

NGO Submission to the Human Rights Council

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Submitted on Behalf of L'auravet'an Information and Education Network of Indigenous Peoples (LIENIP), Russia, www.indigenous.ru

Contact persons: Gulia Kutsenko (lienip@indigenous.ru), Elena Nechushkina (krasnoyarsk@indigenous.ru)

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I Introduction

1. This report is prepared and presented by interregional public organization “L’auravetl’an Information and Education Network of Indigenous Peoples” (LIENIP), Russian non-governmental organization with a special consultative status of the UN Economic and Social Council (ECOSOC).
2. LIENIP is the national umbrella organisation representing more than 20 indigenous small-numbered peoples of the Russian North, Siberia and Far East. The main aims of LIENIP are raising the abilities of indigenous communities of the North, Siberia and the Far East to participate more actively and equally in the multinational society of Russia and reduction of discrimination at all levels, as well as creating a mechanism, which lets indigenous communities and settlements of the North, Siberia and the Far East to communicate with the outer world and with each other, despite their remoteness and isolation.
3. The information presented in this report is gathered during local, regional and interregional seminars organized by LIENIP in the period from 2010 to 2012. Organizations and communities of small-numbered indigenous peoples of the North, Siberia and the Far East of the Russian Federation, as well as their separate leaders and activists were directly involved in this work. Through a wide network of its regional centers, LIENIP was permanently monitoring and analyzing laws in the field of indigenous peoples and their implementation.

II Reference information: small-numbered indigenous peoples of Russia

4. Legislation of the Russian Federation provides the term “indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation” which contains numerical criterion. Only indigenous peoples whose number is fewer than 50 thousand have some special rights in Russia. On the whole, 40 small-numbered indigenous peoples

of the North, Siberia and the Far East (further “indigenous peoples”) live in Russia, and their total number is about 250 thousand people.

5. Indigenous peoples have kept their close connection with the history and traditions of their ancestors. Economic basis for survival of the majority of indigenous families is formed from the possibility to do their traditional occupation – hunting, fishing, gathering, reindeer herding. Lack of access to natural resources leads to physical degradation and cultural destruction of indigenous communities.
6. As article 69 of the Constitution of Russia states, “the Russian Federation shall guarantee rights of the small-numbered indigenous peoples according to the universally recognized principles and norms of international law and international treaties and agreements of the Russian Federation”. Article 72, paragraph “m”, determines that “protection of original habitat and traditional way of life of small-numbered ethnic communities” refers to joint control of both Russian Federation and its constituent entities.¹ Thus, protection of rights of indigenous peoples is the competence of state governmental and regional agencies.

III Implementation of recommendations of the first cycle of the review

7. In the frameworks of the first cycle of the review, the report of the Working Group devoted to the situation in the Russian Federation² and approved as a summary of the Universal Periodic Review at the eleventh session of the UN Human Rights Council³ contains recommendations 24 and 56 adopted by the Russian Federation.⁴ In accordance with these recommendations, Russian Federation undertakes obligations to fulfill recommendations suggested by CERD regarding strengthening the legislative framework in the area of non-discrimination, improving the situation, respect of the rights of indigenous representatives. Also, in recommendation 56 Russia was offered to follow the principles contained in the Declaration on the Rights of Indigenous Peoples.
8. The greatest part of indigenous peoples of Russia live on the territory traditionally inhabited by their ancestors. More than 10 years ago the law was passed “About the Territories of Traditional Nature Use of Small-Numbered Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation”⁵. This law does not work and does not provide right of indigenous peoples to lands. Till now, despite a large number of appeals of indigenous people, no territory of traditional nature use was established. In spring 2011 the Ministry of

1 Constitution of the Russian Federation adopted by national referendum on December 12, 1993.

2 A/HRC/11/19

3 A/HRC/11/37

4 A/HRC/11/19/Add.1/Rev.1

5 Federal Law of May, 7 2001 No 49-ФЗ “About the Territories of Traditional Use of Natural Resources of Indigenous Small-numbered Peoples of the North, Siberia and the Far East of the Russian Federation

Regional Development prepared a new draft of the federal law “About the Territories of Traditional Nature Use of Small-Numbered Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation”. The new content of the law as well as the stage of its agreement is unknown for us.

9. Some political-administrative units of Russia have passed regional laws which provide indigenous peoples with the right to lands of their traditional inhabitation. But in majority of regions indigenous peoples' lands are given to other proprietors as a result of absence of working mechanisms of human rights protection developed at the federal level. Moreover, the procedure of free, deliberate and preliminary consent of indigenous peoples stipulated by the UN Declaration on the Rights of Indigenous Peoples⁶ is systematically violated. Loss of land dooms indigenous families to poverty. Overwhelming majority of indigenous families live below the poverty line.
10. The urgent changes were not made in the Forest and Water Codes adopted in 2006, therefore indigenous people have no preferential access to natural resources.
11. Under the influence of indigenous society in accordance with CERD recommendation 24, the construction of Evenkia Hydroelectric dam was stopped.
12. We can conclude that the majority of CERD recommendations is left without attention of the government.

VI International regulations

13. During the voting on the UN Declaration on the Rights of Indigenous Peoples in 2007, Russian Federation abstained from voting. At the 15th session of the Human Rights Council, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya presented a report about the situation of indigenous peoples in the Russian Federation. Paragraph 82 of the report contains recommendation which says, “The federal Government should consider declaring its support for the United Nations Declaration on the Rights of Indigenous Peoples, engage in a comprehensive review of the laws and policies of the Russian Federation to ensure their compatibility with the Declaration, and take further coordinated action to implement the standards of the Declaration within the particular context of indigenous peoples in Russia”.⁷ For several times indigenous representatives called Russia to declare its support of the Declaration. Despite these efforts, Russian Federation still hasn't supported the Declaration at the highest level.
14. Russian Federation has not ratified International Labour Organization Convention No.169 which deals with rights of indigenous and tribal peoples in independent states.

⁶ Article 10, UN Declaration on the Rights of Indigenous Peoples

⁷ A/HRC/15/37/Add.5

V Institutional legal frameworks

15. The law currently in force “About the guarantees of rights of indigenous peoples of the Russian Federation”⁸ is a framework one and doesn’t provide mechanisms for direct legal regulation. Absence of requisite legal mechanisms adopted at the federal level leads to violation of rights of indigenous peoples everywhere. The situation of legal deficit is worsened by the low level of enforcement of law that is typical for the whole Russian society.
16. In Russian legislation the right to lands is separated from the right to use natural resources located on the land. For example, when indigenous people rent a plot, they cannot hunt and fish on that territory. While the basis for living of the greatest part of indigenous families is still the products received from their traditional occupation – hunting and fishing. The present laws of Russia do not provide in practice the priority access of indigenous peoples to natural resources.
17. Federal law “About fishing and saving water and biological resources”⁹ specifies several kinds of fishing. Fishing aiming to maintain traditional way of life and traditional economic activity of small-numbered indigenous peoples of the North, Siberia and the Far East of the Russian Federation is done by those belonging to such peoples, their communities, with or without allotted fishing area. Despite the right, in some regions administrations do not conduct competitions on allocation of fishing grounds in order to provide traditional way of life and traditional economic activity of indigenous peoples. Thus, indigenous peoples cannot exercise the right given them by the federal law. Fishery without a fishing ground in practice is almost impossible, because the official users of the ground who registered their right to the fishing ground do not let indigenous representatives in their zone. Another kind of fishery is an industrial one. Indigenous peoples who take part in competitions on fishing grounds for industrial fishery have no privileges among other participants of the competition. As a result of such practice, indigenous peoples either get no fishing grounds they claim or receive the remotest and least valuable areas. At the same time, those participants with big financial possibilities receive the most valuable grounds where many generations of indigenous peoples went fishing.
18. In this way, to maintain a traditional way of life, indigenous peoples need to formalize on paper different kinds of rights, for example, to land, fishing and hunting simultaneously.

⁸ Federal law of April,30 1999 No.82-ФЗ “About guarantees of rights of indigenous peoples of the Russian Federation”

⁹ Federal law of December, 20 2004 No. 166-ФЗ “About fishing and saving water and biological resources”, Art. 25, part 1.

Each of these rights is not supported with an efficient legal mechanism at the federal level, which could provide a priority right to indigenous peoples. Consequently, indigenous peoples are engaged in long processes of paper work to legalize rights to lands and natural resources, and the results are not always successful. To participate in these processes, indigenous peoples need big financial resources, legal knowledge and access to information. Quite often local administration act in the interests of industrial companies and manufacturers and hide information about auctions on lands and natural resources in the places of original inhabitation and traditional use of natural resources of indigenous peoples.

19. Indigenous peoples of Russia met with enthusiasm adoption of the Concept Paper of Sustainable Development of Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation¹⁰ in 2009. The federal Ministry of Regional Development worked out a plan of implementation of the Concept Paper for 2009-2011. Almost all the regions where indigenous peoples live developed their regional concepts of sustainable development of indigenous peoples, which are realized with different levels of success.
20. In 2009-2011 in the frameworks of the second International Decade of Indigenous Peoples of the World the RF Ministry of Regional Development realized a number of initiatives provided by the Complex of Immediate Measures prepared by the Government. The activities were aiming to support education and enlightenment of indigenous peoples, contribute to protection of intellectual property and traditional knowledge, involve representatives of indigenous organizations in participation in international meetings and other. The activities implied electronic auctions. The organization offering the lowest sum for implementation of the planned activity wins the auction. Experience and qualification of the auction participants in the field of indigenous peoples are not taken into consideration at that. Indigenous organizations due to their financial and technical impediments have no possibility to take part in the auctions. As a result, the winners of the auctions become commercial structures that are far from understanding of the situation of indigenous peoples, incompetent in the field of political, legal, ethnological processes running in indigenous sphere. In that way, the greatest part of the activities taken in the frameworks of the second International Decade of Indigenous Peoples of the World and financed from the federal budget do not meet the true needs of indigenous peoples, are held formally and have poor content. Indigenous people appealed to the Ministry of Regional Development for several times regarding the necessity to change the procedure of selection of the activity performers and include indigenous organizations in the process of implementation of the

¹⁰ Concept Paper of Sustainable Development of Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation. Approved by Decree of the Government of the Russian Federation on February. 4, 2009 No.132-p.

events. In 2012 no funds were allocated for such activities from the federal budget.

21. Different laws of the Russian Federation contain norms of special legal protection of indigenous peoples. At the same time the order of receiving state social preferences is not developed. And this fact causes some negative consequences. First of all, when indigenous representatives apply to the local self-governmental agencies or governmental institutions in order to receive the prescribed privileges, they are forced to prove they really belong to indigenous population. Living in remote regions, indigenous representatives hardly have possibility to participate in long judicial proceedings, and thus they have to refuse from receiving their benefits. Secondly, after the Common List of Places of Traditional Lifestyles and Traditional Livelihood of Numerically Small Indigenous Peoples of the Russian Federation was adopted in 2009,¹¹ the practice of obligatory proving of indigenous belonging for obtaining state benefits have not changed.
22. The relations of indigenous peoples with industrial companies are not regulated sufficiently at the federal level. The system of calculating of the compensation for damage caused by industrial activity to indigenous population has a character of recommendation. Indemnification of the loss from industrial activities inflicted to indigenous peoples depends on the good will of the extractive companies, but it is not the method of state constraint. Without obligation to apply the compensation system, some disreputable industrial companies continue to pollute and destroy the territories of indigenous peoples covered by the zones of industrial development.
23. Currently, in Russian regions the institute of plenipotentiaries on the rights of indigenous peoples is being formed. The first institute of the Plenipotentiary on the Rights of Indigenous Peoples began to function in 2009 in Krasnoyarsky Krai. At present the practice of establishment of the plenipotentiary institute has spread to other regions. Indigenous representatives address the plenipotentiary with different issues of violation of their civil, economical and social rights. In a process of considering of the applications, the plenipotentiary carries out inspections, applies to the public authorities, judicial bodies and the office of public prosecutor with the issues of restoration of violated rights. The plenipotentiary monitors implementation of the federal and regional legislation on indigenous issues, presents reports and statements about the situation of exercising indigenous rights.
24. On June 7 2012, President of the Russian Federation Vladimir Putin signed a decree about establishment of the Council on Interethnic Relations. President Vladimir Putin heads the Council. On a par with representatives of public authorities, the members of the Council became the leaders of indigenous organizations of Russia. The leaders of indigenous

11 Decree of the Government of the Russian Federation of May, 8, 2009 No. 631-p

peoples hope their participation in the Council will become an opportunity of a dialogue between authority of the highest level and indigenous organizations regarding implementation of the state national policy of the Russian Federation.