

RRI 2016
International Conference «Responsible Research and Innovation»

**LEGAL SUPPORT OF INDIGENOUS MINORITIES LIVING IN
AREAS WITH SPECIAL GEOGRAPHICAL CONDITIONS**

Almaz F. Abdulvaliev (a)*, Svetlana V. Danilova (a)

* Corresponding author

(a) Nizhnevartovsk Institute of Economics and Law (branch of) Tyumen State University, 3A Druzhby Narodov St., Nizhnevartovsk, 628600, Russia, a.abdulvaliev@mail.ru, 89222685652

Abstract

The fact that indigenous minorities have little contact with the rest of the world has a negative impact on development of local territories of any state. Most countries with the territories of traditional wildlife management face problems of indigenous minorities' social security and their national and cultural features preservation. In Russia, the USA, Norway, indigenous minorities have the rights to preserve and maintain cultural foundations, to use lands of traditional residing and to receive additional financial aid. But the conducted research has revealed that most legislative initiatives are formal and little adapted to real life. One of the specific features concerning indigenous minorities' residing in the territories of traditional wildlife management is their geographical location, which is the reason for various economic and legal problems.

The current situation has to be drastically changed; we can adopt practices of the developed countries concerning issues of preserving territories of indigenous minorities' traditional wildlife management and traditional way of life.

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Keywords: Indigenous minorities; social policy; social security; special geographical conditions; traditional wildlife management territories.

1. Introduction

The Russian Federation geographically occupies several time zones and is situated between Europe and Asia. Big territories of the country present a combination of areas both with soft and severe climate; they are very little adapted for people to live. Such regions are quite difficult for normal dwelling because of specific geographical conditions. The problems are not only large territories and severe environmental conditions, but also territorial remoteness of settlements from the centre, transport inaccessibility, insufficient development of regional utility lines, etc.



This was the cause of the fact that in 1967, November, the Ministry Council of the USSR adopted the Resolution № 029 (currently in force) “About the list of regions of the Far North and districts equal to regions of the Far North”, which specified the regions of the Far North (Government order, 1967). These territories are inhabited by various peoples and nationalities; some of them are considered to be indigenous minorities according to the Government Decree of the Russian Federation dated March 24th, 2000, №255 «About the unified list of indigenous minorities of the Russian Federation». Currently in Russia, there are 47 smaller peoples, and 40 peoples are considered to be indigenous minorities according to the Government Decree of the Russian Federation dated April, 17th, 2006, №536-r (Government Decree, 2006). There are two regions which are considered to be northern on the territory of the Ural Federal District: Khanty-Mansiysk and Ymalo-Nenets autonomous regions.

Nowadays, the number of smaller peoples in Khanty-Mansy autonomous region-Ugra is 30894. The Ural federal district has 30% of indigenous minorities of the Russian Federation. It means that legislative and executive bodies of both federal and local levels should adopt and implement legal acts, social projects, programs to support, preserve and revive national foundations, traditions, and indigenous minorities’ management style.

2. Methods

The research was accompanied by studying primary sources (articles, dissertations, monographies, standard legal acts of Russian-speaking and foreign scholars) concerning social and legal support of indigenous minorities of the North. The materials touch upon the problems of their rights ensuring connected with specific geographical conditions of their territories. The object of the research is social security and legal support of indigenous minorities of the North in specific geographical conditions in areas of traditional wildlife management. The authors applied general scientific methods of research: the system analysis method, the statistical method, also methods of scientific supervision: grouping, generalizing, sampling.

3. Discussions

3.1. Legislation

Nowadays top-level authorities understand that it is urgent to solve problems, not just smooth over the differences, which have been in territories of traditional residing of indigenous minorities of the North (loss of historical "roots" and their original culture). So, they have developed and adopted a number of legal acts aimed to solve problems concerning social adaptation and financial security of indigenous minorities.

Table 01. The legal support of social and economic privileges of indigenous minorities of the North.

Standard legal acts	Kinds of social and economic privileges given to indigenous minorities of the North
- The federal act dated April 30 th , 1999, #82-FZ «About rights guarantees of ingenious minorities of the Russian Federation»; - The federal act dated July 20 th , 2000	- health care (including medical examinations) of needy adults, working pensioners with honor titles who belong to indigenous minorities; - fare compensation to the hospitalization place and back to their residence for needy indigenous minorities’ people in the territory of the autonomous region; or sanatorium permit granted to indigenous minorities parents (or people lawful to present a child).

<p>#104-FZ «About general principles of ingenious minorities community organization in the Russian Federation»;</p> <p>- The federal act dated May 7th, 2001 #49-FZ «About territories of traditional wildlife management of ingenious minorities of the North, Siberia and the Far East of the Russian Federation»;</p> <p>- The concept of ingenious minorities sustainable development of the North, Siberia and the Far East of the Russian Federation;</p> <p>- The federal target program «Economic and social development of ingenious minorities of the North, Siberia and the Far East of the Russian Federation till 2020»</p> <p>- The list of places of minorities' traditional residing and traditional economic activities in the North and the list of their traditional economic activities</p> <p>- Rules how to grant budgets of subjects of the Russian Federation from the federal budget to support minorities' economic and social development in the North.</p>	<ul style="list-style-type: none">- veterinary servicing of reindeer livestock at the budget expense, preserving of cattle, fish and fowl livestock;- subsidizing traditional products, paying for wild plant collecting and hunting;- organizing vocational training, retraining and professional skills improvement for unemployed indigenous minorities' representatives;- development, preserving and revival of national foundations, features of life by publishing scientific, referential and methodical literature in national languages;- arranging minorities' holidays and festivals;- developing ethnographic tourism attracting different people, tour operators, tourist mass media, etc.- creating various associations to support social and economic status and development of cultural foundations of indigenous minorities;- forming groups for studying national languages, cultural traditions and crafts;- arranging national religious practices, taking care of cult places, circulating information in a national language;- receiving state assistance to arrange and hold educational and training events for young generation taking into account national traditions;- participating in local government events and making their own initiatives at local government level to solve problems concerning primordial inhabitancy protection, protection of traditional way of life, managing and crafts;- receiving compensation of damage caused to primordial territories of indigenous minorities residing;- acquiring traditional crafts firms if they function in their territory- using their land gratuitously and participating in control events connected with the use of their land;- receiving financial aid from all levels of power of the Russian Federation, legal and physical persons (residents and non-residents of the Russian Federation), international organizations with the purpose to protect indigenous minorities interests;- replacing compulsory military service by alternative one for indigenous minorities' representatives who lead a traditional way of life;- being employed by their profession if there is a traditional crafts firm in their territory.
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Besides, there are some other laws which contribute to preserving indigenous minorities territories. They are: several parts of the Federal Act dated 11.23.1995 #174-FZ «About ecological examination», the Land Code of the Russian Federation dated 10.25.2001 #136-FZ, the Wood Code of the Russian Federation dated 12.04.2006 #200-Φ3, the Water Code of the Russian Federation dated 06.03.2006 #74-FZ and the Town-Planning Code of the Russian Federation dated 12.29.2004 #190-FZ».

3.2. Territory of traditional wildlife management in Russia

In the Ural Federal District, legislation stipulates that there are territories for traditional use belonging to minorities. They are used for reindeer breeding, processing animal products, draught dogs breeding, fishery, trade hunting, agriculture, wood harvesting, art crafts and national dwelling building.

In 2006, the Duma of Khanty-Mansiysk autonomous region-Ugra passed Law #145-oz «About territories of traditional wildlife management of indigenous minorities of the North in Khanty-Mansiysk autonomous region-Ugra», which defined the legal status of the areas of traditional wildlife management, their formation and use by small peoples.

The territories of traditional wildlife management of indigenous minorities are: in Yamalo-Nenets autonomous region, it is a part of Municipal district Zapolyarny; in Khanty-Mansiysk autonomous region-Ugra they are rural and city settlements Beloyarsk, Berezovsky, Kondinsky, Nefteyugansk, Nizhnevartovsk, Oktyabrsky, Sovetsky, Surgut and Khanty-Mansiysk municipal districts (YaNAO, 2016).

The specific feature of these territories (located in particular in Khanty-Mansiysk autonomous region-Ugra) is their size. According to the Natural Resources Department of the region, the territories of indigenous minorities occupy the total area of 13 million hectares, most territories are located in Surgut (4,7 million hectares), Nizhnevartovsk (3 million hectares), Oktyabrsky (346 thousand hectares), Khanty-Mansiysk (1 million 11,1 thousand hectares) districts. In most cases, these territories are the lands of Khanty and Mansy (the indigenous minorities of the North). One more specific feature of the territories is a big distance from administrative centres, which, in its turn, contributes to natural resources and ecology safety and preservation of traditions, beliefs and dwelling of indigenous minorities of the North. 1312 families belonging to Khanty and Mansy (4299 people) lead traditional management lifestyle (KhMAO, 2016). In Khanty-Mansiysk autonomous region-Ugra the major traditional management activities are fishing, deer breeding, wild honey farming, wild plant collecting, hunting, wild animals breeding.

3.3. The special geographical conditions

For territories of traditional wildlife management, ecology problems are crucial. Oil and gas extraction leads to soil pollution, deer pastures destruction, fishing resources and trade fauna exhaustion; intrusion into protected territories leads to decline of national crafts. Besides, territorial remoteness together with transport inaccessibility negatively influence indigenous minorities, namely, they cannot promptly receive legal assistance or necessary information about activities on their lands.

Thus, in 2011, a deceased man's successors filed a lawsuit in order to restore the missed term for inheritance acceptance – the land in Oktyabrsky district of Khanty-Mansiysk autonomous region-Ugra, which the deceased had received from the regional authorities in lifelong inherited possession. The reasons why the term for inheritance acceptance was missed are supposed to be personal and family problems – child care, employment, off-seasonal impassability of roads. However, the courts refused to satisfy the claim as there were no proofs that the term of inheritance acceptance was missed for good reasons (Court orders & enactment of the RF, 2011). It is necessary to notice that the claimants did not attend the court for the legal procedure and did not give the evidence that the term of inheritance acceptance was missed for good reasons. We can assume though, that it is the remoteness of their land that made it impossible for them to arrive to court for the civil case consideration.

This example shows that actually indigenous minorities of the North are not capable to protect their rights as they do not have proper knowledge and legal possibilities; also special geographical conditions, which make it impossible to perform any legal actions efficiently, add to the problem. For example, it is difficult for public and local authorities to reach the indigenous minorities' places of residence.

Meanwhile, one more thing which violates people's rights to work in practice is the lack of knowledge about social projects: in most cases they know only about the size of financial help from oil and gas extraction enterprises and public authorities. Cultural, leisure, educational events are unproductive and

are organized for a small number of people. In 2012 they published only 13 textbooks on folklore of indigenous minorities of the North in the Khanty and Mansy languages; within the project ‘Assistance to older people’s employment in national art crafts’, they organized 81 classes for only 55 representatives among senior people of Khanty-Mansiysk autonomous region-Ugra.

We have to mention the fact that some social projects are adopted and implemented in a formal way, indifferently, both by indigenous minorities of the North and authorities. The social event ‘Video films about traditional holidays, ceremonies in the native language with Russian subtitles’ was not implemented because there was no proper financing. Or, the project ‘Software unification for uninterrupted work of Khanty and Mansy fonts in all Microsoft Windows versions and applications’ was not finished because, in spite of the fact that Khanty and Mansy fonts exist, it is not possible to create the software in all Microsoft Windows versions and applications for technical reasons. In the course of research, we have found that social projects for indigenous minorities are not transparent enough; mass-media and Internet resources do not present complete and timely information on target programs. In most cases, they only announce resolutions about the target programs adoption but there is no information about their results. One can find some isolated reporting information on a program being carried out only 2-3 years after its adoption.

Besides, it should be noted that not all remote settlements of indigenous minorities have access to the Internet. Thus, in Khanty-Mansiysk autonomous region-Ugra, there are five settlements with the population less than three thousand people with no access to the Internet. They are the rural settlements Verhnekazymsky, Lyhma and Sosnovka in Beloyarsk district, rural settlement Pripolyarny in Berezovsky district, rural settlement Sogom in Khanty-Mansiysk district (Law and orders, 2016). As a consequence, the majority of indigenous minorities’ representatives have no possibility to receive information about their rights and privileges, target programs and normative acts, which concern their life in territories of traditional wildlife management.

3.4. Indigenous minorities’ support in other countries

We can use other countries’ practices to pursue state policy concerning indigenous minorities’ rights protection.

The USA annually allocates 900 million dollars to the Land and Water Conservation Fund. This money is used to create parks and reserves in the places where nature is under threat. There is a system of payments to indigenous minorities (American Indian tribes), whose territories are used by oil-extracting companies. The US Minerals Management Service collects rental payments for the use of federal oil and gas deposits in the country (including the lands belonging to Indians). These rent payments bring in the federal treasury more than 4 billion dollars annually and are one of the largest non-tax sources of budgetary incomes of the government. The long-term lease of land deposits gives about 1 billion dollars. Half of this sum is allocated among states. From 1982 to 1998, the US Mineral Management service received approximately 98 billion dollars from oil and gas deposits rent; 61 billion (62,4%) went to the federal treasury, 23 billion (23,7%) went to the Land and Water Conservation Fund, 11 billion (11,2%) went to 38 states and 2,7 billion dollars (2,7%) went to American Indian tribes (Stejner, 2001).

One of the first social funds created at the expense of oil enterprises in the USA is Alaska Permanent

Fund. The fund was formed in 1976 by referendum with about 70% of Alaska population voting for its foundation. The fund receives 25% of the state income from oil and other natural resources extraction. Originally the fund's functions were intended to be used for construction of roads, schools, hospitals, cultural institutions, sports centers, power and water supply facilities, because the state needed to develop its infrastructure. The fund's managerial process is fixed in the constitution of the state. In 1980 the number of payments increased by 50%. The incomes of Alaska Permanent Fund can be used only for two purposes: dividend payments to the state's inhabitants and protecting the fund from inflation. Annually, each inhabitant in Alaska receives a check with a sum calculated under a special formula, and the size of dividends is the same for everyone. The size of dividends does not depend on current oil prices; it depends on the profit of the fund in the previous year, which was formed in the course of capital investment. That is, the fund has the task to accumulate and increase its reaches and transfer a part to the inhabitants of the state. Annually the sum of the dividends considerably changes: in 1980 the size of payments was 800 dollars per capita, by 2000 the size of dividends was 2000 dollars. Later payments reduced. They were 920 dollars in 2004 and 845 dollars in 2005. It in spite of this fact, in 2005, oil prices grew in comparison with 2004. Alaska Permanent Fund is a unique fund which pays dividends directly to its inhabitants. From the moment the fund was formed, Alaska became a unique state in the USA where the level of poverty is being constantly reduced. There is almost no unemployment in the state (Seninsky, 2007; Stejner, 2001).

In Norway, similarly, there is a social fund which functions at the expense of oil-extracting enterprises. Norway's Oil Fund was created in 1990 at the orders of the parliament. Norway's Oil Fund's mission now is to be a pension fund. Money is allocated to the fund from oil sale because on January 1st, 2006, two Norway's national oil and pension funds were united. The united fund is called the Government Pension Fund. Unlike the fund in Alaska, the Norwegian fund does not make any payments to the population. It is estimated that in future. the number of retired people in Norway will considerably increase. The fund accumulates money resources which will be used to pay pensions to the population (Seninsky, 2007). The size of the fund is record for Europe – in the third quarter of 2006, it was about 265 billion dollars. Norway's Oil Fund's money is invested only in securities of foreign enterprises. The dividends received from investment are used to develop and maintain social security in the country: to pay eight-week annual holiday, sick-lists, to subsidize preschool institutions, to give financial support to single mothers, and also to finance free education. Both Norway's and Alaska funds were not voluntary founded by oil enterprises, their foundation was fixed legislatively. The fund's money is spent more expediently since the payments are initially social (pensions, benefits).

3.5. The problems

Meanwhile, the countries mentioned above have a number of problems concerning indigenous minorities' legal security. One of the problems is that indigenous minorities have no right to use natural resources on their territories. Moreover, they have no right to exploit and manage natural resources. This is what some western authors say: 'Land which the indigenous peoples inhabit or otherwise use, but where they are not the predominant population, the right to participate in the exploitation and management of the natural resources must have both private law and public law implications ... The

indigenous peoples do not have rights of ownership and possession. In private law terms, the provision entails that these peoples must not only be given the right to use the land, but also a right to exploit natural resources to the requisite extent. In addition, they must be entitled to participate in the exploitation and management of natural resources in cases where this may come into conflict with indigenous exploitation rights' (Ulfstein, 2004).

Besides, these countries also face a problem when other people interfere in indigenous minorities' activities in order to extract natural resources. For example, it concerns the Sami people (Lapps) living in their national area called Finnmark in the northern part of Norway. This territory is rich in natural resources. Moreover, Finnmark coast is washed by the Barents Sea, which is traditionally rich in fish and other biological resources, and the land is a natural habitat of reindeer.

In Norway, there is the law regulating the indigenous minorities' rights, namely, the government's Bill concerning land rights and management in Finnmark (the Finnmark Act). As for the Act is concerned, it is fairly noticed that "Sections 22-24 of the Bill give the local population of Finnmark, which of course includes the Sami population, the right to exploit certain resources. However, they give no special rights to the Sami as an indigenous people. The rights are positively enumerated, and the exercise of them depends on what regulations the Finnmark Estate lays down as regards permits, fees and allotment of areas" (Ulfstein, 2004).

Despite proper social security, some scholars bring up the issue of financing the Lappish parliament and other local governments in Finnmark. They say: "At the same time Norwegian governments are eager to speed up the tempo in the mapping and exploitation of mineral resources in the north of Norway, the traditional Sami area. 110 100 million Norwegian kroner, (about 170,000 US dollars) has already been allocated to the mapping of minerals in Northern Norway from 2010-2014. It is a great paradox that the government does not have the same haste to investigate Sami rights to land in the North: For the same period of time, The Finnmark Commission, who investigates Sami rights to own and use land, get approximately 40 million Norwegian kroner (about 65 000 UD dollars). This amount covers salaries, rent and other operating expenses. The Commission has several times asked for increased budgets, citing adequate economic resources for their work. One can ask whether the Norwegian government deliberately considers that as a clear land right situation is essential for the indigenous people's possibility to legally question mineral activities in indigenous areas" (Skogvang, 2013).

The USA and Norway provide social and legal security for indigenous people, living, as a rule, in Arctic and subarctic territories, which are not suitable for other people's residing. But when natural resources become the point for discussion, there appear legal problems and lawful possibilities to violate indigenous peoples' rights in order to get profit from oil, gas or other natural resources extraction.

4. Results and Conclusion

Modern world economy is rather unbalanced and complicated and characterized by unstable industry development and disproportions on world trade floors. However, the Russian state authorities of all levels continue to implement social programs, which contribute to not only the stability in society but also to its further development. This statement is proved by the fact that there are a lot of social programs for indigenous people.

However, development of indigenous minorities' social security plan is limited by a number of factors:

there is no transparency in monitoring social target programs; some social projects and events are quite formal; there is no access to reporting information about how target programs are fulfilled; some parts of target programs are duplicated.

These are some drawbacks of target programs for indigenous minorities. So, authorities have to work out a number of measures to minimize negative factors. First, there is a need to create a unified Internet site devoted to indigenous minorities in order to make information transparent and available. The site should contain all programs, projects, events designed for indigenous minorities in the Russian Federation. Second, all social projects must be developed and fulfilled with the help of experts among indigenous people.

Other countries have the practice of indigenous peoples' financing at the expense of oil-extracting enterprises, for example, American Indian tribes in the USA. Besides, they maintain and preserve the environment due to payments of oil and gas extracting enterprises. The success of such actions is obvious. Alaska is a territory identical to Khanty-Mansiysk autonomous region-Ugra regarding nature and natural resources, so, fulfillment of an ecological and social program in this region will be effective. The social status of the region can be changed if there is proper financing of programs intended to prevent ecological catastrophic crashes and to protect the environment; to render assistance to Khanty, Nentsy and Mansy, to develop their national crafts. These measures will make the region more attractive. In order to make social infrastructure more efficient, it is reasonable to create a fund which is financed at the expense of oil enterprises. The size of oil enterprises payments should be proportional to volumes of extracted natural resources by each enterprise-founder. The similar approach will allow creating a considerable volume of financial resources, which will make social changes more efficient.

A social fund will protect and restore the region environment, which is being damaged by oil enterprises. This will help to preserve the unique flora and fauna; to revive reindeer breeding and fishery, which are the main activities of indigenous minorities' traditional wildlife management; to keep their spiritual and national way of life; to raise their standard of living; to create conditions for economic stability of these people.

There should be a unified register of traditional wildlife management territories considering their size, location and other geographical conditions. Besides the description of the borders, kinds of traditional wildlife management and people living there, it is most reasonable to specify geographical features of the given territory, its climate and relief, hydrological objects located in the area; transport system for future development of ethno tourism; its flora and fauna.

It is also necessary to solve a number of legal issues connected with indigenous minorities' rights to extract natural resources on their land. One more problem to be solved is how the state can guarantee protection of indigenous people's rights in case they have problems with large oil and gas companies and how to represent their interests in courts.

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