around 300 Euro) and shall be below 50 kilograms per person. As a matter of fact, inhabitants of Crimea are deprived of their right to transport their belongings to mainland Ukraine. In June 2017, the Kyiv Administrative Court of Appeals fulfilled the claim of human rights defenders and found this practice illegal and ineffective, however the Customs Service ignored this decision several months. In addition, according to the available information, the Government prepares new regulatory draft with the same type of limitations.

The occupation poses considerable problems for the citizens of Ukraine residing in the territory of the Crimean Peninsula with relations to the documentary proof of their personal status. Due to the absence of any state agencies of Ukraine on the territory of Crimea, de facto all documents issued on this territory since the beginning of the occupation are invalid. On the

² OHCHR Report “The situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)”, Para 220-222.

mainland Ukraine court procedure is established to recognize civil registration of births, deaths and marriages that often puts unnecessary burden for Crimean residents. An Action Plan to implement the National Human Rights Strategy until 2020 envisages to develop a simplified, administrative procedure of civil registration of births, deaths and marriages that occurred on the temporarily occupied territory of Ukraine.

The Ukrainian government complicated access to Crimea for foreign journalists, human rights monitors and lawyers. Despite small positive improvements (including the recent one from July 2017), the current regulation includes a number of challenges. In order to receive a special permit to access Crimea, foreign journalists, lawyers and human rights defenders must go through a bureaucratic and often lengthy procedure on the mainland Ukraine.

Finally, there is concern over Ukraine draft laws No. 6675 and 6675 submitted to the Parliament by the President Petro Poroshenko that put unnecessary and unproportioned requirements of public reporting for NGOs under the threat of loss of non-profit status. If adopted it will block the activities of NGOs working in a conflict zone in Crimea and Donbas.

Responsibilities relating to the Russian Federation

The following issues highlight human rights violations linked to the illegal annexation of Crimea by the Russian Federation. The underlying responsibility for the current dire human rights situation in Crimea lies with the local *de facto* authorities and with the authorities of the Russian Federation that is to be held accountable as occupying power.

Peaceful assembly and association

The Russian authorities used brutal tactics against participants of peaceful assemblies in the first year of the occupation: attacks of so called 'Crimean self-defense' and other 'non-identified persons' on the events supporting the territorial integrity of Ukraine, abductions and murders of their participants in spring 2014, mass detentions, arrests of single activists, and the violent dispersal of protests. The occupation authorities represented by the police, the prosecutor's office, and the courts use administrative and criminal prosecution against participants of peaceful assemblies.

Crimean Human Rights group conducted an analysis of judicial decisions that were made in Crimea since the beginning of the occupation. The analysis of the court decisions revealed 256 judgments that included punishment applied to participants for participating in peaceful assemblies. The fines collectively totalled more than RUR 2,700,000. The amount of some individual fines reached RUR 150,000. It should be noted that the average pension in Crimea is less than RUR 9,000.

In addition to the penalties, 14 decisions were passed, according to which participants in peaceful assemblies were sentenced to compulsory public works, from twenty to forty hours, and 22 people were arrested for a period from two to fifteen days. The prosecutions are related to the participants in peaceful assemblies, which were held on grounds of national identity, discontent with the actions of local authorities, or in support of Crimean residents who are deprived of their liberty by the Russian authorities.

In April 2016 the Crimean 'Tatars' Mejlis, an assembly representing the ethnic group's interests, was banned by the Russian Federation as an "extremist" organisation. This had followed the *de facto* Prosecutor of Crimea asking the Supreme Court of Crimea to suspend the Mejlis as an

extremist organization. The assembly had been seen as a key body for the enjoyment of freedom of assembly, association and expression by the Crimean Tatar People and the move to ban it was roundly criticized by a number of international organisations, including the European Parliament³ and the International Court of Justice⁴.

Political prisoners

More than 60 people have been prosecuted in politically motivated cases in Crimea since the occupation of the peninsula. 40 of those are currently serving sentences in places of detention, 10 people are under investigation, 10 people were convicted in criminal cases, the judgments for which were conditional or in the form of a fine. The number of political prisoners continues to grow. These cases are characterized by gross falsifications, illegal methods of investigation, torture and psychological pressure.

Torture

Politically motivated cases against Ukrainian citizens are closely linked to the use of torture and other cruel, inhuman or degrading treatment or punishment by the Russian authorities in Crimea. It is reliably known that torture was used against Alexander Kostenko, Andrei Kolomiets, and the figurants of the case of "Ukrainian saboteurs" Yevgeny Panov, Andrei Zakhtei and Vladimir Prisch. Volodymyr Balukh was subjected to constant pressure in a pre-trial detention center. At the same time, all attempts made by lawyers to initiate an investigation regarding the use of torture were completely ignored by the Russian authorities.

Torture and cruel treatment are used routinely by the police and the Russian Federation's Federal Security Service (FSB). These methods are used for forced confessions, inducing detainees to conclude a deal with the investigation, and forcing them to refuse the services of lawyers under the agreement in favour of court-appointed lawyers that work together with the FSB. To achieve these goals, victims are often beaten, tortured, throttled, threatened with sexual violence, and blackmailed by the fate of their loved ones.

Enforced disappearance

The occupation of Crimea was accompanied by a number of enforced disappearances including the arrests, detention, abduction or any other form of deprivation of liberty by agents of the Russian Federation or by persons or groups of persons acting with the authorization, support or acquiescence of them. A sharp increase in cases occurred in March-May 2014 during the active phase of occupation when occupational authorities were trying to suppress the resistance from the local population⁵. Ukrainian and Crimean Tatar activists, journalists, documentary filmmakers among others, have been particularly targeted.

Freedom of movement

³ "EU Parliament adopts resolution on Crimean Tatars", humanrightshouse.org/Articles/21611.html

⁴ ICJ Press Release, 19 April 2017, <http://www.icj-cij.org/files/case-related/166/19412.pdf>

⁵ See also: *The Peninsula of Fear : Chronicle of Occupation and Violation of Human Rights in Crimea / Under the general editorship of O. Skrypnyk and T. Pechonchyk. Second edition, revised and corrected.* – Kyiv: KBC, 2016. – P.58. - https://helsinki.org.ua/wp-content/uploads/2016/05/PeninsulaFear_Book_ENG.pdf

The occupation of Crimea has resulted in serious and unjustified breaches of free movement. This has included the denial of access to the territory of Crimea and denial of permission to leave the territory of Crimea, which is permission based, as well as the seizure of documents needed to enter or leave Crimea.

No provision has been made to leave Crimea in case a passport or any other identity document is lost, including for example, in cases when a citizen of Ukraine or a foreigner temporarily arrives in Crimea and loses their passport.

Right to nationality

According to Article 4 of Russian Federation Constitutional Law 6-FKZ “from the date of the admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities Ukrainian nationals and stateless persons who had been permanently residing in the Republic of Crimea and the City of Federal Importance Sevastopol were recognized as nationals of the Russian Federation, except for persons who within one month thereafter declared their willingness to retain their and (or) their minor children’s other nationality or remain stateless.”

Children in social care have been the most vulnerable to this imposition of citizenship. According to the Office of the Ukrainian Parliament Commissioner for Human Rights, as of 1 August 2014 there were 4,228 such children in Crimea. Since the beginning of the occupation, the Russian Federation took control over the administration of the institutions that provided care for such children. On the grounds of “respecting the best interests of the child” no applications were filed “declaring willingness to keep their existing... other nationality.”

Right to property

The Russian Federation has started a large-scale nationalisation of private as well as state property located in Crimea and the city of Sevastopol.

Subject to data based on official sources and decisions of the occupation power, more than 330 enterprises, institutions and organizations belonging to the state of Ukraine and labor unions, and 280 enterprises in private property have been nationalized. Mass nationalization happened in Crimea in 2014 and continued in 2015. According to another report, the number of nationalized businesses is as high as 4,000.

Since the second half of 2016 there has been a steady trend to increase the number of lawsuits for seizure of land and demolition of residential and non-residential buildings in the occupied peninsula. In the overwhelming majority of cases courts deliver decisions in favour of the occupation authorities and the prosecutor's office.

Thought, conscience and religion

On 6 July 2016, two Federal laws and certain Russian Federation legislative instruments were introduced as additional actions to fight terrorism and ensure the public security. Article 8 of Law No 374-FZ has introduced the concept of ‘missionary activity’ with provisions on its restriction. The list of persons that may act as missionaries and the list of places where they may act as missionaries were limited.

The liability for violation of laws on freedom of conscience, freedom of religion, and faith based organizations (Article 5.26 of Russian Federation CAO) has been stiffened. Article 5.26 of RF CAO now includes Part 3, liability of religious institution for activities without indicating its full name, Part 4, liability for missionary activity with violations of legal provisions on freedom of conscience, freedom of religion, and faith-based organizations.

Russian army draft

In violation of the Geneva Convention, 'Protection of Civilian Persons in Time of War' and Rome Statute of the International Criminal Court, the Russian Federation drafts citizens of Ukraine in Crimea into its army. It should be noted that a number of the Ukrainian citizens drafted into the Russian Federation Armed Forces are forcibly moved from the territory of Crimea to the territory of Russian Federation.

Opinion and expression

Establishment of the Russian Federation's control over the Crimean territory was accompanied by a process of curtailment of freedom of speech and expression of opinions, in part, through the implementation of the law on countering extremist activity, criminal liability for "incitement to separatism", reduction of a number of alternative sources of information, harassment of journalists by law enforcement agencies and the "Crimean Self-Defense" and blocking media outlets online. Independent outlets were forcibly shut down, transmissions of Ukrainian stations were replaced with broadcasts from Russia, access to a number of local and Ukrainian media outlets via the internet was blocked for users in Crimea, and many journalists fled Crimea to escape harassment, violence, and arrests.

Journalists and media workers in Crimea are subject to obstruction, arbitrary detention, interrogation, and seizure or damage of equipment. In January 2015, before Crimean Tatar TV Channel ATR ceased broadcasting from Crimea, the authorities raided its headquarters and confiscated equipment while ostensibly searching for footage of a 2014 protest.

Hundreds of media outlets were unable to obtain registration with Russian authorities by an April 2015 deadline, reducing the number allowed to operate in Crimea from more than 3,000 to just 232. Those barred from re-registering included several outlets—television, radio, print, and online—that served the Crimean Tatar minority⁶. More than 20 online media outlets were also blocked by Roskomnadzor, prosecutor's office and internet providers on the territory of Crimean peninsula in 2015 and 2016.

Discrimination in education

The number of pupils studying in Ukrainian has reduced 36 times during the three years of occupation. Correspondingly, the number of Ukrainian medium classes reduced 31 times for the same period. In the 2013/2014 academic year 13,589 people in the Autonomous Republic of Crimea were educated in Ukrainian in 875 classes. According to the 'Ministry of Education' of Crimea only 28 classes are reported to be left in Crimea in the academic year 2016/2017, where

⁶ See also: Crimean Tatar Media in Crimea: situation in 2014 – 2016. – Human Rights Information Center, 10 April 2017. -

https://humanrights.org.ua/en/material/tri_goda_nesvobody_polozhenije_krymskotatarskih_media_v_krymu

only 371 children of 188,517 pupils of Crimea (excluding Sevastopol) were educated in the Ukrainian medium, or 0.2 percent of the total number of pupils in Crimea in 2016⁷.

Resolution on Crimea

In view of General Assembly resolution 71/205, the following text elements are recommended with respect to a 2017 draft resolution on the Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol:

- Acknowledge the ICJ order Ukraine vs Russian Federation of 19 April 2017;
- Include language on the new trend of harassment of lawyers in Crimea. This is related to the practice of the local authorities in Crimea, as well as the policies of the Russian Federation criminalising the legal defence of some in court in Crimea on politically motivated cases, prosecuting lawyers working on human rights, and generally persecuting those invoking law to defend rights of people in Crimea. HRC resolution 35/11 can be a good inspiration for strong OPs on the subject;
- It is essential to address, recalling obligations in this regard of an occupying State, the militarisation of Crimea, and especially the forced conscription and displacement of drafted soldiers from Crimea in the Russian army to other parts of the Russian Federation;
- The situation of media and journalists is very worrying in Crimea. In PPs, the resolution should acknowledge the fact that many media outlets in Crimea had to flee and are now operating from Ukraine's mainland, and welcoming the protection provided by the Ukrainian government for them to work in full independence. In its OPs, the resolution should contain a strong reminder of the need to allow media to work freely and independently, along the lines of the HRC resolutions on journalists and media;
- Throughout the resolution, it should highlight the responsibilities of the occupying power, the Russian Federation. However, it should not be solely addressed to the Russian Federation (71/205 model) but include addresses to the Russian Federation, its representatives in occupied Crimea, and other agents working as law enforcement in Crimea;
- It is worth mentioning the importance of the national investigation of the human rights abuses in Crimea and prosecution of perpetrators by the law enforcement and Prosecutor's Office of the Autonomous Republic of Crimea on the mainland Ukraine. An OP could be added under the "responsibility" argument;
- Include a PP welcoming the Ukrainian legislation on the connection with Crimea (support legislation of Ukraine, rather than practice) - as it is envisaged by article 5 of the Law 'On ensuring the rights and freedoms of citizens and legal regime in the temporarily occupied territory of Ukraine'.

⁷ See also: Situation with access to the education in the native language in Crimea. - Crimean Human Rights Group, 21 April, 2017. - <http://crimeahrg.org/en/situation-with-access-to-the-education-in-the-native-language-in-crimea/>