

List of issues:

**Civil and political rights of indigenous minority peoples of the North,
Siberia and the Far East of the Russian Federation**

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Introduction

The present submission focuses on the situation of the 41 small numbered indigenous¹ peoples of the North, Siberia and the Far East, who numbering approximately 260,000 individuals in total traditionally inhabit about two thirds of Russia’s territory, from the Kola peninsula in the European North to the Chukchi peninsula on the Bering strait. They are politically, economically and socially highly marginalized groups. The majority of them live in rural remote communities and remain dependent on their traditional subsistence activities such as fishing, hunting, gathering and nomadic reindeer herding for their income. At the same time, much of the resources, such as timber, oil, gas, gold, diamonds and coal, which account for most of the country’s export revenues are extracted from their territories, often with catastrophic impacts on their communities.

The submission primarily refers to paragraphs 380-386 of the State-party report and provides an assessment of the fulfilment of the recommendations in paragraph 24 of the 2015 Concluding Observations. In addition, it outlines a couple of salient issues which neither the report nor the concluding observations touch upon, but which strongly impact on the indigenous peoples’ rights to enjoy and exercise their rights under the Covenant.

New register undermines right of indigenous peoples to self-identification (Paras 358, 359)

Paragraphs 358-359 reaffirm the right of every citizen to determine his or her ethnic identity², and does not require the fulfilment of any objective criteria. However, the recent adoption of amendments to the federal law ‘*On guarantees of rights of small numbered indigenous peoples of the Russian Federation*’, adopted 6 February 2020³ creates a ‘*register of persons belonging to small numbered indigenous peoples*’. Only persons included in the register will be effectively recognized as indigenous and thereby eligible to enjoy and exercise rights, such as hunting and fishing rights, which Russian legislation reserves to small numbered indigenous peoples. Contrary to the guarantee in Art. 26 of the Constitution, applicants can be rejected when they fail to provide sufficient documentary evidence of his or her indigenous identity.⁴ Most indigenous peoples do not have any

¹ A literal translation of the Russian word “malochislenny” would be “small-numbered”. As this is not a common term in English, the word “minority” is used here. Another frequently used translation is “numerically small”

² The actual wording in the constitution is “*Everyone shall have the right to determine and indicate his nationality*”, which however does not refer to citizenship but to ethnic identity, see <http://constitution.ru/en/10003000-03.htm>

³ Federal’nyy zakon *O vnesenii izmenenii v federalnyi zakon "O Garantiakh Prav korenykh malochislennykh narodov rossiiskoi federatsii" v chasti ustanovleniia poriadka ucheta litc, otnosiashchikhsia k korenym malochislennym narodam*, <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=344780&fld=134&dst=1000000001,0&rnd=0.15391158477814604#007671472910591426%20>

⁴ According to the law they must to provide ‘*an original or a copy certified in accordance with the legislation of the Russian Federation of any document(s) containing information about the nationality of the applicant, or a legally effective court decision, evidencing the court finding of the fact of assignment of the applicant to the given minority people or the existence of the relationship of the applicant with person(s), related to the minority people or of document (s) containing other evidence indicating the affiliation of the applicant with the given minority people*’,

such documentary evidence.⁵ rendering them unable to comply. Indigenous representatives are therefore concerned that this legislation will deprive many of them of any recognition as indigenous, thereby denying essential legal rights to access and use resources, land rights, consultation rights, rights to compensation for damage inflicted to their ancestral territories by extractive industries, etc.

Proposed question: How is the creation of the register of indigenous peoples compatible with the constitutional right to freely determine one's ethnic identity and with international human rights law's criterion of self-identification as indigenous? (ICCPR Article 1, 25, 27 and United Nations Declaration on the Rights of Indigenous Peoples/UNDRIP Articles 3, 8, 26, 32 and 33)⁶

Territories of Traditional Nature Use (Paras 380-383)

The 8th Periodic Report fails to report any progress with regard to the implementation of Federal Act No. 49-FZ of 7 May 2001 on Territories of Traditional Nature Use (TTNU)⁷ of the Indigenous Small-Numbered Peoples of the North, Siberia and the Far East of the Russian Federation. To this day, the Federal Government has not registered a single such territory as required by the law. The over 500 TTNU established by local and regional government bodies have therefore no guaranteed legal status. They are not recognized by branches of the Federal Government, especially of the Ministry for Natural Resources, which issues resource use licenses to businesses, such as extractive industries, logging and fishing companies. TTNU are not included in the Uniform State Register of Real Estate, which further undermines their legal status.⁸ The latest draft revision of the Federal Act No. 49-FZ, prepared by the Federal Agency of Ethnic Affairs May 2017, does not eradicate this discrimination. At the same time, it creates new impediments to the establishment of TTNUs.⁹ As a result, more and more TTNU land gets licensed to businesses or alienated under the "Far Eastern Hectare" programme, which provides incentives to settle in the Russian Far East by handing out free land.

Proposed question: What steps is the Federal Government taking to register Territories of Traditional Nature Use and how is it protecting indigenous peoples' land, autonomy and consent rights in the context of business activities that may impact upon their territories? (ICCPR Article 1, 2, 25, 27 and UNDRIP Articles 3, 4, 26, 32)¹⁰

Criminalisation and persecution of traditional subsistence activities

The exercise of traditional hunting and fishing is being criminalised and impeded by authorities in concert with companies, enforcement agencies, state and local authorities. Indigenous peoples are increasingly subjected to violence because of their subsistence activities, they are the targets of threats, illegal detentions, confiscation of extracted production and fines.¹¹ A growing trend is the

Ibid, Art. 1: Amendments to art. 7.1 of the federal law: Item 13

⁵ Until 1997, passports contained a 'nationality' entry, which did serve as documentary evidence. However all old passports have been seized and exchanged for new ones.

⁶ UNDRIP Art 3 right to self-determination, Art 8 protection against forced assimilation, Art 33 right to determine membership, Art 26 land, territory and resource rights, Art 32 right to consultation and to give and withhold free prior and informed consent.

⁷ Another possible translation is "*Territories of Traditional Nature Resource Use*"

⁸ Russian abbreviation: ЕГРН (EGRN)

⁹ See detailed analysis by the Evenk association "Arun", dated 20/03/2020 (PDF facsimile, Russian) <https://arctic-consult.com/archives/17354>

¹⁰ UNDRIP Art 3 right to self-determination, Art 4 right to autonomy, Art 26 land, territory and resource rights, Art 32 right to consultation and to give and withhold free prior and informed consent.

¹¹ Harrassment of indigenous fisherfolk: "*Eto u vas tam vse magazinnoe*". *Pochemu severjanam zapreshchajut lovlju riby*. (You get it all from the shops. Why Northerners are prohibited from fishing), RIA Novosti, 18/02/2019; <https://ria.ru/20190818/1557581927.html> Persecution of an Evenki hunter in Bauntovskiy Evenkiyskiy district of Buryatia on territory licensed to JSC "Trans-Baikal Mining Company" by guards of the enterprise together with the riot police, supported by the administration: *Nam govoriat: "Uzkoglaziki, vy zdes zhit bolshe ne budete"* (We are told: "You chinks, you are not going to live here any longer"), Sibir.Realii: 24/06/2019,

criminalisation of indigenous peoples' subsistence activities in protected areas, even though the free exercise of these activities is a right of small numbered indigenous peoples recognized by federal legislation. Specifically, federal legislation sets out the right of indigenous peoples to exercise traditional use of natural resources in protected areas as well as their participation in biodiversity conservation. Reports of administrative and law enforcement overreach against indigenous peoples come I.a. from the national parks "Gornaya Shoriya" (Kemerovo region), "Udegeiskaja Legenda" (Primorsky krai), "Anjujsky" (Nenets Autonomous Region) as well as protected areas of Murmansk region.¹²

Proposed question: What measure is the State taking to protect the subsistence rights of indigenous peoples and to eliminate criminalization for the conduct of these subsistence activities? (ICCPR Article 1, 9, 26, 27 and UNDRIP Articles 3, 20, 26)¹³

“Border zone” regime curtails civic oversight and indigenous rights advocacy, restricts indigenous peoples’ freedom of movement

Several large regions inhabited by indigenous peoples, including the Yamal-Nenets Autonomous Areas, the Taimyr District of Krasnoyarsk Krai¹⁴ and the Chukchi Autonomous Region are in their entirety classified as Border Zones (*pogranichnye zony*), which means that even citizens of the Russian Federation cannot freely visit them. In these regions, the vulnerability of local indigenous communities to pressure and coercion is aggravated by the fact, that human rights advocates are largely barred from visiting them and inspecting the situation.

At the same time, some of these regions, such as Yamal and Taimyr, are hotspots of resource extraction with considerably impact on the indigenous peoples' rights and their traditional territories and resources. Local administrations entirely depend on the extractive industries and local civil society is usually extremely weak, while outsiders who try to document the local situation are often harassed and refused entry. These constitute arbitrary restrictions on freedom of movement and freedoms to seek, receive and impart information, to associate with others, to assemble peacefully, and to take part in public affairs. These restrictions on civil and political rights are not necessary for national security or public safety, public order or the protection of public health or morals or the protection of the rights and freedoms of others. Due to this state of affairs, companies impacting on indigenous peoples' rights operate in a virtually oversight free environment. The result is that indigenous peoples are completely isolated while their economic, social and cultural rights are violated, denying them any means of redress.

Compounding this, nomadic indigenous people whose traditional territory has been declared a Border Zone have been apprehended by the Federal Security Services (FSB) as purported trespassers, even though the territory in question is their ancestral land.¹⁵

Proposed question: What measures is the State party taking to ensure freedom of movement and association and related freedoms of access to information and to political participation for civil society in regions classified as Border Zones that are the traditional territories of indigenous peoples? (ICCPR Article 1, 12, 19, 21, 22, 25, 27 and UNDRIP Articles 3, 8, 10, 32, 36 and 39)¹⁶

<https://www.sibreal.org/a/30016366.html>

¹² Collection of 20 articles about individual incidents: Kolasápmi Radio: «Olenevod» i Fond SNiR poshli v OON, 30/03/2020 <https://kolasapmi.com/2019/03/30/oenevod-i-fond/>

¹³ UNDRIP Art 3 right to self-determination, Art 20 right to practice subsistence livelihoods, Art 26 land, territory and resource rights.

¹⁴ Formerly Dolgan-Nenets Autonomous Area

¹⁵ *MinArktiki Yakutii poprosilo pogranichnikov vozmetit ushcherb zaderzhannym v Ust-Ianskom uluse olenevodam*, 20/09/2019 <http://www.csipn.ru/glavnaya/novosti-regionov/4714-minarktiki-yakutii-poprosilo-pogranichnikov-vozmetit-ushcherb-zaderzhannym-v-ust-yanskom-uluse-olenevodam>

¹⁶ UNDRIP Art 3 right to self-determination, Art 8 protection against forced assimilation, Art 33 right to determine membership, Art 26 land, territory and resource rights, Art 32 right to consultation and to give and withhold free prior and informed consent, Art 36 right to maintain relationships across borders.

Indigenous peoples' freedom of movement restricted by extractive industries

In many regions where extractive industries operate in or near indigenous peoples' ancestral territories, these extractive corporations control roads connecting indigenous peoples' settlements and seasonal camps inhabited by families who maintain traditional ways of life. Reports from several regions indicate, that extractive corporations, sometimes supported by local law enforcement, prevent the freedom of movement which is essential especially for nomadic indigenous people, apprehend and fine them, sometimes falsely accusing them of poaching.¹⁷ Typically, prior to the entry of extractive companies no roads exist and indigenous inhabitants are free to move around using their traditional means of transport. When extractive companies set up their installations, roads are built leading to their operations. These roads are controlled by the companies who sometimes set up checkpoints. The concession areas housing their facilities are fenced off, which may be necessary for safety reasons. In these settings, private security services often take over de-facto police functions and local authorities have no legal authority to interfere, because the territory has been legally licensed to the company.¹⁸

Proposed question: Which measures is the state party taking to ensure liberty of movement of indigenous peoples and uphold their land and subsistence rights in regions where roads and means of transportation through indigenous peoples' traditional territories are controlled by extractive corporations? (ICCPR Articles 1, 9, 12, 27; UNDRIP Articles 3, 4, 7, 20).¹⁹

Lack of FPIC requirement, New Arctic legislation ignores indigenous peoples (Para 384)

Current legislation fails to regulate mandatory social and human rights impact assessments of industrial development and to require indigenous peoples' Free Prior and Informed Consent (FPIC). Since 2018, the Government has been promising to adopt regulations setting out rules for compensation procedures. However, these have not progressed beyond draft state²⁰ and are considered severely flawed by indigenous representatives.

The draft federal law "On state support of entrepreneurial activities in the Arctic zone of the Russian Federation",²¹ passed the first reading in the State Duma in April 2020. Indigenous peoples are not even mentioned in the current draft despite the fact that it will determine the conditions for the socio-economic development of the vast Arctic territory inhabited by indigenous peoples who pursue traditional subsistence livelihoods and development plans. Moreover, it removes extractive industries in the Arctic from social and ecological oversight by the regional and local authorities and the local population, which experts have acknowledged will negatively affect the environment and the rights of indigenous peoples.²²

Proposed question: What measures is the State taking to ensure that participatory environment, social, cultural and human rights assessments are conducted, free and informed consent obtained prior to authorizing extractive industry and other development projects

¹⁷ Example from Yamal peninsula: Lev Gumilev center: *Aborigeny Iamala: nas za vse shtrafuiut – nelzia ezdit po rekam i delat postroiki*. 7. March 2019, <https://www.gumilev-center.ru/aborigeny-yamala-nas-za-vse-shtrafuyut-nelzya-ezdit-po-rekam-i-delat-postrojki/>

¹⁸ Example from Khanty-Mansi Autonomous Area: Greenpeace Russia: *SPCh otcenil problemy dobychi nefi v Khanty-Mansiiskom avtonomnom okruge*, 29/08/2019 <https://greenpeace.ru/news/2019/08/29/spch-ocenil-problemy-dobychi-nefti-v-hanty-mansijskom-avtonomnom-okruge/>

¹⁹ UNDRIP Art 7 right to life, physical and mental integrity, liberty and security of person, Art 20 right to maintain and develop their political, economic and social systems or institutions.

²⁰ *Methodology for calculating the amount of loss caused by damage to the primordial habitat of indigenous minority peoples of the Russian Federation by economic activities of organizations of all forms of ownership, physical persons*, draft available from: <https://www.garant.ru/products/ipo/prime/doc/56717152/>

²¹ *O gosudarstvennoi podderzhke predprinimatelskoi deiatelnosti v Arkticheskoi zone Rossiiskoi Federacii* <https://sozd.duma.gov.ru/bill/895550-7>

²² Svobodnaja pressa: *Rossiiskaia Arktika poidet s molotka. Neft i gaz vykachaiut, prodadut i prevratiat millionerov v milliardery* (The Russian Arctic will come under the hammer. Oil and gas will be pumped out, sold, turning millionaires into billionaires) 28/02/2020 <https://svpressa.ru/society/article/258448/>

impacting on indigenous peoples and adequate compensation is provided, in particular in the Arctic region? (ICCPR Articles 1, 19, 25, 27; UNDRIP Articles 3, 4, 11, 26, 32)

Lack of remedies (Para 284)

The 8th Periodic report states that “the position of commissioner for the rights of numerically small indigenous peoples has been established in the Sakha Republic (Yakutia) and the Kamchatka and Krasnoyarsk territories”. While these measures are to be applauded, no new regional indigenous rights ombudsperson offices have been established since 2015, even though indigenous peoples traditionally reside in over 20 Federal subjects.

Proposed question: Why no have no new ombudsperson offices on the rights of indigenous peoples been created since 2015, even though indigenous peoples traditionally reside in around 20 Federal subjects? (ICCPR Article 2, 26; UNDRIP Articles 32(3), 40)²³

Indigenous rights defenders harassed, exiled and banned

During the period under consideration, the state party has been working actively to silence the voices of what is called “non systemic” (*nesistemnye*) indigenous rights defenders, which in effect means any groups, organisations or activists not controlled by state authorities, both Russian nationals and foreign allies. These efforts started with the 2013 takeover of the national umbrella organisation of indigenous peoples RAIPON and continued with the subsequent replacement of independent-minded leaders of regional branches. Several leading activists have been forced into exile, while others have been imprisoned. In November 2018, the FSB issued a fifty years travel ban against an indigenous rights defender from Germany, after he had made a brief intervention on the situation of indigenous peoples in closed zones where extractive industries operate, during Eastern Europe session the UN Forum on Business and Human Rights.²⁴ In 2019, the Ministry of Justice ordered the termination of the Centre for the Support of Indigenous peoples of the North, one of the last remaining independent indigenous organisations.²⁵

The Federal Agency of Ethnic Affairs (FAEA) is actively promoting discrimination against “non system” indigenous voices, thereby clearly overstepping its mandate. In April 2020, an authorized officer of FAEA sent a letter to senior officials of Federal Subjects urging them to examine carefully the composition of indigenous peoples’ councils under the regional governments for the presence of “non-systemic indigenous representatives”.

Proposed question: What measures is the State taking to ensure that indigenous peoples can freely maintain and develop their own institutions and fully participate in the political life of the State and freely associate with external human rights defenders in the exercise of this self-determination right? (ICCPR Articles 1, 2, 9, 19, 22, 25, 27; UNDRIP Articles 3, 4, 5, 8, 10, 20, 32, 36, 39)²⁶

²³ UNDRIP Art 32(3) right to effective mechanisms for just and fair redress, Art 40 right to remedies

²⁴ Joint communication by Special Rapporteurs on human rights defenders, indigenous peoples, and freedom of expression, dated 25 November 2019,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24932>, Novaya Gazeta: *FSB zapretila nemetckomu ekspertu po pravam korennykh narodov vezd v Rossii na 50 let. Tot obzhaloval eto v sude* 14/03/2019 <https://novayagazeta.ru/news/2019/03/14/150010-fsb-zapretila-nemetskomu-ekspertu-po-pravam-korennyh-narodov-v-ezd-v-stranu-na-50-let-tot-obzhaloval-eto-v-sude>

²⁵ Reuters: *Russia Shuts Down Second Rights Group, Drawing EU Concern*. 7/11/2019

<http://web.archive.org/web/20191109015448/https://www.nytimes.com/reuters/2019/11/07/world/europe/07reuters-russia-rights-eu.html>

²⁶ UNDRIP Art 5 right to maintain their own institutions; Arts 10, 32 & 39 access to independent information and assistance; Art 36 to maintain contact with other peoples across borders