

# Russia



INDIGENOUS PEOPLES IN  
THE RUSSIAN FEDERATION

IWGIA report 18



# INDIGENOUS PEOPLES IN THE RUSSIAN FEDERATION

Johannes Rohr

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## INDIGENOUS PEOPLES IN THE RUSSIAN FEDERATION

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## INTRODUCTION

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This report examines the human rights situation of 41 indigenous peoples living in the Northern and Asian territories of the Russian Federation.<sup>1</sup> While their historical homelands account for two-thirds of the territory of contemporary Russia, these people number a little over 250,000 individuals in total. This is the equivalent of a medium-sized city stretched out over the better part of the world's largest country, featuring some of the harshest environmental conditions to be found anywhere on the planet. These features hint that we are into a realm of extremes and yet the history and the human rights situation of these groups is little known to most people, even within their own country, the Russian Federation.

By Soviet tradition, they are often referred to as the “small peoples of the North” or “small nationalities” (*mal'ye narodnosti*), with “small” often perceived as alluding to “backwardness”. One may even hear expressions such as the “peoples who are dying out” and similar phrases denoting misery and hopelessness. In Russian popular culture, this is most prominently represented in the Chukchi anecdotes, which depict the indigenous inhabitants of north-eastern Eurasia as child-like and naïve.

In recent years, Europe's dependency on Russia's fossil fuels has come high on the political agenda and yet the indigenous inhabitants of the regions from where these natural riches originate remain mostly invisible. One of the main problems of Russia's indigenous peoples is, in fact, their invisibility: they are overlooked by corporations exploiting the natural riches of Siberia, by policy makers devising laws and strategies to shape the present and future of the Russian Arctic, by public and private donors, who deem Russia's indigenous peoples ineligible for technical and financial assistance due to their geographic location in the developed world, and even by civil society activists who regard the situation of indigenous peoples as a negligible issue compared to the many other pressing human rights challenges facing Russia or to the current threats to the Arctic environment.

As a human rights-centric document, this report cannot avoid exploring the different understandings

of the term “indigenous peoples” used in international and Russian national contexts, and pointing out areas of conflict between these concepts. Globally, there is no authoritatively exclusive definition of “indigenous peoples” and there are strong reasons to oppose the establishment of such. However, there are approximations that enjoy broad acceptance within the global indigenous movement and human rights community, and there is a growing common understanding of what constitute the essential rights of indigenous peoples. This understanding is most clearly expressed in two international human rights documents: Convention 169 of the International Labour Organization, concerning Indigenous and Tribal Peoples in Independent Countries, adopted in 1989,<sup>2</sup> and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the UN General Assembly on 13 December 2007.<sup>3</sup> The latter goes further than the former in that it recognises indigenous peoples as peoples in the full sense of the word. This report will therefore frequently invoke the UNDRIP as the final arbiter of what constitutes indigenous peoples' rights.

It is hoped that this report will offer a modest contribution to raising the visibility of the indigenous peoples of the Russian Federation and their serious and pressing human rights concerns, which require all parties involved to take immediate and effective action. First and foremost, this obligation concerns the Russian state as the principal bearer of human rights obligations, duty-bound to respect, protect and fulfil the human rights of every person within its boundaries or under its jurisdiction. However, it also concerns all other parties whose actions or omissions have an influence over the human rights situation of Russia's indigenous communities: foreign governments in whose territories business enterprises are domiciled but whose operations affect these communities' means of subsistence; Russian and foreign business enterprises extracting natural resources from indigenous peoples' territories; conservation organisations seeking to establish natural parks in indigenous territories; and the international human rights community as a whole.

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1 RAIPON, the national umbrella organization, officially represents 41 peoples, of which one, the Izvatas or Izhma Komi, is still pending recognition by the state.

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2 Full text available at [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C169](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169)

3 Full text available at [http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf)



# 1. THE INDIGENOUS PEOPLES OF THE NORTH

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## 1.1 Matters of definition

In Russian legislation and legal traditions, the standalone term “indigenous peoples” cannot to be found anywhere. It appears only in conjunction with specific qualifiers referring to size and place.

The full term found in legal contexts and the name used in connection with indigenous peoples is “Indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation”.<sup>4</sup> The first qualifier contained in this expression refers to the population size—“*malochislenny*” which literally means “few in numbers”, sometimes translated as “small-numbered”.<sup>5</sup> “The second qualifier refers to the place of residence: “of the North, Siberia and the Far East”.

According to Russian legislation, an indigenous small-numbered people of the North needs to:

- be a distinct ethnic group, and self-identify as such
- be “small”, with a population not exceeding 50,000
- be indigenous to and reside within a certain geographic realm (“The North, Siberia or the Far East”)
- maintain a “traditional” way of life, while the scope of what “traditional” may include is partly subject to interpretation, partly to further regulation.

While the term *indigenous small-numbered peoples* reflects circumstances specific to Russia, it is also problematic: it excludes peoples with larger populations that have often expressed their self-identification as indigenous, such as the Yakuts, Tuvans and Buryat. Furthermore, even if all criteria are met, recognition as indigenous does not follow automatically. Ultimately, the state grants (or withholds) a group’s recognition

by including it into the federal “Common Inventory of Indigenous Small-Numbered Peoples of the Russian Federation”.<sup>6</sup> At present there are groups still struggling to be included in this list but whose indigenous self-identification continues to be denied by the state (see chapter 8.1).

The concept of “indigenous small-numbered peoples of the North” is notably different from the UN working definition of “indigenous peoples” as established internationally by a study on discrimination against indigenous peoples, published in 1986 by UN Special Rapporteur Martínez-Cobo,<sup>7</sup> which makes no prescriptions with regard to place of residence or population size but instead emphasises subjective and historical aspects such as self-identification and an experience of oppression and discrimination.

There are several common shorthand terms for the lengthy expression used in Russian legislation, such as for instance, “indigenous small peoples of the North” or simply “peoples of the North”.<sup>8</sup> As a matter of expediency, this report uses the expressions “indigenous peoples”, “small-numbered peoples of the North, Siberia and the Far East of the Russian Federation”, “indigenous peoples of the North” or “indigenous peoples of Russia” interchangeably. However, it should not be forgotten, that, according to international practice, all peoples who consider the concept of “indigenous peoples” to reflect their situation and identity in a meaningful manner have every right to declare themselves indigenous and to demand that rights associated with this status be recognised, regardless of whether or not they match certain administrative criteria.

4 For a detailed account of the history of this categorization and its impacts, see Brian Donahoe et al: “*Size and Place in the Construction of Indigeneity in the Russian Federation*”. *Current Anthropology*, Vol. 49, No. 6 (December 2008), pp. 993-1020, at <http://www.jstor.org/stable/10.1086/593014>

5 “*Malochislenny*” is thought to avoid the subtext of insignificance or backwardness associated with the now deprecated “*maly*” (“small”), which was used in the Soviet era.

6 Russian: *Edinyi perechen korennykh, malochislennykh narodov Rossiiskoi Federatsii*

7 “Study of the problem of discrimination against indigenous populations”, UN Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, by Special Rapporteur, Mr. Martínez Cobo, UN Doc. E/CN.4/Sub.2/1986/7 (1986)

8 This report avoids the term “peoples of Siberia” because several indigenous peoples, such as the Sámi, Veps and part of the Nenets inhabit the European north of Russia. Furthermore, “Siberia” does not include the entire Asian part of the Russian Federation. The territories between Yakutia and the Pacific coast are known as the “Far East” (Dalnii vostok) instead.

## 1.2 Regions and landscapes

Forty ethnic groups are currently recognised by the Russian Federation as indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation (See Appendix 1: Peoples and population sizes according to 2002 and 2010 censuses). Their traditional territories cover roughly two-thirds of the Russian Federation's land area. In most of these territories, indigenous peoples only constitute minorities of a few per cent. The latest official population figures available are those given by the 2010 national census.<sup>9</sup> According to this census, the most numerous of the indigenous peoples are the Nenets with a population of 44,000, followed by the Evenks (38,000).<sup>10</sup> The smallest group on record are the Kereks with only four members left (down from eight in the 2002 census). Ten of the 40 peoples have populations of over 10,000, while another ten have less than 1,000 members.

The regions inhabited by indigenous peoples can be roughly divided as follows:

- the Extreme North (*Kraini Sever*) with regions such as Yamal, the Kola Peninsula, Taimyr and Chukotka. These are tundra regions with a harsh Arctic climate, where indigenous peoples such as the Nenets, Saami, a part of the Chukchi, the Dolgan, the Yukagir, keep or kept large reindeer herds, with seasonal migration between the Arctic Ocean coast in the summer to the forest tundra in the winter. Other groups such as the Izvatas (the Izhma Komi) combine a sedentary way of life with seasonal reindeer migration.
- The forest tundra and taiga. Here groups such as the Khanty, the Mansi, and the Evenk or Even have settled. In these regions, reindeer herding is less common, the herds are smaller and the way of life is mostly sedentary. The most important source of food and income is fishing, with hunting, including for fur animals, another important livelihood. Some families have preserved a traditional way of life, and move seasonally between winter and summer places. They live in very small groups, often only comprising one nuclear family.
- The South Siberian region, including the Altai Mountains and the Kuzbass coal mining region. This is

the traditional settlement area of several Turkic-speaking peoples including the Shors, the Teleuts, the Telengits, the Tozhu, the Tofa and the Kumanjins. The overall population density in this region is much higher than in the northern regions. All these peoples have been historically part of the Mongolian sphere of influence, and this is strongly reflected in their cultural heritage. Cattle and horses are common and the climate allows for crop farming. Beekeeping is another common subsistence activity.

- The coastal regions of the Pacific stretching from the Arctic Chukotka peninsula to Vladivostok in the south. The indigenous peoples living in this region include, starting in the north, the Chukchi, the Yupiq, and the Chuvan on Chukotka; the nearly extinct Kerek, the Koryak, the Aleut, the Even, the Itelmen and the Kamchadal on Kamchatka peninsula; the Ulchi, the Nanai, the Udege, the Nivkh, the Oroch and the Oroch in Khabarovsk and Primorski territories and on Sakhalin island. Until World War II, the indigenous population of Sakhalin also included some Ainu, the indigenous people of Northern Japan; after Japan's defeat and Russia's annexation of the entire island, most Ainu left Sakhalin. However, some Ainu remained on the Kuril Islands and are striving for recognition as an indigenous people of Russia.<sup>11</sup> Sea mammal hunting is a traditional subsistence activity of some of these groups. On Chukotka and Kamchatka, in particular, indigenous cultures resemble those of the First Nations of north-western Canada in many ways, while to the south, Chinese influence has left its mark on the local cultures, since much of the territory remained under Chinese rule well into the 19th century.

Russia is a highly urbanised country, with 73 percent of the population living in urban and only 27 percent in rural settlements. With the indigenous peoples of the North, the picture is reversed: in the 2010 census, only 33 percent fall under "urban population", while 67 percent are rural dwellers. There are some exceptions to this rule, such as the Shor people, who live in the densely populated south Siberian coal mining region and whose degree of urbanisation is similar to the national average.

<sup>9</sup> Summaries available from Federal'naya sluzhba gosudarstvennoy statistiki: *Informacionnye materialy ob okonchatel'nyh itogah Vserossijskoj perepisi naselenija 2010 goda* [http://www.gks.ru/free\\_doc/new\\_site/perepis2010/perepis\\_itogi1612.htm](http://www.gks.ru/free_doc/new_site/perepis2010/perepis_itogi1612.htm) [accessed 26 May 2014]

<sup>10</sup> This is counting Evenks within Russia only, as a similar number of Evenks live in Northern China.

<sup>11</sup> According to the 2010 national census, 107 respondents identified as "Ainu". In July 2014, an Ainu representative reported on a Russian indigenous peoples' mailing list, that the government had already been approached multiple times to consider including the Ainu in the state inventory of indigenous peoples, but so far with no result.

By and large, the indigenous peoples' living conditions differ starkly from those of the mainstream population. The majority of indigenous peoples today live in rural central settlements, erected during the Soviet era and forcibly populated with indigenous peoples from the surrounding areas. These settlements are plagued by particularly high unemployment and a host of social problems, such as alcoholism, domestic violence and others. A smaller part of the rural population lives either in smaller permanent settlements, has seasonally shifting homes inhabited by one or more families, or entertains a nomadic way of life.

Due to their overwhelmingly rural population structure, indigenous peoples are more likely to be affected by economic, political and social marginalisation. Economic power, public infrastructure and political institutions are concentrated in the urban centres, while indigenous peoples' settlements are often cut off from public transport and communication.

### 1.3 Endangered linguistic diversity

One highly endangered aspect of the indigenous peoples' cultural heritage is their linguistic diversity. Their languages belong to a variety of language families, none of which is genetically<sup>12</sup> related to Russian or other Indo-European languages (see: Appendix 2: Indigenous languages grouped by families). To the west, the Veps, Khanty and Mansi languages belong to the **Finno-Ugric** family, with the Khanty and Mansi languages being the closest living relatives of the Hungarian language and Veps being closely related to the Finnish language. The languages of the Nenets, the Enets, the Nganasan and the Selkups are jointly known as the **Samoyedic** languages. Both groups together form the **Uralic** family of languages.

A number of languages belong to the **Siberian Turkic family** of languages, most of which are spoken in south Siberia by the Teleut, the Shor, Telengit and Kumandin. The northernmost Turkic language is Dolgan, which is spoken on Taimyr Peninsula.<sup>13</sup>

In Siberia and the Far East, several groups speak **Tungusic** languages, the largest group being the Evenk

and the Even, but also several smaller groups such as the Udege, the Nanai the Orok, the Orokh and the Ulchi. Both the Tungusic and the Turkic languages are branches of the **Altaian family** of languages.

The languages spoken by the Chukchi, the Koryak, the Itelmen, the Ket, the Nivkh and the Yukagir are classified as **Paleo-Siberian languages**.<sup>14</sup>

Finally, the Yupik and the Aleut languages are part of the **Eskimo–Aleut languages**, which are spoken across North America and Greenland.

Many indigenous languages are highly endangered. More than a few face imminent extinction. Many peoples have very low levels of native language retention (see Appendix 3: Retention of native languages according to 2010 census). According to the 2010 national census, fewer than one in four indigenous individuals are proficient in their nominal native tongue. In the case of 14 peoples, less than 10 per cent speak their corresponding language; in 14 other cases, the rate of native language proficiency is less than one-quarter of the population; seven peoples have language preservation rates of under 50% and only two groups, the Tozhu and the Telengits have, according to the census, near universal proficiency in their native language.<sup>15</sup> The latter two languages are shared with the wider non-Russian population of their particular regions, the Tuvans and the Altaians, which may partly explain, why they are preserved so much better.<sup>16</sup> Several other groups, such as the Soyots in Buryatia and the Dolgans living in Taimyr and Yakutia, have to varying degrees transitioned to other non-Russian languages such as Buryat and Yakut, the languages spoken by the larger indigenous peoples of their respective regions. A group with relatively strong native language proficiency, the Izvatas, is not listed in the census because the State still withholds their recognition as indigenous small-numbered. Several other lan-

12 "Genetic relatedness", in comparative linguistics refers to the fact that two or more languages descend from a common ancestral language.

13 Besides the languages of the small-numbered indigenous peoples, several indigenous peoples, whose populations are too large for them to be recognized as "indigenous small-numbered", also speak Siberian Turkic languages, such as the Sakha (Yakut), the Tuvans and the Khakass.

14 "Palaeo-Siberian" is not a family of genetically-related languages but an umbrella term for several languages which are isolated, i.e., have no known relationship to any other language. However, within the Palaeo-Siberian group, there is the subgroup of the Chukotko-Kamchatkan languages, spoken by the Chukchi, Koryak and Itelmen, which are in fact genetically related.

15 The veracity of these high figures is doubtful, given the common practice of compiling data for the censuses from public registration data rather than from an actual survey. It is not unlikely, e.g., that the surveyors simply registered all Tozhu in a given district as Tuvan speakers. Still, given the general situation in this particular region, indigenous language retention is very likely much higher than in other places.

16 Another possible explanation is, that these indigenous communities were not actually surveyed but their data was taken from the registration office, whereby all members of the given ethnic group were summarily registered as speakers of their nominal native language, cf chapter 5.1.2

guages that are missing from the census results, such as Taz and Kerek, are most likely extinct already.

The retention of spoken languages depends to a large extent on the preservation of the traditional environment of indigenous peoples. Native languages are best preserved in nomadic communities, where most members are typically from the same ethnic group. However, as a result of forced sedentarisation during the Soviet era, most indigenous people today inhabit settlements which are ethnically and linguistically mixed.

In these settlements, the native languages may survive in some particular niche, while the dominant means of communication in public life is typically Russian. Overall, however, for many languages, in particular those where a small population size is combined with low rates of native language proficiency, the threat of an all-out language extinction is imminent, since the remaining speakers of those languages are old and will pass away within the next 10-15 years.

## 2. LEGAL STATUS

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The legal status of indigenous small-numbered peoples in the Russian Federation is subject to a tangled web of federal, regional and local regulations - bills, decrees, by-laws and many others. Firstly, one class of legal acts specifically regulates indigenous peoples' affairs. Secondly, indigenous peoples are affected by legislation dealing generally with their areas of residence. Thirdly, there is extensive legislation dealing with the management of and access to natural resources – forest, waters, land, fish, subsoil resources etc.

Observers have noted that this web of legislation suffers from a lack of consistency and stability, greatly inhibiting effective protection of indigenous rights.<sup>17</sup> It has also been speculated that the confused state of legislation to some extent serves government interests, as it prevents indigenous peoples from successfully asserting their rights:

*“In a speech in January 2000 [...] Vladimir Putin promised to bring the abuses of the Yeltsin era under control through a ‘dictatorship of the law’ (diktatura zakona).[...] Of course, Putin intended, and intends, this phrase to mean that the law is the highest power in the land. However, the ‘dictatorship of the law’ has come to take on a different meaning when it comes to environmental justice for Russia’s indigenous peoples. Rather than meaning the highest power in the land, the dictatorship of the law has come to mean ‘the arbitrary and highly selective misuse of the law’.”<sup>18</sup>*

The issue highlighted by this quote has multiple layers. For one, there are substantive deficiencies in legislation - its incompleteness and lack of robustness with regard to the protection of indigenous rights set out in the UN-DRIP, and also its partial incompatibility with these rights. Secondly, there is a poorly working legislative process,

often resulting in poorly crafted and contradictory regulations. Thirdly, there is an implementation gap. Many positive-sounding regulations remain on paper only, allowing Russia to cite them before international human rights bodies without actually giving effect to them on the ground. These principal issues should be borne in mind when reviewing the architecture and current state of legislation affecting indigenous small-numbered peoples.

### 2.1 Constitutional order

The current constitution of the Russian Federation was adopted in December 1993 under then president Boris Yeltsin,<sup>19</sup> at a point in time when both democratisation and economic liberalisation were still high on the agenda.

Article 69 of the Constitution stipulates:

*“The Russian Federation shall guarantee the rights of indigenous small [malochislennye] peoples in accordance with the universally-recognized principles and norms of international law and international treaties of the Russian Federation.”*

Importantly, this article applies only to *small*<sup>20</sup> indigenous peoples, thereby excluding other ethnic groups which, by international custom, could also lay claim to rights commonly associated with indigeneity. Notably, the constitution does not define who these peoples are.

One very unique feature of the constitution is found in Art. 15, which not only states that *“the universally-recognized norms of international law and international treaties and agreements of the Russian Federation shall be a component part of its legal system”* but explicitly stipulates that *“if an international treaty or agreement of the Russian Federation fixes other rules than those envisaged by law, the rules of the international agreement shall be applied.”* This provision seems somewhat unusual. Quite possibly it was designed to ease the application of multi- and bilateral trade and investment agreements rather than human rights instruments. Still,

17 See e.g. the 2010, country report by the UN Special Rapporteur on the rights of indigenous peoples, James Anaya, UN Doc A/HRC/15/37/Add.5, dated 23 June 2010

18 Donahoe, Brian: *“The law as a source of environmental injustice in the Russian Federation”* in: *Environmental Justice and Sustainability in the Former Soviet Union*, edited by Julian Agyeman and Yelena Ogneva-Himmelberger (Cambridge: MIT Press, 2009), 21-47

19 Available online in several languages, including English at <http://www.constitution.ru/>

20 *The Russian original uses the term “malochislennye”, literally “small-numbered”, meaning small in population size.*

it does, at least in theory, grant supremacy to international human rights norms over national legislation and is therefore frequently cited as a source of human rights obligations for the Russian Federation. There is, however, no documented case in which this norm has been invoked in protection of indigenous peoples' rights, by either a court or an executive organ.

Another constitutional provision highly relevant to indigenous peoples is found in Art. 26: "Everyone shall have the right to determine and indicate his nationality. No one may be forced to determine and indicate his or her nationality." "Nationality" by Soviet tradition refers to ethnic affiliation, not citizenship. This provision, at least in theory, allows any citizen to declare him or herself a member of any indigenous people. In practice, the question as to how indigenous identity is to be determined and documented is highly contested and largely unresolved.

## 2.2 Indigenous framework laws

Around the turn of the millennium, still under President Yeltsin, the Russian Federation adopted three national framework laws which were supposed to align the legal status of indigenous peoples in Russia with international standards on indigenous rights. These laws are:

- a) The federal law "On guarantees of the rights of indigenous small-numbered peoples",<sup>21</sup> adopted on 30 April 1999. This law provides certain privileges regarding employment, land tenure and use of natural resources, including the right of indigenous peoples to use land free of charge in areas traditionally inhabited or used by them. It also provides for special measures facilitating the participation of indigenous persons engaging in traditional economic activities in local self-administration, as well as the right (rather than the obligation) of regions to take additional protective measures for these persons.
- b) The federal law "On Territories of Traditional Nature Use of indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation,"<sup>22</sup> adopted on 7 May 2001. This law was enacted to create a legal framework for the establishment of so-called Terri-

ories of Traditional Nature Use (TTNU).<sup>23</sup> The TTNU were legally framed as a special type of protected conservation, reserved for indigenous peoples' traditional activities. They were meant to be managed, or at a minimum co-managed, by indigenous communities.

- c) The law "On the general principles of the organisation of *obshchinas*<sup>24</sup> of the indigenous, small-numbered peoples of the North"<sup>25</sup> was passed on 20 June 2000. In contemporary Russia, an *obshchina* is a kinship-based cooperative which engages in traditional economic activities. According to the law, *obshchinas* were also to play a role in local self-administration.

These laws were intended to establish a free-standing framework protecting the rights of indigenous peoples. Indigenous organisations such as the Russian Association of Indigenous Peoples of the North (RAIPON) actively participated in their development and advocated their adoption, which was hailed as a major milestone on Russia's path towards an indigenous rights regime in line with international standards. However, soon after their passage, major problems became apparent:

- The laws themselves are general and declaratory in nature, depending on either case-by-case arrangements to be made or additional by-laws to be passed at regional or national level in order to enable their implementation. For the most part, such by-laws have never been adopted.
- Other sectoral laws governing management of land, forests, waters, biological and subsoil resources contain provisions that are in conflict with these laws over decisive issues. At the same time, the provisions in sectoral laws are developed in much greater detail and applicability.

## 2.3 Conflicting definitions: Indigenous peoples under Russian and international law

Recalling the legal definition of indigenous small-numbered peoples (see chapter 2.1), a group aspiring to

21 Russian title: "O garantiakh prav korennykh, malochislennykh narodov Severa, Sibiri i Dal'nego Vostoka Rossiiskoi Federatsii"

22 Russian title: "O territoriakh traditsionnogo prirodopol'zovaniia korennykh, malochislennykh narodov Severa, Sibiri i Dal'nego vostoka Rossiiskoi Federatsii"

23 Russian: *Territorii traditsionnogo prirodopol'zovaniia*

24 Literally, the term merely means "community". Originally, it was the name used for a form of social organisation specific to Russian peasant communities in Imperial Russia.

25 Russian title: "Ob obshchikh printsipakh organizatsii obshchin korennykh, malochislennykh narodov Severa, Sibiri i Dal'nego Vostoka Rossiiskoi Federatsii"

recognition as an indigenous small-numbered peoples *must* meet all of the four criteria:

1. It must reside within a specific **place** (the traditional settlement territories of its ancestors),
2. It must live in a specific **way** (“traditional way of life”),
3. It must fall within a specific **size range** (Less than 50,000),
4. It must **self-identify** as an ethnic group.<sup>26</sup>

Three of these four criteria loosely correspond with the UN working definition of indigenous peoples established by the Martínez-Cobo study on discrimination against indigenous peoples:

- Self-identification;
- Historic continuity with regard to settlement within a specific place;
- Cultural distinctiveness.

However, there are principal differences and incompatibilities.

1. First and foremost, the UN working definition is a working definition only. There is a global consensus among indigenous peoples that there should be no exclusive definition with a fixed set of strict criteria. The Russian legal definition is, by contrast, exclusive to peoples meeting all four criteria. In doing this, it perpetuates a peculiar tradition which, for centuries, has treated the “small peoples of the North” as different from other ethnic groups. It also limits the recognition of indigenous rights to the smallest possible subset of ethnic groups. It has often been expressed by government representatives that, unless such an exclusive definition is applied, most non-Russian groups could lay claim to rights set out in the UNDRIP.
2. The language used in UN contexts usually names cultural distinctiveness among its criteria.

Such distinctiveness can take a variety of forms. The Russian definition, by contrast, explicitly requires “traditional” ways of life. This potentially bars indigenous peoples from exploring non-traditional avenues of development. As will be demonstrated in this report, this limitation has, on more than one occasion, been exploited to restrict indigenous peoples, and communities, right to self-determined development.

3. The definition imposes a numerical threshold of 50,000, which is inherited from the Soviet classification scheme (the threshold in Soviet times was 30,000) based on the understanding that the “small” peoples are at the same time those least developed and most in need of special protection. Numerical strength was therefore originally a proxy measure for other, quantitative social indicators.<sup>27</sup>
4. The definition does not consider social and experiential criteria which hold that indigenous peoples are a non-dominant part of society and that they have been or continue to be subjected to discrimination, oppression, dispossession and similar wrongs.
5. The definition given in the Russian framework law does include the criterion of self-identification. Internationally, this criterion is often regarded as the single most important one and therefore listed first. In the law it appears last on the list of criteria. Whether this order actually reflects a lesser significance assigned to this criterion is, however, a matter of speculation.

Following the definition, the law “On Guarantees” stipulates that the Federal Government must adopt an inventory (*perechen*) of indigenous peoples, based on submissions from regional authorities. The implicit consequence is that, for one thing, only ethnic groups listed in the inventory are recognised as indigenous and second, that regional authorities have leverage over the process and can prevent the inclusion of groups by refusing to submit a corresponding proposal.<sup>28</sup> Further-

26 These criteria are specified in the first of the framework laws “On Guarantees of the Rights of Indigenous Peoples of the Russian Federation”, dated 30 April 1999. It stipulates that “*Indigenous small-numbered peoples of the Russian Federation (hereafter small-numbered peoples) are peoples inhabiting the traditional settlement areas of their ancestors, having preserved their traditional way of life, subsistence [khozyaistvovanie], crafts [promysli], numbering within the Russian Federation less than 50,000 people and self-identifying as ethnic communities.*”

27 See Brian Donahoe et al.: *Size and Place in the Construction of Indigeneity in the Russian Federation* In: *Current Anthropology* Vol. 49, No. 6 (December 2008), pp. 993-1020

28 While several peoples have been successful in advocating for their inclusion on the inventory, notably the Kamchadals and the Tozhu, at least one group, the Izvatas or Izhma Komi continues to be excluded regardless of its clearly expressed self-identification as an indigenous people, the main reason reportedly being the unwillingness of the regional government.

more, in 2009, two more inventories were approved by the Russian government, one of which lists places of traditional settlement of indigenous peoples, while the other lists their traditional subsistence activities.<sup>29</sup> The original purpose of these inventories was administrative, not rights-related, i.e. they were not deliberately created to withhold indigenous rights from groups living outside these territories or to prevent them from pursuing other economic activities; however, current political developments in Russia have made such an exclusive use of these lists a distinct possibility (See chapter 6.8).

### 2.3.1 Significance of place of residence

The law “On guarantees” does not limit its application to peoples settled in “the North, Siberia and the Far East”. The “inventory of indigenous small-numbered peoples of the Russian Federation” also lists several peoples settled in other regions, to whom the law equally applies.<sup>30</sup> Conversely, the laws “On Territories” and “On the general principles of the organisation of *obshchinas*” both apply to indigenous peoples of the North only. Rights set out in these bills are tied not only to a “traditional” way of life but also to a specific geographic area.<sup>31</sup> How is this area defined?

The term ‘North’ or Far North’ (*krainii sever*, also translated as ‘Extreme North’) has a dual meaning. For one, it refers to the geographic Arctic. In addition, however, it is an administrative category containing many regions located far from the Arctic. The full name of the administrative term is “Regions of the Extreme North and Territories Equated to It”. This designation is of Soviet origin and refers to locations with particularly harsh climatic and environmental conditions. Workers in these territories were, and partly still are, entitled to higher wages and a number of other benefits. So, when the concept of ‘Far North’ was introduced into legislation and administration, it was not intended to help distinguish between groups which are entitled to certain indigenous-specific rights and others who are not. However, just as

the numerical threshold of 50,000, the geographical criterion of ‘Far North’ has the appearance of objectivity and measurability, making it very convenient for lawmakers seeking to contain the application of indigenous peoples’ rights, which is probably why it came to be included into the legal definition.

As this category was introduced primarily for the purpose of facilitating industrial development and to make it more attractive for workers to migrate to remote regions, it is not surprising that, apart from the climatic conditions, remoteness from European Russia is an - albeit undeclared - determining factor. The more “remote” a given place is from a European point of view, the more likely is it to be part of the “Far North”. The further east one moves, the further the “Extreme North” extends southwards. In Primorski Territory on the Pacific coast, even the town of Ternei, which is roughly on the same latitude as Rome, is classified as “Far North”.

## 2.4 Self-determination vs self-administration

The UNDRIP unambiguously states that, indigenous peoples are peoples in the full sense of the word, they are thus endowed with the right to self-determination (Art. 3). Russia, however, abstained during the vote on the UNDRIP. While both the Soviet Union and Russia entertained a host of ethnically-defined autonomies, Russian legislation regarding indigenous peoples carefully avoids the term “self-determination” (*samoopredelenie*) and instead acknowledges only a right to “self-administration”/“self-government” (*samoupravlenie*). In public discourse, indigenous representatives and organisations rarely bring up the concept of self-determination. In today’s political climate, self-determination is a toxic concept as it is charged with the notions of separatism and “extremism”, even though the UNDRIP’s acknowledgement of this right rules out a right to secession (Art. 46).

Until the right to self-determination becomes more acceptable, indigenous peoples’ ability to claim the full set of rights set out in the UNDRIP will remain limited. The right to self-determination underlies most other substantive and procedural rights, in particular to land and resources, to development, culture, and to Free, Prior and Informed Consent. In a way, it is the right to have rights, in particular collective rights, as opposed to being granted rights by an all-powerful state.

29 Rasporjzhenie Pravitel’stva RF ot 08.05.2009 N 631-r “Ob utverzhdenii perechnja mest tradicionnogo prozhivanija i tradicionnoj hozjajstvennoj dejatel’nosti korennyh malochislennyh narodov Rossijskoj Federacii i perechnja vidov tradicionnoj hozjajstvennoj dejatel’nosti korennyh malochislennyh narodov Rossijskoj Federacii”

30 This includes: the Seto, living in Pskov district, the Izhors and Votes in Leningrad district, the Abazins of the North Caucasus, the Shapsugs of Krasnodar territory, the Nagaibaks of Chelyabinsk district.

31 See Brian Donahoe et al. (2008), *ibid*.



## 2.5 Customary law of indigenous peoples

The International Labour Organisation's Convention 169 on indigenous and tribal peoples in independent countries (Art. 8) recognises the importance of indigenous peoples' own systems of customary law and specifies that they should be duly considered in the adjudication of their affairs. The UN Declaration on the Rights of Indigenous Peoples also requires the consideration of indigenous peoples' customary law in the context of land rights (Arts. 26, 27), determination and of resolution of disputes between indigenous peoples and the state or other parties (Art. 40). Respect for indigenous peoples' customary legal norms must, according to these documents, be considered a human rights obligation of states. In Imperial Russia, customary law was an integral part of the administration of Siberia. Moscow imposed a system of indirect rule whereby internal affairs would be administered by the indigenous communities themselves, with minimal interference from the authorities. The Soviet Union retained some aspects of consideration for customary law in judicial norms.

The three framework laws on indigenous peoples allow for the possibility of considering elements of indigenous peoples' customary law before the courts; they also allow for indigenous peoples' *obshchinas* to regulate their internal affairs in accordance with customary law. However, since *obshchinas* rarely function as bodies of local self-government, the latter provision is largely theoretical.<sup>32</sup> Consideration of customary law has so far remained limited when compared to e.g. South Africa where, in 2003, the Supreme Court ruled that the mining company Alexkor had violated the property rights of the Richtersveld indigenous community and ordered their restitution.<sup>33</sup> The ruling was based on the court's recognition of the community's customary legal system. Such use of customary law, empowering them in disputes with third parties, is thus far largely unheard of in Russian judicial practice.

## 2.6 Rights to land and resources

As in many parts of the world, indigenous peoples' rights to land and resources are contentious subjects, not least

because the settlement territories of indigenous peoples are at the same time the sources of most natural resources from which the bulk of Russia's export revenues is generated. While oil and gas are the two most important commodities, this also concerns other subsoil resources, including coal, gold and diamonds, and also biological resources such as timber and fish.

Indigenous peoples' rights to land and resources are subject to a complex web of regulations which is plagued by multiple inconsistencies and deficiencies. This is one of the reasons why, 25 years after the break-up of the Soviet Union, indigenous peoples' rights to their traditional territories and livelihoods are still not effectively protected. Crucially, legislation does not acknowledge indigenous peoples' inherent right to their ancestral territories. Indigenous peoples are not regarded the owners of their ancestral land. Based on their traditional occupancy, they are merely granted *usufruct* rights – to hunt, fish, to herd their reindeer on the land, etc.

The "web of regulations" governing their rights to land and resources consists, on the one hand, of the three framework laws, in particular the Law on Territories of Traditional Nature Use, and, on the other, of a variety of legal acts regulating the management of nature, territories, resources, forests, waters and animal life, fishing and so on. These include the federal Land Codex, Forest Codex and Water Codex, the federal laws on hunting, fishing, and many others.

## 2.7 Territories of traditional Nature Use

Attempts to create a legal framework for indigenous peoples' land rights date back to the early 1990s when several Russian regions devised their own indigenous land rights regimes. The earliest attempt was the "regulation on the status of patrimonial lands"<sup>34</sup> adopted in 1992 in Khanty-Mansi Autonomous Area. The term "Territories of Traditional Nature Use" (TTNU) first appeared in a 1992 decree by President Yeltsin. During the 1990s, TTNUs were established at regional level, among others in the Koryak and Autonomous Area and in Khanty-Mansi Autonomous Area, where the former "patrimonial lands" were converted into regional TTNUs.

The concept of TTNU was further elaborated by the 2001 Federal Act on TTNUs. According to 2001 bill,

32 See Natalya Novikova: *Obychnoe pravo narodov Severa. Vozmozhnosti i ogranicheniia gosudarstvennoi pravovoi sistemy*. In: *Etnograficheskoe Obozrenie* Vol 5 (2005), pp 4-13

33 Constitutional Court of South Africa: Case Cct 19/03 *Alexkor Limited (First Appellant); The Government of the Republic of South Africa (Second Appellant) versus The Richtersveld Community and others*.

34 *Polozhenie o statuse rodovykh udodii v Khanty-Mansiiskom avtonomnom okruge*, 7 February 1992 <http://russia.bestpravo.ru/hant/data11/tex31198.htm>

*“Territories of Traditional Nature Use of Indigenous Small-Numbered peoples of the North, Siberia and the Far East of the Russian Federation [...] are specially protected environmental territories established for the pursuance of traditional nature use and traditional ways of life of indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation.”*

“*Specially protected environmental territories*”, or in an alternative translation, “*specially protected conservation areas*”, are a set of conservation areas which share certain restrictions regarding e.g. construction, extraction of resources and other business activities. Such activities are not absolutely prohibited but require specific impact assessments to be completed first, known as “State ecological expert reviews”.<sup>35</sup> Besides these restrictions, they also provide specific participation rights for the local population, such as the formation of civic oversight and monitoring bodies. Both the restrictions and the participation rights are highly significant for indigenous peoples. Making indigenous TTNUs a subset of environmental territories is, of course, problematic because indigenous peoples’ rights and conservation do sometimes conflict; however, it had the tangible benefit of ensuring that the associated mechanisms would become available to indigenous peoples.

As with all regulations concerning indigenous peoples’ access to land and resources, the law’s approach is to grant indigenous peoples usufruct rights over territories and resources required for the perpetuation of a *traditional* way of life. It does not follow a rights-based approach of *acknowledging* the indigenous peoples’ pre-existing traditional *ownership* and related rights. Instead, the rights set out in this law are *granted* by the state authorities. Moreover, the law, while granting usufruct rights, does not stipulate that indigenous peoples control and freely dispose of these territories. They may graze their reindeer on the land but they are not supposed to be in full control of the land. At most, the law stipulates that indigenous peoples may participate in guarding the territories (Art. 15).

The Law on TTNU consists of six chapters, comprising 17 articles of less than 3,000 words. It is designed as a framework law and thus it does not regulate any of the specific details of the establishment and management of the TTNUs but instead charges the federal, regional and local authorities with the creation of the required by-laws

(Art. 11). It stipulates that TTNUs can be established at federal, regional or local level. The significance of these administrative levels is that public land in Russia can be either federal, regional or local property, with federal property making up the bulk, such that in most cases only federal-level TTNUs would offer firm protection.

However, despite this stipulation in Art. 11, no federal by-law on TTNUs has ever been adopted, even though the law was passed by the State Duma in 2001. Several attempts have been made to overcome this deadlock, including the development of pilot TTNU projects in some regions, notably in the Udege territory in Primorsky Territory and in the Ulchi district of Khabarovsk territory. The Russian government even cited these initiatives in its periodic reports to UN treaty bodies when they expressed concerns about the lack of land rights protection. However, both initiatives have been locked in a stalemate for several years.

As a result, since 2001, no TTNUs have been approved by the Federal Government at all. This failure has been criticized repeatedly by various UN treaty bodies. Russia responded to the UN Committee on the Elimination of Racial Discrimination by stating that it was overhauling the Law on TTNU to make it workable.<sup>36</sup> The Ministry of Regional Development drafted a new version of the law in 2009 but did not submit it to the State Duma for consideration. Meanwhile, requests from indigenous peoples for the establishment of federal TTNUs continued to be denied, while ever more indigenous territories were being alienated for business purposes, such as long-distance pipeline construction, hydroelectric dams, oil and gas extraction, mining and commercial logging.

Even if the ministerial draft were still to be adopted and entered into force, it would be unlikely to improve the land rights situation of indigenous peoples. In fact, it could even jeopardise it, as it weakens the law in several respects.

As the government draft only provides for the creation of federal TTNUs, the existing regional and local TTNUs will have no greater legal grounding. In particular, this is a threat to the ancestral lands of 600 indigenous families in Khanty-Mansi Autonomous Area registered as regional-level TTNUs.

The draft further limits the possibilities of creating TTNUs by confining them to territories included in the state inventory of traditional habitats and areas of traditional economic activities of the small indigenous

35 Russian: *Gosudarstvennaya ekologicheskaya ekspertiza*

36 Cf. CERD/C/RUS/20-22, Para. 277, IWGIA (ed): *The Indigenous World 2012*, pp. 30-33, [http://www.iwgia.org/publications/search-pubs?publication\\_id=573](http://www.iwgia.org/publications/search-pubs?publication_id=573)

peoples of the Russian Federation, established in 2009. Some regions nominated entire administrative districts as indigenous “traditional habitat”. Almost half the regions, however, listed only individual settlements within the districts. In the latter case, there is a danger that only the settlements will be considered indigenous territories, while the actual hunting and fishing grounds, reindeer pasture lands and forests of these communities will be excluded. On this basis, the available territories are thus insufficient for indigenous communities to pursue their traditional economic activities and thereby enjoy their right to adequate food, cultural identity and subsistence.

A measure dated 28 December 2013 removed the word “environmental” from the definition of TTNUs, resulting in the expression “specially protected territories”. Unlike the previous wording (“specially protected *environmental* territories”<sup>37</sup>) this expression is undefined in Russian legislation. Experts warn that, due to this change, the safeguards against unmitigated industrial exploitation that were implied in the former definition no longer apply, stripping the TTNUs of their protective function and thus making them an empty shell. Officials insist that this change was necessary to make the law workable and that conservation status was inappropriate, as it would also limit what indigenous peoples themselves were allowed to do within these territories. Indigenous peoples, however, fear that it will remove the last remaining safeguards. In Khanty-Mansiisk Autonomous Area, the source of most oil and gas, lawmakers have set out to align regional legislation with the amended federal law, giving rise to fears that there will soon be no more limitations for the oil and gas companies.<sup>38</sup>

## 2.8 Status and role of Obshchinas

*Obshchina* literally translates as “community” and originally refers to the Russian peasant communities in Imperial Russia. In contemporary Russia, it describes a form of kinship or territory-based community organisation of indigenous peoples. Their rights and status are defined in the 2000 framework law “On general principles of the organisation of *obshchinas* of indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation”. Like the other two framework laws, this law is relatively sparse and un-

specific, leaving much of the detail to be regulated by the authorities.

The original intent behind the introduction of the *obshchina* concept is multifaceted: *obshchinas* were supposed to fulfil some functions of local self-administration, participate in decision-making in affairs concerning the interests of indigenous peoples, provide services in the field of culture and education and, at the same time, function as economic cooperatives through which indigenous peoples could pursue their traditional economic activities in a viable manner. Their economic role was especially vital since many of the former state-sponsored economic structures had disappeared following the break-up of the Soviet Union. Today, it is safe to say that this function far outweighs the others.

The law on *obshchinas* allows for some internal regulations to be based on indigenous “traditions and customs”. It does not, however, acknowledge the concept of *customary law* or customary land rights. Customs and traditions are treated as values worth preserving but they are not in and of themselves identified as sources of indigenous peoples’ rights (see also section 3.5 above).

One problematic aspect of the law is that it limits *obshchinas* to “traditional” types of activity. They can be terminated if they stop engaging in traditional economic activities. Their operations are of a non-profitmaking nature (Art. 5), which also means that their affairs are regulated by the federal law On Non-profit Organisations. This provision potentially limits the economic opportunities of *obshchinas* and has been exploited by private businesses to retaliate against *obshchinas* which were seen as competitors due to their economic success. The law is therefore in conflict with the collective right of indigenous peoples to development as set out in the UNDRIP.

The most contentious aspect of the *obshchina* question is their access to land and resources. In many regions, indigenous *obshchinas* are regarded as competitors by private businesses, especially in the fishing industry, some of which are well connected to the local administrations and make considerable efforts to push indigenous *obshchinas* out of business. Many legislative measures taken by the state authorities in recent years have favoured the interests of these businesses over the rights of indigenous peoples.

A much fought over concept is that of the “priority right” (*prioritnoye pravo*) of indigenous peoples and their *obshchinas* to specific resources, which was embedded in a number of legal instruments. In recent years, there have been intense efforts within the legislative system to have this concept removed from individual acts, especially as it refers to *obshchinas* rather than to individual

37 An alternative possible translation would be “specially protected conservation areas”.

38 Maria Lebiga: *Chto vazhnee — neft’ ili priroda? Neftjaniki poluchili svobodnyj dostup na ugod’ja aborigenov* <http://sitv.ru/arhiv/news/social/66868/>, 1 April 2014

members of indigenous peoples. The indigenous peoples' priority right to fishing used to be embedded in Art. 39 of the federal act "On Fishing and the preservation of aquatic biological resources".<sup>39</sup> It stipulated that indigenous peoples and their *obshchinas* were entitled to use rights for fishing grounds on a non-competitive basis. In other words, they did not need to submit their bids to a commercial tender. By January 2008, however, Art. 39, para 2 containing this provision has been declared void. Following this legislative change, a comprehensive revision of the designation of fishing grounds was undertaken. At the request of the regions, many fishing grounds previously designated for indigenous traditional fishing were re-classified as industrial fishing grounds (*rybopromyslovye uchastky, RPU*) and leased to third parties through commercial tenders. A large number of indigenous *obshchinas* have thus reportedly lost their fishing grounds.

Even though the UN Committee on the Elimination of Racial Discrimination recommended in 2008 that Russia reinsert the concept of "preferential, non-competitive access to natural resources" (CERD/C/RUS/CO/19 para 24) into legislation, successive initiatives took the opposite direction. In 2012, the Russian government proposed a measure to amend the fishery law which, while seemingly lifting some bureaucratic requirements regarding permits and quotas, would remove *obshchinas* from Art. 25, which regulates indigenous peoples' traditional fishery, and would thus deprive them of the right to be granted fishing grounds for traditional fishing.<sup>40</sup> The draft stipulates that indigenous peoples only have the right to fish for their personal needs, which could be interpreted as covering only personal nutritional needs thereby outlawing any trade. If adopted, the proposed measure will further undermine the economic viability of *obshchinas*, as the only remaining way for them to obtain fishing rights will be through commercial auctions, and these require financial and logistical resources that are typically beyond their capacity.

As experience shows, bids submitted by *obshchinas* are very rarely successful. By excluding indigenous *obshchinas* from the sphere of traditional fishing, the draft measure contradicts Art. 1 of the law on *obshchinas*,<sup>41</sup>

which stipulates that *obshchinas* are created for the purpose of "protecting the traditional settlement areas, traditional ways of life, rights and legal interests of the indigenous small-numbered peoples", as well as the law on non-commercial organisations,<sup>42</sup> which explicitly permits entrepreneurial activities by *obshchinas* as long as they remain in line with the purpose and statutes of the given *obshchina*. Similar issues apply with regard to other biological resources such as hunting grounds. However, fish is by far the most profitable biological commodity, which is why indigenous *obshchinas* see their fishing rights under attack.

The broader issue is, however, that current legislative approaches and administrative practice leave little room for indigenous peoples' collective rights to land and resources; instead, indigenous rights are granted to individuals on application only. This contradicts the international norms set out in the UNDRIP, especially the right to self-determination. It also makes it incredibly difficult for indigenous peoples to assert their rights if every indigenous family has to do so on their own.

### 2.8.1 Case study: Dylacha – Economic discrimination against indigenous peoples

One of the most successful indigenous-led economic initiatives in Russia was the *obshchina* "Dylacha" (Evenk for "sunshine"), based in Bauntovski Evenkiisky District in the north-east of the Republic of Buryatia, founded in the early 1990s. It employed approximately 200 persons and provided substantial assistance to the Evenk minority in rural districts of Buryatia. Dylacha pursued various traditional and non-traditional lines of activity, including reindeer herding, hunting, fishing and the mining and processing of nephrite, a type of jade used for carvings, beds or gemstones. The latter was conducted under a licence (UDE № 00153), valid from 1997 to 2017.

Throughout 2011, the *obshchina* was subjected to a large number of meticulous audits and checks. In August 2012, the state prosecutor of the Republic of Buryatia undertook a comprehensive audit together with the Eastern Baikal environmental prosecutor's office, the Buryat administration of the Federal Service for Supervision of Natural Resource Usage (*Rosprirodnadzor*), the Buryat branch of the Federal Ministry of Internal Affairs and other supervisory bodies. Among other matters, compliance with the conditions of their licence was veri-

39 Federal Act № 166-FZ, dated 20 December 2004 "O rybolovstve i sokhranении vodnykh biologicheskikh resursov", <http://base.garant.ru/12138110/>

40 "O vnesenii izmenenij v Federal'nyj zakon "O rybolovstve i sokhranении vodnykh biologicheskikh resursov" v chasti regulirovaniya otnoshenij v oblasti tradicionnogo rybolovstva".

41 Federal Act № 104-FZ, dated 20 June 2000 "Ob obshchikh principakh organizatsii obshchin korennykh malochislennykh narodov Severa, Sibiri i Dal'nego Vostoka Rossijskoi Federacii", <http://base.garant.ru/182356/>

42 Federal Act № 7-FZ, dated 12 January 1996 "O nekommercheskikh organizatsiiakh", <http://base.garant.ru/10105879/>

fied. The experts arrived at the unanimous conclusion that the *obshchina* was complying with all licensing conditions and was operating within its concession area.

Nevertheless, on 4 October 2012, the premises of the cooperative in the regional capital Ulan-Ude and their production facility “Medvezhii” in Bauntovski Evenkiiskii district were raided by armed and camouflaged members of an OMON special police unit of the State Administration of Internal Affairs of the City of Moscow, aided by local police. Simultaneously, two helicopters carrying members of the Interior Ministry of Russia, together with representatives of a competing mining company, landed in the cooperative’s production facility in Bauntovski Evenkiiski District. Staff were rounded up at gunpoint and locked up. The nephrite stocks were confiscated and transported to the storehouses of a commercial company, never to be returned to the *obshchina*.

On the following day, the director of the production facility, S. N. Yamburov, and chief geologist D.A. Goncharov, were taken to an undisclosed location where they were held for two months without any charges brought against them. During his detention, Mr Yamburov, who suffers from ailing health, was placed under great coercion to testify against the *obshchina*’s leadership, which he refused to do.

The *obshchina* was faced with the accusation of “theft” due to the extracting of nephrite outside of their concession with an estimated value of 600 million roubles (USD 20 million). In October 2012, a criminal investigation was lodged against “unidentified members” of the *obshchina*’s management. No specific suspect was named and no indictment announced. Meanwhile, several independent studies concluded that the *obshchina*’s operations were fully in compliance with the terms of its license.<sup>43</sup> Nonetheless, due to the legal paralysis, the *obshchina*’s operations remained suspended indefinitely.

Given the lack of specific evidence and the nature of the accusations, the actions of the law enforcement authorities were clearly inappropriate. The Interior Ministry’s OMON special police forces participated in the raid, something permitted only in very specific cases involving e.g. suspected smuggling of nuclear material. Documents and stocks were confiscated without due record and the operation was supported by a company which is a business competitor to Dylacha and has its own vested interest in the case.

On 12 March 2013, a ruling by the Bauntovski district court terminated Dylacha as an *obshchina*. The criminal charges against the *obshchina* had not led anywhere. Nonetheless, the court approved the authorities’ request to close it. In doing so, it relied on those provisions of legislation which limit *obshchinas* to traditional types of activity, listed in the federal inventory of indigenous peoples’ subsistence activities. This ruling clearly violates the indigenous peoples’ right to development, as set out in UNDRIP Art. 23, and demonstrates unambiguously that these provisions have a discriminatory effect. This problem had already been identified and pointed out by UN Special Rapporteur on the Rights of Indigenous Peoples James Anaya in 2010, when he recommended in his country report that Russia should encourage and support indigenous peoples’ entrepreneurship, and not only in traditional sectors.<sup>44</sup>

## 2.9 Federal legislation on land and resources

Indigenous peoples’ rights are greatly affected by a number of sectoral laws governing access to and management of land, biological and natural resources. This includes three codices: the Land Codex, the Water Codex and the Forest Codex, as well as laws on fishing and hunting and on agricultural land. These laws are typically much more comprehensive and detailed than the framework laws on indigenous peoples. They contain many provisions contravening rights set out in these laws. This has been identified as one of the principal obstacles preventing indigenous peoples from enjoying their fundamental rights.<sup>45</sup>

The Federal Land Codex of 5 October 2001 (N 136-FZ) is the principal regulatory framework for land ownership, access to land and land tenure in the Russian Federation. The law was adopted in the same year as the Federal Act on TTNUs. Until 2001, federal legislation allowed for indefinite use of land free of charge by indigenous peoples. The 2001 redaction, however, allows for only two types of land tenure: private and rented property. Indigenous peoples’ extensive land uses require huge territories such that neither purchase nor rental are viable options. Furthermore, requiring indigenous peoples to purchase or rent their own ancestral lands clearly violates their most fundamental rights as set out

43 See: Pavel Sulyandziga: “V podderzhke obschchiny ‘Dylacha’ ili Narody Sibiri protiv Korruptsii”, In: *Mir Korennykh Narodov – Zhivaya Arktika*, Vol 29, pp 120-124

44 A/HRC/15/37/Add.5, Para 60-65

45 See 2010 country visit report by UN Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, UN Doc A/HRC/15/37/Add.5, dated 23 June 2010, para 83-84

in the UNDRIP. Since 2001, indigenous peoples have made multiple efforts to bring back the indefinite free-of-charge use right.

The federal Forest Codex (*lesnoi kodeks*) was adopted by the State Duma on 8 November 2006 and signed into law by the president on 4 December 2006.<sup>46</sup> Prior to its adoption, it was fiercely opposed by indigenous peoples and environmentalists alike. It introduced the possibility of long-term renting out of forest lands to both Russian and foreign private investors, amounting to a *de facto* privatisation. It also stipulated the dismantling federal oversight and forest protection. When in 2010 fires ravaged Russia's forests, the remaining institutions were unable to adequately respond and contain the fires, leading to a catastrophic outcome.<sup>47</sup>

The indigenous peoples' rights set out in the bill are minimal: Art. 48 stipulates that, during the use of forests in indigenous peoples' settlement areas, their rights set out in the federal framework law "On Guarantees ..." are to be respected. Art. 30 grants indigenous peoples the right to use timber free of charge for personal needs. Apart from this, it acknowledges neither the ownership or use rights of indigenous peoples, even though indigenous peoples' relationship with their forests has many more aspects, going far beyond its use as a source of timber.

The federal Water Codex (*Vodnyi kodeks*) of 3 June 2006<sup>48</sup> goes somewhat further and specifies that indigenous peoples and their *obshchinas* have the right to use aquatic objects for their traditional nature use (Art. 54). It charges the regional executive powers with establishing regulations for their use. Furthermore, Art. 29 provides for the formation of oversight bodies known as "Basin Councils", charged with ensuring the "rational use" and protection of rivers and it specifies that, within their settlement areas, indigenous peoples are to be included in these bodies.

The federal act "On the animal kingdom"<sup>49</sup> is one of the few bills which to some extent preserves indigenous peoples' "priority right" to access certain resources, including a "prime choice" right to land plots (Art. 49). It does so, however, without specifying that this access is free of charge or indefinite.

Overall, there are elements of indigenous peoples' rights scattered across a number of legal acts. However, these rights are not premised on the indigenous peoples' right to self-determination, they do not acknowledge indigenous peoples' ownership rights, and they have been frequently modified and weakened to the benefit of private investors and businesses.

A comprehensive review of federal legislation would be required to ensure that it complies with the rights and principles set out in the UNDRIP, ILO Convention 169, the International Covenant for the Elimination of Racial Discrimination and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

46 Latest version available at <http://www.consultant.ru/popular/new-wood/>

47 See e.g. RIA Novosti: "Lesnoi kodeks ne vyderzhal proverku lesnymi pozhamami." 27.09.2010, <http://ria.ru/danger/20100927/279688291.html>

48 Latest version available at <http://www.consultant.ru/popular/waternew/>

49 Russian: *O zhivotnom mire*, Latest version available at <http://base.garant.ru/10107800/>

### 3. THE INDIGENOUS MOVEMENT

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The following section provides a basic overview of how the indigenous peoples' movement has been developing since the Gorbachev era. Since then, Russia has seen the emergence of many new civil society actors, including social movements, NGOs, unions and others. The indigenous peoples' movement is different from all of them in a number of ways. Its unique role is to represent over 40 indigenous peoples which are not merely a particularly vulnerable part of Russia's population but which are also subjects of international law, endowed with the collective right to self-determination. In a multi-ethnic state, plagued by ethnic conflict that, at times, seems to threaten the unity of the country, this is an extremely delicate issue, often demanding all the available diplomatic skills of indigenous leaders. Indigenous peoples have always operated under the special attention of the intelligence services and State-controlled media. Far away from the urban centres with their relatively progressive social climate, indigenous peoples are often faced with suspicion and resentment not only from state servants but also mainstream society.

NGOs are typically formed around specific interests; indigenous peoples' organisations by contrast represent entire nations in their diversity: rural and urban, male and female, *intelligentsia* and working class, progressive and conservative, old and young, etc. This demands special leadership qualities and the ability to strike the right balance between the aspirations and wishes of all these groups. These factors need to be considered when assessing the state of Russia's indigenous peoples' movement, its successes and shortcomings.

#### 3.1 The beginnings

The first voices of protest from indigenous peoples were heard in the Gorbachev era although they sounded not in Moscow but in the regions. In 1987, for example, a group of Khanty fishermen and hunters living on the Bolshoi and Maly Yugan rivers decided to send an appeal to the Supreme Soviet denouncing the all-out destruction of their ancestral land, the desecration of their cemeteries and sacred sites, and the conduct of the oil industry, which was acting as if they did not exist.<sup>50</sup>

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50 Eremei Aipin, *Obrechennyye na gibel. Publitsistika poslednykh let*. Moskva 1994, p. 30

Similar voices were heard from many regions in the final days of the Soviet Union but those which most caught the imagination of the public were the voices from indigenous reindeer herders, whose lands had been devastated by the Soviet oil industry. In 1989, Khanty author Yeremey Aipin denounced the unscrupulous and ruthless mismanagement of Siberia's nature in a powerfully worded article in the *"Moskovskie Novosti"*, which was reproduced by newspapers around the world. He quoted his father, an old Khanty hunter asking

"Why did they cut down the spruce grove, only to leave the piled up trunks to rot? Why have the prospectors left churned earth and mountains of scrap metal behind? Why did their machines gag small rivers with tubes and sandbanks, preventing fishermen and fish from getting through? And finally: Why are they pumping oil out of the ground, only to leave it floating two fingers thick on the Agan River, killing all life within it? You can scoop out the oil, but where can you store it? Can it be put back into the earth again? "

Aipin was one of the founders of the first regional organisation of indigenous peoples, the Save Yugra (*"Spasenie Yugry"*) Association, in the oil-rich Khanty-Mansi Autonomous Area. Khanty and Nenets reindeer herders, led by the activist, poet and reindeer herder, Yuri Vella, came out in protest after one too many of their reindeer had been shot by oil workers who refused to understand that this land was not *terra nullius* and nor were these animals wild or available for anyone to slaughter. The herders blocked a bridge leading to one of the oil rigs and, for one of the first times, made headline news in the Soviet Union.

The voices of the emerging indigenous organisations were joined by those members of the public concerned about the ecological disaster zones into which Soviet industrial policy had turned much of Siberia and the Russian Far East. The Soviet system had not only denied the land rights and self-determination of indigenous peoples but had also sacrificed much of Siberia's land, which seemed cheap and inexhaustible, in the ever continuing battle to catch up with the economic and technological development of the Western countries.<sup>51</sup> Examples abound: in the search for resources, ge-

ologists in Yakutia had used nuclear explosives, leaving a deadly heritage in the ground; in the case of the nickel smelters of Norilsk and of the Kola Peninsula, surrounding reindeer pastures had been converted into barren, dead moonlike landscapes, and fishing in the Ob, one of Siberia's largest rivers, had had to be given up altogether. All in all, it seemed that an environmental disaster of biblical proportions had occurred in the Soviet Union.<sup>52</sup>

In 1988, the writer Vladimir Sangi, from the Nivkh people on the Island of Sakhalin in the Far East, was the first to propose the establishment of a nationwide umbrella association of indigenous peoples of the Soviet North. Once he had gained the Soviet government's support, the first congress of indigenous peoples of the North of the Soviet Union was held in March 1990 in the presence of the then President Mikhail Gorbachev and Prime Minister Nikolai Ryzhkov.

The congress established the "Association of Small Peoples of the Soviet North" (today known as Russian Association of Indigenous Peoples of the North – RAIPON). Vladimir Sangi was elected its president. He was later succeeded by Yeremei Aipin, a Khanty from the Khanty-Mansi Autonomous Area, also a professional writer, who headed the organisation until 1997. During those initial years, the organisation was very much dominated by a generation of Soviet-educated intellectuals who were revered masters of the written word and were thus skilled in delivering masterful literary portraits of the desperate situation of their communities, but had no experience in building and leading an indigenous peoples' movement and organisation.

During the same period, many more regional indigenous organisations emerged, most of them based on the principle of territorial representation, i.e., associations representing "the indigenous small-numbered peoples of the North in Yakutia" or "the indigenous small-numbered peoples of the North in Khabarovsk territory", while a smaller number of organisations was based on ethnicity, such as the "Tkhsanom" association on Kamchatka, representing the Itelmen people.

These organisations were usually set up by urban indigenous representatives and typically used premises and resources provided by the local authorities. This

meant that these organisations, while fulfilling an essential role in catering for the needs of the indigenous population, were often highly vulnerable vis-à-vis the authorities. They had to navigate the political space very carefully in order to gradually expand their possibilities. They also had to address the logistical challenge of reaching out to and maintaining communication with rural indigenous communities, who were often totally cut off from public transport and communications, much of which had disappeared along with the Soviet Union. Over time, indigenous reindeer herders, hunters and fishers started regularly approaching regional indigenous organisations with all kinds of concerns, not only those related to the protection of their rights but with all kinds of day-to-day worries that should have been taken care of by the state.<sup>53</sup>

The regional organisations also functioned as regional branches of RAIPON, which eventually developed a coordinating council structure comprised mainly of the leaders of these regional organisations. The highest decision-making body of this nationwide structure was the Congress of Indigenous Small-Numbered Peoples of the North, Siberia and the Far East which, from 1989 onwards, was held every four years.

Apart from the local and regional indigenous associations and their national umbrella organisation, RAIPON, other organisations and networks representing indigenous peoples emerged, with partly overlapping mandates and goals. Several international indigenous peoples' organisations started to extend their activities into Russia. In 1992, the Saami Council accepted the Kola Saami Association as a member.<sup>54</sup> The Inuit Circumpolar Council Conference (now the Inuit Circumpolar Council) established a Russian branch, serving the Yupiq community of Chukotka. Also in 1992, the first congress of Finno-Ugric peoples was held in Syktyvkar, Komi Republic. The congress united Finno-Ugric peoples both in and outside of Russia, including the indigenous small-numbered Khanty, Mansi, Sami, Veps and Izvatas peoples but also larger groups such as the Komi, Mari and Karelians. It established an international standing committee, the Finno-Ugric Consultative Committee.<sup>55</sup> In 1993, the Association of World Reindeer Herd-

51 Helmut Klüter, *Die territorialen Produktionskomplexe in Sibirien. Ein Beitrag zur Perestrojka der regionalen Investitionspolitik in der Sowjetunion*. Hamburg (Weltarchiv) 1991. (=Schriften des Zentrums für regionale Entwicklungspolitik der Justus-Liebig-Universität Giessen. 35)

52 The most emblematic incident did not occur in Siberia, however. It was (and continues to be) the drying up of the Aral Sea between Kazakhstan and Uzbekistan.

53 See Pavel Sulyandziga: *Ten Years On*. In: Thomas Köhler, Kathrin Wessendorf (eds): *Towards a new Millennium: Ten Years of the indigenous movement in Russia*. p. 52

54 See history of the Saami Council (in Russian) at <http://www.saamicouncil.net/?deptid=3308>

55 See "The World Congresses of Finno-Ugric Peoples", <http://www.fennougria.ee/index.php?id=10973>, archived congress website at <http://web.archive.org/web/20090105162234/http://kongress.ugri.info/eng/cat-273/cat-283>



ers was founded in Tromsø, Norway, uniting Russian and Scandinavian reindeer herders.<sup>56</sup> In 1998, the indigenous association representing the Aleut indigenous community in the Russian part of the Aleutian Islands joined the Aleut International Association.

### 3.2 Consolidation and professionalisation (1997-2008)

RAIPON's development took on a new dynamic when, in 1997, Sergey Kharyuchi, a professional politician from Yamal-Nenets Autonomous Area took over as its president. The organisation established a permanent office in Moscow and built up a team of dedicated full-time indigenous rights activists and advocates. During the last years of President Yeltsin's government, RAIPON actively engaged in legal advocacy and became one of the driving forces behind the development of the legislative indigenous rights framework consisting of the three bills "On Guarantees of the Rights of Indigenous Peoples", "On Territories of Traditional Nature Use (TTNU)" and "On General Principles of the Organisation of Obshchinas", which were adopted between 1999 and 2001 (See chapter 3.2).

RAIPON was not the only organisation active in the capital. In 1995, the L'auravetl'an Indigenous Information Centre was established in Moscow. It developed a training programme which provided the essential skills needed for defending indigenous rights to a generation of young activists from the regions, many of whom later took on leading roles in the indigenous peoples' movement.<sup>57</sup> A few years later, the facility closed down and a region-based information network was established under the same name, which is mainly active in south Siberia and Karelia.

RAIPON increasingly participated in international processes and mechanisms. Since the mid-1990s, indigenous representatives from Russia have actively participated in the UN Working Group on Indigenous Populations. They have made key contributions to the negotiations on the UN Declaration on the Rights of Indigenous Peoples and the establishment of the UN Permanent Forum on Indigenous Issues. When, in 1996, the Arctic Council, an intergovernmental body comprised of states around the Arctic Rim was established, RAIPON, together with indigenous organisations from the other member states (USA, Canada, Denmark/Greenland,

Norway, Sweden, Finland) was awarded the status of Permanent Participant (PP), recognising the unique role of indigenous peoples in the sustainable development of the Arctic.<sup>58</sup> Under a joint project with the Saami Council and GRID Arendal (the Polar Centre of the UN Environmental Programme), RAIPON began to implement a new outreach strategy in 1999. From that year on, it published the journal "The World of Indigenous Peoples. The Living Arctic" (*Mir korennykh narodov: Zhivaya Arktika*), which was distributed to 1,500 recipients, including indigenous leaders, regional organisations and communities as well as state authorities. RAIPON set up an information centre and the idea of developing a network of regional information centres emerged.

The Office of the United Nations High Commissioner for Human Rights instituted a fellowship programme giving indigenous youths the chance to familiarise themselves with indigenous rights advocacy at UN level and increasingly also to actively participate in relevant international processes. In 1997, for the first time, a parallel report dealing with the situation of indigenous peoples in the Russian Federation was presented to a UN treaty body (see section 6.10.1.1).<sup>59</sup>

Several Western states, including Denmark and Canada, started to provide substantial technical and financial assistance to indigenous organisations in the Russian Federation. Danish funding allowed for the emergence of a long-term strategic cooperation between IWGIA and RAIPON, through which Russian indigenous peoples' organisations in many regions were supported in a variety of ways.

Under a Canadian-Russian institution building project, which was implemented by the Canadian branch of the Inuit Circumpolar Conference (now Council), the Centre for the Support of the Indigenous Peoples of the North (CISPN) was established.<sup>60</sup> In 2001, CISPN start-

56 Website: <http://reindeerherding.org/>

57 See the organisation's website <http://www.indigenous.ru>

58 The Arctic Council is a high-level intergovernmental forum established in 1986 to provide a means for promoting cooperation, coordination and interaction among the Arctic States on common Arctic issues, in particular issues of sustainable development and environmental protection in the Arctic (Web site: <http://www.arctic-council.org>). Website of the Arctic Council's indigenous peoples' secretariat: <http://www.arcticpeoples.org/>

59 FIAN International and Institute for Ecology & Action Anthropology: "The right to adequate food (Art. 11) and violations of this right in the Russian Federation. Parallel information to the initial report of the Russian Federation concerning the right to adequate food as enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR, art. 11). Presented on the occasion of the 16th session of the Committee on Economic, Social and Cultural Rights (28 April - 16 May, 1997), <http://www.infoe.de/report.html>

60 Website: <http://www.csign.ru>

ed education campaigns and internships for indigenous representatives from the regions.

As a joint initiative between RAIPON and the Danish consultancy firm, TGK Consults, the “Lach” indigenous information centre was established in 2004 on the Far Eastern Peninsula of Kamchatka, and this has subsequently implemented several projects aimed at developing equitable relations between indigenous peoples and business enterprises.<sup>61</sup> Information centres were subsequently opened in the Primorsky Territory, as well as in the Nenets and Yamal-Nenets Autonomous Areas, Tomsk and Kemerovo regions and a host of other places. Together they formed an information network, coordinated by RAIPON’s information centre in Moscow, which regularly compiled bulletins of ongoing developments and events affecting indigenous communities within their regions. The regional centres also produced and distributed updates about legal developments and international affairs in the field of indigenous rights to their respective constituencies; provided legal aid to communities and ensured that skills were passed on to young prospective indigenous activists.

Between 1999 and 2013, these organisations conducted dozens of training seminars, and published manuals and textbooks for indigenous peoples.

Legal advocacy was another essential line of activity for RAIPON and its partners: in 1997 RAIPON was among the initiators of a parliamentary hearing on ratification of ILO Convention 169 by the Russia Federation. In 2003, jointly with the Federation Council, the representation of regions in the Russian federal legislature, RAIPON conducted an international roundtable meeting “Participation of indigenous peoples in the political life of the countries of the Circumpolar Rim”.

RAIPON worked actively with the State Duma, the Federation Council and the Federal Government to strengthen legislation concerning the rights of indigenous peoples.

Despite the successful capacity and organisation building in the years up to 2009, the transfer of power to Vladimir Putin in 2001 saw the beginning of the restoration of authoritarian rule. Putin’s goal of restoring Russia to its former superpower status was aided by the constant increase in oil prices on the international market and a considerable economic recovery aided by the abundance of oil revenues. This recovery led many Western public and private donors to downscale or entirely discontinue their financial assistance to the indigenous peoples of Russia arguing that, economically,

Western support was no longer justifiable. They were also most likely discouraged by Russia’s increasingly tight control of foreign support to Russian civil society organisations.

At the same time, while indigenous peoples’ legal protection entered a phase of stagnation, federal lawmakers entered a period of hectic activity in the field of legislation governing land, forests and waters, enabling the privatisation and transfer of land into the hands of private individuals at the expense of indigenous peoples’ land rights.

Thus, from approximately 2004 on, RAIPON had to refocus its efforts towards working against the government attempts to revise and weaken existing legislation, as well address the authorities’ failure to implement its provisions. The ongoing deterioration of indigenous peoples’ rights, the violations and failures to fulfil legal provisions were openly discussed on the information platforms established by RAIPON – its website, the journal as well as the electronic mailing lists, which had been established.<sup>62</sup>

Putin’s larger plan was to stop and reverse the disintegration of Russia and to re-centralise power in the hands of his government. One of the landmark measures within this policy was the abolition of three indigenous peoples’ autonomous areas: the Koryak, the Taimyr (Dolgano-Nenets) and the Evenk Autonomous Areas, established more than 75 years earlier, ceased to exist in 2007 and were merged into the Russian-dominated Krasnoyarsk and Kamchatka Territories. The effect on the indigenous peoples was overwhelmingly detrimental. The infrastructure of the former autonomies was neglected, and indigenous peoples’ ability to participate in decision-making was greatly reduced.

### 3.2.1 The backlash (2009-13)

In late 2008, the newly-elected President Dmitri Medvedev visited Chukotka, the Chukchi Autonomous Area, Russia’s easternmost province. This visit provided indigenous peoples with a unique opportunity to bring their plight to the new president’s attention. Among the issues to which indigenous representatives testified was the

61 Website: <http://www.lach-kamchatka.ru/>

62 See Olga Murashko: *Iz istorii dvizheniya korennykh malochislennykh narodov Severa, Sibiri i Dal'nego Vostoka RF* In: *Mir Korennykh Narodov* Vol 30 (2013), pp 30-40, also reports by Sergey Kharyuchi on RAIPON’s activities to the Congresses of Indigenous Peoples in vol 6-7 (2001), vol 18 (2005), vol 22 (2009) of *Mir Korennykh Narodov*, available from . <http://www.csipn.ru/publications/zhurnal-1>

lack of action on the side of Medvedev's own government with regard to the implementation of key legal instruments, in particular the Federal Act on Territories of Traditional Nature Use. According to observers, the president responded by giving strict orders to the ministry and reprimanding those persons allegedly responsible for the failure.

In April 2009, the VIth All-Russian Congress of Indigenous Peoples of the North was convened in Moscow, following the established four-year rhythm that had been in place since 1989. As always, the spectrum of participants was wide and diverse, including hundreds of indigenous delegates from the Russian regions as well as representatives of government, civil society, the business community and foreign guests. As at previous congresses, government maintained a strong presence throughout the entire event, both on stage and in the halls. Although both RAIPON and the government representatives did their best to provide a show of harmony during the ceremonial parts of the congress, conflicts allegedly arose when the Congress resolution—its principal outcome document—was drafted. RAIPON did not accept the wording proposed by the officials but went ahead with its own version, which was naturally much more critical of the government's performance.

These developments sparked a concerted effort by RAIPON's opponents within the administration to bring down or take over the association. However, apart from personal retaliation, the events which followed must also be seen in the context of the broader events unfolding in the Russian political arena at that time – an emerging conflict between the state, dominated by Vladimir Putin and his United Russia party, and a new civil society, which was no longer content with being a mere spectator in the political arena.

In early 2010, the Russian Federal Ministry of Justice undertook an extraordinary audit of RAIPON's activity. Two observations were made in its concluding report. Firstly, it was stated that RAIPON's logo needed to be registered. As of 2010, this logo had been in use for 20 years, during which no objections had ever been raised by the federal authorities. Secondly, the audit concluded that, in relation to RAIPON's status as an All-Russian organisation, a list of its regional representations had to be included in its by-laws. Such a list had previously been maintained as an appendix to the registration documents, a practice which likewise had never led to any objections.

In April 2011, RAIPON convened an extraordinary congress with the single task of bringing the by-laws into compliance with the requirements outlined in the audit conclusion. The delegates decided to register RAIPON's

logo with the state inventory and to include a list of regional representations in its by-laws. Subsequently, while the Ministry of Justice accepted the decision to register the logo, it refused to register the decision regarding the list of regional representations, thus preventing RAIPON from complying with its own demands.

In December 2011, elections to the federal legislature, the State Duma, were held in the Russian Federation. "United Russia", which had totally dominated the largely State-controlled media during the campaign, suffered double digit losses but still secured a narrow but absolute majority in the elections. After the polls had closed, opposition and civil society presented evidence of widespread and systematic vote rigging throughout the country, in favour of the governing party. Massive protests broke out across the Russian Federation, spearheaded by figures such as blogger Alexei Navalny, who coined the nickname "Party of swindlers and thieves" for the governing "United Russia" party. As Russia braced itself for the presidential elections of 5 March, the protests shifted their focus from merely demanding fair elections to calling for a "Russia without Putin". In the elections, Vladimir Putin intended to return to the top position having served as prime minister for the four years of Dmitri Medvedev's presidency. Despite civil society's growing confidence, Putin secured a clear victory during the first round. Regardless of evidence of some vote rigging, Putin's strong lead was unambiguous. Having returned to power, he lost no time in taking a number of measures intended to curb the protests. His inauguration in May was followed by violent crackdowns and arrests of demonstrators, house searches of leading opposition figures and the swift enactment of a new law imposing severe penalties on participants in unauthorised demonstrations.

In July, the State Duma rushed through a bill which became internationally known as the law on foreign agents (see chapter 5.2). The bill amended the federal acts "On Non-Profit Organisations" and "On Civic Associations" with provisions imposing new regulations regarding the acceptance of foreign funding by Russian civil society organisations. Crucially, organisations engaged in "political" activities that were accepting foreign funding were obliged to register with the Ministry of Justice as "organisations functioning as foreign agents". This measure caused great anxiety among RAIPON and other indigenous organisations. Funding opportunities for civil society organisations within Russia were far and few between and mostly limited to cultural or ideologically convenient activities such as heralding Russian patriotism. Funding from international partners was therefore essential in enabling their awareness raising,

capacity building and advocacy efforts for the promotion and protection of indigenous rights. The new NGO law represented an essential threat to RAIPON and other indigenous organisations, cutting them off from access to the technical and financial assistance to which they are entitled according to Art. 39 of the UNDRIP.

As the political tensions got worse, RAIPON was still struggling to have its changed by-laws registered by the Ministry of Justice. It appealed the Ministry's decision in court. Proceedings were still ongoing when, in September 2012, the Ministry announced the unprecedented step of suspending RAIPON's activities until 20 April 2013, with effect from 1 November 2012.

The timing of this decision gave rise to particular concern because the suspension period included the dates of the VIIIth Congress of Indigenous Peoples of Russia, scheduled to be held in Salekhard from 28-30 March 2013. As noted above, the Congress is the highest decision-making body of RAIPON and, among other things, elects the association's president. It was feared that its cancellation would severely disrupt the indigenous peoples' ability to participate in political life at all levels. Considering the purely administrative character of the alleged flaws in RAIPON's by-laws and the association's repeated good-faith attempts to rectify the situation, a *de facto* closure of an organisation that constitutes the organisational embodiment of a movement comprising more than 40 indigenous peoples was a disproportionate measure and inconsistent with the right to participate in decision-making, as set out in Art. 18 of the UNDRIP.

Nationally and internationally, the move sparked an outcry, with protests coming from many indigenous and environmental organisations, governments and even the Arctic Council. In January 2013, RAIPON convened another extraordinary congress in Moscow in order to comply with the ministry's formal demands and thus remove the formal grounds for its suspension. However, the changed by-law adopted by the extraordinary congress included one provision on which the Ministry of Justice had insisted and which later would prove fatal: it stipulated that the organisation's president had to be elected by a two-thirds majority.

When the 82nd session of the UN Committee on the Elimination of Racial Discrimination (CERD) was held in Geneva in February 2013, RAIPON was anxiously awaiting a decision as to whether or not the outcomes of the extraordinary congress would be accepted and the suspension finally lifted. During the session, many CERD members voiced their concerns about RAIPON's suspension and the Russian delegation had to spend much of their speaking time defending this move and describing it as utterly apolitical.

Eventually, the suspension was lifted and the VIIIth Congress was able to go ahead as planned. However, in the meantime, the government appeared to have shifted its strategy towards replacing RAIPON's leadership in line with its own wishes. After four successive terms in office, President Sergey Kharyuchi had announced his intention not to stand again so, at the time RAIPON was suspended, the election campaign was already in full swing. The most popular candidate was veteran activist and long-time vice president Pavel Sulyandziga from the Udege people; however, the authorities supported Grigori Ledkov, a Nenets from Yamal, who also represents his region in the federal parliament, the State Duma, as a member of the governing United Russia party but, at the time, was largely unknown within the indigenous movement.

The congress was massively sponsored by the authorities of the gas-rich Yamal region who, among other things, provided free charter flights for the delegates. When the voting took place, the indigenous delegates insisted on a secret ballot, ensuring that voting would be genuine and free from the pressure of the authorities. In the first round, Sulyandziga received a strong and absolute majority; however, he could not be declared the winner because, as one of the conditions for registering RAIPON's new statutes, the ministry had insisted that a clause be included requiring a two-thirds majority for any candidate to be elected, not only in the first voting round but also in all successive rounds (see above). After a second round, in which Sulyandziga again clearly defeated Ledkov but fell short of a two-thirds majority, a deadlock set in whereby Ledkov refused to renounce his candidacy. At this point, observers and the press were evicted from the room and the meeting continued behind closed doors. A couple of minutes later, Sulyandziga announced that he was withdrawing from the race, leaving Ledkov as the only remaining contender. This provoked a walkout on the part of many indigenous delegates; however, Ledkov was ultimately declared the new president, following what was described as a chaotic show of hands. It has been alleged that Sulyandziga's withdrawal was in response to massive and credible threats by the authorities.<sup>63</sup> Following the congress, RAIPON's public appearance changed dramatically as its entire staff was immediately laid off.

In June 2013, a large delegation of indigenous peoples from Russia, led by Pavel Sulyandziga, participated

<sup>63</sup> See Thomas Nilsen, "Moscow staged RAIPON election thriller", *Barents Observer* (3 April 2013). At <http://barentsobserver.com/en/politics/2013/04/moscow-staged-raipon-election-thriller-03-04>, accessed 12 May 2014.

in the indigenous peoples' preparatory meeting to the World Conference on Indigenous Peoples in 2014, which took place in Alta, Norway. On 9 August 2013, at Indigenous Peoples' Day, RAIPON's new president delivered an address to Russia's indigenous peoples which contained accusations against the Russian participants at the conference in Alta. The address insinuated that certain unnamed members of the Russian delegation had called for the "separation from Russia of territories of compact settlement of indigenous peoples".<sup>64</sup> While, in fact, no such pronouncements had been made in Alta, the mere insinuation coming from the RAIPON president himself posed a real danger to those who had attended the Alta meeting, threatening their freedom and safety. In September 2013, when the Russian authorities arrested a group of 30 Greenpeace activists who had been trying to occupy an offshore oil rig, RAIPON's new leadership spoke out clearly in support of the government.

Indigenous activists from RAIPON and regional organisations have responded to this development in various ways, entering into a phase of reorientation and reflection. They have, however, refrained from publicly dismissing RAIPON. Throughout the history of Russia's indigenous movement, the existence of a single organisational umbrella, unifying and representing a hugely diverse movement, has always been a defining feature and is still seen by many as a great value worth preserving.

For Russia at large, it appears as if the state has for the time being prevailed over the aspirations of civil society in the struggle for the future of Russian society. Twenty-five years after the disintegration of the Soviet Union, it is evident that the Russian state is a far cry from genuine democracy and that a profound transformation is needed to achieve a society in which human rights are fully protected. Whether or not Russia's indigenous peoples will be able to assert their rights and ultimately shape their own destinies hinges on the direction that Russia as a whole will take.

For the indigenous peoples, at a critical juncture in their history, the political space for manoeuvre has shrunk to a new minimum. It is therefore critical that those who have supported Russia's indigenous peoples in recent years do not turn away now but instead continue to engage as reliable and understanding partners in difficult times.

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<sup>64</sup> See archived front page of RAIPON website at <http://web.archive.org/web/20130815063139/http://www.raipon.info/>

## 4. PRESENT-DAY HUMAN RIGHTS SITUATION

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This chapter highlights some of the main human rights challenges facing the indigenous peoples of the North today. The human rights of indigenous peoples are a complex and dynamic area of international human rights law. We therefore first need to address some common misconceptions which, not only in the case of Russia, lead authorities and members of the public to partly or entirely disregard indigenous peoples' rights.

The classic Western view regarded human rights as mere defences against infringements by the state. In this view, the primary demand towards the state is to refrain from interfering in people's lives. However, experience shows that this approach is insufficient. For instance, when business enterprises grab indigenous peoples' ancestral territories, the state needs to actively intervene to end these violations and ensure that victims are restored to justice. The modern view as held e.g. by UN treaty monitoring bodies is therefore that there are three types of obligations ensuing from human rights norms, some requiring the state to refrain from actions, others requiring it to take action:

1. the **obligation to respect** rights, i.e. to not actively violate them,
2. the **obligation to protect** rights against infringement by third parties and
3. the **obligation to fulfil** rights, i.e. to take special measures in situations where rights are not yet fully realised.

A fundamental aspect of all human rights is the principle of **non-discrimination**. Human rights apply equally to all persons, regardless of gender, sexual identity, ethnicity or age. In Russia, a common misconception held by many, both in the administration and in civil society, is that indigenous peoples lay claim to "privileges", that they aspire to being treated better than the rest of the population. This view disregards the reality of the comprehensive discrimination and injustice, both past and present, that has affected indigenous peoples. Non-discrimination, as understood by the UN Committee on the Elimination of Racial Discrimination (CERD), means the state has to take special measures to overcome this reality of discrimination. There is therefore no contradiction between the principle of non-discrimination and the "special" rights of indigenous peoples affirmed by the UNDRIP and related instruments.

In the context of overcoming discrimination, the CERD particularly emphasises the need for **restitution** of lands and resources and of fair and just compensation in cases where this is no longer possible.<sup>65</sup> In recent years, some states have issued apologies to their indigenous populations which have, to varying degrees, acknowledged the need for restitution. In contemporary Russia, the recognition of historic injustice and of a right to restitution by the Russian state must be regarded a virtual impossibility and any demands for such a step by indigenous peoples would be likely to be denounced as extremist.

Besides their specific vulnerability to discrimination, indigenous peoples differ from other groups in that they are not merely individual rights-holders but also collective subjects of international law. First and foremost, they have the **right to self-determination**, affirmed i.a. by Art. 1 of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as well as the UN Declaration on the Rights of Indigenous Peoples. As both covenants and the UNDRIP state, by virtue of this right, indigenous peoples may **freely dispose of their territories and resources**.

**Human rights are indivisible** and interdependent. Economic, social and cultural rights are no less fundamental and inalienable than civil and political rights. The former include e.g. the right to food and an adequate standard of living, to subsistence, culture and language. Traditionally, these rights have often been viewed as "second generation" rights. However, social and civil rights depend on each other. When people are denied access to adequate food, enjoying the right to freedom of expression may often become impossible. At the same time, the exercise of civil rights such as the right to participate in the conduct of public affairs may often be essential to ensure that economic, social and cultural rights are protected and fulfilled.

Traditionally, the state has been regarded as the sole bearer of human rights obligations, not least because these obligations are enshrined in multilateral treaties ratified by states. However, there is a growing understanding that non-state actors such as **transnational**

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<sup>65</sup> See CERD: General recommendation XXIII on the rights of indigenous peoples, contained in: UN Document A/52/18, annex V.

**corporations (TNC)** operating on indigenous peoples' territories have a profound impact on human rights and are therefore also subject to human rights responsibilities. These responsibilities are most clearly expressed in the 2011 **UN Guiding Principles on Business and Human Rights (UNGPR)**.<sup>66</sup> There are discussions as to the exact nature of these responsibilities; however, the near universal endorsement of the UNGPR makes it clear that the responsibility of business enterprises operating in or near indigenous territories exists independently of whether or not the host state is able or willing to comply with its human rights obligations. Extractive and other enterprises operating in the Russian Federation are therefore clearly duty-bound to take all necessary measures to ensure that their operations do not harm indigenous peoples' rights as set out in the UNDRIP.

The CERD has clarified that **human rights violations cannot be excused by the fact that they are not intended** but occur as the side effects of some other action or omission on the part of the state.<sup>67</sup> The ultimate measure of the severity of a violation is its effect on the victims, not the intent of the perpetrator. By implication, states must work proactively to prevent committing unintentional violations. For instance, they could undertake systematic screenings of their legislation and judicial and administrative practice to ensure that no such collateral violations occur. They must also track the impact of the measures they take to respect, protect and fulfil human rights. If measures taken by the state fail to have a real effect on the ground then the state has failed to discharge its human rights obligations. If a state fails to track the results of its policy and to monitor the state of the rights of indigenous peoples, this of itself constitutes a breach of its obligations. Unfortunately, as demonstrated below, Russia has been failing to live up to its obligations in this regard for years.

#### **4.1 Marginalisation, structural discrimination and racism against indigenous peoples**

In the report on his mission to the Russian Federation, former United Nations Special Rapporteur on Racism,

Mr. Doudou Diène, identified one of the most striking manifestations of racism in the Russian Federation as *"the virtual correspondence of the social, economic and political marginalization with the mapping of ethnic minorities and other discriminated groups"*.<sup>68</sup> His conclusion is exemplified by the social, economic, cultural and political status of the small-numbered indigenous peoples of the North since statistically indigenous identity dramatically increases the risk of extreme poverty, low life expectancy, unnatural death and other unfavourable conditions.

Diène notes the observation made by Russian civil society organisations that racism and xenophobia in Russia have deep historical roots.<sup>69</sup> Negative stereotyping of ethnic minorities, especially of the Muslim ethnic groups of southern Russia and Central Asia, is widespread among the populace. Sharp anti-immigrant and anti-Islamic rhetoric is common, and not only among the political mainstream; it is also used by many prominent opposition figures.

Indigenous peoples are mostly considered "harmless" and are therefore less likely to fall victim to physical violence. However, their typical non-Russian, Asian appearance also makes them the targets of—albeit more subtle—racist stereotyping and even racist assaults, some of which have been reported by indigenous students in Saint Petersburg.

In their traditional regions of residence, too, indigenous people are often subject to racist stereotyping. They are seen as child-like, incapable of real work, entirely addicted to alcohol and overly benefiting from state welfare and support. The idea that indigenous peoples have a right to their land, to self-determination and, especially, a right to freely dispose of the resources within or underneath their territories seems outlandish, if not treacherous, to mainstream society.

On the other hand, there are no significant social forces denying the indigenous peoples' right to exist. The Russian national identity has always been one of a multi-ethnic empire not of an ethnically-defined nation-state. Of course, this imperial multiculturalism is far from egalitarian.

66 For details, see *IWGIA Report 16 - Business and Human Rights: Interpreting the UN Guiding Principles for Indigenous People*, Copenhagen 2014, p. 27, [http://www.enip.eu/web/wp-content/uploads/2014/07/IWGIA\\_Report\\_16\\_UNGP.pdf](http://www.enip.eu/web/wp-content/uploads/2014/07/IWGIA_Report_16_UNGP.pdf)

67 See Patrick Thornberry: *Confronting Racial Discrimination: A CERD Perspective*, In: *Human Rights Law Review* (2005) 5:2, P. 239-269

68 UN Human Rights Council, Addendum to the Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Mission to the Russian Federation, UN Doc. A/HRC/4/19/Add.3, (30 May 2007), available at: <http://www.refworld.org/docid/46723d7e2.html> [accessed 20 May 2014]

69 Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène. Addendum Mission to the Russian Federation, UN Doc A/HRC/4/19/Add.3, para 35

tarian. While all peoples have the right to exist, some are clearly seen as more “civilised” and others, such as the indigenous peoples of the North, are perceived as less “civilised”. By implication, it is the “more civilised” ones that are entitled to dominate over the others. Even Russian nationalists typically do not dispute the right of indigenous peoples to be citizens of Russia; however, they fervently deny the right of these peoples to exercise self-determination. This denial is underpinned by racial prejudice according to which indigenous peoples are entirely unable to be the masters of their own destiny.

#### 4.1.1 Lack of reliable data, failure to track the human rights situation

As outlined above, the tracking of the human rights situation of indigenous peoples is a key component of a state’s human rights obligations. In this regard, socio-economic indicators are essential proxy measures in determining the state of economic, social and cultural rights, such as the right to adequate food, the right of access to adequate healthcare, housing and so on. The need to collect and provide such data has also been highlighted by the UN CERD.<sup>70</sup>

It is also reflected in the most important strategy document on indigenous peoples adopted by the Russian government in recent years: the “Action plan for implementing the Outline for the sustainable development of the indigenous small-numbered peoples of the North for 2009-2011” stipulated that “a system of indicators measuring life quality of indigenous small-numbered peoples” should be developed and incorporated into the state statistics system. However, it appears that the Federal Government has silently discarded this goal.<sup>71</sup>

Obtaining reliable data on the health and socio-economic status of the indigenous peoples of the North is, therefore, exceedingly difficult. To the extent that data is available, it shows that indigenous peoples of the Russian North are one of the most disadvantaged population groups within the Russian Federation, as demonstrated below.

#### 4.1.2 Overall demographic development

While it is not a specific indicator of any one particular human right for the state, population growth in conjunction with other indicators can serve as an important proxy measure for the state of a population’s human rights. According to the 2010 national census, the total population of the indigenous small-numbered peoples has increased by 5.6 percent since 2002. This figure has been cited by the Russian government as evidence for its successful policies.<sup>72</sup> However, according to expert opinions, methodological inconsistencies in the successive censuses preclude a meaningful comparison between them. For example, cases are reported of the entire population of a particular district being indiscriminately registered as belonging to one ethnic nationality just because the district had been officially classified as a residence area for this particular group. The reality on the ground was, however, very different.<sup>73</sup> The figures for many indigenous peoples show drastic fluctuations between successive censuses which cannot be explained by natural growth or decline alone but which have to be understood in the light of these methodological deficiencies, along with changes in the self-identification or categorisation of individual groups.

#### 4.1.3 Life expectancy and health

The human right to the highest attainable standard of health is set out in Art. 12 of the ICESR and Art. 24 of the UNDRIP. The state of indigenous peoples in Russia is such that this right has yet to be realised. The indigenous peoples of Russia have extremely high adult mortality rates. Just over one-third of indigenous men (37.8%) and less than two-thirds of indigenous women (62.2%) in Russia reach the age of 60. At national level, the figures are 54% for men and 83% for women. 36% of northern indigenous people die prematurely from unnatural causes, which is more than double the national average of 15%. Between 1998 and 2002, the incidence of suicide among northern indigenous peoples came to over 100 per 100,000, more than double the national average of 38 per 100,000. In Koryak district in northern

70 See CERD: *Concluding observations: Russian Federation*, UN Doc. CERD/C/RUS/CO/19 (28 August 2008), para 10, at <http://undocs.org/CERD/C/RUS/CO/19>

71 In a written reply dated 29 December 2011 to an inquiry from RAIPON, the Ministry for Regional Development stated that no ethnic statistics were maintained because Art. 29 of the Russian Constitution stipulates that ethnic affiliation is determined through self-identification only. One is left wondering why this fact was not taken into consideration prior to the adoption of the action plan.

72 Russian Federation: *Twentieth to twenty-second periodic reports of States Parties due in 2012*. 6 June 2012, UN Doc. CERD/C/RUS/20-22, para 11.

73 Donahoe, Brian, et al., “Size and Place in the Construction of Indigeneity in the Russian Federation”, *Current Anthropology*, Vol. 49, No. 6 (2008): 993-1020.



Kamchatka, this figure has been established as 133.6 per 100,000. This has led Russian demographers to describe the state of the indigenous peoples as a demographic crisis.<sup>74</sup>

Infectious diseases such as tuberculosis, a typical indicator of extreme poverty, cause 60 deaths per 100,000, which is almost three times the national average of 23 per 100,000.<sup>75</sup> Furthermore, maternal deaths and child mortality are significantly above the national average.

The ICERD stipulates that every person has the “right to public health, medical care, social security and social services” without discrimination. In Russia, many indigenous peoples are today deprived of such access due to a policy of dismantling public services in remote settlements. The Indigenous Rights Ombudsman of Krasnoyarsk Territory links this state of affairs to the low quality of public health services in indigenous settlements as well as to a lack of clean drinking water and adequate food, along with insufficient housing that does not allow for the separation of those suffering from open forms of tuberculosis from other family members, including children.<sup>76</sup> Lack of access to adequate healthcare in remote villages has also been reported as resulting in child deaths.<sup>77</sup> The ICESCR stipulates that states are duty-bound to ensure the fulfilment of the rights set out in the covenant progressively, using the maximum available resources.<sup>78</sup> The present policy of closing public infrastructure in remote settlements is in direct contravention of this principle.

Alcoholism is a major factor in the indigenous peoples’ acute health crisis. The Federation Council’s Committee on Northern and Indigenous Affairs has established that, over the course of the last ten years, al-

coholism has increased 20-fold, mostly due to increased alcohol consumption among women and children. This increase is, among other things, attributed to an uncontrolled flow of alcohol into the regions inhabited by indigenous peoples.<sup>79</sup>

#### 4.1.4 Indigenous children

Indigenous children are an especially vulnerable subgroup of the indigenous peoples of the North. As the Committee on the Rights of the Child notes in its General Comment No. 11 regarding indigenous children, states should take special measures to ensure that “*indigenous children enjoy their right to education on an equal footing with non-indigenous children*” and “*that school facilities are easily accessible where indigenous children live.*”<sup>80</sup> However, in recent years, Russia has pursued a policy of school closures in indigenous settlements. According to Russia’s own 4th and 5th periodic reports to the CRC, 567 schools in indigenous territories were closed between 2003 and 2009,<sup>81</sup> a trend which, according to the information available, is still continuing. This forces parents to send their children to distant boarding schools which, for the most part, are poorly attuned to indigenous children’s cultural needs and threaten family bonds, intergenerational transfers of culture, knowledge, language and skills.

The residential school system was introduced early on in the Soviet era and has survived the end of communism. Children attending these schools, starting at the age of seven, have to spend nine months of the year away from their parents and communities. Commenting on the effects of this educational system on the indigenous children in Taimyr district, A. Bolin writes: “The presence of the children of the Tundra dwellers in the boarding school in Dudinka<sup>82</sup> adversely affects their mental health. The children want to go home; over the last year, more children have run away from the boarding school (according to information from the Commission on the Affairs of Minors).”<sup>83</sup>

74 United Nations in the Russian Federation : *Climate Change Impact on Public Health in the Russian Arctic*. Moscow, 2008, pp. 12-14, <http://www.unrussia.ru/sites/default/files/doc/Arctic-eng.pdf>

75 Ibid.

76 Upolnomochenny po pravam korennykh, malochislennykh narodov v krasnoyarskom krae: “Doklad o sublyudonii konstitutsionnykh prav i svobod korennykh malochislennykh narodov na territorii Krasnoyarskogo kraya v 2011 godu”, p. 41 <http://ombudsman.kk.ru/file.php?id=434>

77 E.g. a girl from Chumikan village died of tuberculosis in a hospital in Khabarovsk in April 2012. Her parents had taken her to the polyclinic in her native village as early as November 2011, where she was diagnosed with TB. However, no adequate treatment was available locally and she was not transferred to the regional capital of Khabarovsk until February, by which time doctors were unable to save her life. <http://amurmedia.ru/news/khab-krai/22.05.2012/207067/habarovskaya-shkolnitsa-skonchalas-ot-otkrytoi-formi-tuberkuleza.html>

78 Cf. UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 3: The Nature of States Parties’ Obligations (Art. 2, Para. 1, of the Covenant), 14 December 1990, E/1991/23, available at: <http://www.refworld.org/docid/4538838e10.html> [accessed 25 September 2014]

79 Cf. “*Ratifikatsiya konventsii 169 – nazrevshaya neobkhodimost’*” <http://severcom.ru/analytics/item11-3.html>

80 See CRC, General Comment No. 11 “Indigenous children and their rights under the convention”, UN Doc. CRC/C/GC/11, para 61, (January 2009) , download from <http://undocs.org/CRC/C/GC/11>

81 UN Document CRC/C/RUS/4-5, para 296, <http://undocs.org/CRC/C/RUS/4-5>

82 Dudinka is the administrative centre of Taimyr district.

83 A Bolin: “*Analiz rezultatov likvidatsii avtonomii na Taimyre I v Evenkii*”. In: *Mir Korennykh Narodov. Zhivaya Arktina. Vol 25, 2010, pp. 88-95*

While many of these schools have changed their curricula over the last 20 years to include subjects pertaining to the indigenous culture and way of life, they are unable to compensate for the loss of the family environment, which is the primary space in which transmission of traditional indigenous knowledge, including language, cultural knowledge and practical skills, takes place. Additionally, the quality of formal education received in the boarding schools is inferior to the national average, thus limiting their opportunities in mainstream society.<sup>84</sup> Whenever positive changes have been noted in the development of boarding schools, a crucial aspect has been recognition of the parents' role in their children's education and their participation in decision-making and planning. Under the mainstream concept of school education in Russia, however, the parents' role in education is completely secondary.<sup>85</sup>

Even in primary education, native languages are virtually never used as the language of instruction. Native language is reduced to the status of a minor subject. This compounds the fact that Russia's education policy, since the 1950s in particular, has driven a widespread loss of language. Today, with the exception of nomadic communities and remote settlements, very few indigenous children ever acquire native proficiency in the language of their ethnic group.

Even in a well-resourced region like Khanty-Mansi Autonomous Area, reportedly less than half of Khanty pupils are taught their language at school and less than 5% have the opportunity to practise their language in pre-school facilities. Between 2008 and 2011, the number of students attending the subject "native language" dropped from 2,610 to 1,595. Over the last 20 years, the Khanty-speaking community has lost a quarter of its speakers.<sup>86</sup>

Indigenous families deprived of their traditional livelihoods are often dysfunctional. Men, who have lost their traditional role as breadwinners due to the destruction of their means of existence, often fail to adapt to the

changed conditions and plunge into alcoholism and inertia. Women are frequently more adaptive to changed external conditions. As a result, women in rural settlements often have to shoulder the burden of sustaining their families alone, with their men having abandoned their families. An alternative strategy which many women choose is to marry non-indigenous men, who are more successful in mainstream society.

#### 4.1.5 Poverty

The right to an adequate standard of living is a fundamental human right set out in Art. 11 of the ICESCR. A significantly decreased standard of living of indigenous peoples is therefore indicative of Russia's non-compliance with its human rights obligations. All available figures point into this direction. According to the Federal Accounts Chamber, unemployment among indigenous peoples is 1.5 to 2 times the Russian average, and ranges from 24.5% among indigenous peoples of Yamal-Nenets okrug to 47.8% among the indigenous population of Amur oblast.<sup>87</sup> The incomes of indigenous peoples are 2 to 3 times lower than the Russian national average.

#### 4.2 Civil and political rights

Since Vladimir Putin's comeback in particular, civil society in Russia has found itself subjected to pressure and control. After widespread anti-government protests in 2011-12, federal lawmakers adopted several bills that drastically restricted the activities of non-state actors: they introduced heavy fines for participating in non-sanctioned demonstrations, and imposed serious constraints on accepting foreign funding. The legal definitions of treason and espionage were widened, giving the state authorities a whole armada of new instruments to rein in civil society.

The revision of the federal act "On Non-Profit Organisations" gained particular notoriety. It requires NGOs engaged in "political" activities and accepting foreign funding to register as organisations acting as foreign agents (see chapter 4.2.1). This measure drew international concern and condemnation. The Russian government defended itself by arguing that the law does not prohibit the acceptance of foreign funding but merely seeks to ensure oversight.

84 Stephan Dudeck: *Challenging the State Educational System in Western Siberia: Taiga School by the Tiutiakha River*, in: Erich Kasten (ed): *Sustaining Indigenous Knowledge: Learning Tools and Community Initiatives for Preserving Endangered Languages and Local Cultural Heritage*, 2013, pp 129–157.

85 Cf Roza Laptander: *Model for the Tundra School in Yamal: a new education system for children from nomadic and semi-nomadic Nenets families*, in: Kasten (ed) 2013, pp 181-194

86 Stephan Dudeck: *Challenging the State Educational System in Western Siberia: Taiga School by the Tiutiakha River*, in: *Sustaining Indigenous Knowledge: Learning Tools and Community Initiatives for Preserving Endangered Languages and Local Cultural Heritage*, edited by Erich Kasten and Tjeerd de Graaf 2013, 129–157.

87 Federal Accounts Chamber, *ibid.*, p. 80.

However, it is hardly accidental that the authorities chose the term “foreign agent” to describe civil society actors working with foreign funding. Paranoia and anti-Western resentment stemming from the Cold War era are still rooted in Russian society and the string of “colour revolutions” on Russia’s borders (in Georgia, Moldova, Ukraine) has nurtured Russian suspicions that the ultimate goal of Western politics is to stage another such ‘revolution’ in Russia. In order to counter perceived Western expansionism, Russia’s government has resorted to uniting society around a re-invented Russian national identity based on “traditional” values of social conservatism, orthodox Christianity, traditional gender roles, etc. In this setting, the work of civil society organisations for civil rights, minorities, LGBT rights, etc. is easily denounced as being against Russia’s national interests. More than others, indigenous peoples’ organisations are vulnerable to being denounced and stigmatised as foreign agents. Most indigenous organisations work in peripheral regions where the political culture is more conservative than in the urban centres. In such an environment, being labelled “foreign agents” would mean that indigenous organisations are discredited and avoided by their partners.

The bill enabling the registration of NGOs as “foreign agents” came into force in October 2012. Initially, NGOs hoped that the Russian authorities would refrain from actually applying it. During the UN Committee on the Elimination of Racial Discrimination’s consideration of Russia in February 2013, government representatives pointed out that, so far, not a single NGO had been classified as a “foreign agent”. They even noted the case of an NGO from the Republic of Chuvashia which had voluntarily submitted an application to be registered as a “foreign agent” and whose application had been declined.

However, shortly thereafter, the authorities embarked on a massive campaign of checks and audits. Over the course of 2013, 99 organisations were subjected to some form of sanction for alleged violations. A much larger number, reportedly over 1,000, received warning letters from the authorities indicating the possibility of further consequences. They were therefore left in a state of limbo, being neither officially declared foreign agents nor cleared of this. While only three organisations were actually closed down, the wider effect of this campaign has been one of spreading fear, uncertainty and doubt within the NGO community. In 2014, the administrative procedure was changed so that the Ministry of Justice could start unilaterally registering organisations as “foreign agents”. One of the first organisations to be hit was the Kaliningrad-based environmental

watchdog “Ecodefense”, which had recently published a documentary on how coal mining destroys the life of indigenous Shor people in the Kuzbass region.<sup>88</sup>

It remains to be seen how many organisations will be subjected to similar reprisals. Application of the law will likely remain selective. Most NGOs will be allowed to continue their operations but will be acutely aware that the law could be used against them at any moment. While this is the case, indigenous organisations will be unable to fully exercise their rights as set out in the UNDRIP, including the right to access financial and technical assistance from states through international cooperation, as set out in Art. 39 of the UNDRIP.

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<sup>88</sup> Documentary with English subtitles available at <http://youtu.be/m6numrY6rSk>, see chapter 6.2.1 for more information on the case.

## 5. EXTRACTIVE INDUSTRIES & CONFLICT HOTSPOTS

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As in many other parts of the world, the extraction of natural resources deeply affects the livelihoods of indigenous peoples in the Russian Federation and their rights. The Russian economy and state overwhelmingly depend on export revenues generated by the sale of oil, gas and other raw materials and there are no indications that Russia is moving towards a more balanced economy. On the contrary, the continued erosion of legal safeguards for indigenous peoples' rights to land and resources is quite obviously motivated by the desire to get rid of possible impediments to unrestricted resource extraction.

The stress to which indigenous peoples' territories and means of existence are subjected has, therefore, constantly increased in recent years and the territories available for the perpetuation of traditional livelihoods are shrinking from year to year. This is happening at a time when, due to the breakdown of the Soviet Union and the dismantling of much of the infrastructure which fed and supported the peoples of the North during the Soviet era, their dependence on traditional subsistence activities as sole sources of food and income is higher than ever.

As the relationship between indigenous communities and large resource exploiters, often closely associated with state structures, is marked by the most extreme power imbalance imaginable, many of these communities are therefore faced with the unmitigated expansion of extractive industries and an immediate threat to their ability to uphold their identity and culture, to feed themselves in accordance with their cultural and physical needs, to generate an income for themselves, to maintain their health and bodily integrity and, ultimately, to survive as distinct groups and individuals.

### 5.1 Oil & gas

With nearly 11 million barrels per day, the Russian Federation is the world's largest producer of crude oil;<sup>89</sup> it is also by far the largest exporter of natural gas.<sup>90</sup>

Since the late 1970s, oil and gas have been the largest sources of export revenues of the Soviet Union and, later, of the Russian Federation, with Europe being the largest traditional market. With the economic crisis of the 1980s, the share of oil and gas increased to almost 70% in 1990 when the Union was dissolved. This shift came at the expense of processed and manufactured goods, meaning that Russia developed a high dependency on a single commodity. During the first decade of the 21st century, the price of crude oil on the world market increased fivefold,<sup>91</sup> making it the main driver of Russia's recovery and international comeback. These developments were accompanied by many of the typical symptoms of what became known as the *resource curse*, including a concentration of economic and political power in the hands of those who control the flow of revenues, corruption and a huge imbalance of power, with indigenous peoples finding themselves at the losing end. There is debate over whether the weakness of Russia's manufacturing sector is a result of the *Dutch disease*, whereby the abundance of revenues from natural resource exports inflates the value of the currency and thus makes exported manufactured goods less competitive, ultimately leading to the economic decline of the country.<sup>92</sup> Overall, there are strong indications that Russia's dependency on oil and gas revenues has a broad range of adverse effects, far beyond its impact on indigenous peoples and the environment.

The destruction caused by oil and gas extraction to the environment of Siberia and the Russian North is arguably the most publicised issue in the Western media that Russia's indigenous peoples face today. Every year, thousands of pipeline spills release crude oil into the environment, contaminating rivers and swamps. When, in 1994, a pipeline burst near the town of Usinsk in the north of Komi Republic, more than 200,000 metric tons of crude oil spilt into the surrounding taiga, making it the largest ever on-land oil spill. Images of the disaster were broadcast around the world. In the years to follow, many documentaries were produced featuring iconic images

89 <http://www.bloomberg.com/news/2013-03-05/russia-s-oil-lead-challenged-as-taxes-strangle-drilling.html>

90 Wikipedia, The Free Encyclopedia, "Petroleum industry in Russia" At [http://en.wikipedia.org/w/index.php?title=Petroleum\\_industry\\_in\\_Russia&oldid=597746195](http://en.wikipedia.org/w/index.php?title=Petroleum_industry_in_Russia&oldid=597746195) (retrieved March 21, 2014).

91 Argumenty nedeli: "Tundry ne khvatit dlya vsekh", 20 March 2014, <http://argumenti.ru/society/n430/326771>

92 See a 2007 IMP paper: Nienke Oomes and Katerina Kalcheva: *Diagnosing the Dutch Disease: Does Russia have the Symptoms?* IMF Working Paper WP/07/102, <https://www.imf.org/external/pubs/ft/wp/2007/wp07102.pdf>

of destroyed taiga forest and poisoned rivers. Other environmental impacts include gas flares: burning the unused carrier gas that turns the surrounding permafrost ground into swamps in which burnt forests rot away; exploration and construction, which have destroyed huge areas of reindeer pasture, and disrupted the migration routes of reindeer herders.

Observers note that oil companies regularly cover up oil spills and continue to render vast amounts of pasture, forest and rivers unsuitable for use. In some regions, the shrinking land base exacerbates the problem of overgrazing and the carrying capacity of the indigenous peoples' territories is thus nearing exhaustion.

While public attention towards the issue comes and goes in waves, indigenous peoples have had to find ways to ensure their survival and well-being under conditions of a massive power imbalance between themselves and the oil companies operating in their territories. This often involves informal arrangements and even various forms of mutual assistance, such as the transportation or supply of goods. However, since the breakdown of the Soviet Union, indigenous peoples in many regions have protested at the oil and gas development on their land, demanding respect for their land and culture. Most publicised have been the protests in Khanty-Mansi Autonomous Area, Komi Republic and Sakhalin Island. However, besides these, many other regions are also affected by on-land and offshore oil and gas drilling, exploration and pipeline construction and operation. These include: Nenets Autonomous Area, Yamal-Nenets Autonomous Area, Komi Republic, Khabarovsk territory, Kamchatka, Buryatia and Tomsk region.

The socio-economic and cultural impact has also been dramatic. Due to the oil-gas industry, hundreds of thousands of workers from all parts of the Soviet Union have migrated to Siberia, turning the indigenous Khanty, Mansi and Nenets into minorities within their ancestral territories. Between 1960 and 1990, the population of Khanty-Mansi Autonomous Area increased tenfold, reducing the share of the indigenous population from 15 to 1.6%.<sup>93</sup> Large cities such as Surgut, Nizhnevartovsk and Novy Urgenoi have been built in the Siberian forest tundra, and railway lines and roads constructed. As a consequence, many indigenous people have lost their traditional livelihood, often being condemned to a marginal existence on the fringes of society.

In post-Soviet Russia, due to successful bargaining with Moscow, some regional administrations have managed to keep a substantial share of the tax revenues in their own coffers. They have thus been well-resourced to step up the material support to indigenous communities. While this certainly could not undo the tremendous damage done to their natural means of existence and their ancestral territories, it has nevertheless increased the material well-being of some segments of the indigenous population. In recent years, some gradual improvements in corporate practice have also been observed: less carrier gas is burnt on the spot, more is being utilised instead. In some places, the frequency of pipeline leaks has declined, and more indigenous people have been employed by oil companies. However, all of the abuses mentioned earlier are continuing, albeit in some places at a reduced level.

To this day, however, neither the regulatory framework nor the administrative practice is genuinely rights-based. An understanding of land and resource issues as human rights issues still has no grounding in society. Since the 1960s, the development of the West Siberian oil industry has commonly been glorified as a story of heroism and self-sacrifice for the good of the nation. When indigenous peoples assert their specific rights, demand fair compensation or oppose the entry of oil companies onto their ancestral territories, they are often faced with resentment and accused of greed and an undue sense of entitlement. Under conditions of increasing authoritarianism, the indigenous peoples' space for publicly asserting their rights is continuously shrinking, leaving them ever more vulnerable.

No major new oil deposits have been discovered on land in recent years, shifting the attention of development towards the shores of the Arctic and Pacific Oceans, including the coast of Sakhalin Island in the Far East and the Shtokman gas deposit in the Barents Sea, close to the Norwegian border. While this does not mean that the level of impact in the traditional oil territories has in any way diminished, it produces a whole new range of threats to indigenous peoples, especially to coastal, fish-dependent communities. The 2010 Deepwater Horizon oil spill in the Gulf of Mexico was perceived by indigenous peoples as an indication of how deep sea drilling would affect the fragile Arctic environment. In a 2013 joint declaration, 40 Arctic indigenous leaders from Russia and the Arctic Rim gathered in Utsunomiya, the site of the 1994 oil spill, to sign a joint declaration where they, among other things, demanded a ban on Arctic oil drilling and a moratorium on further onshore oil drilling in the Arctic. They declared:

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93 Johannes Rohr: *Die indigenen Völker Westsibiriens und die Erschließung der Öl- und Gasfördergebiete seit den 60er Jahren. Ein Konflikt um Land, Ressourcen und Lebensweise*, Master's thesis, August 1998, pp 63-65

*“All extraction and industrialization on Indigenous land should only be carried out with the explicit consent of the Peoples of the land. Furthermore, Indigenous communities must benefit socially and economically from any industrial extraction. We will not let the Arctic become another industrial area, destroyed to produce profit for the industry.”<sup>94</sup>*

The degree to which their aspirations will be fulfilled in the future remains to be seen. Whether or not Russia will continue to go down the path of fossil fuel-based development will, at least in part, depend on external factors such as the development of global oil prices and the fossil fuel demand from key markets such as China and Europe.

The political environment in Russia is not currently conducive to emancipatory agendas, and the number of indigenous representatives who question the oil-based development trajectory in principle is small. The latest developments show no sign of Russia increasing its consideration of indigenous rights during the planning and execution of oil and gas-related projects. When, in June 2014, the government announced that a new major long-distance pipeline was to be built from Irkutsk to China, there were no indications that any consultations had been held with the affected indigenous peoples. Construction was nonetheless slated to begin as early as July.<sup>95</sup>

Yet, even in an increasingly authoritarian political environment, the indigenous peoples continue to make their voices heard. In 2014, the Izvatas and other Komi in the North of Komi Republic unleashed a wave of protests after uncovering several instances of severe misconduct by the local oil company, Lukoil-Komi.<sup>96</sup> At the local level, they were able to establish enough public pressure to compel the company into sincere negotiations. Eventually, the district administration, although vulnerable to pressure from the powerful oil industry, declared that the demands of the protesting indigenous population were justified.<sup>97</sup> At the time of writing, the

outcome of this conflict was still undecided; however, the mere fact that indigenous rights activism can still make a difference at the local level is encouraging.

The road ahead for these activists is, however, challenging. Effective protection of the human rights of indigenous peoples living in the oil-affected regions demands a profound change in political culture, including full acceptance by the Russian authorities of the relevant international standards and best practices, in particular the principle of Free, Prior and Informed Consent as set out in the UNDRIP and a recognition of the underlying rights to land and self-determination.

### **5.1.1 Case study: The Iz'vatas – The impossibility of being indigenous**

The Iz'vatas are the northernmost ethnic group of the Komi people, living mostly in Izhma district of Komi Republic. The Komi are a nation of approximately 400,000 people, most of whom live in Komi Republic, an autonomous entity of 415,000 square kilometres within the Russian Federation. Most Iz'vatas live in Izhma district in the north of the republic, with smaller diasporas living in Murmansk and Tyumen regions as well as in Nenets and Yamal-Nenet Autonomous Areas. Their language belongs to the Permic branch of the Finno-Ugric languages. Compared to other indigenous peoples, but also to other Komi ethnic groups, the native language is still widely spoken and naturally used in many settings. In their native dialect, the river Izhma is called “Iz'va”, hence the name “Iz'vatas”. In Russian, they are known as “Komi-Izhemtsy” or simply “Izhemtsy”, the Izhma-people. Izhma also the name of their central village. In the Izhma district, some 90% of the local population identify as Iz'vatas.

The Iz'vatas are the only ethnic group of the Komi who practise semi-nomadic reindeer herding, which they adopted around the 18th century from their northern neighbours, the tundra Nenets. In contrast to the latter, they traditionally practise a rotational scheme of seasonal reindeer herding, with different teams of herders taking turns at taking care of the herds and migrating with them through the tundra. In doing so, they also cross over into neighbouring Nenets Autonomous Area.

The Iz'vatas take pride in their history of developing reindeer herding into a highly profitable business. In pre-Soviet times, the chamois leather they produced from reindeer skin was sold for record prices in Saint Petersburg and even in Paris and elsewhere in Europe. Impressive wooden churches endowed by wealthy Iz'vatas merchants and their impressive large wooden houses

<sup>94</sup> <http://www.greenpeace.org/international/Global/international/publications/polar/2013/IndigenousSolidarityStatement.pdf>

<sup>95</sup> Cf *Russia: Major new gas pipeline to China to be built without impact assessment*, 17 July 2014, [http://www.iwgia.org/news/search-news?news\\_id=1043](http://www.iwgia.org/news/search-news?news_id=1043)

<sup>96</sup> See *Russia: Komi in Usinsk district declare “The end of our patience has come”*, 6 June 2014, [http://www.iwgia.org/news/search-news?news\\_id=101](http://www.iwgia.org/news/search-news?news_id=101)

<sup>97</sup> *“Na vstreche v Izhme vr.i.o. Glavy RK publichno zajavil o spravedlivosti trebovanij obshhestvennosti k LUKOJL-Komi”*, 13 July 2014, <http://www.savepechora.ru/page.php?p=70>

still testify to their past wealth and commercial success. Besides reindeer herding, hunting and fishing remain important sources of food and income for the Iz'vatas.

When the indigenous peoples of the Soviet Union began to organise in the early 1990s, the Iz'vatas were among the first to become established, even before RAIPON, the federal umbrella organisation, had been registered. The organisation was simply called 'Iz'vatas' and was registered in 1990. Later, it was also formally accepted by RAIPON as a regional member organisation.

Nonetheless, in 2014, the Iz'vatas are still being denied most of the rights which other indigenous small-numbered peoples enjoy because their name does not appear in the state inventory of indigenous peoples. The reason is that inclusion into the state inventory has to be proposed by the regional government, something which the government of Komi Republic has consistently refused to do, defying the aspiration of the Iz'vatas, which was expressed, among other places, in the 2002 census, in which more than 15,000 citizens identified as "Komi-Izhemtsy". Since 2006, the Russian Academy of Sciences, too, has supported their recognition as indigenous people and concluded that it is not only factually justified but also necessary to alleviate their difficult socio-economic situation.

At present, the Iz'vatas are barred from enjoying the rights which are set out in the three framework laws "On guarantees of the rights", "On Territories of Traditional Nature Use" and "On Obshchinas", as well as those safeguards which are still preserved in the relevant sectoral laws (on waters, forests, fishing, land, etc.). This affects all of their livelihood activities: Iz'vatas families have customary hunting grounds, and community members usually know which ground belongs to which family. However, without recognition as indigenous peoples, they are denied the rights to land and resources set out in the three federal framework laws (see chapter 3.6), and so the Iz'vatas are officially poachers on their own land. While, for the most part, a tacit "don't ask, don't tell" agreement seems to be functioning, the lack of recognition leaves them vulnerable to legal threats.

Similarly, while access to fishing grounds is often insufficient, even for recognised indigenous peoples, Iz'vatas communities lack even these basic rights. Fishing is highly regulated and supervised by a host of different state agencies with often unclear and overlapping authority. As a result, the Iz'vatas' customary use rights are neglected in their entirety, turning them into poachers on their native rivers. It should be added that the Iz'vatas reindeer herders lack sufficient state support for their way of life within their own autonomous republic.

This is one of the reasons why they prefer to migrate into Nenets Autonomous Area, which officially recognises and supports reindeer herders.

The north of Komi Republic is rich in oil and metals. Since the early 1970s, Usinsk district, the northern neighbour of Izhma district, has been one of the centres of oil extraction. The annual oil production of the Timano-Pechora basin is between 16 and 20 million metric tons. The region's total oil reserves have been estimated at up to 2 billion metric tons.<sup>98</sup> Since the break-up of the Soviet Union, the oil industry is no longer under direct government control but has mostly been taken over by Lukoil Komi, which is a subsidiary of Lukoil, one of Russia's leading oil producers. In the early 1990s, the region's leading environmentalist, Valentina Semyashkina, an Iz'vatas by birth and one of Komi's foremost environmental activists, warned that the region's ailing pipeline system was in such a poor state that it was likely to result in disaster. Unfortunately, her warnings went unheeded but turned out to be correct. In 1994, a massive leak released over 200,000 metric tons of crude oil into the surrounding taiga, the largest ever recorded onshore oil spill, devastating huge areas of swamps, pasture, hunting and fishing grounds. Images of the disaster, of oil lakes and burning forests, were broadcast around the world. While the mostly non-indigenous oil workers living in the oil city of Usinsk hardly felt the devastation, the rural indigenous population, living off the land, and thus being fully exposed to the contamination, experienced major health impacts.

It is therefore not surprising that when, in early 2002, Lukoil Komi embarked on new operations, this time in Izhma district, the Iz'vatas' response was less than enthusiastic, especially since the company was seeking to drill for oil in the Sëbys' Wildlife Sanctuary (*zakaznik*) on the right bank of the Sëbys' river.<sup>99</sup> Many Iz'vatas have their traditional hunting grounds within the nature reserve and, due to their lack of state recognition, the nature reserve is the only form of protection their traditional hunting enjoys. Hunting grounds within the Sëbys' reserve have been customarily divided between clans or families for generations. In order to enable oil drilling within the territory, the Komi government commissioned a study with the Ural branch of the Russian Academy of Sciences, hoping to receive certified evidence of the

98 Valentina Semjaschkina : *Erdölförderung, Alu-Hütten und Weltraumschrott . Industrielle Erschließung bedroht den Lebensraum der Ishma-Komi*. In: *Infoe-Magazin*, vol. 19, pp. 12-14

99 Information from interviews conducted by the author during 2007 fact-finding mission

territory's low conservational value, allowing for part of the territory to be taken out of the nature reserve and signed over to Lukoil. The study came to the opposite conclusion, however, and demonstrated that the territory contained a complex ecosystem of outstanding significance. It also confirmed that the Iz'vatas' traditional nature use had been fully sustainable and had contributed to its conservation.

Regardless of this, the government went ahead and modified the reserve's boundaries and the company commenced geological prospecting and various test drillings. The Iz'vatas responded by suing the government and the company and by mobilising the public. After a wave of protests, the exploration works in the nature reserve were stopped and the district administration passed a decree "*On the protection of the natural habitat of the local population of Izhma district*" which stipulated mandatory public hearings before any new operations. This eventually provided leverage to prevent several more attempted test drillings.

The 2003 protests were largely motivated by the fresh memory of the 1994 Usinsk disaster; furthermore, they were supported by an alliance between the Iz'vatas and various civil society and environmental organisations. Local activists who had participated in the protests noted in retrospect that the successful public mobilisation had been made possible by a combination of factors, and they were sceptical as to whether, given the changing social circumstances, they would be able to prevent new attempts by Lukoil to re-enter the territory.<sup>100</sup> It was also noted that indigenous activists involved in the protests had paid a personal price for their participation, including possible or actual loss of their employment and/or their housing, the threat of criminal prosecution as poachers due to the denial of indigenous status and, consequently, of land use rights, spreading of defamatory rumours and even death threats.

The Iz'vatas' resolve to defend their ancestral territory has, however, held. In 2005, during the Congress of indigenous small-numbered peoples of Russia, they held protests before the World Bank representation in Moscow to oppose the bank's proposed support for a bauxite plant upstream on the Izhma River. They feared that the toxic sludge stored in tailings ponds might spill into the river. Eventually, the project was cancelled.

In 2008, the Iz'vatas were officially accepted by RAIPON as an indigenous people; the state, however, continued to deny their aspirations.

Meanwhile, even though Lukoil had to withdraw from the nature reserve, it was operating several dozen oil wells within the district. At the same time, the company was paying no taxes to the district (40% of taxes paid to Komi Republic, 60% to the Federal tax authorities). The only tangible benefits of Lukoil's activities were that approximately 300 inhabitants were employed by the company and that it responded to the Iz'vatas' resistance by agreeing to negotiate annual "social partnership agreements" with earmarked funding for various social purposes.

At the same time, the company has built up a track record of bad conduct, including frequent oil spills with regular cover-ups and mismanaged clean-up operations.<sup>101</sup> In August 2012, the Iz'vatas thus hosted an international indigenous peoples' and environmentalist conference which adopted the Usinsk Declaration demanding, among other things, a moratorium on new onshore drilling and the prohibition of Arctic offshore oil extraction.<sup>102</sup> Since the beginning of 2014, several spectacularly failed attempts to clean up or cover up oil spills have been uncovered by indigenous residents and activists. In February 2014, inhabitants of the village of Krasnobor discovered several oil rigs which had been erected literally on the edge of the village. Construction had commenced without the mandatory public hearing, without the agreement of or even notice given to the local inhabitants or the administration. In March, inhabitants of Shchelayur village in Izhma district noticed flames and smoke coming from a site 10 km away from their village, where oil had leaked from a pipeline over an area of 0.6 hectares. This incident happened just weeks after another spill had occurred at exactly the same location. In order to "clean up", the workers had decided to set fire to the spilled oil. The pillar of smoke was visible for days as far as ten kilometres away. The practice is illegal, and the company alleged that the spilled oil had caught fire by accident. However, the local residents say that this method is simply common practice and is being used all the time. As in this case, the typical response is to deny and cover up.

This course of action is encouraged by the fact that the agency in charge of monitoring the oil company's environmental conduct, the "Federal Service for Supervision of Natural Resource Usage" or "*Rosprirodnadzor*", as it is abbreviated in Russian, has very few inspectors

100 Personal interviews during fact-finding mission conducted in Summer 2007.

101 Regular updates on these issues available at <http://www.savepechora.ru> (in Russian)

102 See Greenpeace website at <http://www.greenpeace.org/international/Global/international/publications/polar/2013/Indigenous-SolidarityStatement.pdf>



on the ground. In 2007, only 8 or 9 inspectors were in charge of monitoring the entire extractive sector in Komi Republic, which covers an area larger than Italy or Germany.<sup>103</sup>

In response to these incidents, in a move very rare in contemporary Russia, at a gathering of residents of Izhma district held in Krasnobor village on 2 April, the participants unanimously resolved to terminate the operations of the oil company "Lukoil-Komi" within their territory. This move was preceded by the construction of a long-distance pipeline through the district, which was likewise started without a public hearing. In fact, in both cases, the company responded by staging mock public hearings in a location far from the affected settlements.<sup>104</sup>

On 11 April, the Izhma district council followed suit and decided that all of Lukoil's operations should be halted until the demands of the Iz'vatas were met, including the holding of proper hearings for the mentioned projects and bringing those responsible for the cover-ups and the failed clean-up operations to justice.<sup>105</sup> News about these events was spread, among others, by Greenpeace and the climate NGO 350.org, who also set up a campaign web site to collect messages of solidarity for the Iz'vatas. However, not unsurprisingly, Lukoil has ignored the people's decision and continues its operations unabated, accompanied by the same violations of environmental regulations as before. Further, the company denied access to its production sites for the inspections that have been requested by members of a public commission appointed by the district council.

The Iz'vatas and their allies will therefore have to continue their struggle to end Lukoil's bad conduct within their territory. Their chances of achieving this goal would be much better if the state were to comply with the rights of indigenous peoples as stated in the UN-DRIP, means first and foremost recognising the Iz'vatas as an indigenous people, endowed with collective rights under international law, including the right to their traditional lands and resources and, subsequently, the right to be consulted and to give or withhold their Free, Prior

and Informed Consent to any third-party activity that affects their territories. This case is also a reminder that, as stated in the UN Guiding Principles on Business and Human Rights, business enterprises have an independent responsibility to respect the human rights of people affected by their operations; however, they frequently fail to comply with this responsibility when state institutions are either unwilling or unable to hold them to account.

Whether or not the Iz'vatas will be able to bring about the political and cultural change and tip the balance in favour of responsible corporate conduct, transparency and good governance will, to a large degree, depend on the pace of development in the country as a whole and just how much freedom of operation civil society is able to retain.

## 5.2 Mining and metals

Mining is the second largest extractive sector in the Russian Federation. As with oil and gas, some of the largest and most environmentally harmful mining operations are taking place in or near indigenous peoples' ancestral territories. Russia is the world's third largest coal exporter, the leading producer of nickel<sup>106</sup> and a major producer of copper, steel, gold, platinum, diamonds, coal and many other metals.<sup>107</sup>

Large extraction sites include the world's largest nickel mine, the **Norilsk mining site on Taimyr Peninsula** in the north of Krasnoyarsk territory. Norilsk, with its 175,000 inhabitants, is a closed city, i.e. foreigners are barred from visiting the city without a special permit from the city authorities and the mining company.<sup>108</sup> Norilsk was built to exploit the nickel deposits and has gained notoriety as one of the world's most polluted cities. Today, the site is operated by MMC Norilsk Nickel, the world's largest nickel and palladium company, domiciled in Moscow.

Norilsk Nickel has a long and problematic history with the indigenous peoples of Taimyr. During its 80 years of existence, the company's operations have had

103 Information obtained during personal interviews in 2007.

104 See: *Russia: Izvatas declare oil company "Persona non grata*, dated 10 April 2014, [http://www.iwgia.org/news/search-news?news\\_id=955](http://www.iwgia.org/news/search-news?news_id=955)

105 See "*Russia: Izvatas declare oil company "Persona non grata*", 10 April 2014, at [http://www.iwgia.org/news/search-news?news\\_id=955](http://www.iwgia.org/news/search-news?news_id=955) and *Komitet spasenija Pechory: Sovet Izhemskogo rajona podderzhal reshenie krasnoborskogo sobranija i potreboval priostanovit' dejatel'nost' Ooo Lukoil-Komi na territorii rajona*, at <http://savepechora.ru/page.php?p=52>, both accessed 7 May 2014.

106 <http://www.mapsofworld.com/minerals/world-nickel-producers.html>

107 Mining industry of Russia. ( January 15 2014). In *Wikipedia, The Free Encyclopedia*. Retrieved 10:15, 21 March 2014, [http://en.wikipedia.org/w/index.php?title=Mining\\_industry\\_of\\_Russia&oldid=590747660](http://en.wikipedia.org/w/index.php?title=Mining_industry_of_Russia&oldid=590747660)

108 Officially, this restriction is supposed to control migration but a probably not unwelcome side-effect is that it is very difficult for foreign civil society and the media to enter the city. The same is now true for many other regions inhabited by indigenous peoples.

a devastating effect on the traditional territories of the Nenets, Enets and Dolgan indigenous peoples, many of whom engage in nomadic reindeer herding. Vast stretches of reindeer pasture, as well as many sacred sites, have been irretrievably destroyed. In contrast, Norilsk Nickel's contribution to the indigenous population's socio-economic development has been virtually non-existent. While federal legislation stipulates that indigenous peoples' associations are entitled to compensation for damage inflicted on their traditional territories,<sup>109</sup> as of 2013 there had not been one single instance of compensatory payments made by Norilsk Nickel to any indigenous peoples' association.<sup>110</sup>

The company also operates several mining sites on the Kola Peninsula, the homeland of the Russian Saami. Its sites include the mines and smelter near the town of **Nikel** on the Norwegian border, which is notorious for the total destruction of plant life for kilometres around the plant, caused by sulphur dioxide fumes.

Gold mining is most prevalent on the **Kolyma** River in Magadan region. Gold mining was developed by mainly relying on mass forced labour in the Stalin era, directed by the infamous "Dalstroj" trust which, between the 1930s and 1950s, shipped hundreds of thousands of prisoners to the Kolyma mines. Today, gold mining is also found in many other home regions of indigenous peoples, including the Amur region, Kamchatka and Chukotka. Contemporary industrial gold mining typically uses cyanide to extract a few grams of gold from each ton of rock, leaving behind huge amounts of tailings which, when stored in huge ponds, often constitute ticking time bombs for the environment and its inhabitants.

### 5.2.1 Case study: Living and dying in Kazas

Open pit coal mining is prevalent in the **Kuznetsk Basin** (Kuzbass), one of the world's largest coal deposits along the basin of the Tom River in the Tomsk and Kemerovo regions. Here, mines have literally besieged the remaining indigenous settlements. One of these is

Kazas, a hamlet located in Myski Urban Okrug, south of Kemerovo Region. Throughout its 150-year history, it has been predominantly inhabited by Shors, the largest indigenous people of the Kuzbass, who speak a Siberian Turkic language. As late as the 1970s, Kazas was a vibrant village of 50 homes. Every family had at least three children. They learned how to hunt and fish from an early age. They kept cattle and poultry and grew vegetables on their land. The village had a school and a grocery store. By 2010, only 29 villagers remained and, in 2014, most of the remaining houses had been bulldozed or torched. What had happened in Kazas?

The Sibirginsky open cast mining site was opened in 1971. It is today operated by the mining company, OOO Sibirga. The fields where the villagers of Kazas used to graze their cattle were confiscated to grow potatoes for the miners. As the Shor writer Veniamin Boriskin remembers:

*"They immediately tore down a large Shor settlement, Kurya, to make way for coal extraction. Before our very eyes, on either side of the river Mras-Su they started removing the mountains which for centuries had fed the Shor people. Blasts were thundering, shaking the surroundings. The house was shaking. In the gardens, the vegetables began to wither early".<sup>111</sup>*

Following this, the Mezhdurechenski mine was opened just three kilometres away from Kazas. When another strip mine, "Krasnogorsky", was opened upstream on the Kazas River, the formerly pristine river turned into a dead sewage course, whose muddy water was poisonous to fish, cattle and men:

*"During meetings the people constantly demanded that the authorities build a sewage treatment plant at Kazassik. But they always responded that a biological water purification station was planned. Now the river has perished completely, the villagers have died out, and yet the project is still under preparation."<sup>112</sup>*

109 Federal Act 82-FZ, dated 30 April 1999 "O garantijah prav korennyh malochislennyh narodov Rossijskoj Federacii", <http://constitution.garant.ru/act/right/180406/>, Para 5.

110 Letter from the Taimyr association of indigenous peoples to Norilsk Nickel, dated 31 August 2012; see also "Nori'skiy nikel" sobiraetsja zalozhit' novyj rudnik, *Associacija korennyh narodov Tajmyra protestuet*, 4 September 2012, <http://www.raipon.info/component/content/article/1-novosti/3352-q-q.html>, IWGIA/RAIPON (eds): *Briefing note: Mineral extraction in the Taimyr Peninsula*. September 2012. [http://issuu.com/iwgia/docs/taimyr\\_briefing\\_note\\_sept\\_2012](http://issuu.com/iwgia/docs/taimyr_briefing_note_sept_2012)

111 See Veniamin Boriskin: *Genotsid v Kazase*, 3 May 2012, <http://news.shor-people.ru/news/genocid-v-kazase.html>, See also IWGIA Briefing note *Coal mining in Kemerovo oblast, Russia*, [http://www.iwgia.org/iwgia\\_files\\_publications\\_files/0595\\_Coal\\_Mining\\_in\\_Kemerovo\\_Oblast\\_Briefing\\_note\\_Sept\\_201](http://www.iwgia.org/iwgia_files_publications_files/0595_Coal_Mining_in_Kemerovo_Oblast_Briefing_note_Sept_201)

112 Ibid.

Boriskin also notes that:

*“Near the village, on the shore, a few times two excavators were extracting gravel. One was digging, another loaded the trucks. Trucks raced through the village, but children were always playing on the road. In the summer, a plume of dust stood over the village. Residents resisted this, as much they could: they blocked the road with logs, they stood as a human wall before the trucks. And, finally they succeeded, a bypass road was built.”*

Another tribulation came when the mining company Si-birga erected a checkpoint on the road leading to the mine, which was also the only road leading to the village of Kazas. In order to access their own village, the residents would have to get monthly permits from the company or the village administration. In at least one instance, the checkpoint refused entrance to an ambulance. Only after resorting to legal means was the village's *de facto* blockade finally lifted.<sup>113</sup>

The last straw came when the “Beregovoi” mine started mining the Shors’ sacred mountain, the Karagaydash, in 2011. The explosions were so close to the village that you could see the stones flying. Another mountain that shielded the village from the strip mines is now being destroyed by the “Yuzhnyi” strip mine. Boriskin comments:

*“Once the strip mines appeared, the village started dying out. A few families with little children, some grandmothers and one pensioner remain. That’s the kind of ‘beautiful’ life that the industrial civilization has brought to the Shors. The river has perished, so have the taiga and the village. Fish have disappeared; there is no more game and no more birds. The last residents are passing away in silence, having received nothing in exchange for their suffering. Having raked out millions of tons of coal from the subsoil, the coal generals did nothing to improve the lives of the indigenous population.”*<sup>114</sup>

In 2014, the local situation seems to be completely out of hand. Some villagers have given up and sold their houses in order to relocate to the town of Myski, while some remain defiant and are staying on. In early 2014,

113 Ibid.

114 Ibid.

several houses were torched by unknown persons, others bulldozed.<sup>115</sup> Clearly, by this time, the village was in the final stages before being erased from the face of the earth. All these incidents are well documented, including video footage of demolitions of homes in Kazas.<sup>116</sup> Russia could therefore have taken the necessary action to protect and fulfil the rights of the Shors, including their rights to health, subsistence and housing. Failure to do so is a clear violation of its obligations under the ICESR.

### 5.3 Energy & dams

In 2000, a global survey by the World Commission on Dams (WCD) revealed the grave human rights impacts of and the full environmental cost associated with large dams.<sup>117</sup> This has called the very notion of hydropower as a renewable energy source into question. As the WCD report points out, indigenous peoples are among the groups most affected.

Russia is the world’s fifth largest producer of hydropower and has the world’s second largest hydropower potential.<sup>118</sup> RusHydro is the company building and operating most of Russia’s large dams.<sup>119</sup> With a capacity of 37.5 Gigawatts, it is one of the world’s largest producers of hydropower and one of Russia’s largest energy producers. The Russian state owns about two-thirds of its share capital,<sup>120</sup> making it a textbook example of what has been labelled the ‘State-business nexus’, a corporation largely controlled by the state. As the UN Guiding Principles on Business and Human Rights affirm, the state is under a particular responsibility to ensure that

115 Notes about the torching and demolition of houses in Kazas: *Kazas vyzhigayut*, <http://shoria.info/new-shoria/myski/material/kazas-vyzhigayut>, Unichtozhenie Kazasa (Shorskaya derevnya) <http://shoria.info/new-shoria/myski/material/unichtozhenie-kazasa-shorskaya-derevnya>, Kemerovskie ugolshiki rasshiryayut razrezy za schet podzhigayemykh zhilykh domov, (16 January 2014) [http://www.kasparov.ru/material.php?id=52D65190AF816&section\\_id=43452BE8655FB&subject\\_id=163](http://www.kasparov.ru/material.php?id=52D65190AF816&section_id=43452BE8655FB&subject_id=163) Natsaktsent.ru: *V shorskom poselke Kazas zagorelsya eshcho odin dom.* (15 January 2014), <http://nazaccent.ru/content/10289-v-shorskom-poselke-kazas-zagorelsya-eshe.html>,

116 See “*Unizhtozhenie Kazasa (shorskaya derevnya)*” <http://www.youtube.com/watch?v=X0hTY1achHs>

117 World Commission on Dams: *Dams and Development. A new framework for decision-making.* November 2000, [http://www.unep.org/dams/WCD/report/WCD\\_DAMS%20report.pdf](http://www.unep.org/dams/WCD/report/WCD_DAMS%20report.pdf)

118 See: *Rossiiskaya gidroenergetika*, <http://www.rushydro.ru/industry/russianhydropower>

119 Official website: <http://www.rushydro.ru>

120 See company profile at [http://www.eng.rushydro.ru/company/in\\_brief/](http://www.eng.rushydro.ru/company/in_brief/), also see <http://www.plotina.net>, a website operated by a Russian NGO working exclusively on large dams.

the operations of such corporations do not violate human rights.<sup>121</sup>

Some of the world's largest water courses run through indigenous peoples' territories in Siberia and the Russian Far East. These rivers hold a key place in the state's long-term energy strategy.<sup>122</sup> At present, 102 large dams of over 100 Megawatts each are in operation. However, according to RusHydro, 80% of the country's hydropower potential is still unused. This implies that, in the years and decades to come, indigenous peoples are likely to be affected by an array of new megadams, threatening their future and collective survival.

One large dam which destroyed the means of existence of indigenous peoples is the 600 Megawatt **Kureiskaya Hydroelectric Power Plant** (HPP) on the Kureika River in the north of Krasnoyarsk Krai. The dam's purpose was to provide power for the operation of the Norilsk nickel smelter (see section 6.2).<sup>123</sup> The effects on indigenous peoples have been catastrophic. Hunting and grazing land was submerged, local climate changed, forests were not removed prior to flooding, leaving the wood to rot under water, which resulted in poisoned, dead lakes and rivers. Indigenous communities lost their sources of food, their pastures, some had to relocate.

One megaproject which was under preparation in the late 1980s was what was originally known as the Turukhanskaya HPP on the Lower Tunguska River in the then Evenki Autonomous Area.<sup>124</sup> This proposed 12,000 Megawatt HPP would have produced the world's largest artificial lake, submerging 9,400 square km of land, including several Evenk settlements and even Tura, the Evenk area's capital. Ecological risks included the loss of large areas of precious virgin forests, of some of the Evenks' main pasture land and hunting grounds and the emergence of another poisonous, dead lake of gigantic proportions. It would also have dissolved and spread radioactive contaminants from the nuclear blasts undertaken in Soviet times for geological research. Overall, the projected effect on the Evenks of the region would have been ethnocidal, potentially spelling their end as a distinct group.

What spared Evenkia from disaster was the advent of *perestroika* and *glasnost* in the late 1980s: while the environmental impacts of some of the Soviet Union's industrial development had occasionally been discussed in academic publications, only under Mikhail Gorbachev could their extent and severity become a matter for broad public discourse. The new environmental movement further catalysed the transformation away from State socialism and actually stopped some of the worst gigantomanic and environmentally irresponsible industrial projects.<sup>125</sup> However, the project made a comeback in 2006, now under the name of "Evenkiiskaya HPP", when RusHydro's predecessor HydroOGK undertook a feasibility study. The project eventually received the official support of the government and was included in the strategic development plan for the development of Siberia's energy resources.

Evenkia is an extremely sparsely populated area with very little infrastructure, making communication and networking among local indigenous representatives exceedingly difficult. However, all available reports showed that the local Evenki population unanimously rejected the plans, regardless of any material benefits promised by the company. In 2008, RAIPON and IWGIA jointly submitted a parallel report to the UN Committee on the Elimination of Racial Discrimination (CERD) which, among other things, warned of the dam's anticipated grave impact. In response, the CERD took a very clear position, recommending a withdrawal of government support for the project (cf section 6.10.1.2). Given the dimensions of the project and its implications, there was indeed no possibility of it being realised without the government's active backing.

Throughout 2009, RAIPON as well as some large environmental organisations, including the WWF and Greenpeace, campaigned against the project. In parallel, RusHydro continued its efforts to move the project forward and to complete the mandatory Environmental Impact Assessment (EIA). While Russian legislation does not acknowledge the indigenous peoples' right to give or withhold their Free, Prior and Informed Consent, the EIA procedure requires that public hearings be held, at which objections to the project can be voiced and must be adequately registered. A frequent experience of

121 See *Guiding Principles on Business and Human Rights. Implementing the United Nations "Protect, Respect and Remedy" Framework*. New York and Geneva 2011, pp 6-8, [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

122 Ibid.

123 Similar cases are the Kolymkaya HPP in Magadan okrug and the Viliuiskaya HPP in Sakha (Yakutia), built to provide energy for the giant Mirny open pit diamond mine.

124 In 2008, the Evenki Autonomous Area ceased to exist as a federal territory and was merged into the Krasnoyarsk Krai.

125 The most prominent of these projects was the "Siberian river reversal project" which was to redirect the waters of some of Siberia's large rivers to Central Asia. See Wikipedia contributors, 'Northern river reversal', Wikipedia, The Free Encyclopedia, 22 March 2014, 17:58 UTC, <[http://en.wikipedia.org/w/index.php?title=Northern\\_river\\_reversal&oldid=600760860](http://en.wikipedia.org/w/index.php?title=Northern_river_reversal&oldid=600760860)> [accessed 21 April 2014]

indigenous peoples is that hearings are held in an inadequate manner and that the protocols do not reflect the objections and concerns expressed. In September 2009, a public hearing was held in Tura but the village council head eventually refused to sign the protocol prepared by RusHydro, which he deemed inadequate. Eventually, the village council resolved that the project was inadmissible.

In May 2010, RusHydro announced that it was suspending the project.<sup>126</sup> Since then, the project seems to have been abandoned, although in late 2011 there were reports of renewed activity.<sup>127</sup> It is difficult to assess which factors ultimately triggered the decision by RusHydro and what the contribution of environmental and indigenous protests were. It seems justified, however, to conclude that they did affect the decision, indicating that, at least in 2010, the political environment in Russia still allowed indigenous peoples allied with civil society to have an impact on decisions affecting their interests. With Russia's continued development towards a more authoritarian regime, such space for action appears to be shrinking. Should the project make another comeback, real concern would therefore be warranted.

It must be recalled that the Evenkiiskaya HPP is not the only large dam in the pipeline. As noted above, according to RusHydro, 80% of Russia's hydropower resources are still untapped and their development is a key component of Russia's energy strategy. The issue will therefore remain on the agenda for the foreseeable future.

RusHydro is a largely state-owned and state-controlled corporation. The state therefore has extensive leverage over the company and, according to the UN Guiding Principles on Business and Human Rights, a special duty to ensure that the company's operations do not violate human rights. It is, however, doubtful whether Russia will comply with this obligation. As the development of hydropower is framed in the discourse of the "national interest", there is a danger that harmful impacts on affected groups will be viewed as collateral damage that has to be accepted for the common good. This danger may increase further if the development towards authoritarianism continues.

126 *The Moscow Times*: "Evenkia Dam Project Postponed", 4 May 2010, [Accessed 21 April 2014], <http://www.themoscowtimes.com/business/article/evenkia-dam-project-postponed/405298.html>

127 IWGIA: "Russia: Evenki hydroelectric dam pops up again!", 4 December 2011, at [http://www.iwgia.org/news/search-news?news\\_id=400](http://www.iwgia.org/news/search-news?news_id=400)

## 5.4 Aerospace

The Russian Federal Space Agency, commonly known as Roskosmos, is one of the world's largest operators of commercial and military space flights. It runs several spaceports or cosmodromes, including Baikonur in Kazakhstan and Plesetsk in Arkhangelsk territory. Most launches, including all manned space flights, take place in Baikonur. One of the main uses of the Plesetsk site is for the launch of military satellites.

The most used vehicles are the rockets of the "Soyuz" family. For the initial portion of the flight, these rockets use four liquid-fuelled booster rockets which later separate and fall to the ground.<sup>128</sup> They come down somewhere in one of the affected regions; the inhabitants of remote and disconnected places often remaining unaware of the launch. During impact, parts may be scattered around and fuel tanks burst, dissipating their toxic contents. Villages in whose vicinity rocket parts have come down report a variety of serious health issues ranging from allergies to a drastic increase in various forms of cancer, including lung and stomach cancer. Children particularly suffer from the long-term impacts.<sup>129</sup>

Areas affected by these falling parts include parts of the republics of Altai and Komi, the Nenets Autonomous Area, Khakassia, Tyva (Tuva) and Sakha (Yakutia). Apart from the risks posed by falling booster rockets, the main health concern is the spilling of rocket fuel and combustion products into the environment. In Altai Republic, which is affected by flights launching from Baikonur, 10% of its population have been found to have increased concentrations of heptyl in their blood. Heptyl is one highly toxic component of the liquid fuel powering the booster rockets.<sup>130</sup> The European North, including the Nenets Area and the northern part of the Komi Republic, is affected by the Plesetsk cosmodrome in Arkhangelsk region. The cosmodrome was opened in 1966 and, since then, more than 1,900 rockets have been launched. In Komi Republic, the indigenous-led

128 For a description of the rocket family, see: Wikipedia contributors, '*R-7 (rocket family)*', Wikipedia, The Free Encyclopedia, 5 May 2014, 20:22 UTC, <[http://en.wikipedia.org/w/index.php?title=R-7\\_\(rocket\\_family\)&oldid=607231514](http://en.wikipedia.org/w/index.php?title=R-7_(rocket_family)&oldid=607231514)> [accessed 25 August 2014]

129 <http://www.seu.ru/members/chram/2002/02/5.htm>

130 See: *Padaiushhie rakety-nositeli mogut povliiat' na zdorov'e altaitsev* [http://fedpress.ru/news/ecology/news\\_envir/1397125016-padayushchie-rakety-nositeli-mogut-povliyat-na-zdorove-itaitsev](http://fedpress.ru/news/ecology/news_envir/1397125016-padayushchie-rakety-nositeli-mogut-povliyat-na-zdorove-itaitsev), accessed 25 April 2014. In June 2014, the Russia daily *Izvestiya* reported that Roskosmos' former head Vladimir Popovkin, who passed away in 2013, had died of heptyl intoxication contracted while inspecting a clean-up operation after a failed rocket launch, see: <http://izvestia.ru/news/572644>,

Committee to Save Pechora<sup>131</sup> has been publicising the dangers that are falling out of the sky for years.

From 2016, more indigenous people may be affected by falling rocket parts when the “Vostochny” (“Oriental”) cosmodrome commences operations. The burnt-out rocket stages are then expected to come down on Khabarovsk territory and Amur region, and once again, these are districts which are predominantly inhabited by indigenous peoples.<sup>132</sup>

According to the UN Declaration on the Rights of Indigenous Peoples, there are multiple reasons as to why Russia should seek the indigenous peoples’ Free, Prior and Informed Consent for any such operations: the fact that indigenous peoples’ territories are affected (Art. 32), the spread of hazardous materials (Art. 29) and the military aspect of some of the operations (Art. 30).

At present, there are no indications that their FPIC is being sought or that meaningful consultations are being held, either with the indigenous peoples currently affected or with those likely to be affected in the future. On the contrary, during a meeting held in Khabarovsk in March 2014, a Roskosmos spokesperson claimed that the areas affected by the new spaceport were virtually uninhabited.<sup>133</sup> This demonstrates how negligence in the identification of affected groups can lead to human rights violations.<sup>134</sup> Given current experience, it is to be expected that the “Vostochny” site will have a substantial and adverse impact on the health of the indigenous communities in Khabarovsk and Amur regions and if this is the case, one of the causes will be Roskosmos’ refusal to acknowledge their mere presence.

## 5.5 Conservation, tourism and timber

Russia has the world’s largest boreal forests. For indigenous peoples, the forest fulfils many functions: it is their

home, their sanctuary, their food store and the source of their traditional medicine. In the forests, which they have used and managed for millennia, indigenous peoples hunt, collect, celebrate, worship, educate their children, inscribe and commemorate their history. Indigenous communities practise their own traditional forest management. However, in recent years, several different outside interest groups have laid claim to their forests for a variety of reasons: primarily for timber resources but also for revenues from hunting tourism and for conservation value. In Russia, forests are vested in the federal ‘Forest fund’ (*lesnoi fond*), that is, they are considered state property. In legislation, indigenous peoples merely have limited *usufruct* rights for the perpetuation of their traditional way of life. Their traditional ownership of their forests is not acknowledged.

This increases the danger that forests are taken out of indigenous communities’ control and end up in the hands of third parties who rarely display sufficient understanding of indigenous peoples’ customs, traditions and values, and do not seek indigenous peoples’ Free, Prior and Informed Consent.

The territory of the Udege living in the Bikin river valley in Primorsky Territory is uniquely rich in biodiversity, including the world’s largest unbroken array of cedar-broadleaf forest and populations of Siberian tigers and leopards. Since 2001, with support from indigenous peoples, conservation organisations have been making efforts to have it inscribed on the UNESCO World Heritage list. It is today included on the tentative list.<sup>135</sup> Its inscription as World Heritage was originally declined because the Russian government presented insufficient management proposals which, i.a., lacked the due participation of indigenous peoples. The territory was re-nominated in 2010 but the government has failed to move the process forward. At the same time, the territory is highly endangered by illicit logging, hunting and other harmful forms of resource exploitation.

Beside the efforts directed at UNESCO, indigenous peoples have been fighting for the creation of a Federal-level Territory of Traditional Use (TTNU) in the basin of the Bikin River. In order to make this happen, in 2006 the indigenous *obshchina* ‘Tiger’, which comprises citizens of Krasny Yar, funded the development of the necessary project documentation. The Government of the Russian Federation never moved to establish the TTNU, however. In 2009, the *obshchina* also joined a project in cooperation with the WWF and the federal environmental ministry of Germany, funded by Germany’s develop-

131 <http://www.savepechora.ru>

132 *Chastii raket-nositelej s kosmodroma Vostochnyi upadut na Khabarovskij kraj*, <http://blagoveshensk.bezformata.ru/listnews/raket-nositelej-s-kosmodroma-vostochnij/18491418/>, [accessed 25 April 2014]., Olga Murashko: *Russia: Large indigenous settlement areas affected by heptyl pollution from rocket launches*, 8 July 2014, [http://www.iwgia.org/news/search-news?news\\_id=1031](http://www.iwgia.org/news/search-news?news_id=1031)

133 Murashko, *Ibid.*

134 The proper identification of risks and of possibly affected groups is a core human rights obligation acknowledged i.a. by the UN Guiding Principles on Business and Human Rights. This particularly concerns indigenous peoples because their customary occupancy of a given territory is often undocumented. See *IWGIA Report 16 - Business and Human Rights: Interpreting the UN Guiding Principles for Indigenous People*, Copenhagen 2014, p. 27, [http://www.enip.eu/web/wp-content/uploads/2014/07/IWGIA\\_Report\\_16\\_UNGP.pdf](http://www.enip.eu/web/wp-content/uploads/2014/07/IWGIA_Report_16_UNGP.pdf)

135 See list entry at <http://whc.unesco.org/en/tentativelists/5571/>

ment bank, KfW, aimed at the long-term protection of the virgin forests around the middle Bikin as a climate mitigation measure.<sup>136</sup> Under the project, the *obshchina* receives support to purchase long-term usage rights of non-timber forest products for a period of 49 years.

According to the plans, the indigenous peoples will have the right to prohibit logging in the concession area and to practise their traditional hunting and lifestyle traditions. In 2009, the Primorsky Forest Administration conducted an auction for the long-term right to harvest non-timber forest products, including berries, mushrooms and nuts over a territory of 461,154 hectares. Using the funding provided through the project, the *obshchina* submitted its bid and obtained the 49-year-licence. According to the licence conditions, all economic activity in this territory has to be agreed with the *obshchina*, giving it limited control over its territory.

However, in a newer development, the Russian government has taken steps which threaten to take away this limited control from the community: in 2013, President Putin decided to make the preservation of the Amur tiger and leopard populations a political priority and, in November 2013, he handed down orders “*to ensure the preparation and adoption of normative legal acts, aimed at the establishment of an especially protected conservation area of Federal significance in the form of a National Park in the basin of the upper and middle reaches of the Bikin river, with special consideration for the need to regulate the possible participation of representatives of indigenous small-numbered peoples of Primorsky Territory in in the park’s management*”.<sup>137</sup>

The inhabitants of Krasny Yar were alarmed by the news that their territory was to be turned into a natural park instead of a TTNU. In response, they pleaded to the president to abolish this plan and to establish a TTNU instead. They recalled that they considered the Siberian tiger sacred and that they had ensured its survival on their own for centuries.<sup>138</sup> The cause for their alarm was that there are many known examples whereby the establishment of natural parks in Russia has significantly limited the ability of indigenous peoples to pursue their traditional ways of life and to assert control over their territories: examples well-known to the Udege community of Krasny Yar are the Bystrinski and Nalychevski parks

on the Far Eastern Peninsula of Kamchatka and the “Udegeiskaya Legenda” park established in Khabarovsk territory. All of these parks exploit indigenous culture and imagery in their promotion; however, indigenous peoples do not participate in their management. They are often barred from accessing their ancestral hunting and fishing grounds and prevented from developing their own ethno-tourism businesses. Traditional subsistence activities such as reindeer herding have declined substantially since the parks were instituted while hunting and fishing tourists, who visit the park on purchased vouchers, show little respect for the environment on which the indigenous peoples depend.

By any measure, Russia lacks a rights-based approach to forest and nature conservation. As long as this remains the case, the conversion of indigenous territories into natural parks must be opposed.

Another problem is that the concentration of power in the hands of the presidential administration allows for a carefully negotiated arrangement such as the project under which the *obshchina* was supposed to secure long-term use rights over their territory only for them to be annulled at the stroke of the pen. Indigenous rights to land and resources need to be equipped with robust safeguards which cannot be easily overturned in sudden shifts of political priorities.

136 Project description at [http://www.kfw-entwicklungsbank.de/ebank/EN/Home/Countries\\_and\\_Programmes/Europe/Russia/Forest\\_and\\_Climate\\_Protection\\_in\\_the\\_Russian\\_Far\\_East.jsp](http://www.kfw-entwicklungsbank.de/ebank/EN/Home/Countries_and_Programmes/Europe/Russia/Forest_and_Climate_Protection_in_the_Russian_Far_East.jsp)

137 Order dated 07 November 2013

138 See *Russia: Bikin Udege community vows to rally to defend land rights*, 11 June 2014, [http://www.iwgia.org/news/search-news?news\\_id=1013](http://www.iwgia.org/news/search-news?news_id=1013)

## 6. INTERNATIONAL HUMAN RIGHTS OBLIGATIONS OF THE RUSSIAN FEDERATION

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In the following section, an overview is provided of the involvement of Russia's indigenous peoples in international human rights mechanisms. Russia is a member of a large number of human rights mechanisms and, since the break-up of the Soviet Union, many of these mechanisms have passed recommendations and decisions pertaining to the situation of indigenous peoples. The following compiled information shows that there is little disagreement between these mechanisms when it comes to the urgency of the indigenous peoples' situation and identification of the main concerns.

### 6.1 UN human rights instruments

The Russian Federation is party to many international and regional human rights agreements and therefore subject to a wide range of human rights obligations vis-à-vis all persons under its jurisdiction and/or effective control. The core of Russia's human rights obligations is constituted by the UN human rights covenants and conventions it has ratified.<sup>139</sup> These constitute binding international law. Russia inherited most of its ratifications of UN human rights treaties from the Soviet Union. Specifically, Russia is party to

- the International Covenant on Civil and Political Rights, ICCPR, (ratified 16 Oct 1973)
- the International Covenant on Economic, Social and Cultural Rights, ICESCR (ratified 16 Oct 1973)
- the International Convention on the Elimination of all Forms of Racial Discrimination, ICERD (ratified 4 Feb 1969)
- the International Convention on the Elimination of All Forms of Discrimination Against Women, ICEDAW (ratified 23 Jan 1981)
- the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ICAT (ratified 3 March 1987)
- the International Convention on the Rights of the Child, ICRC (ratified 16 Aug 1990)

- the International Convention on the Rights of Persons with Disabilities, ICRPD (ratified 26 Sep 2012).

Russia has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families or the International Convention for the Protection of All Persons from Enforced Disappearance.

#### 6.1.1 Russia's Indigenous peoples and the UN treaty bodies

Compliance with the provisions of these treaties is monitored by specialised UN treaty bodies. They undertake periodic examinations of the human rights situation based on reports received from the respective government. Civil society organisations and indigenous peoples have the possibility of submitting parallel reports to these bodies (sometimes called "shadow reports"), which are usually taken into account during the consideration of the state reports.

In addition to this procedure, several UN human rights treaties have established mechanisms which accept and process individual complaints. Some complaints procedures have been introduced following the adoption of the respective treaty by means of an optional protocol, while newer treaties directly set out the possibility of individual complaints. Russia has ratified the respective optional protocols to the ICCPR and ICEDAW and also accepts individual complaints under ICAT. The ICERD institutes a complaints procedure under Art. 14 of the Convention.

Due to the nature of indigenous peoples' concerns, the treaty bodies most addressed by Russia's indigenous peoples are the Committee on the Elimination of Racial Discrimination (CERD) and the Committee on Economic, Social and Cultural Rights (CESCR). To a lesser degree, indigenous peoples' concerns have also been addressed to the Committee on Human Rights, which monitors compliance with the Covenant on Civil and Political Rights (CCPR) and the Committee on the Rights of the Child. (CRC)

<sup>139</sup> Russia's ratification status for UN human rights treaties: [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=RUS](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=RUS)



### 6.1.1.1 The Committee on Economic, Social and Cultural Rights (CESCR)

Russia's indigenous peoples first brought their concerns to the attention of the CESCR in 1997 by submitting a parallel report,<sup>140</sup> which particularly highlighted issues related to extractive industries, fishing rights and poverty. These were also taken up during the CESCR's 16<sup>th</sup> session (May 1997) and, in its Concluding Observations,<sup>141</sup> the situation of poverty, inadequate access to food supplies and, in some cases, malnutrition of the indigenous peoples within the State party were highlighted as "principal subjects of concern", stating that:

"The Committee is particularly concerned for those whose food supply is based on fishing and an adequate stock of reindeer, and who are witnessing the destruction of their environment by widespread pollution. It is alarmed at reports that the economic rights of indigenous peoples are exploited with impunity by oil and gas companies which sign agreements under circumstances which are clearly illegal, and that the State party has not taken adequate steps to protect the indigenous peoples from such exploitation."... "The Committee... notes with alarm that malnutrition and hunger have developed among the poorer segments of the population. Particular concern is expressed for .... indigenous people in the northern part of the country where the infrastructure for food delivery is inadequate."

The Committee therefore recommended *"that action be taken to protect the indigenous peoples from exploitation by oil and gas companies, and more generally that action be taken to ensure their access to traditional and other sources of food."*<sup>142</sup>

During the subsequent reporting period, Russia adopted a series of legal safeguards for the rights of indigenous peoples, notably the three framework laws (see chapter 3.2) As pointed out by a follow-up report prepared in 2003 by RAIPON in cooperation with FIAN and INFOE,<sup>143</sup> however, the situation on the ground remained unchanged despite these measures. As noted by CESCR in its Concluding Observations,<sup>144</sup> this was due, inter alia, to the fact that:

"the Law of 2001 On Territories of Traditional Nature Use of Indigenous Numerically Small Peoples of the North, Siberia and the Far East of the Russian Federation, which provides for the demarcation of indigenous territories and protection of indigenous land rights, has still not been implemented."

The Committee further noted with concern:

*"the general deterioration of the level of availability and accessibility of health care, especially in the poor regions of the State party..., the poor health status of northern indigenous peoples, the life expectancy of whom is estimated to be 15-20 years lower than the national average... [as well as] the high incidence of tuberculosis ... in the regions of the Far North, in particular among indigenous communities."*<sup>145</sup>

In 2011, on the occasion of the Russian Federation's Fourth Periodic report to the Committee, RAIPON and IWGIA jointly submitted another report<sup>146</sup> which particularly noted the lack of any practical effect of the adopted policies and measures. This key point was addressed by the Committee in its Concluding Observations.<sup>147</sup> It also

140 The report, "The right to adequate food (Art. 11) and violations of this right in the Russian Federation. Parallel information to the initial report of the Russian Federation concerning the right to adequate food as enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR, art. 11), was submitted by INFOE, a German/Swiss based NGO and FIAN, an international NGO working for the right to adequate food and with consultative status in ECOSOC as a shadow report to the Russian Federation's third periodic report examined during the 16th session of the CESCR (28 April - 16 May 1997). The report is available at <http://www.infoe.de/report.html>

141 CESCR, Concluding Observations, Russian Federation, UN Doc. E/C.12/1/Add.13 (20 May 1997) at <http://undocs.org/E/C.12/1/Add.13>

142 Ibid.

143 RAIPON et al., Shadow Report: "Parallel Information: The Right to Adequate Food (Art.11) and Violations of this Right in the Russian Federation" Submitted on the occasion of the 31st session of the Committee on Economic, Social and Cultural Rights (November 2003). Available from: <http://www.infoe.de/report-2003.pdf>

144 CESCR. Concluding Observations, Russian Federation, UN Doc. E/C.12/1/Add.94, 12 December 2003

145 UN Doc. E/C.12/1/Add.94, 12 December 2003

146 RAIPON & IWGIA, Parallel Information concerning the Situation of Economic, Social and Cultural Rights of Indigenous Small numbered Peoples of the North, Siberia, and Far East of the Russian Federation (2011). At [http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/RUS/INT\\_CESCR\\_NGO\\_RUS\\_46\\_9979\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/RUS/INT_CESCR_NGO_RUS_46_9979_E.pdf)

147 CESCR, Concluding Observations, Russian Federation, UN Doc E/C.12/RUS/CO/5, 20 May 2011 at <http://www.ohchr.org/en/hrbodies/cescr/pages/cescrindex.aspx>

drew attention to the fact that many newly adopted legal measures were undermining the legal safeguards set out in the three framework laws, noting in particular that:

“changes to federal legislation regulating the use of land, forests and water bodies, in particular the revised Land (2001) and Forest (2006) Codes and the new Water Code, deprive indigenous peoples of the right to their ancestral lands, fauna and biological as well as aquatic resources, on which they rely for their traditional economic activities, through granting of licenses to private companies for development of projects such as the extraction of subsoil resources (Art 2.2) “

On this basis, the Committee recommended that:

*“the right of indigenous peoples to their ancestral lands be incorporated into the revised Land Code<sup>148</sup> and the new revised draft Law on Territories of Traditional Nature Use, and the right to free access to natural resources on which indigenous communities rely for their subsistence into the Forest and Water Codes; that the free informed consent of indigenous communities be sought for, giving primary consideration to their special needs prior to granting licences to private companies for economic activities on territories traditionally occupied or used by those communities; and that licensing agreements with private entities provide for adequate compensation of the affected communities.”*

The Committee further recommended that Russia “intensify its efforts to effectively implement the federal target programme for the economic and social development of the indigenous peoples”. It particularly recommended that the State party:

- a) ensure that “the administrative reorganization of its territory does not negatively impact on the level of healthcare assistance provided to the indigenous peoples in the North, Siberia and the Far East, in accordance with the programme of State guarantees concerning the provision of free medical care to citizens of the Russian Federation”.
- b) strengthen “its efforts to ensure that no child is deprived of the right to education in particular in

*the rural areas and among the disadvantaged and marginalized groups including the Roma, indigenous peoples and children with disabilities.*

- c) and include “in the new drafts of law being developed clear and precise norms for the effective protection of the right of indigenous peoples in the North, Siberia and the Far East, to their ancestral lands, natural resources and cultural heritage, including protection of their intellectual property rights to their works which are an expression of their traditional culture and knowledge.”

Overall, the Committee has, between review periods, examined issues of indigenous peoples in ever greater detail, issued more specific recommendations and broadened its examination to more areas of human rights. Nonetheless, the issues of land and resources and of lacking policy effectiveness have been reaffirmed as the most urgent concerns throughout each review cycle.

#### **6.1.1.2 The Committee on the Elimination of Racial Discrimination (CERD)**

CERD is the UN treaty body which has generally garnered most attention from indigenous peoples globally and which also has most strongly embraced the UN-DRIP and ILO Convention 169 as part of its working mandate. Indigenous peoples of Russia only began to submit their own shadow reports to the Committee in 2007; however, the CERD had already begun to address the situation of indigenous peoples at its own initiative in its 2003 Concluding Observations on the Russian Federation, in which it noted:

*“The Committee is concerned about the difficult situation facing indigenous peoples in the State Party. In this regard, the Committee requests that the State party provide, in its next periodic report, information on the results obtained through the implementation of laws and federal programmes to protect the rights of indigenous peoples. In particular, the Committee requests information on the establishment of traditional subsistence territories under federal law and on the impact of the Land Code of 2001 on the property rights of indigenous peoples.”<sup>149</sup>*

With these remarks, the Committee pinpointed some

148 See chapter 3.9

149 Concluding observations of the Committee on the Elimination of Racial Discrimination, UN-Doc CERD/C/62/CO/7, 3-21 March 2003,

of the truly pressing issues which, to this day, have remained largely unresolved. A key issue in Russia's fulfilment of its reporting obligations vis-à-vis the UN treaty bodies is the lack of specific information on the effectiveness of its policy measures, as well as, more generally, a lack of disaggregated data. For instance, Russia's state reports fail to provide any figures regarding essential socio-economic indicators such as life expectancy, income, employment, education, child mortality, etc., broken down by ethnic group (see chapter 5.1.1). Neither can the actual situation on the ground be discerned from its reports, nor trends and developments.

Another key aspect identified by the Committee is the issue of what it calls "traditional subsistence territories", i.e., the indigenous protected territories to be created under the 2001 framework law on Territories of Traditional Nature Use and Russia's failure to create such territories. The Committee, therefore, "*recommends that the State party further intensify its efforts to effectively implement the federal target programme for the economic and social development of the small indigenous peoples, extend it to all peoples that self-identify as 'indigenous', and provide information on the concrete results achieved under the programme in its next periodic report.*"<sup>150</sup>

The Committee also noted that indigenous peoples were under-represented in legislative bodies such as the State Duma and recommended the introduction of guaranteed seats or quotas, something which the Russian government has rejected.

Most attention was devoted to the issue of indigenous peoples' livelihoods and land rights and the recent changes to federal legislation:

"regulating the use of land, forests and water bodies, in particular the revised Land (2001) and Forest (2006) Codes and the new Water Code, [that]deprive indigenous peoples of their right to preferred, free and non-competitive access to land, fauna and biological as well as aquatic resources, on which they rely for their traditional economic activities, and that the grant of licences to private companies for activities such as logging, extraction of subsoil resources and the construction of pipelines or hydroelectric dams leads to privatization and ecological depletion of territories traditionally inhabited by indigenous peoples (art. 5 (d) (v)).

***The Committee recommends that the State party take legislative and other effective measures to implement the Federal Law on Territories of Traditional Nature Use (2001); reinsert the concept of free-of-charge use of land by indigenous peoples into the revised Land Code and the Law on Territories of Traditional Nature Use, and the concept of preferential, non-competitive access to natural resources into the Forest and Water Codes; seek the free informed consent of indigenous communities and give primary consideration to their special needs prior to granting licences to private companies for economic activities on territories traditionally occupied or used by those communities; ensure that licensing agreements provide for adequate compensation of the affected communities; and withdraw support for the Evenkiiskaya dam and other large scale projects threatening the traditional lifestyle of indigenous peoples.***"

This strongly worded recommendation reflects and sums up many of the key concerns brought to the Committee's attention by RAIPON's shadow report to the Committee,<sup>151</sup> including, once more, the continued failure to take action on the Federal Law on Territories of Traditional Nature Use but also the worrying backslide with regard to guarantees for indigenous rights in a number of other legal acts. Notably, the Committee also invoked the principle of Free, Prior and Informed Consent, which thus far had not taken root in the Russian legal system. Finally, a very important step by the CERD was its recommendation to the Russian Federation to withdraw support for the Evenkiiskaya hydroelectric dam, which was threatening to lead to the mass eviction of indigenous Evenks and the destruction of their livelihoods on a massive scale. This recommendation has been extremely useful in the campaign that led to the dam project being shelved once more (see section 5.3).

The next consideration of Russia was due in February 2013. Originally, the core issues for consideration were very much unchanged as compared to 2008: there had been no progress in the implementation of the federal law on TTNU; the erosion of safeguards of indigenous rights persisted; and Russia was still failing to provide disaggregated data on the actual situation of

150 Concluding observations of the Committee on the Elimination of Racial Discrimination, *UN Doc CERD/C/RUS/CO/19, 22 September 2008*

151 RAIPON, Shadow Report to CERD, available from <http://www.infoe.de/report-2003.pdf>

indigenous peoples and on the actual results of its policies. However, in the meantime, the political climate in Russia had worsened sharply, and RAIPON had been formally suspended by the Ministry of Justice (see chapter 3.3.3). The CERD session was strongly overshadowed by the repressive atmosphere in the Russian Federation. Nevertheless, the Committee adopted a number of strong and detailed observations and recommendations and also requested that these issues be followed up within one year.

The areas of concern included:

- The slow implementation of the objectives outlined in the Concept Paper adopted in 2009 on the sustainable development of indigenous peoples, defining the federal policy from 2009 to 2025
- Russia's failure to establish federally protected territories to guarantee indigenous peoples' free access to land as foreseen in the Law on Territories of Traditional Nature Use (TTNU)
- The negative effects of a new draft federal law on TTNU referred to in the State party's report on the status of protected territories (see chapter 3.7)
- The neglect of the legal obligation to consult with indigenous peoples through their freely elected representative bodies prior to any agreement regarding industrial development of their land
- Russia's failure to ensure through legal measures that indigenous peoples must be duly compensated for damages caused by private companies to their ancestral lands
- The obstacles indigenous communities face when wanting to engage in economic activities beyond their "traditional activities" (see chapter 3.8.1)
- The underrepresentation of indigenous peoples in the State Duma and other government bodies at federal and regional levels.

The Committee made the following recommendations to the State party:

- a) *Include, in its next periodic report, concrete information on the results and impact achieved through the implementation of the 2009 Concept Paper on the sustainable development of indigenous peoples, as previously requested by the Committee ...;*
- b) *Ensure that any legislative changes enhance, rather than diminish, the rights of indigenous peoples, as enshrined in the*

*United Nations Declaration on the Rights of Indigenous Peoples;*

- c) *Take all necessary steps to approve and establish Territories of Traditional Nature Use to ensure the protection of such territories from third-party activities;*
- d) *Ensure in practice that indigenous communities are effectively and meaningfully consulted through their freely elected representative bodies for any decisions that may impact them and that adequate compensation is provided to communities that have been adversely affected by the activities of private companies, in accordance with the Committee's general recommendation No. 23 (1997) on the rights of indigenous peoples;*
- e) *Ensure that indigenous peoples are duly represented at all levels of Government and administration, as previously recommended by the Committee...;*<sup>152</sup>

Similar to the jurisprudence of the CESCR, the recommendations made by CERD have become more detailed for each reporting cycle, with an increasing insistence on the provision of measurable targets and disaggregated data. At the same time, the main areas of concern highlighted in the Concluding Observations have remained unchanged: land rights, legislation concerning land and resources, free, prior and informed consent, political representation of indigenous peoples. Less emphasis has been placed on the need to alleviate poverty, poor access to education, unemployment or the situation of children, which are more pronounced in the CESCR jurisprudence. This may be indicative of a strategic choice by the CERD; however, it would be desirable for these social and economic human rights issues to receive more attention in future reporting cycles, without prejudice to a continued strong insistence on measurable improvements in the aforementioned areas. It is also vital that the CERD continue to insist on a full realisation of the UNDRIP and ask Russia to ratify ILO Convention No. 169.

## 6.1.2 The Universal Periodic Review (UPR)

In April 2013, Russia was examined for the second time under the UN Human Rights Council's Universal Periodic Review (UPR).<sup>153</sup> The review was based on the na-

<sup>152</sup> CERD, Concluding Observations, Russian Federation, , UN Doc CERD/C/RUS/CO/20-22, (17 April 2013)

tional report submitted by government and information from UN and civil society sources.<sup>154</sup> In October 2012, IWGIA and RAIPON thus jointly submitted a stakeholder report to the UPR, which was among the sources considered in the OHCHR's summary of stakeholder information.<sup>155</sup> Relying partly on the information contained in this submission, several states brought up the issue of indigenous peoples during the review and issued relevant recommendations to the Russian government.<sup>156</sup>

Below we look into Russia's responses to the recommendations, which it chose to reject or accept. While several recommendations were accepted, Russia's response indicates that no specific action should be expected to follow, as will be demonstrated. The accepted recommendations include the following two (countries submitting the recommendations are indicated in brackets):

- *“Ensure the right of indigenous people to their ancestral lands through the implementation of the relevant legislation with measurable targets and effective data collection (Hungary);”*
- *“Harmonize the various laws on the rights of indigenous peoples, particularly regarding their access to land and natural resources (Mexico);”*

At first glance, acceptance of these recommendations seems impressive, as they touch upon some of the most fundamental problems affecting Russia's indigenous peoples today, including the issue of a denial of land rights and the contradictory and dysfunctional state of legislation, along with a lack of specific results. However, while formally “accepting” these recommendations, Russia

claimed in its response to Hungary that the recommendations had “already been implemented” explaining that:

*“The Federal Act on Territories of Traditional Resource Use of Small Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation, the policy framework for the sustainable development of small indigenous peoples and a number of other laws and regulations have been adopted to protect those peoples' ancestral habitat and traditional ways of life and to preserve biological diversity in territories of traditional resource use.”*

Given the failure to implement the “Federal Act on Territories of Traditional Resource Use”, Russia's claim seems disconcerting.

Furthermore, while Russia declares that it has “accepted and already implemented” Mexico's recommendation to “harmonize the various laws on the rights of indigenous peoples, particularly regarding their access to land and natural resources”, the inconsistent state of legislation affecting indigenous peoples, as noted by many human rights bodies and indigenous peoples' organisations, remains unmitigated.

Russia also accepted two recommendations from Bolivia. One to: *“Strengthen federal and local legislation in favour of the rights of indigenous peoples”*. In the light of the explanation given to Mexico, by which there was no need to strengthen legislation, accepting this recommendation without further remarks seems somewhat surprising.

The second recommendation enjoined Russia to *“redouble efforts in paying special attention to school education of the indigenous peoples and national minorities”*.

Again, Russia claimed that this recommendation had already been implemented since: *“The regional authorities fund and implement targeted programmes to support education in the native languages of small indigenous peoples.”* However, in reality, instruction in indigenous languages is a rare exception nowadays. If indigenous languages are taught, they are taught in the same fashion as foreign languages, the basic language of instruction being Russian (See chapters 5.1.4 and 2.3).

The last recommendation to be “accepted” in this manner was submitted by Estonia:

*“Improve the precarious situation of indigenous peoples, particularly by stepping up efforts to guarantee their right to education, including in their own languages; unrestricted use of their*

153 The Universal Periodic Review is a peer-review mechanism established by the UN Human Rights Council in 2006. Through this process, the human rights record of each UN member state is reviewed every 4.5 years before the Council. The central aspect of the review is an interactive dialogue between the government under review and the working group, which consists of all UN member states. States can ask questions and make recommendations. While all recommendations are recorded in the outcome report, the state under review is at liberty to either accept or reject each recommendation. NGOs have no right to participate in the dialogue itself, and their main contribution is through stakeholder reports, which must be submitted at a fixed date, several months in advance.

154 All materials are available at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/RUSession16.aspx>

155 [http://lib.ohchr.org/HRBodies/UPR/Documents/Session16/RU/JS3\\_UPR\\_RUS\\_S16\\_2013\\_JointSubmission3\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session16/RU/JS3_UPR_RUS_S16_2013_JointSubmission3_E.pdf)

156 A full list of recommendations to and pledges by the Russian government is available from [http://www.upr-info.org/IMG/pdf/recommendations\\_and\\_pledges\\_russia\\_2013.pdf](http://www.upr-info.org/IMG/pdf/recommendations_and_pledges_russia_2013.pdf); recommendations can also be searched and filtered by issue at <http://www.upr-info.org/database>

*lands and territories; address the problem of underrepresentation in State institutions at the federal and regional levels.”*

Again, Russia claimed that it had “already been implemented”. Once more, this claim is spurious. To the issue of the poor representation of indigenous peoples in state institutions, Russia responded: “*There are no laws or regulations that restrict the rights of small indigenous peoples to occupy public positions. Indeed, the Russian Federation provides supplementary guarantees of informed and meaningful participation by representatives of indigenous peoples in decision-making.*” This response entirely misses the point, namely that even if there are no formal restrictions barring indigenous peoples from assuming public office, the reality on the ground is that they are factually under-represented and that, in this case, it is insufficient not to actively violate the rights of indigenous peoples; the state is duty-bound to take special measures to fulfil this right. Even in predominantly indigenous villages, the local mayor and his aides are usually non-indigenous males. This is indicative of a reality of structural discrimination against which the state has to intervene actively.

The following recommendations were rejected:

- *Consider the ratification of ILO Convention No. 169 (1989) on Indigenous and Tribal Peoples in Independent Countries (Bolivia (Plurinational State of));*
- *Introduce a definition of direct and indirect discrimination to prevent discrimination in specific spheres, such as those relating to women, children, migrants and indigenous peoples (Paraguay);*
- *Officially endorse the United Nations Declaration on the Rights of Indigenous Peoples, and fully implement all relevant national laws and regulations (Denmark);*
- *...and follow other principles enshrined in the United Nations Declaration on the Rights of Indigenous Peoples (Estonia);*
- *Increase budget allocation for indigenous peoples (Namibia).*

This list makes it clear that Russia is not considering accepting any new obligations, such as those defined in ILO Convention No. 169 and the UNDRIP. Compared with the first review cycle (2009), Russia’s rejection of the second half of Estonia’s recommendation to “*follow other principles enshrined in the United Nations Declaration on the Rights of Indigenous Peoples*” is a

move backwards from a previously more progressive stance. Russia had, in 2009, accepted Mexico’s almost identical recommendation to “*comply with the principles contained in the Declaration on the rights of indigenous people*”. In its written response, the Russian government now declared that “*Russian legislation and law enforcement practice in respect of the rights of indigenous peoples and the preservation and development of their cultures goes substantially further than the provisions of the Declaration, extending its boundaries.*”<sup>157</sup> If this were the case, it would be hard to see what harm could possibly result from endorsing the Declaration.

Russia’s approach of “accepting” recommendations in a way that rules out any consequences effectively devalues the UPR. Nonetheless, due to its high profile and its visibility, indigenous peoples should continue to engage with this mechanism although they should, at the same time, not set their expectations too high.

### **6.1.3 The UN Declaration on the Rights of Indigenous Peoples (UNDRIP)**

As a declaration of the UN General Assembly, the UNDRIP does not constitute a treaty. It cannot therefore be formally ratified. However, states expressed their position on the UNDRIP through their vote. In the 2007 UN General Assembly, 144 states voted in favour and four, including Canada and the USA, voted against. These four countries have since reversed their positions and now endorse the UNDRIP. Russia was one of the 11 UN member states that abstained and it has not made any move to reverse its position since.

So far, the move taken by Russia that comes closest to a formal endorsement was its acceptance of a recommendation by Mexico in the 2009 Universal Periodic Review to “implement the principles of the UNDRIP” (see above). However, as already mentioned, it rejected a 2013 recommendation to formally endorse the Declaration. Overall, Russia’s opposition to the UNDRIP may be motivated by the fear that many ethnic groups not recognised as “indigenous small-numbered” peoples may lay claim to indigenous status. Furthermore, acknowledging the right of indigenous peoples to self-determination and to freely dispose of their territories and resources could be a cause for much concern within the administration of resource-dependent Russia.

<sup>157</sup> See written response, A/HRC/24/14/Add.1

#### 6.1.4 The UN Special Procedures

The Special Procedures of the UN Human Rights Council are described as “independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective”.<sup>158</sup>

#### 6.1.5 The Special Rapporteur on the Rights of Indigenous Peoples

While there were 37 thematic mandates in 2013, the mandate most relevant to indigenous peoples is that of the Special Rapporteur on the rights of indigenous peoples, established in 2001. From 2008 to April 2014, the mandate was held by US law professor S. James Anaya. The Special Rapporteur regularly undertakes country visits; these require a prior invitation from the host state and the SR is not entitled to undertake his own investigative missions in his official capacity. In 2009, Professor Anaya paid an official country visit to the Russian Federation and subsequently published a comprehensive report containing many key observations and recommendations. The report places strong emphasis on the urgent need to ensure consistency and coherence in legislation affecting indigenous peoples and the need to ensure that policy measures are actually implemented in an effective manner. The Special Rapporteur also devoted attention to the right of indigenous peoples to development, including development outside of the realm of “traditional” subsistence activities.<sup>159</sup> While the Special Rapporteur views this approach as an avenue towards reconciling the extractive industries with indigenous peoples, Russia’s own legislation and practice strongly ties indigenous rights to the perpetuation of “traditional ways of life” and has taken action against communities overstepping the boundaries of “tradition”, as such economically successful communities are seen as competing with private business enterprises.

The Special Rapporteur also accepts submissions from indigenous peoples and undertakes his own investigations of individual human rights issues. In urgent cases, he submits written communications to the government in question, asking for measures to be taken. In 2013, Special Rapporteur Anaya, together with the Working Group on the Issue of Human Rights and Trans-

national Corporations and other Business Enterprises, submitted a communication to the Russian government regarding the case of the Evenk obshchina “Dylacha”, which was raided, dismantled and shut down by the authorities because it was engaging in non-traditional economic activity (see also chapter 3.8.1). In its response, Russia confirmed that overstepping the boundaries of “tradition” was the main reason for shutting down the obshchina, showing how legislation which confines indigenous communities to “traditional” activities can end up enabling discrimination.<sup>160</sup>

#### 6.1.6 Working Group on the Issue of Human Rights and Transnational and other Business Enterprises, the UNGP and the OECD Guidelines

This Special Procedure was established by the HRC in 2011 to disseminate and promote the UN Guiding Principles on Business and Human Rights, adopted by the HRC in 2011. One of its tasks is to pay special attention to the situation of vulnerable groups, including indigenous peoples, as they are affected by business operations. The Working Group is a five-person expert body composed to ensure regional balance as well as representation of different stakeholder groups. During the first three-year mandate, Eastern Europe was represented by Pavel Sulyandziga, a prominent veteran indigenous activist from the Udege people from the Primorsky Territory in Russia’s Pacific region.

In 2013, the Working Group developed a thematic report dealing with the issue of indigenous peoples and the UN Guiding Principles on Business and Human Rights, which was presented to the UN General Assembly in October.<sup>161</sup> It also intended to pay a country visit to the Russian Federation in late 2013 which, among other things, would have looked into the situation of indigenous peoples; however, the country visit was cancelled, officially due to visa complications. Also in 2013, it joined the UN Special Rapporteur in submitting a communication to the Russian government in the case of the Even obshchina “Dylacha” (see above). In its response, the Russian government denied that the Working Group was mandated to address individual complaints. Nonetheless, in 2014 Russia co-sponsored the Human Rights

158 <http://www.ohchr.org/en/HRBodies/SP/Pages/Welcompage.aspx>

159 Report published 23 June 2010, UN Doc A/HRC/15/37/Add.5,

160 See *Communications report of Special Procedures Communications sent, 1 December 2013 to 28 February 2014*; Replies received, 1 February to 30 April 2014 (UN Doc A/HRC/26/21, 2 June 2014) Download from <http://undocs.org/A/HRC/26/21>

161 UN Document A/68/279, dated 7 August 2013

Council's resolution extending the Working Group's mandate for four more years.

Russia is a member of the core group supporting the Working Group and therefore has a special commitment to this body and to the Guiding Principles. So far, there is no sign that Russia is taking specific measures to apply the UNGP internally, let alone to indigenous peoples. Whether they will provide much needed leverage to improve respect for indigenous peoples' rights in the context of business operations remains to be seen.

One occasion for establishing the UNGP as an authoritative framework for protecting human rights in the business context would be Russia's accession to the Organisation for Economic Cooperation and Development (OECD), which has been on the agenda for a number of years. This organisation, headquartered in Paris, has commonly been described as the club of rich industrialised nations. When joining, Russia would also have to apply the OECD Guidelines for Multinational Enterprises to business enterprises under its jurisdiction. These guidelines are equipped with a complaints mechanism, which mostly works through mediation between the complainants and the accused company. The newly added human rights chapter is strongly informed by the UN Guiding Principles and by the process leading up to their adoption. As an OECD member state, Russia would have to set up a National Contact Point (NCP), which would then accept complaints lodged against Russian corporations. In the light of heightened tensions between Russia and the West, the prospect of Russia's accession has become increasingly remote. Nonetheless, even today, indigenous peoples in Russia have the possibility of submitting complaints against corporations adversely affecting their rights, if these corporations are domiciled in an OECD member state. There are some Western NGOs supporting such complaints and assisting affected communities to make efficient use of the contact points and their possibilities. At the time of writing, the indigenous peoples of Russia have yet to lodge their first complaint under the OECD Guidelines.<sup>162</sup>

### **6.1.7 Russia and ILO Convention No. 169 – a difficult relationship**

ILO Convention No. 169 on indigenous and tribal people of 1989 is, to date, the only binding global treaty providing a comprehensive mechanism for the protection of the rights of indigenous peoples. In 1994, Russia's

<sup>162</sup> More information available at <http://www.oecdwatch.org>

federal parliament, the State Duma, held a first parliamentary hearing on ILO Convention No. 169. A second hearing was held in November 2006.<sup>163</sup> Despite these hearings, no moves towards ratification of the Convention were undertaken. On both occasions, the authorities maintained that Russia was unable to ratify the Convention, as it was fundamentally incompatible with Russian legislation. In this context, the core argument is that the Russian constitution does not acknowledge "indigenous peoples" as such but merely "indigenous small-numbered peoples of the North". Without this qualifier, so the argument goes, any ethnic group would be at liberty to demand recognition as an indigenous people and aspire to the rights set out in the Convention.

Russia is seen as a unique multi-ethnic society in which such a development would open a Pandora's box and destabilise the country; this fear must be seen against the backdrop of the interethnic violence which ensued during the break-up of the Soviet Union. Russian authorities seem to have difficulties with the Convention's reliance on self-identification as a primary criterion for determining to whom the Convention applies. Given the Russian legal tradition of pervasive state regulation of society, the idea of giving the population the freedom to freely determine their identity appears to be a deeply unsettling prospect for the authorities.

A common misconception held by the Russian authorities is that "indigenous peoples" simply means "*living in a place from which one descends*". Read in this manner, the term would indeed apply to most of the ethnic groups of Russia including, in the central parts of the country, the Russians themselves.<sup>164</sup> This reading ignores the other criteria contained in the UN working definition of "indigenous", namely that indigenous peoples are a non-dominant part of the population, that they are marginalised, have an historical or continuing experience of various forms of oppression, dispossession, etc. (See chapter 3.3)

The aspect, that indigenous peoples are victims of historical injustice is particularly unpopular and sensitive because it implies that they have suffered these wrongs at the hands of the dominant power, which colonised them.<sup>165</sup> However, besides these cultural factors,

<sup>163</sup> For the 2006 hearing, see press release by United Russia faction, reflecting the official position <http://www.er-duma.ru/press/19440>

<sup>164</sup> In 2005, the author witnessed how a government minister, addressing the congress of indigenous peoples, referred to the Russians as "Russia's largest indigenous people".

<sup>165</sup> Both the idea that those territories which are now integral parts of Russia became part of it through colonisation and that Russia bears historical guilt towards the indigenous peoples, who are



observers have often noted that Russia's most compelling reason for not ratifying the Convention may be the degree of rights over land and resources it sets out for indigenous peoples, as these peoples traditionally inhabit those territories where most of Russia's natural resources are currently being extracted from. Ratification of the Convention could present an obstacle to the unrestrained exploitation of the Arctic subsoil resources on whose exploitation the country's economic mid- to long-term strategy rests.

However, even without ratification, the Convention constitutes an important frame of reference for indigenous peoples' rights and is invoked by indigenous representatives for determining what constitutes indigenous peoples' rights.

## 6.2 European human rights mechanisms

As a country partly located in Europe, Russia is a member of several regional organisations and treaties which come with human rights mechanisms of various kinds attached. The most significant of these is the Council of Europe. The Council of Europe was originally founded in 1949 by 10 West European democracies, and this strongly informed the values upheld by the organisation. East European states joined only in the early 1990s after the fall of communism. The Council of Europe is the umbrella for a number of important regional human rights and judicial mechanisms. Not all of these have thus far been relevant for the indigenous peoples of Russia<sup>166</sup> or are of limited use, such as for instance the European Human Rights Convention and the European Court of Human Rights; the Framework Convention on the Protection of National Minorities (FCNM) is considered useful, however, as it provides a monitoring mechanism.

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therefore entitled to some form of rehabilitation, are deeply unpopular in Russia and uttering them in a public setting may even be risky under the present political conditions. In this regard, Russia has yet to catch up culturally and politically with other post-colonial states, such as Australia, which have meanwhile embraced their historic legacies and issued sincere apologies to their indigenous peoples. It bears noting that one of the obstacles is the self-perception that Russia's conquest of Siberia was fundamentally different. While this notion has a grain of truth, the suggestion that Russia's expansion was mostly peaceful and harmonious is grossly overstated. Nonetheless, this notion appears to be part of the present ruling ideology and has also been internalised by many indigenous representatives, as seen when celebrating the commemoration of their people's "accession" (*prisoyedinenie*) into the Russian Empire.

166 This is, e.g., the case of the Human Rights Commissioner of the CoE who, so far, has not engaged with indigenous peoples.

### 6.2.1 The European Human Rights Convention and the European Court of Human Rights

The Council of Europe's founding human rights document is the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1959.<sup>167</sup> This document pre-dates the UN human rights treaties described above and largely reflects the concept of human rights held by its founding members. It almost exclusively deals with traditional civil liberties and political rights, in particular within the judicial sphere, and does not protect economic, social or cultural human rights. While constituting binding law for its member states, the Convention is thus only of limited utility for the indigenous peoples of Russia, whose predominant concerns relate to land rights, resources as well as issues such as the protection of cultures and languages. The European Court of Human Rights in Strasbourg was established in 1959 on the basis of Art. 19 of the European Human Rights Convention. As a State party to the Convention, Russia accepts its rulings as binding. Russia is today the country from which by far the largest number of complaints is submitted to the Court. The Court, however, adjudicates only on violations of the Human Rights Convention, not of any other treaty under the Council of Europe, such as the Framework Convention on the Protection of Minorities (see below) or the European Social Charter. The Court is thus not in a position to adjudicate on denial of land rights or deprivation of means of existence. In 2003, a case regarding the indigenous territory Tkhshanom in the Koryak Autonomous Area in the north of the Kamchatka Peninsula was submitted to the Court. For the aforementioned reasons, it was not deemed admissible.<sup>168</sup> So far, this has remained the only attempt by Russia's indigenous peoples to make use of this instrument. Future attempts would need to be carefully prepared and would have to rely predominantly on identifying acts of discrimination in order to be admissible.

### 6.2.2 The Framework Convention on the Protection of National Minorities (FCNM)

The FCNM is a treaty of the Council of Europe (CoE) which came into effect in 1998. Russia became a party

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167 The Convention can be accessed at [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf)

168 Details of this case can be found at <http://www.rodnikcenter.ru/evropejskij-sud.html> (in Russian)

to the Convention on 21 August 1998.<sup>169</sup> The Framework Convention is aimed at ensuring that states parties respect the rights of national minorities, combat discrimination and undertake the promotion, preservation and development of their cultures and identities. It makes no specific reference to indigenous peoples. The FCNM is considered weaker than other international human rights treaties. Its language is often aspirational rather than prescriptive. A number of its provisions are subject to qualifications such as “as far as possible”, whereas other human rights treaties treat rights as non-negotiable absolutes. Further, the FCNM does not provide a mechanism for individual complaints, and no complaints against violations can be lodged with the European Court of Human Rights. Nonetheless, the FCNM is considered to be a useful instrument by some NGOs working in the field of minority and indigenous peoples’ rights.<sup>170</sup>

The FCNM ensures periodic monitoring through successive review cycles similar to the practice of the UN treaty bodies: during each review cycle, the State party has to prepare a state report to the Advisory Committee, while NGOs are allowed to submit their shadow reports. Russia’s state report under the 4<sup>th</sup> review cycle is due on 1 December 2014.<sup>171</sup> What sets the Advisory Committee apart from UN treaty bodies is that, after having received the written report, it also conducts a country visit which includes meetings and discussions with minority representatives. The country visit is then followed by the drafting of a report, labelled an “opinion”. The Advisory Committee’s “opinion” is made public unless the authorities officially object. During a four-month period, the CoE Committee of Ministers then accepts comments from the government, after which it adopts a resolution, usually based on the “opinion”, containing observations and specific recommendations. Later, a follow-up seminar is organised in the country to discuss the recommendations and their implementation.

In the second review cycle, 2006, RAIPON submitted a report on the situation of indigenous peoples in

Russia to the Advisory Committee. In the resolution adopted by the Committee of Ministers, no specific recommendations were made with regard to indigenous peoples, and the Committee merely recommended that Russia “redouble efforts to improve the social and economic situation of persons belonging to particularly vulnerable groups, including dispersed minorities, numerically small indigenous peoples and Roma;”.<sup>172</sup> In the third review cycle concluded in 2013, the Committee issued a substantially stronger recommendation under the section of “issues for immediate action”. The ministers urged Russia to “intensify efforts, including financial, to implement the objectives contained in the Concept Paper on the Sustainable Development of Numerically Small Indigenous Peoples of the North, Siberia and Far East, in close cooperation with the persons concerned; take further steps to ensure that representatives of indigenous peoples are closely consulted on all issues of relevance to them; ensure that the aim of promoting the sustainable development of indigenous peoples is not jeopardised by simultaneous legislative developments that undermine their preferential access to land and natural resources.”<sup>173</sup> This statement clearly reflects some of the concerns raised by the UN treaty bodies, including CERD and CESCR, in their respective Concluding Observations and gives some grounds for hoping that the Framework Convention might eventually begin to serve indigenous peoples as an effective tool.

169 See at [http://www.coe.int/t/dghl/monitoring/minorities/1\\_AtGlance/PDF\\_MapMinorities\\_bil.pdf](http://www.coe.int/t/dghl/monitoring/minorities/1_AtGlance/PDF_MapMinorities_bil.pdf)

170 The London-based Minority Rights Group has produced a guide for NGOs seeking to use the FCNM for the protection and promotion of minority rights: Magdalena Syposz: *Framework Convention for the Protection of National Minorities: Opportunities for NGOs and Minorities*, April 2006, 88 Pages, ISBN 1 904584 38 1, downloadable from: <http://www.minorityrights.org/?lid=876>

171 Acfc/iii(2013)001 Outline for the State reports to be submitted under the Fourth Monitoring Cycle, in conformity with Article 25 of the Framework Convention for the Protection of National Minorities. Available from: [http://www.coe.int/t/dghl/monitoring/minorities/2\\_Monitoring/PDF\\_4th\\_cycle\\_Outline\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/2_Monitoring/PDF_4th_cycle_Outline_en.pdf)

172 Resolution CM/ResCMN(2007)7 on the implementation of the Framework Convention for the Protection of National Minorities by the Russian Federation (Adopted by the Committee of Ministers on 2 May 2007 at the 994th meeting of the Ministers’ Deputies). At <https://wcd.coe.int/ViewDoc.jsp?id=1126345&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>

173 Resolution CM/ResCMN(2013)1 on the implementation of the Framework Convention for the Protection of National Minorities by the Russian Federation (Adopted by the Committee of Ministers on 30 April 2013, verbatim adopted from: Advisory Committee on the Framework Convention for the Protection of National Minorities: *Third Opinion on the Russian Federation* adopted on 24 November 2011. At [http://www.coe.int/t/dghl/monitoring/minorities/3\\_FCNMdocs/PDF\\_3rd\\_OP\\_RussianFederation\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_3rd_OP_RussianFederation_en.pdf)

## 7. CONCLUSION

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This report has demonstrated that the indigenous peoples of Siberia, Russia's North and Far East face a multitude of existential threats - to their physical and spiritual well-being, their livelihoods, cultures, languages, even their very existence as distinct groups. If current trends continue, some of these threats may reach a tipping point in the near future: a number of indigenous languages are very likely to finally become extinct soon. At the same time, a wealth of traditional knowledge that has not been passed on to younger generations will pass into oblivion. Nomadic reindeer herders may be giving up their unique way of life in places where pasture is no longer sufficient for their needs. The demographic crisis and the prevalence of mixed marriages could, in many settlements, lead to the disappearance of culturally distinct indigenous communities. These threats are urgent and imminent; their causes are complex and multi-layered.

One common denominator is that any strategy to address them must have a clear rights dimension: the ability of indigenous reindeer herders and fishermen to perpetuate their way of life depends on their effective and permanent control over their territories and their ability to grant or withhold their Free, Prior and Informed Consent to the extraction of resources. The survival of indigenous languages hinges on the state's respect of the right of children to grow up within their families and communities and to enjoy culturally adequate education. To solve the demographic crisis threatening indigenous communities throughout the country, the state must take measures to protect and fulfil the indigenous peoples' human rights to health, social services and an adequate standard of living. In order to enable indigenous organisations to protect the rights of their constituents, the state must stop curtailing their civil and political rights. Ultimately, when their rights are guaranteed and protected, there is every reason to be confident that indigenous peoples will be capable of finding ways of addressing many of these threats effectively and develop thriving communities.

Since *perestroika* opened the space for public discussion, the leitmotif of state policy towards indigenous peoples has always remained a paternalistic one. The benevolent version of this paternalism was the offer of certain protections and "privileges", usually on the condition that indigenous peoples did not transgress the borders of what was seen as their "traditional way of life". The less benign face of this paternalism could be seen

whenever the authorities regarded indigenous peoples as standing in the way of unmitigated resource exploitation and used various methods to silence their voices and stifle their aspirations. Explicitly referring to inalienable rights, in particular the right to self-determination, was potentially regarded as dangerous, even more so when such concerns were brought to the attention of international human rights bodies.

What has been mostly absent in recent years is a right-based, equitable dialogue. Indigenous peoples' rights are considered something which is "granted" by the state, and revoked again when needed. Unlike some other industrialised nations, Russia has never acknowledged that indigenous peoples have been subjected to conquest, exploitation, oppression and marginalisation and thus has never begun to address the legacy of the historical injustice they have suffered.

The state of crisis that this report describes calls for a paradigm shift as a matter of urgency, away from the failed top-down politics towards an approach which fully embraces their status as collective rights-holders.

While acknowledging, respecting and protecting rights will be crucial in ensuring their collective survival, this alone will not be sufficient to achieve this. Indigenous peoples, living in situations of extreme power imbalance vis-à-vis large corporations and authorities, also need reliable partners, assisting them in their efforts to reshape their futures and prepare for emerging challenges. A number of agencies and private donors have discontinued their support in recent years; due to increasing political tensions, more foreign partners are now likely to withdraw from Russia. Large extractive corporations, however, both foreign and domestic, are likely to remain engaged in Russia's Arctic regions in the long term and intensify their operations. With supporters leaving and resource exploiters staying, the likelihood of adverse human rights impacts is clearly magnified. A long-term commitment by their partners and supporters in and outside Russia is therefore essential in securing the indigenous peoples' collective future.

Indigenous peoples and their supporters will also have to consider shifting centres of gravity in the global economy. Russia is currently reorienting its resource exports towards East Asia, in particular China, such that Western extractive industries, who have long faced public pressure and scrutiny regarding their human rights footprint, will have to increasingly give way to corpora-

tions from Russia, China and other emerging economies. Addressing these corporations and governments to ensure that they respect indigenous peoples' rights in Russia and elsewhere will pose a considerable challenge, requiring new ideas and strategies to be developed.

Globally, various instruments have been developed to address business-related human rights violations, most prominently the UN Guiding Principles on Business and Human Rights, which have been endorsed not only by Western industrial nations but also by Russia, China and most other states. Since 2013, efforts have been under way to develop a binding human rights instrument for ensuring business respect for human rights. It will almost certainly be a long time before these initiatives deliver tangible results for indigenous peoples. However, in order to ensure that they do, indigenous peoples and their supporters should start embedding them into their strategies now, exploring how they translate to their spe-

cific situations, working out their connection to the rights of indigenous peoples set out in the UNDRIP and demanding that governments and corporations that have endorsed them practise what they preach.

Ever since the Russian conquest of Siberia in the 16<sup>th</sup> century, the imminent demise of the indigenous peoples of the North has been predicted countless times. Today, it again looks as if the survival of many indigenous communities in the Russian North is acutely at stake. Throughout the centuries, they have shown remarkable resilience and successfully adapted to a great many changes, in political systems, society, climate, economy, albeit often at great cost. It may be too early to predict whether current pressures – extractive industries, the authoritarian state, climate change and social decay, can be withstood. It is the author's heartfelt wish that they can but, for this vision to come true, tremendous efforts will be needed from indigenous peoples and all their supporters, and there is little time to lose.

# APPENDICES

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## Appendix 1: Recommendations

### 1.1 Recommendations to the Russian Federation

#### Fundamental rights and cross-cutting issues

- The Russian Federation should endorse the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and respect, protect and fulfil the rights of indigenous peoples set out therein;
- The Russian Federation should ratify ILO Convention 169 on Indigenous and Tribal Peoples and undertake to implement its provisions in its national legislation;
- The Russian Federation should undertake a full review of its legislation to ensure compliance with the provisions set out in the UNDRIP and ILO Convention 169;
- The Russian authorities should formally commit to respecting and promoting the right of indigenous peoples to self-determination within the Russian Federation, as set out in the UNDRIP;
- The Russian Federation should recognise indigenous peoples' own customary law as a source of rights, including land rights. The use of indigenous peoples' customary law as a framework for the resolution of disputes, including those pertaining to land and resources, should be facilitated and strengthened;
- Russia should redouble its efforts to implement recommendations pertaining to indigenous peoples adopted by UN human rights bodies, including the recommendations contained in the latest Concluding Observations of the CERD and the CESRC and by the UN Special Rapporteur on the Rights of Indigenous Peoples;
- Russia should develop a national action plan for the implementation of the UN Guiding Principles on Business and Human Rights. In doing so, it should pay special attention to the recommendations contained in the 2013 report of the UN Working Group on the Issue of Human Rights and Transnational and other Business Enterprises.

es.<sup>174</sup> In keeping with the 2008 Concluding Observations of the CERD, Russia should ensure that any legislative measures taken enhance, rather than diminish, the protection of indigenous peoples' rights as set out in the UNDRIP.

#### Economic, Social and Cultural Rights

- Pursuant to repeated recommendations by various UN human rights bodies, the Russian Federation should, as a matter of urgency, review legislation pertaining to indigenous peoples to ensure consistency and coherence between laws on indigenous peoples and all legal acts governing the management, ownership, access to and use of land and resources;
- As a matter of the utmost urgency, Russia should take immediate and effective measures to enable the establishment of federal-level Territories of Traditional Nature Use (TTNU), in a viable manner, giving indigenous peoples maximum control over these territories, in recognition of their inalienable rights to land and resources and their right to adequate food;
- Russia should amend its national legislation on indigenous peoples to acknowledge and operationalise the principle of Free, Prior and Informed Consent in the cases set out in the UNDRIP, based on the recognition of indigenous peoples' collective rights, in particular their right to land and resources;
- Russia should mandate the implementation of human rights impact assessments prior to conducting any operations potentially affecting indigenous peoples, their ancestral territories and means of existence;
- The Russian Federation should commit to respecting and promoting the right of indigenous

<sup>174</sup> Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, UN Doc. A/68/279, (7 August 2013) at <http://undocs.org/A/68/279>

peoples to development instead of tying recognition as indigenous to a prescriptive, static and narrow view of “traditional”;

- The Russian Federation should adopt an outcome-oriented approach to indigenous affairs aimed at combating structural discrimination against indigenous peoples and delivering actual change on the ground;
- To this end, Russia should institute a mechanism for tracking the well-being and social health of indigenous peoples, using internationally recognised development indicators, complying with the 2008 and 2013 recommendations of the UN Committee on the Elimination of Racial Discrimination;
- The Russian Federation should adopt a rights-based approach to the issues of indigenous peoples’ access to land and resources, healthcare, education, public services and housing;
- Regulations concerning indigenous peoples’ access to sources of food and income, including fish, forests and hunting grounds, should be premised on the primacy of the indigenous peoples’ right to feed themselves.

### Civil and Political Rights

- The Russian Federation should take effective measures to ensure that indigenous peoples fully and effectively participate in decision-making in matters concerning their rights and interests through their chosen representatives;
- The Russian authorities should strictly refrain from any interference in the internal affairs of indigenous peoples’ organisations. The right of indigenous peoples to choose their own representatives and determine their own demands and priorities should be strictly observed;
- Pursuant to Art. 39 of the UN Declaration on the Rights of Indigenous Peoples, by which indigenous peoples have the right “to have access to financial and technical assistance from states and through international cooperation, for the enjoyment of the rights contained in this Declaration”, Russia should revoke legislation designating non-profit organisations, including indigenous peoples’ organisations that accept foreign funding, as “foreign agents”. If the stated law is not revoked, a clear exception should be made for indigenous peoples’ organisations in order to comply with this provision of the UNDRIP;

- The Russian Federation should take steps to encourage and strengthen local self-government of indigenous peoples.

### Restoration and redress

- Indigenous peoples in the Russian Federation have been subject to historical injustice of various kinds, including dispossession, forced sedentarisation and collectivisation, forced resettlement, deprivation of their means of existence and violent persecution of their traditional leaders as well as involuntary deprivation of child custody. Most of these experiences are shared by indigenous peoples in other parts of the world. Some governments have taken steps to address such issues of legacy, starting with a formal apology for past violations suffered by indigenous communities. The Russian Federation should likewise consider identifying issues of legacy requiring redress and restoration efforts and addressing them by adequate mechanisms, such as the model of truth and reconciliation commissions.

### Customary law

- The Russian Federation should revise its legislation to ensure that indigenous peoples’ customary law is adequately considered, in compliance with the provisions of the UNDRIP;
- In keeping with the UNDRIP, territories and resources customarily occupied or used by indigenous peoples should be considered their collective property, managed by the respective indigenous communities according to their customs and traditions;
- Whenever disputes with third parties arise whose operations affect indigenous peoples’ ancestral lands and resources, indigenous peoples’ customary law should be duly considered in the adjudication of such disputes;
- Indigenous peoples’ local bodies of self-government should be enabled to assert effective governance over their ancestral territories. Where traditional judicial authorities exist, they should be enabled to adjudicate according to their legal traditions on matters of dispute with third parties operating in these territories.

## 1.2 Recommendations to foreign governments

- Foreign governments should ensure that business enterprises domiciled within their territories and/or under their jurisdiction respect the rights of indigenous peoples, as set out in the UNDRIP, in their operations in the Russian Federation. They should do so through legislative measures, by attaching specific human rights conditions to their foreign economic instruments including export credit agencies, and by empowering their OECD contact points. In particular, they should require business enterprises domiciled within their territories to undertake human rights due diligence for all operations potentially affecting indigenous peoples in the form of participatory human rights impact assessments and to obtain their Free, Prior and Informed Consent in those cases set out in the UNDRIP;
- Foreign governments should take steps to ensure that indigenous peoples of the Russian Federation “have access to financial and technical assistance from states and through international cooperation” for the enjoyment of the rights contained in the UNDRIP. The indigenous peoples of Russia should be included in development, capacity building and other programmes targeting indigenous peoples in developing countries or parallel programmes established which ensure such access, even though Russia is not classified as a developing country.

## 1.3 Recommendations to indigenous peoples

- Indigenous peoples should explore the possibility of using non-judicial grievance mechanisms, as established under the OECD Guidelines, in order to directly exert pressure on corporations domiciled in OECD member states to increase respect for their human rights. In doing so, they might consider availing themselves of the assistance of civil society organisations and indigenous activists from those countries, where they have worked with these mechanisms in the defence of indigenous peoples’ rights.

## 1.4 Recommendations to businesses enterprises

- Business enterprises operating in or near territories used or occupied by indigenous peoples should, apart from complying with Russia’s national and regional legislation, ensure that they fully respect the rights set out in the authoritative international instruments, namely the UNDRIP and ILO Convention 169, regardless of Russia’s lack of government support for either document;
- Business enterprises should commit to embracing the provisions of the UNDRIP at the most senior level by means of a policy commitment guided by the UN Guiding Principles on Business and Human Rights. The latter should be informed by the opinions of indigenous representatives and other human rights experts. Companies should apply the policy commitment throughout all levels and throughout their value and supply chain;
- Business enterprises should categorically and diligently avoid exploiting any potential legal loopholes offered by Russian legislation which might allow them to apply standards less than those set out in the UNDRIP, e.g. to bypass direct good faith consultations with the affected communities, avoid obtaining the consent of the directly affected communities. It is advisable for corporations to avail themselves of a full understanding of the deficiencies of Russian legislation, in particular, as this concerns the lack of recognition of their right to land and resources and issues of representation, consent and consultation.
- When engaging with indigenous communities, business enterprises should respect the right of indigenous peoples to freely select their own representatives and their mode of participation in any consultation process. Indigenous peoples should be fully sovereign in their decisions on how and by whom they choose to be represented;
- Business enterprises should carry out human rights due diligence, as stipulated by the UN Guiding Principles. In order to ensure respect for indigenous peoples’ rights, in particular for projects aimed at the development, exploration or extraction of natural resources, they should conduct participatory human rights impact assessments;
- Human rights due diligence procedures should, at the earliest possible stage, identify the indig-

enous peoples potentially affected by the proposed operations, determine how they will be affected, and assess the land and resource rights to which indigenous people may lay claim;

- The identification of potentially affected indigenous peoples should be guided by the UN working definition of “indigenous peoples”, which first and foremost relies on the self-identification of a given group. It should not be prejudiced by limitations set out in Russian legislation such as the numerical threshold or the limitation to certain regions or ways of life;
- The identification of affected communities should aim at completeness, e.g. include communities living downstream from a planned production plant, even if their settlement is located in a different village. It should focus on identifying the actual indigenous land users based on customary occupancy rather than formal property rights, as the latter usually rest with a non-indigenous third party;
- Business enterprises should respect the rights of the affected indigenous peoples as collective subjects of international law, including their right to collective decision-making and bargaining;
- Business enterprises should consult indigenous peoples in good faith. This includes ensuring that any consultations or hearings are fully accessible to them, rather than held at a distant location. Information provided must be complete, factually accurate and provided in a manner which is fully understandable. Reservations and objections raised by the affected community during consultations must be duly registered. Alternatives proposed by the community should be duly considered;

- Business enterprises should not commence any operations potentially affecting indigenous peoples without their Free, Prior and Informed Consent. They should formally commit to respecting indigenous peoples’ right to Free, Prior and Informed Consent (FPIC), including their rights to define the process by which FPIC is achieved and to withhold consent, if they so choose. Corporations should embrace an holistic approach to consultation, participation and consent as a process of building a long-term good-faith relationship with indigenous peoples, rather than a mere compliance mechanism to be fulfilled through a one-off box-ticking exercise;
- Corporations should develop a sufficient understanding of indigenous peoples’ customary law, including customary approaches to dispute resolution. Such learning processes should be guided by the realisation that indigenous peoples’ customary laws and decision-making processes are flexible and dynamic, and closely related to the specific environmental and social contexts in which they have evolved. Such learning processes therefore need to take place on a case-by-case basis;
- Business enterprises should ensure that indigenous peoples share in the benefits generated by business activities. Such benefits should be regarded as a means of complying with a right, not as a charitable award or favour granted by the company in order to secure social support.

Corporations should address issues of legacy, such as violence, dispossession, forced eviction and oppression suffered by indigenous peoples as a direct or indirect consequence of business activities.



**Appendix 2:**  
**Peoples and population sizes according to the 2002 and 2010 censuses**

Name	Alternative/ Historic name	Main settlement area(s)	Population 2002	Population 2010	Growth (%)	Group members speaking their mother tongue; according to	
Aleuts		Kamchatka territory	540	482	-10,74	19	3,94%
Alyutors						0	
Veps		Karelia/Leningrad region	8240	5936	-27,96	2362	39,79%
Dolgans		Krasnoyarsk territory (Taimyr), Yakutia	7261	7885	8,59	930	11,79%
Itelmens		Kamchatka territory	3180	3193	0,41	56	1,75%
Kamchadals		Kamchatka territory	2293	1927	-15,96	3	0,16%
Kereks		Chukotka	8	4	-50,00	0	0,00%
Kets		Krasnoyarsk territory	1189	1219	2,52	199	16,32%
Koryaks		Kamchatka territory	8743	7953	-9,04	1460	18,36%
Kumandins		Altai territory, Altai republic	3114	2892	-7,13	522	18,05%
Mansi	Voguls	Khanty-Mansi Autonomous Area, Tyumen region	11432	12269	7,32	834	6,80%
Nanai	Golds	Khabarovsk Territory	12160	12003	-1,29	797	6,64%
Nganasans		Krasnoyarsk territory	834	862	3,36	93	10,79%
Negidals		Khabarovsk Territory	567	513	-9,52	19	3,70%
Nenets	Samoyeds	Yamal-Nenets AA, Nenets AA, Taimyr (Krasnoyarsk Territory)	41302	44640	8,08	19567	43,83%
Nivkhs		Khabarovsk Territory, Sakhalin	5162	4652	-9,88	183	3,93%
Oroks	Uilta	Sakhalin	346	295	-14,74	10	3,39%
Oroch		Khabarovsk Territory	686	596	-13,12	3	0,50%
Saami	Lapps	Murmansk Region	1991	1771	-11,05	299	16,88%
Selkups		Tyumen & Tomsk Regions	4249	3649	-14,12	945	25,90%
Soyots		Buryatia	2769	3608	30,30	3322	92,07%
Taz		Primorsky Territory	276	274	-0,72		0,00%
Telengits		Altai Republic	2399	3712	54,73	3516	94,72%
Teleuts		Kemerovo Region	2650	2643	-0,26	938	35,49%
Tofalars	Tofa	Irkutsk Region	837	762	-8,96	87	11,42%
Tubalars		Irkutsk Region	1565	1965	25,56	211	10,74%
Tozhu	Tuvintsy- Tojintsy	Tuva	4442	1858	-58,17	1844	99,25%
Udege		Primorsky & Khabarovsk Territories	1657	1496	-9,72	82	5,48%
Ulchi		Khabarovsk Territory	2913	2765	-5,08	142	5,14%
Khanty	Ostyak	Khanty-Mansi & Yamal-Nenets Autonomous Areas	28678	30943	7,90	8865	28,65%
Chelkans		Altai Republic	855	1181	38,13	287	24,30%
Chuvans		Chukotka	1087	1002	-7,82	6	0,60%
Chukchi			15767	15908	0,89	4563	28,68%
Chulyms		Tomsk Region	656	355	-45,88	17	4,79%

Shors		Kemerovo Region	13975	12888	7,78	2626	20,38%
Evenks	Tungus	Yakutia, Krasnoyarsk & Khabarovsk Territories, Buryatia, Amur Region	35527	37843	6,52	4310	11,39%
Evens	Lamuts	Yakutia, Magadan Region, Kamchatka	19071	22383	17,37	4911	21,94%
Enets	Yenisei	Krasnoyarsk Territory (Taimyr)	237	227	-4,22	36	15,86%
Yupiq	Ostyaks						
Yukagirs	Eskimo	Chukotka	1750	1738	-0,69	456	26,24%
		Yakutia	1509	1603	6,23	311	19,40%

### Appendix 3: Indigenous languages grouped by families

Indigenous peoples grouped by family			
<b>Uralic</b>	Samoyedic		Nenets languages (Tundra and Forest Nenets) Selkup Enets Nganasan
	Finno-Ugric	Ugric  Finnic Permian	Khanty Mansi Veps Komi (Izvas) Kildin Saami
<b>Altaic</b>	Saami		
	Siberian Turkic	North Siberian South Siberian	Dolgan Altaiian Chelkan Chulym Kumandin Shor Soyot (extinct) Telengit Teleut Tofa Tubalar Tuvan
<b>Tungusic</b>	Northern		Even Evenk Negidal Udege Oroch
	Southern		Nanai Orok (Uilta) Ulchi
<b>Aleut-Eskimo</b>	Aleut Eskimo (isolated)		Aleut Siberian Yupiq
<b>Palaeo-Siberian</b>		Chukotko-Kamchatkan	Chukchi Koryak Alyutor Kerek Itelmen
		Yukagir	Yukagir Chuvan (extinct)
<b>Sino-Tibetan</b>		Nivkh Ket	Nivkh Ket
	Chinese Central Mongolic	Northeastern Mandarin Buryat	Taz (today spoken by Soyots)

#### Appendix 4: Retention of native language according to 2010 census

<b>State inventory of Indigenous peoples of the North, Siberia and the Far East, according to the decree dated 17 April 2006, 536-r</b>			
<b>Name</b>	<b>Population 2010</b>	<b>Speakers, according to 2010 Census</b>	
Tozhu	1858	1844	99,25%
Nenets	44640	19567	43,83%
Veps	5936	2362	39,79%
Teleuts	2643	938	35,49%
Chukchi	15908	4563	28,68%
Khanty	30943	8865	28,65%
Yupiq	1738	456	26,24%
Selkups	3649	945	25,90%
Chelkans	1181	287	24,30%
Evens	22383	4911	21,94%
Shors	12888	2626	20,38%
Yukagirs	1603	311	19,40%
Koryaks	7953	1460	18,36%
Kumandins	2892	522	18,05%
Saami	1771	299	16,88%
Kets	1219	199	16,32%
Enets	227	36	15,86%
Dolgans	7885	930	11,79%
Tofalars	762	87	11,42%
Evenks	37843	4310	11,39%
Nganasans	862	93	10,79%
Tubalars	1965	211	10,74%
Mansi	12269	834	6,80%
Nanai	12003	797	6,64%
Udege	1496	82	5,48%
Ulchi	2765	142	5,14%
Chulyms	355	17	4,79%
Aleuts	482	19	3,94%
Nivkhs	4652	183	3,93%
Negidals	513	19	3,70%
Oroks	295	10	3,39%
Itelmens	3193	56	1,75%
Chuvans	1002	6	0,60%
Oroch	596	3	0,50%
Kamchadals	1927	3	0,16%
Kereks	4	0	0,00%
Soyots	3608		0,00%
Taz	274		0,00%
Telengits	3712	3516	94,72%

## Appendix 5: Urbanisation levels of indigenous peoples

Population figures of the indigenous small-numbered peoples of the North by territory according to the All-Russian census of 2010

	Urban and rural population			Urban population			Rural population			% urban	% rural
	Man and women	men	women	Man and women	men	women	Man and women	men	women		
Aleuts	482	245	237	155	78	77	327	167	160	32,16%	67,84%
Veps	5936	2423	3513	3348	1335	2013	2588	1088	1500	56,40%	43,60%
Dolgans	7885	3513	4372	1840	684	1156	6045	2829	3216	23,34%	76,66%
Itelmens	3193	1480	1713	1245	534	711	1948	946	1002	38,99%	61,01%
Kamchadals	1927	919	1008	566	267	299	1361	652	709	29,37%	70,63%
Kereks	4	3	1	4	3	1	0	0	0	100,00%	0,00%
Kets	1219	574	645	317	120	197	902	454	448	26,00%	74,00%
Koryaks	7953	3707	4246	2917	1268	1649	5036	2439	2597	36,68%	63,32%
Kumandins	2892	1284	1608	1400	592	808	1492	692	800	48,41%	51,59%
Mansi	12269	5590	6679	7028	3115	3913	5241	2475	2766	57,28%	42,72%
Nagaibaks	8148	3726	4422	1761	783	978	6387	2943	3444	21,61%	78,39%
Nanai	12003	5432	6571	3518	1515	2003	8485	3917	4568	29,31%	70,69%
Nganasans	862	385	477	315	135	180	547	250	297	36,54%	63,46%
Negidals	513	216	297	155	54	101	358	162	196	30,21%	69,79%
Nenets	44640	20781	23859	9543	3848	5695	35097	16933	18164	21,38%	78,62%
Nivkhs	4652	2067	2585	2374	1026	1348	2278	1041	1237	51,03%	48,97%
Oroch	596	278	318	287	134	153	309	144	165	48,15%	51,85%
Saami	1771	770	1001	787	322	465	984	448	536	44,44%	55,56%
Selkup	3649	1735	1914	773	372	401	2876	1363	1513	21,18%	78,82%
Soyots	3608	1770	1838	255	112	143	3353	1658	1695	7,07%	92,93%
Taz	274	121	153	114	50	64	160	71	89	41,61%	58,39%
Telengits	3712	1779	1933	300	122	178	3412	1657	1755	8,08%	91,92%
Teleuts	2643	1199	1444	1198	544	654	1445	655	790	45,33%	54,67%
Tofalars (Tofa)	762	345	417	98	43	55	664	302	362	12,86%	87,14%
Tubalars	1965	942	1023	357	147	210	1608	795	813	18,17%	81,83%
Tozhu	1858	880	978	4	2	2	1854	878	976	0,22%	99,78%
Udege	1496	728	768	375	146	229	1121	582	539	25,07%	74,93%
Uilta (Oroks)	295	140	155	177	86	91	118	54	64	60,00%	40,00%
Ulchi	2765	1235	1530	589	247	342	2176	988	1188	21,30%	78,70%
Khanty	30943	14134	16809	11879	5119	6760	19064	9015	10049	38,39%	61,61%
Chelkans	1181	507	674	231	103	128	950	404	546	19,56%	80,44%
Chuvans	1002	475	527	396	172	224	606	303	303	39,52%	60,48%
Chukchi	15908	7418	8490	3808	1659	2149	12100	5759	6341	23,94%	76,06%
Chulyms	355	176	179	26	9	17	329	167	162	7,32%	92,68%
Shors	12888	5956	6932	9353	4241	5112	3535	1715	1820	72,57%	27,43%
Evenks	37843	18539	19304	10021	4662	5359	27822	13877	13945	26,48%	73,52%
Evens (Lamuts)	22383	9064	13319	8049	2870	5179	14334	6194	8140	35,96%	64,04%
Enets	227	115	112	57	19	38	170	96	74	25,11%	74,89%
Yupiq (Eskimo)	1738	835	903	628	291	337	1110	544	566	36,13%	63,87%
Yukagirs	1603	778	825	740	345	395	863	433	430	46,16%	53,84%
total	266043	122264	143779	86988	37174	49814	179055	85090	93965	32,70%	67,30%