



INTERNATIONAL LEGAL GUARANTEES FOR THE PROTECTION OF NATIONAL MINORITIES AND PROBLEMS IN THEIR IMPLEMENTATION

WITH SPECIAL FOCUS ON MINORITY EDUCATION

**Status of international protection of national minorities: where do we stand'
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Unofficial translation

Dear Participants,
Ladies and Gentlemen,

The purpose of this presentation is not to explore semantic differences between the terms “national minorities,” “less numerous peoples,” or “indigenous small-numbered peoples”: I reckon that this particular issue will be handled in detail by other participants, including Russian academics. I would simply like to highlight the main point: virtually all small-numbered peoples of Russia residing in compact communities in the North, Siberia, the Far East and the Caucasus are aboriginals of those particular areas. It is precisely this reality of Russian life that necessitated listing all aboriginal minorities in the country's legislation and granting them the status of indigenous small-numbered peoples.

Special legislation was adopted in Russia to determine the legal status of all indigenous small-numbered peoples (Consolidated List of Indigenous Small-Numbered Peoples approved Presidential Decree and the 1999 Federal Law on Guarantees of Rights of Indigenous Small-Numbered Peoples in Russia), which was followed, quite logically, by legislative efforts addressing a more specialized domain: indigenous small-numbered peoples of the North, Siberia and the Far East.

This special category of small-numbered peoples inhabits areas of Russia where climate conditions are extremely harsh and accounts for a total population of just a little over 240,000. Nevertheless, in spite of the tiny percentage that the indigenous small-numbered peoples of the North, Siberia and the Far East account for in the Russian population, the government's ethnic policies address their political and legal protection and improvement of their socio-economic situation as a matter of priority.

One of the areas of legislative action for the Committee on Issues of the North and Less Numerous Peoples of the Council of Federation of the Federal Assembly of the Russian

Federation involves efforts to improve regulation of the status of indigenous minorities in the North, Siberia and the Far East.

The creation in the upper house of Parliament of a Committee whose mandate includes, in addition to other issues of relevance for the Russian North, legislative action to secure the rights of national minorities residing there, following the adoption of the Constitution in 1993, should be seen as a clear testimony to the fact that the Russian Federation pays the closest possible attention to those minorities.

It can also be said with certainty that Russia's ratification in 1998 of the Framework Convention for the Protection of National Minorities developed by the Council of Europe contributed to the evolution of our legislation in this area. Thus, all specialized laws relating to the status of indigenous small-numbered peoples of Russia were enacted after 1999.

At present, the indigenous small-numbered peoples of the North, Siberia and the Far East, or, otherwise, national minorities of the Russian North, are covered not only by special federal laws, presidential decrees and Government resolutions, but also by individual provisions of sectoral regulations and regional legislation.

In the opinion of our Committee, one of the relevant tasks in terms of improving the entire legislative base covering national minorities of the Russian North is to draft and enact by-laws in addition to the already existing act on areas of traditional nature management.

I believe it would be appropriate to emphasize the importance of having a legal framework to support the creation of traditional nature management areas in Russia. First, the establishment of such areas is in the spirit of the Framework Convention for the Protection of National Minorities and other international legal instruments stipulating the principles of protecting communities and peoples covered by this definition. What is important, it is in line with legal instruments that are ratified or not ratified by Russia, e.g. ILO Convention No. 169. I will mention Russia's problems with the ratification of that Convention a little later. Second, the creation of such areas of traditional nature management (according to the Framework Convention, Article 11) "in areas traditionally inhabited by substantial numbers of persons belonging to a national minority" (I underscore: especially in areas with severe climate conditions) will contribute to the stability of living conditions and development of Northern ethnic minorities, which is instrumental for the preservation of ethnic and cultural diversity.

To speak objectively, traditional nature management areas as such already exist in Russia, but only de facto at this point. I suspect this reality can be attested to not only by the Russian delegation, but international guests visiting the Russian North as well. In late September 2004, my working trip to Khanty-Mansiysk Autonomous Okrug (Yugra) coincided with the visit there of Alvaro Gil-Roblez, the Council of Europe Commissioner for Human Rights. Together we visited compact communities of indigenous small-numbered peoples of the North, after which Mr Gil-Roblez, both in public and in his report on human rights protection in Russia, commended the efforts of regional authorities to preserve those minorities' traditional lifestyles and to ensure the exercise and observance of rights and freedoms guaranteed for them.

The Committee on Issues of the North and Less Numerous Peoples is now actively contributing and will continue to contribute to creating an enabling environment for the support and development of Northern national minorities' cultures. To the extent possible, the Committee's legislative efforts will seek to cover all aspects of their life and to contribute to

preservation of the main elements of their identity: religion, language, traditions and cultural heritage, in line with the Framework Convention, Article 5.

Concerning the Committee's legislative initiatives relating to education of indigenous small-numbered peoples of the North, Siberia and the Far East, we are ready to support any regulatory act of public significance, because, for those peoples, education is one of the prerequisites and, at the same time, channels of ensuring continuity of religion, language, history and ethnic culture. We are continuously monitoring trends in education for Northern national minorities, and I have to admit that existing problems are largely due to the duality of the purpose. While trying to give minorities a complete, high-quality education, which is possible in the context of boarding schools and, as a rule, in isolation from family, we should seek at the same time to help preserve Northern minorities' ethnic and cultural identity, since most of them are nomads or semi-nomads. However, in the education of Northern minorities as such, there is generally more promise and progress than there are problems or challenges.

Now, a few words to follow up on the comment on the ILO Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries.

The jurists who analyzed the conformity of Russian legislation to the Convention concluded that most of the Convention's provisions have already been incorporated into Russian laws. Adequate equivalents have been found missing in Russian legislation for only two provisions of the Convention:

- differences over the definition of the person in law,
- differences over the question of land ownership.

Having said that, in spite of the existing situation, we should acknowledge the overall positive contribution of that international instrument to creating an enabling environment in the Russian Federation for building a partnership between the state and national minorities. This is especially relevant for those peoples that engage in traditional lifestyles, i.e. indigenous small-numbered peoples of the North, Siberia and the Far East. I take the view that Russia's ratification of ILO Convention No. 169 may provide additional guarantees for the protection of rights of those national minorities.

In conclusion, a few words about our plans for the nearest future. As you are aware, the purpose of the United Nations Second International Decade of the World's Indigenous People is to intensify efforts on all tracks to ensure the exercise and protection of the rights of those peoples and to consolidate their legal status. One of these tracks is lawmaking. The work plan prepared by the National Organizing Committee responsible for the preparation and holding of the Decade in the Russian Federation includes a number of legislative initiatives which will be followed through with the most direct involvement of the Committee on Issues of the North and Less Numerous Peoples.

Efforts to improve the legal environment for the establishment of traditional nature management areas will no doubt remain a priority for the Committee. Furthermore, new tasks will include incorporation into the Russian legal system of federal acts regulating the protection of native habitats of small-numbered ethnic communities and indigenous small-numbered peoples of the North, Siberia and the Far East as well as procedures of ethnological review in areas traditionally inhabited by them. The enactment of those regulations in the Russian Federation will be conducive to both the preservation of the Northern national minorities' identities and actual improvement of mechanisms that exist to monitor the implementation of guarantees instituted to protect their inalienable rights.

Thank you.