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Legal provisions for safeguarding the rights of indigenous minorities of the North in the Khanty-Mansisk Autonomous Region (Yugra), in relation to protection of their ancestral lands, traditional ways of life, and economic activities¹

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The legal position of indigenous minorities in the Russian Federation is defined, first and foremost, by constitutional principles which guarantee equal rights and freedoms to individuals and citizens. The legislative base of the Khanty-Mansisk Autonomous Region (KMAO), known as Yugra to its indigenous inhabitants, is an example of the legal provisions which exist at the regional level to safeguard the rights of indigenous minorities of the North. The Yugra Charter (the basic law) is of fundamental importance in terms of legislative provisions for the protection of the rights of indigenous minorities of the North in the KMAO-Yugra. The charter, which defines as indigenous minorities of the North the Khanty, Mansi and forest Nenets, contains separate norms which apply to indigenous minorities of the North relating to the role of the state in different areas, and a separate chapter devoted to indigenous minority ethnic communities. In the body of legislation of the autonomous region, there are 41 pieces of legislation in effect which contain separate sections which apply specifically to the indigenous minorities of the North, and 11 "nominal" laws, which are devoted solely to the indigenous minorities.

The distinguishing feature of the legislative base for the indigenous livelihood activities in the KMAO-Yugra is the emphasis on regulating the relationship of these peoples to the land and natural resource management, which stems from their traditional activities. The decision of the regional executive committee "On the formation of territories for priority natural resource management", and the regulations "On the status of territories for priority natural resource management of the indigenous population of the Khanty Mansisk Autonomous Region", adopted in August 1989, were confirmed by a decision of the Council of Peoples' Deputies of the KMAO of 6 May 1990. This document established the rights of indigenous peoples to participate in decision-making relation to economic activities not linked to traditional natural resource management on their traditional lands and areas where they carry out their economic activities, and also their right to priority use of natural resources for traditional natural resource management. In 2001, the federal law "On territories of traditional natural resource use by indigenous minorities of the North, Siberia and the Far East of the Russian Federation" came into force. This law created the legal basis for reclassifying the traditional environments in which indigenous minorities of the North, Siberia and the Far East live and conduct their economic activities as specially protected lands, a category which is subject to a stricter legal regime of environmental protection. On 10.04.2002, the KMAO Government's regulation No 192 "On territories of traditional natural resource use" came into force, according to which previously established territories of priority natural resource use and ethnic minority lands were recognized as territories for traditional natural resource use.

¹ The full text of this presentation will be published in 'Sibirica: the Journal of Siberian Studies' (Autumn 2006). For information on how to receive a copy of the journal, please contact ecw@ecworldwide.co.uk

² Translation by Sophie Martin

The total population of indigenous minorities in the autonomous region is 29 thousand, 52 people (approximately 2 per cent of the population). Their total number has risen by 1.9 per cent since 2001. By 2001, 477 indigenous minority lands had been granted (with a total area of 13 million, 825 hectares). Indigenous minority lands were being created by decisions of the authorities of the autonomous region for the introduction of traditional natural resource use and traditional ways of life, and were granted to indigenous peoples for lifelong inherited ownership and constant unlimited use. According to statistics for 2003, some 2000 people (approximately 7% of indigenous minorities of the North) live and conduct a traditional way of life and economic activities on these territories all year round. They include people whose principal economic activity is reindeer breeding. The decision of the regional authorities to acquire, in line with a decree of the Governor of autonomous region, 3.5 thousand reindeer from the Yamal-Nenets Autonomous Region for private reindeer breeders in the KMAO, played an important part in the continuation and development of reindeer breeding. The remaining people (about 3,000 people) in whose interests ethnic minority lands had been created earlier, live on the lands according to the seasons, depending on the type of traditional economic activity they practise (fishing, hunting, collecting wild plants, berries and mushrooms).

Somewhere in the order of 50% of traditional natural resource use territories is subject to industrial development for the extraction of mineral resources: 673 extraction licences have been issued to 61 companies. Traditional natural resource use by indigenous minorities of the autonomous region takes place in areas licensed for development and prospecting areas of some 20 companies. According to reports of only three of the biggest vertically integrated companies (Surgutneftegaz, Rosneft, Lukoil), 1,810 people practise traditional natural resource use in the area where they have their industrial activities. For this reason, almost all the big and medium-sized companies have set up departments for relations with indigenous peoples. The general principles of relations between industry and indigenous peoples are defined by federal law as follows:

- advance agreement with indigenous residents on the location of production facilities and the boundaries of areas of land to be used for mineral resource extraction, and also the establishment of a special legal regime for the use of these places;
- compensation for indigenous peoples for constraints placed on their traditional economic activities and for inflicting damage through industrial activity on the environments in which they traditionally live, whatever type of ownership they have of the land or resources.

At the same time, in a number of cases, the relevant norms in federal law do not contain the mechanisms for their implementation. So the federal centre has not established a procedure for compensating indigenous peoples and for calculating the damage inflicted as a result of the extraction of mineral resources, and the requirement to follow the procedure for agreeing with indigenous minorities on the location of industrial objects in the areas in which they live takes the form of recommendations, rather than obligations. In this situation, the autonomous region has, independently, within its legal competency, established procedures for agreement between companies and indigenous peoples on the areas to be used for industrial activity and on compensation for damage, by making the companies liable to pay financial compensation. In line with existing regional legislation, approval of issues which must be considered and decided by the executive bodies of the regional authorities is contingent on the prior establishment of mutual relations between the developers and the indigenous peoples in the relevant territories, as part of an agreement on the location of industrial facilities and compensation for related damage. In addition, the regional government includes in licensing agreements the relevant requirements on the right of land use. In view of the legal nature of such documents, failure to implement them can be classed as a breach of the conditions of the licensing agreements and can result in the licence being rescinded.

In addition, the extractive companies take part in the socio-economic development of the local district in which they are carrying out their industrial activities. Agreements are signed in accordance with the licence agreements and contain sections on the socio-economic development of the territories in which the indigenous minorities live: there are programmes for the construction of housing, power lines, cultural facilities and other objects in native settlements and villages. Thus, the system of mutual relations between the indigenous peoples and the extractive companies which is in place in the autonomous region today, is based on the region's normative legal framework, and on a complex process of consultation on the interests of the indigenous population, through the regional authorities' use of their powers in areas which are not directly linked to the livelihood activities of the indigenous peoples (the regulation of land use, mineral resource extraction etc.).

Today the extractive companies for the most part observe the principles of mutual relations with indigenous peoples laid down by federal legislation. Agreements between the indigenous populations and the extractive companies on the procedure for the use of already established ethnic minority lands for industrial production, and on the procedure for compensation for related damage, form the basis for mutual relations. As a rule, according to these agreements, each indigenous family on whose economic territory industrial activities are carried out, receives a boat motor, a motor boat, a 'Buran' snow mobile, an electric power station, spare parts, building materials (renewed once every four years to account for wear and tear), fuel, and quarterly financial compensation for each family member. In addition, the agreements cover the cost of the education and living expenses of members of indigenous families in higher and middle special educational establishments in the Russian Federation, the cost of everyday and sanatorium medical costs in the Russian Federation, the training of specialists and work placements within the extractive companies, helicopter and other transport services for bringing food stuffs to the settlement, the transport of traditional craft products to be sold in towns, etc. By agreement of the parties, housing is built in nearby villages and towns for nomadic peoples. Almost all large and medium size extractive companies have set up charitable foundations in the region, which sponsor ethnic villages and conclude separate agreements on cooperation with the associations of indigenous minorities of the autonomous region. The regional government runs an annual competition for the best extractive company, 'The Black Gold of Yugra'. This includes a nomination for the 'Company of the Year for work with indigenous peoples'.

Serious changes to the current federal legislation, including that on natural resource management and land use, make it essential to continue intensive legal and practical work in the sphere of protecting the rights and the legal interests of indigenous minorities. The recommendations adopted at high level international conferences and fora play an important role in achieving these goals. In 2005, Russia took on the chairmanship of the Arctic Council, and Governor of the Khanty Mansisk Autonomous Region and Chairman of the KMAO-Yugra government, A. V. Filipenko, was elected as chairman of the international non governmental organization, 'The Northern Forum'. The growth of the role and responsibility of the Russian Federation as a result of this, and also the main areas of activity of the Arctic Council and the Northern Forum (environmental problems, sustainable development in regions of the north, and issues concerning indigenous peoples), and “permanent members” status in international institutions of associations of indigenous peoples of the Russian Federation, create the necessary conditions for further changes to national legislation in line with generally accepted international legal standards.

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