

## A Note About the Indigenous Peoples' Registry in the Russian Federation

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### Introduction

Shortly before the collapse of the Soviet Union, when the policy of the so-called 'glasnost' (liberation) was launched, indigenous peoples of the Russian North have started to address the need to recognise and define their rights. They were referring to minority and indigenous rights mechanism created in the West. The main point of reference has been the UN working definition of indigenous peoples included in the study on discrimination against indigenous peoples, published by UN Special Rapporteur Martínez-Cobo in 1986. The Russian legislation, however, has established its autonomous concept of indigenous peoples, which recognises only "indigenous small-numbered peoples of the North, Siberia and the Far East". Moreover, individuals belonging to small numbered peoples have not been registered in any formal way as status holders. This situation has been posing challenges when it comes to proving people's rights, for instance to fish, and hunt as well as eligibility to social benefits. In 2020, the Russian Parliament adopted the amendment to

the Federal Law on the Guarantees of the Rights of the Indigenous Small-numbered Peoples (1999), introducing a registry of individuals certified for the indigenous status. In this paper, I analyse the amendment and present threats standing behind the classification of people in a strict, bureaucratic manner.

### Indigenous legislation in the Russian Federation

Indigenous small-numbered peoples' rights have been regulated in Russian law on two levels: federal and regional (Kryazhkov 2013). The highest legal act, the Russian Constitution, stipulates precisely in article 69 that the state "shall guarantee the rights of the indigenous small peoples according to the universally recognized principles and norms of international law and international treaties and agreements [that Russia had ratified]" (Russian Federation 1993). Therefore, those provisions allow for the superiority of international law, as long as it complies with the Russian Constitution (article 125 thereof). In practice, however, Russia overcomes this legal clause by abstaining from ratifying most of the international documents, crucial for the protection of indigenous rights, like ILO 169 or UNDRIP. Thus, in the prevailing number of cases, there is a need to apply

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exclusively Russian legal framework. In this regard, the second level of regulations, federal laws regulate human and civil rights of small-numbered peoples, determine the usage of traditional lands, and guarantee for the traditional way of life. However, federal laws are not outright and need further concretisation (Fondahl et al. 2020). Often, they do not comply with the Constitutions, contain legal gaps and lack of implementation mechanisms, what make them rather of declarative nature (Kryazhkov 2013). Nevertheless, these are the ones which regulate the legal status of “small numbered indigenous peoples”.

The Law on Guarantees of the Rights of the Indigenous Small-numbered Peoples (Russian Federation 1999) in its article 1 states that as indigenous small-numbered peoples can be recognised those groups, which inhabit ancestral lands in the North, Siberia and the Far East of the Russian Federation, which kept traditional way of life, which population does not exceed 50 000 people, and which perceive themselves as a separate ethnic group. All of those criteria need to occur simultaneously, therefore the number of ethnic groups eligible for the small-number status is limited, and currently covers 46 groups. That being so, Russian legislation does not recognise all indigenous peoples inhabiting the territory of the State, but only those particular groups, which

fulfil criteria stated in the federal law (Xanthaki 2004).

### **Registry of small numbered indigenous peoples of the North, Siberia and the Far East**

In 1932, the Soviet Union introduced the internal passports, which had been issued to every Soviet citizen (Donahoe 2011). The documents contained personal data as well as information about one’s nationality. The passports were proof of people’s belonging to the indigenous population and a sign of self-determination. When in 2002 documents had been abolished, individuals lost a tool to prove their ethnicity that conditions additional rights and benefits (Fondahl, Filippova, and Savvinova 2020). Therefore, even though federal laws declare several rights to indigenous peoples, they face challenges to execute them. Indigenous hunters, for instance, have been treated as poachers, and fishermen have been issued fines for catching fish out of the licenced season or in an amount exceeding quota (Fondahl, Filippova, and Savvinova 2020).

To solve this impasse, in spring 2020 Russian authorities introduced a long-negotiated amendment to the Federal Law on Guarantees, which establishes the registry of individuals belonging to recognised small numbered-indigenous peoples of the Russian Federation

(Ledkov 2016). However, indigenous peoples have not been involved in the process of developing the registry, what should have taken place according to the Federal Law on Guarantees itself, which states that communities shall participate in matters that affect their interests (Fondahl, Filippova, and Savvinova 2020).

According to the new regulation the unified list is approved by the Government of the Russian Federation upon the request of the federal executive body responsible for the development and implementation of the ethnic policies - namely the Federal Agency for Ethnic Affairs (Russian Federation 2020).

Registration of persons belonging to small numbered peoples is carried out based on information provided by applicants (Russian Federation 2020). In order to be registered, an individual is obliged to submit all together 12 types of documents, enumerated in the federal law (point 4 and 5 thereof). Among the required documents are a proof of residency in a territory of traditional habitation of small-numbered peoples, tax number, pension insurance number, proof of conducting traditional way of life, information about family ties, certified document containing information about one's nationality or a court decision testifying the applicant's belonging to indigenous small numbered peoples or any other document containing information about

person's indigeneity. The authorities may refuse to register a person if the applicant has not provided all the required information (Russian Federation 2020, point 13). Moreover, the authorities have a right to clarify provided information and request for additional data from federal and local authorities, as well as from indigenous peoples' associations.

### **Possible Threats of the new regulation**

In reference to the presented amendment in federal law, I identify three threats to the rights of indigenous peoples, which I will discuss in the following paragraphs.

The first threat concerns the requirement to live in the place enlisted as a habitation area of small numbered indigenous peoples. The history of indigenous populations in the north of Russia is marked with different forms of dislocation. Many indigenous groups have had a nomadic lifestyle and followed the animals' yearly migration cycle according to the season. Then, during the Soviet period, the policy of sedentarisation of nomadic populations and displacement took place on an extremely wide scale, in practice embracing the whole territory of the Russian North (Slezkine 1994). Relocated groups had been settled also away from the traditional lands, in a bigger settlement, what changed in

many cases people's way of life and brought plenty of social and economic problems. Nowadays, looking for better life perspectives, education, job, healthcare, especially the majority of indigenous women have migrated to urban areas, leaving behind post-socialist life in the outskirts (Khoreva et al. 2018). Therefore, in the context of Russian North peoples' ethnicity is not defined by territorial belonging (Shabaev and Istomin 2017; Istomin and Shabaev 2016). The requirement stated in the federal amendment will, thus, exclude those individuals, who decided to move away from their traditional habitation areas. Here I would like to further notice, that the land that is inhabited by the indigenous peoples since the time immemorial, is not automatically regarded by law as the area of their traditional habitation. According to the Federal List of Places from 2009, only certain areas, but not all qualified for are pointed in the list (Russian Federation 2009).

The second threat relates to pursuing traditional economic activities, which are also categorised by the Russian Government in the State register of traditional subsistence activities. The list consists of 13 types of occupation, among are: cattle breeding, processing life stock products, beekeeping, fishing, hunting, agriculture, arts and crafts, making of traditional dwellings (Russian Federation 2009). Thus, individuals not

involved in those activities will be disqualified from the registry. Indigenous teachers, also native language teachers, medics, social workers, librarians, artists and many more professionals from the so-called intelligentsia, who are involved in preservation and spreading of indigenous cultures are left on the margin (IWIGA 2019). Allowing only those individuals carrying out traditional activities having access to wider benefits will lead to social injustices and may as well enhance the stereotype of backwardness and primitivism of the northern indigenous peoples.

The third threat involves a highly bureaucratic procedure of enlisting individuals in the registry. A thicket of regulations and required documents is likely to discourage many to go through the administrative procedure. Moreover, not all of the indigenous northerners have required documents, which makes the procedure even more unpredictable (Britskaya 2020). Those who have had the old internal Soviet passport will not be considerably affected. However, the younger generations or those who did not have the passport will have to prove his or her ethnicity by the court through demonstrating archival documents, church books, parent passports (Zadorin et al. 2017). Consequently, the law does not provide a possibility for registering entire families collectively, which would

accelerate the process and make it more foreseeable (IWIGA 2019). The chance that many will be willing to undergo the court proceeding for the purpose of the registry is rather small. Court's procedures are long, expensive and juridical bodies located far from the peripheries. Additionally, having the experience of the soviet judicature, people often rightly, are suspicious of the current regime, associating it instability, and unpredictability.

### Conclusions

In Russian settings, followed by the amendment to the Law on Guarantees, indigenous peoples lost the right to autonomously decide who belongs to a community. Instead, this role was taken over by the state in a form of a formal registry. On one side, the registry enables individuals belonging to the recognised small numbered peoples proving their status and benefiting from wider rights. On the other hand, the registration procedure as it is shaped currently narrows the scope of small-numbered peoples to taiga and tundra inhabitants pursuing very traditional economic activities. Consequently, the number of people entailed to benefits by law will decrease leading to further deterioration of the socio-economic status of the indigenous peoples.

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