



DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS
Division for Social Policy and Development
Secretariat of the Permanent Forum on Indigenous Issues

**International Expert Group Meeting on the theme
Implementation of the United Nations Declaration on the Rights of Indigenous Peoples:
The role of the Permanent Forum on Indigenous Issues and other indigenous specific
mechanisms (article 42)**

25 - 27 January 2017, New York

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Example of the Russian Federation

Introduction

Over the last few decades the legal status of indigenous peoples, including indigenous small-numbered peoples of Russia, has attracted great attention of the international community mainly due to the expanding influence of the dominant culture of industrial society. It is reflected in the process of globalization as well as the intensive exploitation of natural resources for the purposes of industrial development. All these problems leave indigenous people with fewer opportunities to preserve their traditional way of life or maintain material foundations of their ethnic identity and culture.

The year of 2017 is a year of the 10th anniversary of the UN Declaration on the Rights of Indigenous Peoples. We see how the ideas of UN Declaration on the rights of indigenous peoples slowly but steadily influence the national legislature of various states, as well as world public opinion and the process of strengthening international standards of indigenous peoples protection.

Despite the fact that some time ago the Russian Federation abstained the adoption of the Declaration, the main provisions of this document are reflected in Russian legislation and in the local governments practical decisions.

I would like to focus on the Russian experience of providing indigenous small-numbered peoples sustainable development, the achievements and challenges that we face nowadays. At the present time this focus is the area of my research interest, as well as the focus of my public activity. I am a representative of the Evens, the Arctic indigenous people, who lead a nomadic lifestyle.

Federal legislation in Russia

Russia is a multinational state, where every nation possesses unique material and spiritual culture. The overwhelming majority of these peoples have formed distinct ethnic communities on the territory of Russia, and in this sense they are indigenous peoples who have played a historical role in the formation of the Russian state. However, the State has allocated a special legal entity to indigenous small-numbered peoples who are on the verge of extinction. The reviewed norms of the Russian Constitution are not based on exclusive national rights but on extraordinary legal statutes that are aimed at support of the most disadvantaged parts of society.

Indigenous small-numbered peoples of Russia are peoples who live in the territories of traditional residence of their ancestors, preserve traditional way of life, livelihood and crafts,

account less than 50 thousands people in the Russian Federation, and consider themselves as separate ethnic communities.

The provisions of the UN Declaration on the Rights of Indigenous Peoples, for example, Articles 1, 2, 6, 7 and others, concerning the implementation of human rights and fundamental freedoms, the equality with other peoples, the right to citizenship, are guaranteed by Article 69 of the Constitution of the Russian Federation.

According to the Constitution of Russia, protection of rights of national minorities is in the joint jurisdiction of the Russian Federation and its federal subjects. Consequently, while protecting the rights of the national minorities, the state must take into account regional dimensions that reflect regional peculiarities.

Articles 5, 8, 11, 12, 15, 31 and others of the UN Declaration on Indigenous Peoples Rights on the rights to maintain and develop various aspects of their culture are reflected in Article 72 of the Constitution, which declares the protection of the natural environment and traditional way of life of small ethnic communities. This provision is specified by the Federal Law "On guarantees of the rights of indigenous peoples in the Russian Federation", that guarantees the distinctive social, economic and cultural development of the indigenous small-numbered peoples, sets a legal framework for the protection of their natural environment, traditional way of life, livelihoods and crafts, as well as by Federal Laws on wildlife, protected areas, education, culture and native languages.

Undoubtedly the overall direction for the development of the national law is set by international law, that forms an integral part of the Russian legal system. Thereto even the unratified UN acts have the ideological value as documents, which provide guidelines for improvement and development of national legislation, reflecting the common position of the international community.

In the context of the topic under discussion today I would like to elaborate on the status of the Arctic indigenous small-numbered peoples who represent the «Arctic civilization», especially the nomads, reindeer herders - the Evens in the light of the provisions of the UN Declaration.

The Russian Arctic is home to over 2.5 million people, 82.5 thousand of them are representatives of 16 the Arctic indigenous small-numbered peoples. The majority of these people live nomadic or semi-nomadic way of life.

How to protect the Arctic environment, traditional forms of economic activities of aboriginal population (reindeer husbandry, hunting and fishing) under the conditions of industrialization and urbanization?

Reindeer herding, fishing and hunting can not withstand the market competition. This is caused by extremely limited possibilities for development of a market-based economics, commercial production because of the extremely high transport costs for goods transportation, which certainly affects the level and quality of life of indigenous small-numbered peoples of the North.

State support of reindeer husbandry and other traditional activities of the Arctic indigenous small-numbered peoples is one of the basic and necessary measures to preserve indigenous peoples and their languages, as traditional economic activities are the main sphere of functioning of languages and indigenous culture of the peoples of the North.

The main directions of state support, in my view, should be aimed at ensuring the state order for the products of reindeer breeding, the training of specialists for the reindeer husbandry, on the creation of modern working conditions for nomads; high-tech items on complex processing of reindeer products, for the acquisition of cross-country and snowmobile equipment; to finance land management activities on reindeer pastures; to protect the deer from predators. We see the positive experience of this work in the Nordic countries of Europe.

Articles 13-15 of the UN Declaration set out standards in the field of education of indigenous peoples which take into account cultural traditions and their own languages. A native language is a key element of ethnic identity and therefore its preservation is of a great importance. According to the Russian Census of 2010, there are 21830 Evens in five Russian regions.

Evens have preserved their original language and unique culture, excellent skills of reindeer herding for the generations to come, thereby they show a remarkable example of successful adaptation to the extreme climate of the Arctic.

Their population has showed the gradual growth every census period: in 1959 there were 9121 Evens, in 1970 - 12029, in 1979 - 12529, in 1989 – 17199, in 2002 - 19,071, and finally in 2010 – 21830.

The general linguistic situation with the Even language in terms of actual operation cannot be characterized unambiguously. For example, according to the Census of 1959, the Even language was a mother tongue for 77.5% Evens, in 1989 - 43, 8%, in 2002 - 37.6%, 2010 - 46%. Reduction of number of people who consider their first language the language of their ethnic group is primarily related with forced settlement of nomads, and dominance of the Russian and Yakutian languages as means of interethnic communication in the region.

The necessary steps to organize the study of native languages of indigenous small-numbered peoples were taken in the system of general education in Russia. For instance, the

basic curriculum allows to include a native language as a compulsory school subject; additional incentives for teachers of native languages of the peoples of the North were introduced, special textbooks were published; and competitions, contests and seminars were held.

For the teaching of the Even language conditions have been created in 24 schools in the regions where they live. The number of schools with the Even language tends to increase. It grows and the number of children learning their native language Evenkiyskiy (see. Table. 1).

This positive trend is, in my opinion, influenced by the ideas of the UN Declaration on the rights of indigenous peoples the public opinion and the authorities, as well as the active lifestyle of the Even organisations.

Table 1
**The study of the Even language as a separate subject
in secondary institutions of Russia**

Russian regions with Even population	Number of schools	Number of students
Kamchatka Territory	2	86
Magadan Region	1	15
Republic of Sakha (Yakutia)	18	1026
Khabarovsk Territory	1	87
Chukotka Autonomous District	2	171
In total	24	1385

One of the ways to preserve and develop language is to organize folk ensembles, creative artistic groups, ethnic and cultural centers which promote the folk art of small-numbered peoples of the North, including the Even culture.

Table 2

Russian regions	Number of Even ethno-cultural centres in Russia	Number of Even children's folk ensembles
Kamchatka Territory	2	1
Magadan Region	1	3
Republic of Sakha (Yakutia)	19	13
Khabarovsk territory	2	1
Chukotka Autonomous district	-	1
In total	24	19

Legal provisions for maintaining traditional lifestyles of Russia's indigenous small-numbered peoples can be characterized as unstable, which, in my opinion, is primarily due to Russia's swift entry into the market economy.

According to the Land Code of Russian Federation representatives of indigenous small-numbered peoples and their communities are entitled to free land use only for construction deemed necessary for conservation and development of traditional lifestyle, livelihoods and crafts. According to the Federal Law "On the Turnover of Agricultural Land", agricultural land listed as state or municipal, may be granted to indigenous communities for rent in the manner

prescribed by the Land Code. At the same time, the Federal Law "On guarantees of the rights of indigenous peoples of the Russian Federation", provides that the indigenous small-numbered peoples have the right to use land of different categories freely in places of traditional residence and traditional economic activities.

Evidently, there are serious conflicts and contradictions in the federal legislation on the land relations. This demonstrates the complexity of the problem, but at the same time it should be noted that there is an active search for optimal solutions at all levels, including regional ones.

Tax Code of Russian Federation provides tax exemptions for legal entities of indigenous small-numbered peoples who lead a nomadic and semi-nomadic lifestyle. Thus, income received by members of tribal and family communities of small-numbered peoples of the North is not a subject to income taxation in case they meet the following criteria: being registered in the prescribed manners; being engaged in traditional activities (nevertheless salaries of employees are excluded). Moreover, in accordance with Tax Code, animals and aquatic biological resources, which are used for personal needs of aboriginal population, are not objects for tax law.

Tribal communities and indigenous small-numbered peoples, are exempted from land tax in respect to land used for the preservation and development of their traditional ways of life, livelihoods and crafts. At the local level, municipal governments have the right to provide additional tax exemptions from land tax and personal property tax.

Therefore, one of the important achievements of the Russian indigenous policy is that indigenous small-numbered peoples of the North are guaranteed the legal protection and the ability to lead traditional way of life; to preserve the unique culture and customs of their ancestors; to live nomadic and semi-nomadic way of life – to practice reindeer herding and fishing. Now each indigenous individual has the right to choose his or her own destiny.

Recently the Arctic aboriginals have become increasingly concerned with adoption of federal laws which are far from indigenous interests, and which are not discussed with indigenous representatives, or of which said representatives are not aware of. It appears that laws related to indigenous peoples should not be submitted to the Russian State Duma without prior discussion with indigenous organizations of the Russian Federation.

The following section lays out some considerations on implementing ideas and provisions of the UN Declaration on the Rights of Indigenous Peoples into practice on both the governmental and aboriginal levels on the example of Yakutia, the largest territorial subject of Russia.

Yakutia

Yakutia is an Arctic region with extensive experience in consolidating the interests of all its peoples, and preservation indigenous lifestyle, whence people were able to keep and preserve spiritual wealth, historic and cultural heritage.

The number of indigenous small-numbered peoples who live in the territory of Yakutia had increased by 41.6% over the period from 1989 to 2010. 2010 Census accounts for 39.9 thousand indigenous groups - Dolgand, Chukchis, Yukaghirs, Evens and Evenks in Yakutia. There are 70 compact residence areas of indigenous small-numbered peoples in 21 districts of Yakutia.

Regional legal framework for the protection of Indigenous Small-Numbered Peoples Rights includes 22 laws that regulate social relations with the natives.

Industrial development of the Russian Arctic resulted in issues of protecting the original habitats and traditional lifestyles of Indigenous peoples, as well as fair estimation and reparation of damage caused by corporate actions becoming particularly urgent.

In this regard, in 2010 "On ethnological expertise in the areas of traditional residence and traditional economic activities of peoples the North of the Republic of Sakha (Yakutia)" regional law was adopted. While serving as Vice-President of Yakutia's small-numbered peoples organization on law and natural resources exploitation I was the author of the legal act.

The Act sets out norms on ethnological state expertise which is mandatory on the territory of Yakutia prior to making any substantive decisions in the field of planned economic and other activities to be conducted in places of traditional residence and traditional economic activities of indigenous small-numbered peoples.

In 2011 industrial companies «Yakutugol» and «Timir» were first to request ethnological expertise: "Construction of railway tracks to the Elga coal deposit" in Neryungri district and "Construction of railway line Khani-Tarynnakshkoye Mining and Processing Plant" in Olekminskiy district.

Over the period from 2011 to 2016 eleven state ethnological expertise of the mining projects were held in places of residence and economic activities of indigenous small-numbered peoples in Yakutia at requests of Gazprom, Rosneft, RusHydro, Federal Space Agency, Yakutugol, Timir and Rosnano.

One of the main areas of ethnological assessment is comprehensive assessment of damages in all spheres of traditional Northern land use (economics). Particular attention is given to traditional knowledge, as well as to providing maximum account of indigenous perspective.

The primary mechanism of state support of the Indigenous population in Yakutia is the governmental sub-program "Support of Indigenous Small-Numbered Peoples of the North"

which is a part of the broader state program "Harmonization of interethnic relations in the Republic of Sakha (Yakutia) for 2012 - 2016 years."

In this regard, the government of Yakutia supports nomadic communities as a form of aboriginal self-governance in the Arctic. 329 nomadic tribal communities are registered in the tax registry in Yakutia. Nomadic tribal communities receive a number of tax incentives and benefits. Regional and local funding programs target conservation and development of traditional lifestyle, livelihood and crafts. Additionally, communities are reimbursed 30% of the costs for the purchase of machinery and 20% of costs on the purchase of equipment.

On January 1, 2016 there are 156.3 thousand reindeer herds in the Republic of Sakha (Yakutia). 110 households in 21 municipalities of the region are actively involved in the northern reindeer herding. Reindeer herders hold 37.0 million hectares in Yakutia.

Due to the importance of traditional economy as foundation of Northern nomadic lifestyle, since 2007 indigenous domestic reindeer herding has been included in the Russian Federation agricultural development program.

International law interprets land title via environment, object of nature and natural resources. Granting land title amounts to the title of natural resources and environment.

However in Russian legislation the rights of indigenous small-numbered peoples are equated to the general rights of Russian citizens, and granting land title does not imply the title of natural resources.

Additionally, under Russian legislation land as a natural object and natural resource, plots of land and its parts are objects of law. Therefore legislation provides indigenous small-numbered peoples the opportunity to acquire land as a territory and as a plot of land.

On March 1, 2015 the tribal communities are provided the right to gratuitous use of plots of land with buildings and constructions. The second important novelty in relation to lands of tribal communities is the ability to use land under permission of the bodies authorized to dispose of the land, with the exception of forest land. Nevertheless title to the land or plots of lands can not be issued. Another interesting change is the opportunity to register plots of land for the purposes of hunting within the territories which are covered by agreements and documents on the use of marine biological resources.

In this legal context, in 2015 human rights activists suggested establishing territories of traditional land use in traditional residence and economic activity areas. This would address the problem of registering titles to traditionally owned territories.

As a result on January 1, 2017 the local authorities formed 59 territories of traditional land management of indigenous small-numbered peoples of local importance, the economic

fundamentals of the economy of indigenous peoples. 55 of these territories have been put on the account in the state cadastre of federal territories of traditional land use. In 2009, the Yakutian government created governmental working groups whose aim was to advocate the implementation of federal laws "On Fisheries and Conservation of Aquatic Biological Resources" and "On hunting and the preservation of hunting resources" and to provide practical assistance in application process for the fishing and hunting grounds in places of traditional residence and traditional economic activities of indigenous minorities. As a result all of indigenous communities have been secured their fishing and hunting areas for the next 20 years.

With intensive industrial development of the Russian Arctic the role of protected areas has become one of the main directions in the sustainable development of the region. The protected areas include the Arctic reserve "Ust-Vilyusky", 3 natural parks, 6 national reserves, 32 resource reserves, 5 natural monuments, 11 unique lakes, 20 municipal protected areas.

Over a long period of time of their existence the Arctic indigenous peoples have repeatedly experienced climatic periods of warming and cooling, and have learned to adapt to them. They have developed their own special methods of nature use, which are resistant to sudden negative changes in environmental conditions. However, global warming during the past 10 years, in the opinion of the nomads - reindeer herders and fishermen, has a longer period and thus it is more damaging to the traditional forms of economic activity - reindeer herding and fishing.

In these circumstances, it is necessary to develop the state and municipal adaptation of indigenous people of the Arctic to the changing conditions of life, the modernization of traditional forms of economic activities - reindeer herding and traditional fisheries, including the development of new activities and modern professions. These measures will help to provide the native population with working places and will level up the quality of life of indigenous small-numbered peoples.

In order to preserve the health of indigenous small-numbered peoples of the North the Ministry of Health of Yakutia sends annually medical teams to examine the indigenous population of the Arctic. Together with the French Humanitarian Association "Doctors of the World" the Ministry trains indigenous nomadic peoples of the North to become para-medics.

Despite the extreme climatic conditions of the Arctic, indigenous schools achieve good results. Thus, students in 37 schools learn five indigenous languages in Yakutia. My native Even language is taught in 22 schools, 1037 children are learning it, that makes 45.5% of the Even children; the Evenki language is taught in 15 schools to 1132 students (or 33.5% of Evenk

children), Yukagir is taught in 2 schools to 89 students (53,0% of Yukagir children), the Chukchi language is taught in 1 school to 72 students (49.6% of Chukchi children).

Modern problems of indigenous peoples dictate the need to link education with the traditional way of life. Therein nomadic schools play a major role in training and educating, they introduce children of reindeer herders and hunters to the language, traditional occupation and traditional culture. All this strengthens families and preserves the language use.

Currently, the nomadic school of minority peoples, which operate in Yakutia, experience changes related to the innovative development of educational theory and a unique educational experience. In this regard, the governmental support of reindeer husbandry is one of the basic and necessary measures to protect the identity and languages of the Arctic minorities.

In the field of education the main focus is on training of indigenous bachelors. At the university level every year 10% of the contract seats is reserved for representatives of indigenous small-numbered peoples who receive financial assistance and fee waivers. Thus at the Northeastern Federal University in Yakutsk in 2017 465 students with indigenous background study full-time. It makes 6% of the total number of students. Remarkably, they are trained in all departments of the university. However most of them chose Teacher Training Institute, Institute of Medicine and the Institute of Sports and Physical Education; the least popular ones for them are Faculty of Law and Faculty of History.

The UN Declaration stipulates that indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination (Article 16).

The information system of Yakutia contains resources that provide educational information in the native languages of indigenous small-numbered peoples of the North. It is time to consider establishing a single federal information portal of indigenous peoples on the basis of existing information resources of different regions.

It is wise to develop a national federal programme of information and implementation of distance education, telemedicine and provide Internet in places of traditional residence and economic activities of indigenous small-numbered peoples of the North.

The UN Declaration sets forth that indigenous peoples have the right to participate in decision-making in matters which would affect their rights. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them (Articles 18-19).

The position of Human Rights Indigenous Small-Numbered Peoples Commissioner of the North was established in Yakutia. Representatives of indigenous organizations and experts work with Parliament and Government of the Republic. The Association of Indigenous Peoples of Yakutia unites 5 indigenous peoples of the Arctic and it is widely known in Russia for its activities. The main principle of the non-governmental organization is promoting the rights and interests of Indigenous Peoples by means of working with state and municipal authorities. This is a guarantee of a revival, preservation and further development of the native languages, material and spiritual culture of the Arctic indigenous peoples. None of the regional legal instrument affecting the interests of the indigenous peoples should be adopted without the discussion with the organization and its direct participation.

Furthermore, UNESCO implements projects in the region initiated by societies of indigenous peoples of Yakutia - "Atlas of Endangered Languages", "Circumpolar civilization in museums of the world: yesterday, today and tomorrow", "Teachers of the Arctic", "Nomadic schools".

Recommendations:

1) Continue and expand practice of intersessional meetings of the Permanent Forum. For example, the inter-sessional meeting of the Permanent Forum that took place in February 2016 in Salekhard, Russia, was a valuable contribution to the Permanent Forum and, in our opinion, strengthened international mechanisms in promotion and protection of the rights of indigenous peoples;

2) Spread information about good practices of UN member states and indigenous organizations in the field of economic and social development, culture, environment, education, health and human rights through informational resources of the Permanent Forum and the United Nations, and promote implementation of such practices in other UN member states;

3) Consider the possibility of development and realization of an information project "Standards of development of indigenous peoples" which should be a database of annual official statistics of UN Member States on the basis of a universal set of indicators for sustainable development of indigenous peoples in the following areas: economic and social development, culture, environment, education, health and human rights. In my opinion it would help to promote independent monitoring of implementation of standards set out in the UN Declaration on the Rights of Indigenous Peoples.