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The Conflict in Ukraine: The topic of human rights in Donbass

The exchange of the detainees between Russia and Ukraine of September 7 2019 was a symbolic step of the leaders of the two nations demonstrating that the door to the peace in Donbass is open and depends now only on the political will of the both sides involved.

Meanwhile, it is possible to state that despite the change of the political elites in Ukraine, there have been no significant changes in Kiev's policies in the field of rights and freedoms of the residents of the Donetsk and Lugansk People's Republics.

It is well known, that Ukraine officially regards them as Ukrainian citizens and considers the territory of these republics its own. At the same time, since 2014 there has been purposeful and systematic policy to discriminate citizens living in the DPR and LPR, and these facts are simply ignored by most Western representatives.

According to the Office of the UN High Commissioner for Human Rights (the OHCHR), Ukraine has violated the rights to life, against being physically assaulted, to a fair trial, to non-discrimination, and many other fundamental freedoms and social and economic rights.

The OHCHR monitoring in 2018 revealed that “out of 156 casualties among civilians caused by artillery shelling and small arms and light weapons use in 2018, 121 (or 77.6%) were documented in the territory controlled by the paramilitary groups and likely caused by the Governmental Army actions; 28 cases (or 17.9%) were documented in the Government-controlled territory and likely caused by the paramilitary actions, while 7 cases (or 4.5%) were documented in the ‘no man’s land’”.

Though in recent months there has been reduction of hostilities observed, it is not yet possible to speak about any stable armistice or cease-fire.

The above-mentioned exchange of the detainees between Ukraine and Russia has aggravated the problem of political persecution by Ukraine of the DPR and LPR population as well as of Ukrainian citizens who protested against the 2014 coup. Ex-Attorney General of Ukraine Yury Lutsenko states that only in his tenure (May 12, 2016 to August 29, 2019) ‘law-enforcement bodies and courts convicted 1,200 people for terrorism, and 1,100 cases are presently at the stage of inquiry’. It is noticeable that the vast majority of these sentences are politically motivated, thus being a case for retrial. And the most important thing is that this statistics demonstrates the scale of political persecutions in Ukraine. We may only guess that, if about 2,300 people have been trialed under terrorism-related articles, the figure must be

nearly the same for less odious charges, so it means that at the moment in Ukraine nearly 5,000 people are being detained under political motives.

It is worth noting that the legal practice in Ukraine includes an approach that citizens who have, according to the inquiry, made money transactions to the tax bodies of the DPR and LPR (which, however, cannot be proven by the Ukrainian law enforcement bodies), are sentenced for funding terrorism. At the same time, the Ukrainian legislation does not officially recognize these two self-proclaimed republics as terrorist organizations.

The OHCHR reports permanently indicate that people charged by the Ukrainian 'justice' with crimes related to the Donbass conflict are forced to admit their guilt through physical violence, tortures, and intimidation. Therefore, even innocent people are forced by the Ukrainian law enforcement bodies to admit their 'guilt' (though there is none) and then these bodies try to initiate the exchange of such people.

We should also focus on the violation of the rights of the DPR and LPR population by Ukraine in the field of paying pensions and social allowances.

Regardless that Article 46 of the Ukrainian Constitution guarantees the right to social protection, and Article 41 declares the right to property, nearly 700,000 retired people are stripped of the opportunity to get their pensions, according to the June 2019 report of the OHCHR. It should be said that by the international law such actions of the Ukrainian authorities are unacceptable and inadmissible.

Article 9 of the International Covenant on Economic, Social and Cultural Rights declares the universal right to social protection including social insurance. Article 1 (the protection of property) of the Protocol 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms guarantees the right to peacefully possess property including pensions. The principle of non-discrimination is declared in Article 14 of this Convention. Therefore, any discrimination due to residence or temporal registration is unacceptable.

It is well known that in two recent years, the International Red Cross has repeatedly offered the Ukrainian Government to implement the mechanism of paying pensions and social allowances to the DPR and LPR residents but these initiatives have not been supported by Ukraine.

By now, this problem has aggravated, because when many pensioners die their pensions unpaid to them during the whole period of the conflict are being illegally appropriated by the Ukrainian state.

The violation of the freedom of movement by Ukraine remains not less painful. According to the State Border Service of Ukraine, in 2018 there were 13,620,000 cases of crossing the 'contact line' documented, hence

approximately 36,000 a day. All of them take place at five border crossings: Gnutovo, Mayorskoye, Maryinka, Novotroitskoye, and Stanitsa Luganskaya. The 'Pravo na Zahist' charity foundation informs that in 57% cases there were people over 60. The main reasons for them to cross the 'contact line' are the problems with payments of their pensions and social allowances as well as documents-related issues. At the moment, the problem with establishing additional border crossings is aggravating more and more. In this connection, it is worth remembering that as early as in 2016 it was agreed in the framework of the Normandy format to disengage the combating forces near Petrovskoye and Zolotoye where it would be possible to establish border crossings but Ukraine keeps undermining the implementation of this idea.

It is naturally not the complete list of human rights and freedoms abuses by Ukraine to which the residents of the DPR and LPR-controlled territories are exposed to. We should separately consider problems related to the economic blockade, absence of possibilities to obtain documents, legal limitations in the field of language and education, etc.

Anyway, these are the most obvious and urgently pressing issues for hundreds of thousands of people living in the Donbass republics.

For the whole period of the conflict in Donbass, our Western partners have failed to elaborate any adequate and at least balanced approach to evaluation of the events taking place in that region. It is very important now, after the political regime in Kiev changed, not to just praise the newly elected President of Ukraine in solemn speeches but to fill the agenda with difficult and painful issues concerning common people living in Donbass.

Author:

Denis Denisov is a political researcher, the Director of the Peace Initiatives and Conflict Studies Institute (Moscow-Donetsk).

Tel: +79266938591

Email: dendenole@mail.ru