

Observations on the State of Indigenous Human Rights in the Russian Federation

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Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous Peoples' rights in countries throughout the world and publishes its findings in its magazine, the Cultural Survival Quarterly; and on its website: www.cs.org

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I. Executive Issue Summary

Aside from minor examples of positive progress, Indigenous Peoples in the Russian Federation continue to be marginalized politically and denied rights to land and resources. Politically-connected development interests take priority over the wellbeing of Indigenous communities. The Russian economy's increased dependence on extractive industries, as a result of international sanctions for Russian activities in Crimea, has exacerbated these problems in recent years. Legal reform has tended to result in a loss of rights for Indigenous Peoples and the situation of Indigenous women in Russia is particularly alarming.

II. Background

The Russian Federation is home to millions of diverse Peoples, including a large Indigenous population spread across roughly two-thirds of its territory. To be recognized as "Indigenous" within the Russian Federation, a group must fit distinct qualities, including: (1) numbering under 50,000 individuals; (2) practicing traditional customs; (3) inhabiting a remote area; and (4) maintaining a distinct ethnic identity. Among the peoples recognized as such are: Evenks, Saami, Yupiq (Eskimo), Nenets, and Udege. Other Peoples such as the Sakha (Yakuts), Buryat, Komi, and Khakass are not recognized as Indigenous by the government because of their large populations.

A definition of "Indigenous" without the numerical qualification does not exist in Russian legislation and Indigenous Peoples are not easily generalized as one. They live in different geographies and climates, following unique social, economic, and political patterns.

The Russian economy is heavily dependent on hydrocarbon extraction and exportation, much of which occurs in Indigenous territories, historically creating tension between the government and Indigenous Peoples. Other sectors heavily impacting Indigenous Peoples are the timber and fishing industries as well as gold and coal mining. The economy has suffered greatly since 2014 due to the crash in oil prices, as well as sanctions following Russia's annexation of Crimea.

The Russian Federation has joined several UN human rights treaties (ICCPR, ICESCR, CEDAW, CERD, CRC), and has also ratified the Framework Convention for the Protection of National Minorities of the Council of Europe. Article 69 of the Constitution guarantees "the rights of the Indigenous small peoples according to the universally recognized principles and norms of international law and international treaties and agreements of the Russian Federation." However, there is no concept of Free, Prior and Informed Consent in Russian legislation and the Russia has not endorsed the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) or ratified ILO Convention 169.

III. Recommendations from Previous UPR Cycles

The Russian Federation was reviewed as part of the UPR process in February 2009 and April 2013, refusing to accept the following recommendations concerning Indigenous Peoples:

- *Officially endorse the United Nations Declaration on the Rights of Indigenous Peoples, and fully implement all relevant national laws and regulations (Denmark);*
- *Consider the ratification of ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries (Bolivia);*
- *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);*
- *Increase its budget allocation for Indigenous Peoples (Namibia);*
- *Follow the principles enshrined in the United Nations Declaration on the Rights of Indigenous Peoples (Estonia).*

Russia previously accepted the following recommendations regarding Indigenous Peoples:

- *Comply with the principles contained in the Declaration on the rights of Indigenous people (Mexico);*
 - Russia accepted this recommendation after the 2009 review, but still has not endorsed the Declaration and did not accept the recommendation to follow the principles enshrined in the Declaration following the 2013 review.
- *Harmonize the various laws on the rights of Indigenous Peoples, particularly regarding their access to land and natural resources (Mexico);*
 - Most laws which grant land rights to Indigenous Peoples in Russia are regional laws, some of which have been eroded recently, and such actions cannot be considered as in keeping with the spirit of this recommendation.
- *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);*
- *Strengthen federal and local legislation in favour of the rights of Indigenous Peoples (Bolivia);*
- *Redouble efforts in paying special attention to school education of the Indigenous Peoples and national minorities (Bolivia); and*
- *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 lands and territories; address the problem of underrepresentation in State institutions at the federal and regional levels (Estonia).*

These recommendations largely remain not implemented.

IV. Continuing Rights Violations

A. Obstacles to Political Participation and Freedom of Expression

Russian President Vladimir Putin signed the controversial “foreign agent” law in July 2012, which severely restricts NGOs’ ability to operate in the country.¹ The law limits organizations to collect tax-free donations from foreigners, imposes excessive audits and reporting requirements, and permits government intervention and interruption of the internal affairs of NGOs, including the ability to suspend activities for up to 6 months.² Once registered as a “foreign agent,” NGOs are obligated to mark all their official statements with a disclosure that it is being given by a “foreign agent.” Furthermore, the word “foreign agent” (Иностранный агент) in Russian has strong negative associations from the Soviet era.³

Most independent Indigenous Peoples’ organizations are now listed as foreign agents.⁴ After receiving such a designation, many organizations often choose to cease operations to avoid the associated legal risks. This law has led to the closure of many independent NGOs dedicated to Indigenous advocacy and other human rights issues.

The Russian Association of Indigenous Peoples of the North (RAIPON) represents 41 different Indigenous groups, encompassing more than 250,000 people across the north of Russia.⁵ RAIPON was shut down in 2012 as part of the government’s larger crackdown on NGOs, which led to protests from the Arctic Council that eventually led to the organization being allowed to reopen in 2013.⁶ Since reopening and electing new leadership under Moscow’s supervision, the group has grown noticeably less critical of the Russian government and less interested in working with international groups.⁷ The organization is now pursuing a tactic of working with the government to affect change.⁸

In 2014, several Indigenous leaders were arbitrarily detained by Russian authorities on their way to attend the World Conference on Indigenous Peoples.⁹ Russian officials used a variety of different tactics to invalidate their passports and charge them with civil offenses (which were later dropped) to prevent them from leaving the country.¹⁰ Those affected included: Rodion Sulyandziga (Udege); Anna Naikanchina, featured conference speaker; Valentina Sovkina, chairwoman of the Saami Parliament; and Nadir Bekir, director of the International Foundation for Research and Support of Indigenous Peoples of Crimea.¹¹

B. Obstacles to Land Use and Accessing Natural Resources

Many Indigenous Peoples in Russia continue practicing subsistence activities such as reindeer herding, hunting, and fishing on the same territories as their ancestors. Although laws regulating hunting and fishing allow Indigenous Peoples to conduct both without a special permit, they are barred from doing so in most regions due to bureaucratic constraints. Licenses necessary for *accessing hunting and fishing grounds* in Russia are only available through a competitive bidding process through which commercial interests are able to easily outbid Indigenous people.¹² Additional restrictions apply for most species and traditional knowledge is disregarded. In April 2016, the Ministry of Agriculture announced Order 152, prohibiting Indigenous Peoples from catching fish except salmon with “net gear” from 1 May to 30 September of each year. “Net gear” refers to all traditional Indigenous fishing gear. Indigenous Peoples have protested this new law and organize a united response, but the order has yet to be

revised. Active enforcement of this law would cause serious food shortages and perpetuate further criminalization of Indigenous Peoples.¹³

The North, Siberia, and the Far East—where a majority of Indigenous Peoples live—are where most of Russia’s industrial-grade natural resources are located.¹⁴ A change in the federal Land Codex, entered into force on 1 March 2015, removed a protection that brought Indigenous Peoples into the decisionmaking process when development projects affected their traditional lands.¹⁵

The Yamal Liquid Natural Gas project is a joint venture between Russian, French, Chinese, and German companies that will take away much of the dry elevated pastureland on Yamal’s Northwest coast and has already destroyed much of the fish stocks.¹⁶ It bans Indigenous nomads from the concession area and disrupts their migration routes. The project was approved with serious doubts regarding the free, prior and informed consent of the Nenets reindeer herders and also threatens to drastically reduce local fish populations off the coast. The region is inaccessible without special permit by the intelligence service. Due to the local civil society being under strong pressure by the state, the project cannot be effectively monitored and dissent cannot be freely voiced. Like other Arctic regions in Russia where hydrocarbon extraction activities are occurring, access to the area is tightly controlled. Foreign journalists and advocates cannot access the area without special permission from the intelligence service, and even Russian advocates have been denied access.¹⁷ The government of Yamal recently introduced a controversial policy to reduce the reindeer population of the region by over one third, while at the same time rapidly increasing the number of licenses for natural gas extraction.¹⁸ Neither of these highly controversial policies were enacted with the consultation, much less consent, of the local reindeer herders.

The Case of Sergei Nikiforov

Sergei Nikiforov is a traditional leader of the Amur Evenki people who has been imprisoned for advocating against gold mining on Evenki land.¹⁹ Nikiforov’s resistance brought him into conflict with the authorities of the Amur region and the “Petropavlovsk” company. After calling for the Amur Evenki to boycott President Putin’s elections in 2012, Nikiforov was imprisoned on charges of extortion following an unfair trial. Amnesty International has declared Nikiforov a prisoner of conscience.²⁰

A report from the Business and Human Rights Resource Centre states that the Amur Evenki are among the most impoverished of all the small-numbered Indigenous Peoples of Russia.²¹ This area also has one of the highest suicide rates in the country and roughly half of the males have a criminal record.²² Nikiforov became such an effective leader of the Amur Evenki because he was motivated, educated, and sober. The community was able to unite under his leadership and accomplish such tasks as adopting all of the Evenki children from the orphanages in the Amur region. Nikiforov’s imprisonment is an example of how easy it is for extractive industries to disenfranchise Indigenous Peoples in Russia.

The Case of the "Dylacha" Community

On the other end of the spectrum, the Evenki community of “Dylacha” used to be one of the most successful Indigenous small-numbered peoples of the Russian Far East. The community used to be the largest developer and manufacturer of jade, and they owned a milk-processing factory, a brick factory, and reindeer herding and hunting grounds.²³ Dylacha was one of the ten largest taxpayers in the Republic of Buryatia. They had also established the Evenki Museum, which financed virtually all projects related to the promotion and preservation of Evenki culture and arts. In 2012, Mr. Chemezov, head of the state corporation “Russian Technologies” and personal friend of Vladimir Putin, took an interest in the Evenki businesses in Dylacha. Chemezov accused the community of mining and producing jade outside of their designated areas and thus effectively stealing 600 million roubles (about 10.5 million dollars) worth of jade from the state. Shortly afterwards, riot police raided Dylacha businesses and criminal proceedings were initiated against community leaders.²⁴

Three investigations were conducted (two at the initiative of the community, one at the initiative of the Ministry of Internal Affairs) and all concluded that the community had not diverged from the limits of its licensed area.²⁵ In addition, well-known leaders of the Indigenous Peoples of Canada and Bolivia and other UN officials visited Buryatia to conduct hearings for the UN Committee on Elimination of Racial Discrimination, and they sent an official complaint from the United Nations to the Russian government regarding this issue.²⁶ As a result, Chemezov wrote a letter to Putin about the “smugglers” in the community, and other “terrible violations” by the Evenki. The government prosecutors then changed strategies and, instead of focusing on criminal prosecutions, decided to file a petition to close the community citing in vague terms how the community’s organization and activities do not correspond to Russian law. The petition was granted, the Dylacha community officially closed, and all of its assets were seized.²⁷ Community leaders were forced to flee from Russian authorities or try to defend themselves in court. The Dylacha community is a poignant example of how even empowered Indigenous communities cannot defend themselves or their land rights from the Russian state.

C. Indigenous Women

The Indigenous women of the Russian Federation are largely ignored in human rights reporting. Little disaggregated data on Indigenous women’s lives exists. Very few reports that concentrate on the Indigenous Peoples or Russian women discuss Indigenous women, underscoring a disturbingly limited focus on them. Presently, no advocacy organizations are devoted solely to Indigenous women. Although Indigenous women are often the spearheads behind Indigenous organizations, their personal rights rarely receive emphasis. Indigenous women lack political and legal representation on the governmental level and there is no institutionalized promotion of Indigenous women’s rights by the state.

In traditional Russian culture patriarchal systems strangle women’s rights. Violence against Indigenous women is common and often ignored. Although Indigenous communities do not always echo dominant Russian norms, the culture of abuse has permeated some Indigenous

communities. The Soviet experience and economic realities that force men to leave their traditional communities have led to greater educational, political, and employment opportunities for Indigenous women. The topic of discrimination against Indigenous women, domestic discrimination and abuse are often ignored because these issues are inherent to the accepted treatment of women in Russia. Instead, the conversation has focused on the critically important but already well-covered themes of employment and maternity.

In January 2017, the Russian legislature amended the criminal code to decriminalize some forms of domestic battery for first-time offenders who do not do serious physical harm to their victims.²⁸ As a result, first-time offenses will be treated as civil offenses that carry a penalty of a \$500 fine or 15 days in jail; only injuries like concussions or broken bones, or repeated offenses committed in a family setting, would lead to criminal charges.²⁹ Data from Russia's Interior Ministry provides that in 2013 more than 9,000 women died in criminal assaults and more than 11,000 were badly injured.³⁰ In 2014, more than 25 percent of all murders were committed in families.³¹ There does not exist any specific data on domestic abuse against Indigenous women. Given the history of social acceptance of domestic violence in Russia, this legal development is likely to perpetuate and even encourage such behavior.

V. Questions

1. What steps has Russia taken in recent years to implement the recommendation from Bolivia (which was accepted) to strengthen federal and local legislation in favour of the rights of Indigenous Peoples?
2. What mechanisms exist in Russian law to protect Indigenous Peoples' access to their traditional lands and resources?
3. Can you provide an example of an Indigenous community in Russia successfully protecting their rights against a development interest in the extractive sector?

VI. Recommendations

1. Officially endorse the United Nations Declaration on the Rights of Indigenous Peoples.
2. Ratify ILO Convention 169.
3. Create a National Action plan on implementing the rights of Indigenous Peoples based on the World Conference on Indigenous Peoples' Outcome Document.
4. Recognize Indigenous Peoples as such in federal legislation in such a way that affirms their collective rights and includes the concept of "Free, Prior and Informed Consent."
5. Formally invite the UN Special Rapporteur on the Rights of Indigenous Peoples to visit the Russian Federation.
6. Consider amending the Land Codex to bring Indigenous Peoples back into the decisionmaking process for laws which affect their traditional lands.

7. Promote more research on both national and international fronts on the topic of Indigenous Peoples in the Russian Federation in order to have insight into their wellbeing and to provide them with representation.
8. Collect disaggregated data on Indigenous Peoples in the next nationwide census, including health and social indicator data on Indigenous women and children.
9. Construct more infrastructure in remote communities, especially health care facilities.
10. Establish treatment programs with the aim of eliminating alcoholism in local communities, employing incentivizing tools to ensure participation of Indigenous Peoples.

End Notes

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¹³ Indigenous World 2017

¹⁴ Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous people, James Anaya, Human Rights Council on Its Fifteenth Session, U.N. Doc. A /HRC/15/37/Add.5 (2010).

¹⁵ Indigenous World 2017

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Sulyandziga, Pavel. "Government & businesses interests silencing Russia's Indigenous peoples." *Business & Human Rights Resource Centre*, 21 Dec. 2016, business-humanrights.org/en/russia-govt-businesses-destroying-Indigenous-peoples-communities-says-member-of-un-working-group-on-business-human-rights#c149242.

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²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Communications report of Special Procedures, Human Rights Council on Its Twenty-Sixth Session, U.N. Doc. A/HRC/26/21 at 48 (2014).

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³⁰ Ibid.

³¹ Ibid.