

# ANSIPRA BULLETIN

Arctic Network for the Support of the Indigenous Peoples of the Russian Arctic  
Сеть Арктических Организаций в Поддержку Коренных Народов Российского Севера

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ANSIPRA is a communication network linking Russian Indigenous Peoples' Organisations with international institutions and organisations alarmed about the future of the indigenous peoples of the Russian North. ANSIPRA's main goal is to spread information, to mediate contacts, and to assist in project coordination.

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## Translations from «Мир коренных народов – живая арктика» (Indigenous Peoples' World – Living Arctic)

According to an agreement between ANSIPRA and RAIPON (Russian Association of Indigenous Peoples of the North), we present translations of selected articles of the newsletter «Мир коренных народов – живая арктика» (Indigenous Peoples' World – Living Arctic), the official periodical of RAIPON. The present issue presents translated articles from Indigenous Peoples' World No. 13, 2003.

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## International Decade of the World's Indigenous People: Preliminary results

*At the Moscow meeting of the Government of the Russian Federation on 6 March 2003, dealing with "Activities Within the Framework of the International Decade of the World's Indigenous People", the President of the Association of Indigenous Peoples of the North (RAIPON), Sergey Nikolaevich Kharyuchi, made the following report.*

Eight years of the International Decade of the World's Indigenous People have passed. Its preliminary results can be summed up. A significant effort has been carried out in Russia during the recent past. The preceding speakers have outlined the events.

We would consider it appropriate to express our gratitude to Vladimir Yurevich Zorin, Minister of the Russian Federation, who, one would say, has reactivated the activities of the National Organising Committee to prepare for and conduct the International Decade of the World's Indigenous People. In 2002, RAIPON took an active part in the efforts of the National Organising Committee. We dealt with such important issues as education and healthcare of indigenous peoples of the North, cooperation experience of indigenous peoples' organisations with state authorities, and guarantees of indigenous peoples' representation in legislative bodies. We convened a meeting of the Organising Committee and the Association's Coordination Council in Yakutsk. The Organising Committee's results were envisaged by the President of the Russian Federation and the Chairman of the Government of the Russian Federation. We hope that, in the future, we will be able to count on fruitful cooperation with the National Organising Committee for the International Decade of the World's Indigenous People.

**We suggest the following to be included among the measures and events of the remaining two years of the International Decade:**

### *The World Conference on Indigenous Rights.*

We are grateful to the Government of the Russian Federation for the support of the Association's initiative to convene the World Conference on the Rights of Indigenous Peoples in summer 2004 in Moscow. We know today that the question of a World Conference in 2004 is included in

the agenda of the UN Permanent Forum on Indigenous Issues planned for May 2003 in New York. The offer to host such a conference would enhance the international reputation of the Russian Federation. This conference is essential to sum up the results of the International Decade. Moreover, Russia can put forward a proposal for the declaration of a Second International Decade of the World's Indigenous People.

### *Identification of the official position of the Government of the Russian Federation on the UN Universal Declaration of Rights of Indigenous Peoples.*

The development of a new international standard on the rights of indigenous peoples has been underway in the United Nations since 1984. From the very first days of this work the Russian Federation has been in favor of the adoption of a universal, comprehensive document able to defend effectively the rights of indigenous peoples. For the last eight years intensive efforts have been carried out by the *ad hoc* Working Group to elaborate the Draft Declaration, but consensus has been reached on only two out of the total of 45 articles. Unfortunately, at the last session in December 2002, the position of the Russian Federation submitted the Ministry of Foreign Affairs seemed unacceptable, and caused a sharp negative reaction of all the indigenous representatives. It would have been better to preliminarily coordinate such initiatives with the Government of the Russian Federation or with a state agency whose terms of reference cover the problems of indigenous peoples. RAIPON, in its turn, is ready to make its own positive contribution to this work. As an example of such an approach of partnership we can mention the participation of the Minister of the Russian Federation, Vladimir Yurevich Zorin, in the first session of the UN Permanent Forum on Indigenous Issues in May 2002 in New York: On the eve of his flight to New York Mr Zorin found time to have necessary

consultations with representatives of RAIPON as well as the Ministry of Foreign Affairs. As a result, all the delegations from Russia reflected unified positions in their reports.

The Association considers it highly essential to concentrate every effort during the remaining time on the achievement of the major objective of the International Decade: the establishment of partnership relations between the state and indigenous peoples. So far, regretfully, we have not achieved such partnership in Russia. As an example we would refer to relations first now taking shape between the Association RAIPON and the Ministry of Economic Development which is in charge of the problems of indigenous peoples.

***The Federal Target Programme (FTP) of “Economic and Social Development of Indigenous Numerically Small Peoples of the North for the Period of up to 2011”.***

RAIPON has repeatedly directed the attention of the Government of the Russian Federation to the necessity of making adjustments to the programme. The concept of the adopted programme makes it impossible to obtain the expected result. The FTP is not working for the peoples. It is essential to change the FTP's concept. RAIPON's proposal is to consolidate the basis of FTP by regional development programmes of economy and culture of indigenous peoples with regard to every respective region while FTP would combine all these regional programmes.

There is another important aspect: Year after year the budget share of the FTP will decrease whereas the share not passing through will grow. There is no indication, though, what sort of extra-budgetary financing is being planned.

Under the above conditions, we propose:

- *To make adjustments to the concept of the FTP so that it can be coordinated with the development of the indigenous peoples rather than being an additional support of Russian regions;*
- *To allocate funds itemised as “current expenses” and “R&D work”, at the expense of the assets of the reserves of the Government of the Russian Federation, starting from the second half of 2003, apart from financing the units of capital construction;*
- *To consider the possibility of transferring some functions of state customers implementing parts of the FTP to RAIPON. This would make it possible for us to attract additional extra money from international donors. I would like to emphasise that RAIPON is not seeking any money from the FTP budget for itself. On the contrary RAIPON is ready to attract additional funds to finance FTP measures through its international partners.*

***Territories of Traditional Nature Use of indigenous peoples.***

We are convinced that the realisation of indigenous peoples' rights to Territories of Traditional Nature Use is a key to the solution of their numerous problems. Despite the

adoption of the federal law “On Territories of Traditional Nature Use of Indigenous Numerically Small Peoples of the North, Siberia and the Far East of the Russian Federation” in May 2001 the indigenous peoples have so far failed to gain access to their primordial lands.

In execution of the given law the Government of the Russian Federation authorised the Ministry of Economic Development and Commerce to work out draft model regulations for Territories of Traditional Nature Use of federal significance and submit them for approval to the Government of the Russian Federation by the end of 2002. We are now in early March 2003 with not a sign of the regulations being approved.

Meanwhile, several dozens of appeals have already been sent to the Government of the Russian Federation by representatives of indigenous peoples of the North and their communities with regard to the establishment of Territories of Traditional Nature Use. By dragging out the fulfillment of the RF Government's commission under various pretexts the Ministry of Economic Development virtually blocked the implementation of provisions stipulated in federal law # 49 FZ dated 7 May 2001 “On Territories of Traditional Nature Use ...”.

Due to the lack of a mechanism to realise the above federal law communities of indigenous peoples of the North are today unable to have lands with their hunting grounds, reindeer pastures and commercial fishing areas on Territories of Traditional Nature Use legally established. Without documents confirming their right to use hunting grounds and Territories of Traditional Nature Use, indigenous individuals and communities engaged in traditional natural resource use do not stand a chance of obtaining a long-term license to harvest game, or keep non-recurrent fur trade licenses or fishing quotas. Referring to the new RF Land Code regional authorities make the aborigines pay a lot of money or forfeit their right to use hunting grounds, declaring lifelong land ownership acts null and void on the basis of Ordinance of the Government of the Russian Federation # 919 (23 December 2002).

In May 2003 it will be two years since the federal law came into effect. The Government of the Russian Federation has established not a single traditional subsistence territory on a federal level since then. The lands previously allotted to indigenous peoples of the North are now being put out to tender by the regional authorities, and hunting grounds of indigenous peoples are sold to timber companies. Kinship lands taken from indigenous peoples are leased to other users. Indigenous peoples of the North which hunt or fish on their primordial lands are turned into poachers, their guns, fishing gear, catch of fish and hunters' bags filled with the sweat of their brow are confiscated.

If taking into account that traditional economic activities and traditional natural resource use are the only source of subsistence for the majority of indigenous peoples of the North, since there is no possibility of creating other jobs, then this population seems to be deprived of their means of subsistence. What government assistance can one talk about if we put up artificial barriers which block the legitimate rights of indigenous peoples? There is a standing federal law which is not implemented for some unknown rea-

son. At the same time, land plots in the areas inhabited and used by indigenous peoples for their economic activities are easily allotted to extractive companies for industrial development.

*Dear Mikhail Mikhailovich!*

We have already discussed the matter with you in Salekhard during the first meeting of the Council on the problems of the Far North and Arctic. However, we have to revert to the subject again.

On 26 November 2002 the Deputy Minister of Economic Development and Commerce, Mukhammed Mukhadinovich Tsikanov, reported in his speech about his Ministry elaborating a new draft version of the law on Territories of Traditional Nature Use. We had no information about such efforts of the Ministry of Economic Development; therefore, we could not make out what it was all about. Our experts at the time were involved in the work on this subject along with the RF President's Commission chaired by D. N. Kozak. We submitted our proposals awaiting final results.

It was only in February 2003 (only) when we found out that the elaboration of the new draft version of the law "On Territories of Traditional Nature Use of Indigenous Peoples ..." had been commissioned by the RF Government to the Ministry of Economic Development, and that it had been engaged in this work starting in September 2002. We were totally unaware of that, though. The Ministry of Economic Development was busy elaborating the new draft version of the law without inviting RAIPON's experts to participate. RAIPON received one of the last versions of the draft law only at the meeting held on 20 February 2002 in the Department of Regional Development.

I am obliged to state that such practices of "partnership" relations of the Ministry of Economic Development with RAIPON are not adequate, do not fulfil the purpose and are not up to the objectives of the International Decade of the World's Indigenous People. Unfortunately, the elaboration of the draft law without invitation of RAIPON's experts went on even after you, dear Mikhail Mikhailovich, had signed the RF Government's instruction # MK-P11-16833 of 3 December 2002 about the necessity of involving representatives of RAIPON to the preparation of federal draft laws or making amendments and supplements to the existing laws. This would include the federal law "On Territories of Traditional Nature Use of Indigenous Peoples ...".

Having examined the proposals of the Ministry of Economic Development, we sent our conclusion with regard to the draft law straight away. RAIPON is not in a position to support it for a number of reasons, primarily the conceptual ones: the indigenous peoples of the North, Siberia and the Far East are in need of a federal law oriented toward the defense of their rights to traditional subsistence activities, preservation of their traditional lifestyle, protection of their primordial habitat from any other non-traditional economic activity causing irreparable damage to indigenous peoples. The existing version of the law meets these requirements.

The elaborators of the new version of the law from the Ministry of Economic Development have proposed something opposite: to declare a legal regime with regard to the

lands of indigenous peoples allowing various economic activities with no rights for indigenous peoples, except for public servitude. Public servitude means a limited right to use on somebody else's land. This is unacceptable for indigenous peoples. The draft law is clearly in pursuit of easy access to traditional territories for all the possible subjects of economic activities. Lobbying for the interests of extractive companies is also clearly seen instead of showing concern for the future of indigenous peoples. Hence, the introduction of a new conceptual framework, for example, "subjects of traditional natural resource use", including, apart from representatives of indigenous peoples of the North, Siberia and the Far East, other individuals and, in the first variants, even legal entities.

It would be enough to read the draft law's preamble to understand what its objectives and tasks are. Compared with the preamble to the existing federal law, emphasising that "the federal law shall stipulate the legal basis for the establishment, protection and use of Territories of Traditional Nature Use of indigenous peoples for them to be engaged in traditional natural resource use and traditional lifestyle on these territories", the authors of the proposed draft law outline the legal framework of "the use and protection of natural resources, land plots and isolated natural objects on Territories of Traditional Nature Use and general principles regulating the system for and procedures of their establishment and abolishment".

In the first case, the state demonstrates its concern for the preservation of a traditional way of life and traditional subsistence activities of indigenous peoples; hence Territories of Traditional Nature Use are to be established. In the second case, concern is shown for the protection and use of natural resources on abstract Territories of Traditional Nature Use; even their attachment to indigenous peoples is omitted.

Nor do we agree to the form of the draft law in the new version of the federal legislation. It runs counter to the concept adopted with regard to this law by the Commission of D. N. Kozak: making amendments and supplements to the existing federal law. Besides, we believe that the RF Government's decision making about submitting the new version of the draft law to the State Duma, which means abolition of the existing law, would be politically wrong. The law was adopted in 2001; the Ministry of Economic Development has done nothing during the next two years as to practical realisation of its provisions. We regard this step as an attempt of the Ministry of Economic Development to avoid responsibility for the non-execution of the federal law, hence its new version.

The proposed version of the draft law makes human rights and basic freedoms vested in the current legislation substantially weaker. For example, the elaborators of the draft law have totally excluded representatives of indigenous peoples from identifying the boundaries and sizes of Territories of Traditional Nature Use, and from the elaboration of regulations of the legal regime. Indigenous peoples and their communities are to be deprived of their exclusive right to lodge appeals on the basis of which decisions could be made about the establishment of Territories of Traditional Nature Use. The possibility of legal regulation of the

establishment, protection and use of Territories of Traditional Nature Use on the basis of traditional law of indigenous numerically small peoples is excluded. The draft law elaborators have also omitted the notion of “authorised representatives of indigenous numerically small peoples”. In this case, there is direct evidence of the infringement of provisions contained in Article 55 of the Constitution of the Russian Federation.

A major drawback of the authors producing the draft law is the lack of proposals with regard to making necessary amendments and supplements to other federal laws, such as the Land Code, the Forestry Code, and the Water Code, “On Guarantees of the Rights of Indigenous Numerically Small Peoples of the Russian Federation” and others, while the given draft law is planned to be submitted in one package with other land laws.

And finally, the analysis of the draft law makes it possible to conclude that the work accomplished bears no relation to the delimitation of responsibilities between the bodies of state power which is, in fact, the major objective of the current reform.

RAIPON proposes to postpone the submission of the draft law to the State Duma until this fall and until after elaboration and adoption of the Concept of State Policy with regard to indigenous peoples of the North, Siberia and the Far East by the Government of the Russian Federation. We have been emphasising the necessity of elaboration and adoption of such a fundamental document for a long time at various forums. See what is happening: from 1990 the Russian Federation has realised federal purpose-oriented programmes of economic and social development of indigenous peoples of the North, several federal laws have been adopted; but the position of indigenous peoples is still deteriorating disastrously. The areas inhabited and used by Northern indigenous peoples are still exploited by extractive companies without due regard for the people’s interests. There is frequent resort to barbarous methods. However, Russia still has no well-defined and distinct state policy with regard to indigenous peoples.

We propose to set up an interdepartmental working group with participation of representatives of the regions, RAIPON, as well as independent experts. It should determine concrete terms for the elaboration of the state policy concept regarding indigenous peoples, which subsequently should be discussed in the National Organising Committee of the International Decade of the World’s Indigenous People (which has the status of a Governmental Commission), or at the Council on the Problems of the Far North and the Arctic. Within this framework it should give instructions for the draft law on amendments and supplements to the federal law “On Territories of Traditional Nature Use of Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation”. Besides, we think it is necessary to expedite the work oriented toward the establishment of TTNUs on the basis of the existing legislation; and to transfer the lands currently used by indigenous peoples of the North for traditional economic activities to a reserve fund so that these lands would not be removed for long years to benefit other users. RAIPON is ready to make its constructive contribution to this work.

### *A Federal Service to deal with problems of numerically small peoples of the North.*

Today we must have a critical look at the efficiency of federal authorities, ministries and departments in sorting out the problems of numerically small peoples. It looks like too many cooks spoil the broth.

Dear Mikhail Mikhailovich!

The current system of vesting the Ministry of Economic Development with the right to deal with the problems of indigenous peoples has proved its inefficiency. We do not find proper understanding – not because the Ministry’s officials do not wish to cope with our peoples’ problems, but because this Ministry is excessively overloaded with heaps of other, also important problems. For example, Mukhammed Mukhadinovich Tsikanov, Deputy Minister of Economic Development and Commerce, as a curator in charge of our problems, is constantly busy. You know quite well what a huge amount of work he has to cope with concerning Chechnya, while accompanying the President of the Russian Federation on his trips. Almost every month the Ministry of Economic Development is busy preparing examination of this or that problem by the Government of the Russian Federation. As to German Oskarovich, we have no chance of meeting him whatsoever. Is it really possible to sort out any problems with a head of a department we have been routinely sent to?

The top executives of the Ministry of Economic Development are excessively preoccupied with other tasks. Responsibilities concerning the problems of indigenous peoples are disseminated across the various departments of the Ministry of Economic Development which often do not interact with each other – the aforementioned example of the draft law is illustrative evidence for this. They are even disseminated between several ministries. These facts have led to a situation where RAIPON cannot perceive the Government of the Russian Federation as a permanent and reliable partner for solving the problems of the indigenous peoples.

The urgent necessity of taking responsibility for the solution of the problems of the indigenous peoples from the Ministry of Economic Development and passing them over to an independent federal agency is long overdue. I hope that the members of the Cabinet of Ministers present would support me. Many ministries and departments are similarly up to their eyes with letters and complaints coming from indigenous peoples. There is a vital necessity to coordinate this work. We do not talk about the reconstitution of the State Committee of the North. We try to bring your attention to the rich experience of the 1920s-1940s when the activities of the Committee on Northern Affairs was basically concentrated on the solution of indigenous peoples’ problems.

I would like to suggest to include this item in the minutes as a decision of the RF Government’s meeting.

Thank you for your attention.

## Do the indigenous peoples of the North need autonomous okrugs?

Olga Murashko

*"During the recent months the idea of "a new approach" to the problems of Russia's administrative division has been promoted in the country's political life. So far it has been primarily a matter of the north of Eastern Siberia and the Far East. These are some of the "poorest" regions. The budget income from them is by far lower than the country's average (for example, the comparative level of revenues from Chukotka per capita is seventy times less than that from the Moscow Region)".*

The above quotation is taken from an article by A. Khaitun *"To Live in the South – to Work in the North"* published in the April issue of the *Rossiyskiye Vesti* weekly. The essence of the article is the idea of "a tour of duty", a method of labour supply to remote places with temporary detachment from settled areas, oriented not only at ensuring qualified industrial labour supply but also at limiting the immigration numbers in "places unsuitable to live in".

The author identifies the administrative scatteredness of northern regions as the major cause of impediment to realising this idea in Russia's modern socio-economic life.

*"From the position of the Russians' historic role as "the elder brother and defender of the interests of numerically small tribes and peoples" the territorial shaping of autonomous (previously: national) Okrugs (areas) in the North has assumed a farcical character. Indigenous peoples have remained objects of management by the newcomers and do not have either any real voice in sorting out their problems or any virtual property rights to kinship territories. Corporations extracting minerals and engaged politicians receiving additional possibilities for the distribution of resources and participation in the political life of the Federation are pushing ahead under the guise of the defense of the small indigenous peoples. Taking the risk of being paradoxical, I would express my opinion: indigenous peoples of the North are interested in getting rid of excessive guardianship,"* writes A. Khaitun in his article.

Though certain aspects of the author's assessment of the situation, from my point of view, are correct, for instance, the idea that "one of Russia's misfortunes is the fact that the concept of settlement has been realised on a vast territory with unfavorable natural conditions, which now is inhabited by an alien majority population and, accordingly, alien towns and industrial enterprises", nonetheless, it seems to me that he is looking for the original cause of economic problems of the northern territories in the wrong direction.

Let us look more intently at the question: would the problem of economic expediency of developing the natural resources of the North be resolved by reverting the territorial structure of the Northern and Siberian regions and by making territorial and administrative units larger?

It is quite possible that it would be less troublesome for the giant corporations, which, as A. Khaitun puts correctly, already act as an independent political force, to come to terms with one regional elite in these enlarged administra-

tive units than with several of them. But would it bring any relief to the population, indigenous people or immigrants?

What is to be done? The majority population [European Russians] dominates the North. The state resettlement programme functions poorly, funds are lacking because of plunder. Besides, many residents do not feel up to leaving the territories, especially citizens of former Soviet republics. Certain modern local leaders of the regions, usually those born in the North, improve public services and amenities for at least some inhabitants of autonomous areas making use of the extractive corporations' capital and profits left in the regions.

The growth and development of northern towns will be possible as long as it coincides with the interests of the corporations operating in the regions, since the corporations' workers and employees also want to live in decent conditions and go to theatres and concerts with metropolitan celebrities.

Though once you see the luxury of some northern Palmyras of today, the burnt-out and oil-polluted vastness of Western Siberia involuntarily comes to mind, and you start thinking wishfully if only all this money were invested in the restoration of lands ruined by oilmen.

Once there are no autonomous okrugs, other elites will start enriching themselves and building luxurious apartments both in the North and in Moscow. And corporations will keep improving amenities and making their temporary dwellings more comfortable for as long as they wish to. *"No one would be able to make the investors provide the population of a local administrative formation with means of support if there is no recoupment of investments,"* writes A. Khaitun. But apart from recoupment, there is also a stimulus of corporate image. So, corporations are competing in the luxury of their offices, concert halls and winter gardens refusing *"to provide the population with means of support"*. One needs only to take a walk in the outskirts of these towns to make certain of that. And no one would make the corporations change their views on their responsibilities with regard to the financing of social programmes for the population inhabiting the territories where the corporations operate and at the expense of whose resources they enrich themselves.

No one, except a strong state where the law and honest court reign and rule.

This strong state should remind the corporations that their excess profits from the extraction of natural resources are based on the fact that they have inherited practically free of charge the industry's potential, and have not paid for ten years a justified natural rent which is paid in developed countries and that, using the weakness of the authorities and the functionaries' lack of conscientiousness, they have saved substantially on the infringements of production processes and environmental legislation.

But so far it is a long way to go. The corporations are meanwhile gaining strength and making piles of money at

the expense of infinite utilisation of mineral wealth while the authorities seem to make advances trying to please them by changing legislation in their favor and promising to give them the possession of pipelines.

Recently I have heard the confession of a high-ranking functionary of such a corporation operating in the North: *"If we would observe all environmental requirements we would have to cease operations"*. It was uttered publicly at the conference entitled "Russia's Indigenous Peoples and Civil Society". It means that his corporation consciously ignores environmental legislation of the Russian Federation and is confident that it can threaten the state by closing down its production. In any civilised state this would have been impossible.

In this country, alas, the state for some reason or other limits itself to a small share of what it can get for its resources allowing super profits of extractive corporations to flow off to overseas accounts.

To my mind, the root of the problem is exactly in this rather than in the existence of numerous local elites only, some of which are holding back the profit in their regions to spend it at least partially on local inhabitants. It is exactly due to this weakness of state power and its functionaries' lack of conscientiousness that a situation has arisen when there are not only "rich" and "poor" regions but also these regions' population depending heavily on what kind of "a chief" they have – honest or not. It is an open secret that there are regions rich in natural resources whose populations live in poverty without seeing their governor for months; in the meantime, the governor is busy playing games around licenses for the right to use the regional mineral wealth rather than dealing with social needs of his okrug. At the same time there are okrugs adopting social laws while the taxes paid by corporations are spent on socio-economic development.

As to indigenous peoples of the North, they happen to be the main victims in this situation for they lose more than anybody else, including the regions where luxurious cities are being built.

It is the reindeer pastures and hunting grounds that are being destroyed as a result of the economic activities of corporations; it is the peoples of the North that are being deprived of a chance to subsist using the only methods they know – reindeer breeding, hunting, fishing. Nobody is going to train them or provide them with other job opportunities because there are not any appropriate laws in our state.

Up to 25 percent of reindeer pastures and hunting grounds have been alienated from traditional natural resource use during the fifty years of intensive natural resource development in Siberia. There are no official statistical data, but the total number of reindeer stock throughout the country has been halved and in certain regions reduced by the factor of ten. It is only possible to estimate the total size of official land allocations for industrial purposes, and these estimates have always been put too low. The burnt-out and oil polluted forests, the pastures ploughed through by cross-country vehicles are not included in the estimates. Though when a pipeline happens to cut off a thousand-mile long corridor used for driving a herd of ten thousand reindeer from pasture to pasture it is the entire pasturable area amounting to millions of hectares, which becomes worth-

less, not only the dozens of hectares given to the company for pipeline construction.

During the decades of natural resource development of the North and Siberia the state has failed to introduce laws regularising the situation. During Soviet times the peoples of the North enjoyed privileges, which differed insignificantly from those enjoyed by other populations: free medical treatment and medication, free housing, and admission to the institutions of higher education without entrance examinations.

In post-Soviet times, in 1992, the President's Decree "On Urgent Measures to Protect Residence Areas and Economic Activities of Numerically Small Peoples of the North" was issued. It essentially boiled down to outlining the boundaries of Territories of Traditional Nature Use and free transfer of reindeer pastures, hunting and fishing areas for the peoples of the North. The decree prescribed to elaborate laws on Territories of Traditional Nature Use. During the following ten years the Government has done nothing of the sort.

On May 11, 2001, in spite of the Government's opposition, the federal law "On Territories of Traditional Nature Use of Indigenous Numerically Small Peoples of the North, Siberia and the Far East of the RF" was finally carried into effect, thereupon Territories of Traditional Nature Use were to be established by the Government's ordinances and transferred to peoples of the North for free use. The Government during the subsequent two years has issued not a single ordinance about the establishment of Territories of Traditional Nature Use.

At the same time, in some okrugs regional laws were adopted as early as in 1992, and kinship lands were handed over to peoples of the North for free use. The first law of this kind was adopted in the Khanty-Mansi Autonomous Okrug. At a later date, almost simultaneously, laws were adopted in the Khanty-Mansi (1996) and Yamalo-Nenets (1997) autonomous okrugs in an attempt to regulate mutual relations between oilmen and indigenous peoples by making agreements. Other okrugs have gradually followed.

But even in these okrugs – advanced with regard to the northern peoples' rights – the rights of the Northern peoples have failed to be defended. According to regional laws oil companies have to coordinate land allocations with the traditional land users.

To persuade them to sign an agreement on 49 year-long land allocations for oil and gas prospecting and production used, oil companies offered the land owners what they needed right away: two rolls of roofing felt, three cubic meters of shaped timber, a "buran" (propeller-driven sledge). They would also promise to pay two thousand rubles or so per person, and disappear after signing the document without paying anything. The consent to land allocation required for further dovetailing of the documents to obtain the license is already in their hands after all, whereas the non-execution of the agreements has not a chance to be taken to court. The Northern indigenous peoples are not aware of legal subtleties and take people at their word.

Although the regional standards of taking the Northern peoples' interests into account have proved to be imperfect, in other regions where such rules are not available the Northern peoples are not even mentioned when allocating



lands to users of mineral resources. It happens so because there are no adequate federal laws, while in the existing ones, for instance “On Guarantees of the Rights of Indigenous Numerically Small Peoples of the RF”, such standards are proclaimed in declarative form. There is no federal law to secure “protection of primordial habitat and traditional lifestyle of numerically small ethnic communities”. This line is written in the Constitution of the Russian Federation, in the Article on subjects of mutual jurisdiction of the state and administrative units of the RF, but the mechanisms for its realisation are missing. There is no federal legislation on either the impact assessment of mineral extraction on traditional activities of Northern peoples, or on compensation for the damage caused. Damage and compensations are assessed in accordance with general rules, although lands are the very basis of life for indigenous peoples. The damage caused to these lands must not be compensated according to the same rules as in the case of our 1/600 hectare, which used to be given to us to idle away our leisure time in summer.

These problems can hardly be coped with by the help of regional laws only. And the changing federal legislation is chasing them up a tree.

The future fate of kinship lands taken on lease by oilmen, which in 1992 were transferred to the Northern peoples in some okrugs for gratuitous use, would become clear once you have a look at the Land Code of the RF. Gratuitous use of lands by citizens no longer exists in it; property and leasehold are what is left; in other words, the aforementioned areas and kinship lands transferred for gratuitous use must be reregistered and given to the Northern peoples on a rental basis. The federal law on Territories of Traditional Nature Use based on gratuitous use of lands cannot be acted upon either, though it was adopted earlier than the new Land Code.

But the leasehold of his kinship lands with graves of forefathers and sacred sites is unnatural and unreal for a reindeer herder or a hunter. The peoples of the North used to live on their lands from generation to generation and pursued their natural economy. The acquired products were sufficient for subsistence only; it is by no chance that their kolkhozes and sovkhoses were unprofitable. Traditional natural resource use is not unprofitable per se: eaten as much as produced. It was made unprofitable by the imposed infrastructure needless for this kind of natural resource use when a hundred chiefs and managers: directors, their deputies, accountants, secretaries, party functionaries with all they needed for themselves, such as kindergartens, schools, residential houses, clubs and wages, were supervising ten reindeer herders. The essence of traditional natural resource use is its extensiveness: not to take more than it is needed for today, so that there would be enough animals, fish and reindeer moss to one's great-great-grandchildren and their herds. Therefore, the Northern peoples, observing their predecessors' laws, cannot make lease payments of tens and hundreds of thousand rubles.

But the state has found another leaseholder, the user of mineral resources, who can make such payments and, according to the new Land Code, enjoys the preferential right of leased land acquisition as his property. So, now, the lease holding corporation would buy the lands it has devastated paying a ruble per hectare, and no land restoration can

be demanded from the owner. The ownership of the lands would become even more pressing if the right of pipelines' ownership is transferred to corporations. The logic of the Government, which has lobbied the Duma to support the new Land Code, in this respect is quite clear.

And what about the aborigine, where is his place? Hey, there he is nursing his sorrows on the outskirts of the luxurious Khanty-Mansiysk or Urengoy reproaching himself with the fact that he had lost the kinship lands his forefathers bequeathed him for “a couple of rolls of roofing felt”. Well, then, in the Nenets Autonomous Okrug the option was as easy as pie, even easier: the Nenets village of Varandey was banished allegedly threatened with danger of being washed away by the river. Years passed by, and nothing happened to the village soil, though now the “Varandeyneftegas” company is bossing about in the area while the former villagers live in the temporary wooden barracks in the outskirts of Naryan-Mar, jobless and without means of subsistence.

**It all resembles the description of the early stages of colonisation in the Wild West: the purchasing of land at the expense of glass beads with the subsequent eviction or liquidation of aborigines.**

However, this happened in the West 150 years ago. There are different rules there at present. Today, a project of natural resource development in Canadiana or US indigenous lands would incorporate a social programme of compensations and adaptation of the local population to the new conditions of life. Ten years ago the World Bank has already adopted its operational directive “Indigenous Peoples”: loans for industrial projects on territories inhabited by indigenous peoples are only granted in such cases where a programme of rehabilitation and adaptation of indigenous population (providing housing, professions, education, jobs) is put forward, with the subsequent check on work done. Thus, the rules of developed countries have spread owing to the force of capital over to not so developed countries.

In the 1990s, there were certain attempts made to introduce something of that kind in this country, but soon everything came to naught. For example, there was a federal programme called “Children of the North” binding federal and regional budgets to allocate funds for education of indigenous children. But in this miraculous country of ours it so happened that before one could bat an eyelid only two children from northern indigenous families were in fact studying at the institutions of higher education out of ten using the programme's privilege. In 2002, this programme was closed down following the proposal of the Ministry of Economic Development. The same ministry is now proposing to close down another federal programme of “Socio-Economic Development of Indigenous Numerically Small Peoples of the North” which has provided guidelines for the last 15 years for building schools, hospitals, and housing projects in northern villages. Though more often than otherwise, foundations alone used to be built, since the programme was financially backed “for 7 to 20 percent” only, judging by the unfinished structures sticking up at the construction sites and the Government's reports. The same ministry again, having taken the authority of the State Committee for the Affairs of the North to deal with problems of indigenous peoples of the North, has failed to exe-

cute the law on Territories of Traditional Nature Use and exerts every effort to have it abrogated.

That is the real attitude of the Government to the Northern peoples – they are insolvent, therefore, not needed. A functionary of the Ministry of Economic Development said something like that at an international forum: “The Government has no incentives to establish Territories of Traditional Nature Use for indigenous peoples of the North”.

This is why it is a bit premature to talk about the Northern peoples wishing to get rid of “excessive guardianship” yet.

At present, peoples of the North are writing letters about their misfortunes to the RF President and to the Association of Indigenous Peoples of the North. They also send letters to the journal “Mir korennikh narodov – zhivaya arktika”. But it should be noted that the very nature of these letters has changed lately. They now write not only about the facts that their allowances are not paid, the school roofing has collapsed, and there are no drugs at the local hospital. They write about the Government of RF rejecting the establishment of Territories of Traditional Nature Use, thus denying their statutory right, and about their kinship lands taken away illegally. At times, they touch on serious environmental issues. For example, they enquire from where they could get a long-term development programme of oil and gas deposits in the Timan-Pechora Basin or on the shelf of the Sea of Okhotsk. They also ask whether ecological appraisal of these programmes has been carried out and whether ethnological expertise is being prepared along with the assessment of the project’s impact on a traditional lifestyle highlighted by the federal law “On Guarantees of the

Rights of Indigenous Numerically Small Peoples of the Russian Federation”.

As we can see, the sprouts of a civil society are beginning to get ripe amid the Northern peoples just as well. As a matter of fact, the Northern peoples raise questions of state importance and interregional significance, which can be answered by the state authorities only.

And again, only the state authorities can answer the question of “What should the socio-economic policy of oil, gas and other mineral corporations be?” and this answer should be in the form of a federal law. The regional elites will continue to speculate on the fact that they are the only ones to defend the interests of their regions. The citizens will continue to support them until the state musters up its strength to restrict corporations in favor of its citizens. Until then, certain regional authorities would remain the covering force on the way of the arbitrary rule of both the corporations and government functionaries.

The time would possibly come when federal legislation is adopted about natural rent and its fair distribution, obligatory transfer of corporations’ resources to socio-economic and ecological programmes, and compensations of damages and losses caused to traditional natural resource use. The state authority would become so powerful that it would be able to secure the implementation of such laws not only by its citizens and corporations but also by its own Government. Then, it would be possible to restrict the authority of regional offices in accordance with the Constitution of the Russian Federation and carry out reasonable socio-economic projects within the scope of the entire state.

## Extractive companies and indigenous peoples

S. N. Kharyuchi

(Based on a publication in the journal “Yamalskiy meridian”, # 5 (85)/2003)

*A Yamalo-Nenets Autonomous Okrug (YNAO) meeting concerning the development of natural resources and future relations between oil and gas companies and the okrug’s indigenous peoples took place in Salekhard on 20 February 2003. The President of RAIPON and Chairman of the YNAO State Duma, Sergey Kharyuchi, elucidated a wide spectrum of Russia’s problems in his report pertaining to these relations. Fragments of S. N. Kharyuchi’s report were published in the journal “Yamalskiy meridian”, # 5 (85)/2003.*

*Our journal’s editorial board, offering now some excerpts from S. N. Kharyuchi’s report, believes that problems taken up in it and the proposed solutions are important and would be of interest to all our readers.*

The orientation of the Constitution of the Russian Federation with respect to human rights has predetermined the state’s obligations with regard to indigenous peoples’ rights: “The Russian Federation shall guarantee the rights of indigenous peoples in accordance with the universally recognised principles and standards of international law and international agreements of the Russian Federation” (Article 69).

In international law these principles and standards are formulated in the fullest way in ILO Convention # 169 “Concerning Indigenous and Tribal Peoples in Independent Countries” adopted in June 1989. The special position of indigenous peoples is in the fact that in the sphere of natural resource use and environmental protection they tradi-

tionally used to sort out problems which are currently under the authority of state and municipal bodies. The Convention forbids solving these questions without indigenous peoples’ participation.

Individual articles of the already adopted federal laws (“On Environmental Protection”, “On Specially Protected Territories”, “On Fauna”, “On Territories of Traditional Nature Use of Indigenous Numerically Small Peoples of the North, Siberia and Far East of RF”, “On Mineral Wealth”, etc. ) stipulate special rights of indigenous peoples with regard to the use of renewable natural resources and forms of compensation for damage. The access of indigenous peoples to certain types of resources for tradi-

tional economic activities is also stipulated. However, the rights declared in these laws are realised inadequately.

But time and tide wait for no man. The impact of aggressive industrial activity on the environment and the consequences of the deteriorating natural environment for the indigenous population are unpredictable.

One of the peculiar features of Russia's North is that two opposite types of economic activities meet here in an especially vulnerable natural environment: a traditional, aboriginal one, ecologically interwoven with nature, and a modern industrial one which extracts mineral resources and, ultimately, exhausts and degrades the natural environment. Quite often mineral deposits coincide with reindeer pastures, hunting and fishing areas, or other territories of traditional nature use.

Another special feature is that throughout the entire span of Russia's history the Far North has primarily played the role of the source of raw materials. At first, it was animal pelts, now it is oil, gas, silver, gold, diamonds, timber, coal and other valuable resources. The extraction of these raw materials secured the well-being of the country but, paradoxically, it was to the detriment of the North itself.

The extraction of the Far North's natural resources has led to the dramatic reduction in the Territories of Traditional Nature Use of northern aboriginal peoples through the direct confiscation of land and its degradation as a result of pollution and other factors. In many regions huge reindeer pastures and river and lake areas have been lost. In the Khanty-Mansi Autonomous Okrug alone 11 million hectares of reindeer pastures have been destroyed and more than one hundred rivers polluted. The quantity of accidental oil spillage has grown amounting to 1.8 million tons a year, while the square mileage of polluted areas has increased four times in the recent years. 30 percent of lost oil products eventually reach rivers and lakes. The content of oil products in the lower reaches of the Ob River is 29 times the maximum permissible level, while in some other rivers of Western Siberia it is 80 times or even higher. The situation is the same wherever the industrial development of natural resources is underway in the Russian North.

It would be expedient to work out an optimum strategy of Siberia's development making it possible to preserve nature and dovetail industrial development with traditional natural resource use. Such a strategy should be ensured by political and legal decisions, primarily in the federal center.

Russia's environmental legislation is at a rather high level. In particular, it takes into account indigenous peoples' interests: they are endowed with certain rights in the field of natural resource use and protection of natural environment. In 1995, the Ministry of Environmental Protection and Natural Resources approved its regulation "Concerning Environmental Impact Assessments", which requires consideration of the cultural and historical traditions of aboriginal peoples.

At the regional level the share of legislative acts dealing with problems of natural resource use is considerably smaller. Moreover, regional environmental programmes have been ineffective due to the general neglect of environmental problems and the lack of funds. These programmes are oriented toward the solution of environmental problems of inhabited localities, including those inhabited by aboriginal peoples. Vast subsistence-related territories

of indigenous communities remain outside the framework of environmental protection measures.

The agreements made at local or regional levels is one of the mechanisms to protect the environmental rights of the Northern indigenous peoples. These include agreements between indigenous peoples (communities and associations), administration and industrial enterprises.

However, the established system has a number of drawbacks. Chief among them are: the lack of a scientific foundation for compensation payments with respect to land allocation; the lack of legal assessments of agreements and the control over their implementation; agreements concluded for the period of one year can be used by industrial enterprises much longer; paragraphs are included in agreements about gratuitous transfer of a parcel of land to a mineral resource user, which regulate full-value compensations for services rendered on the request of the mineral user. How to assess the extent of the damage to the natural environment and how to compensate the indigenous population have not been worked out. Agreements do not always correspond to civil legislation and, therefore, cannot be subject to legal procedures. All this is aggravated by the legal incompetence of Russian indigenous peoples, their apathy and the lack of protection on the part of regional authorities.

However, one cannot help recognising the practice *per se* of making such agreements as both useful and important, since the practice is conducive to gaining useful experience and arriving at better relations.

RAIPON is conducting an active policy with regard to the conclusion of agreements with federal and regional authorities and industrial companies. These agreements on the whole have a general nature but, without any doubt, are setting a good example of partnership relations in meeting the challenges faced by the North's indigenous peoples. As of today, RAIPON has agreements with the Ministry of Economic Development and Trade, the Ministry of Natural Resources, and the Ministry of Culture of the Russian Federation, the State Duma's Commission on Nationalities and the Federation Council's Committee for the Affairs of the North and Numerically Small Peoples (National Minorities Committee).

No matter how the northern territories are called as administrative units in the state structure they have been and will remain territories where indigenous peoples are concentrated and where they are still following a nomadic, tribal lifestyle with 90 percent of them engaged in traditional economic activities. It is impossible to separate their subsistence activities from their way of life.

In accordance with the decisions of the Fourth Congress of Indigenous Peoples of the North, Siberia and the Far East (convened in April 2001) dealing with the ways of making RAIPON's efforts more effective at the regional level, a lot of attention has been given to the establishment of relations with the regional authorities in the various sub-federal units of the RF.

The agreement between RAIPON and the administration of the Yamalo-Nenets Autonomous Okrug was the first one to be followed by agreements with the administration of the Nenets Autonomous Okrug, the Interregional Association of Economic Interaction between Units of the Russian Fed-

eration “Sibirskoye Soglasheniye” (“Siberian Concord”), and the authorities of the Sakha Republic (Yakutiya).

I would like to place special emphasis on the relations established with industrial companies involved in the development operations in the territories of the Northern indigenous peoples.

Almost a four-year long cooperation has tied us up with the Arctic Gas company operating in the Yamalo-Nenets Autonomous Okrug. Our business oriented relationship as well as mutual respect can be defined as relations featuring a high degree of mutual responsibility, a sense of obligation, a constant exchange of information and holding consultations.

There is cause to speak with warm feelings of the employees and management of the firstcomer of the gas industry in the country’s arctic zone – the “Nadymgazprom” company. It seems to be the first industrial company to become aware in the early 1990s of the necessity of establishing partnership relations with communities and social organisations of the North’s indigenous peoples.

An intricate dialogue went on for several years between the authorities of the Tazovskiy District, the district section of the Association “Yamal to its Descendants” and the “Yamburggazdobycha” company. The sides never allowed the territory’s population and the company’s employees to get involved in the disputes; difficult negotiations were conducted in search of common ground and reasonable

compromises. As a result, a long-term contract (agreement) was signed, taking into account everybody’s interests. This is an example of a civilised effort undertaken by the executives of industrial companies, politicians and representatives of the public.

There are other facts, though. Complicated relations have prevailed for years between the leaders of indigenous peoples’ communities, industrial companies and the authorities in the Nenets and Evenk autonomous okrugs, the Belovskiy District of the Kemerovo Region and many other northern regions.

I would like to emphasise that the urgent problems concerning the relations between mineral resource users and indigenous peoples should be resolved without delay in order to avoid the emergence and expansion of conflict situations. Otherwise, these problems would sweep away both those who have created them and those who have involuntarily fallen victim to them. There is only one way – the search for effective solutions to do away with both the causes and consequences of the destructive impact of the man’s industrial activity on the nature of the North.

Drawing on international practice, RAIPON has and will exert every effort to do whatever is necessary to make the indigenous peoples participate directly in managing all the processes now underway (especially with respect to mineral resource extraction) in the lands which they inhabit and carry out traditional economic activities.

## RAIPON workshop in the Primorskiy Kray

*Olga Murashko*

A visit to Primorskiy Kray was organised during the period from 23 February to 2 March 2003 within the framework of the RAIPON project to convene training workshops on the subject of “Mechanisms to implement Russia’s federal legislation on the rights of the Northern indigenous peoples,” carried out with the support of the International Work Group for Indigenous Affairs (IWGIA).

Participants included Pavel Sulyandziga, RAIPON Vice-President; Rodion Sulyandziga, Director of the Russian Indigenous Training Center (RITC); Olga Murashko, IWGIA member; Olga Yakovleva and Yuliya Yakel, lawyers of the Legal Center Rodnik; and Maksim Kuchinskiy, research associate on a project of the Far Eastern Section of the WWF (World Wildlife Fund). In Vladivostok, Vladimir Shirko, President of the regional Association of Indigenous Peoples of Northern Primorskiy Kray, and Michael Jones, research associate of the Pacific Center’s Far Eastern Division, joined the group.

At first, it was planned to visit the Udege village of Agzu, whose reserved territories of traditional subsistence activities were offered for tender by the administration of Primorskiy Kray and subsequently granted on lease for 25 years to the “Terneyles” (“Terney Forest”) timber company. The aim of the visit was to render legal assistance to the Agzu villagers in their negotiations with the management of the joint stock company Terneyles, as well as to

arrange for six village representatives from Agzu to participate in the workshop.

To reach Agzu from Vladivostok, it takes ten hours by car to the district center of Terney, and another two and a half hours by helicopter to the village. Terneyles helped RAIPON to organise this trip in the hope of getting the Agzu villagers to consent to timber felling in the Samarga area, which has been their primordial breadwinner. The Agzu villagers hunt, gather and fish in the Samarga River area, and these occupations are the only source of subsistence for them, as well as for the inhabitants of the village of Samarga, located downriver from Agzu.

The conflict created by the Primorskiy Kray administration, which offered for tender the forest section reserved in 1992 as a traditional subsistence territory of indigenous and local inhabitants, is now in full swing. The Terneyles joint stock company has already been paying rent for 18 months, but so far has received no profit from the leased forest sector. The Agzu villagers cannot give their consent to the timber felling, because, in their view, it means an end to their hunting and gathering. The construction of a temporary port in the lower reaches of the Samarga River, in the Bay of Adimi, means an end to their fishing, and these occupations are the only means of subsistence for the local inhabitants. The Terneyles joint stock company has proposed to conclude an agreement with the villagers to fulfill

certain social obligations, but so far, the Agzu villagers find some details of the draft agreement unconvincing. In return for the villagers' consent to timber felling (which would undoubtedly have a negative impact on the possibilities for hunting, gathering, and fishing), the company has offered, for the year 2003, 30 cubic meters of shaped timber for all the villagers, 100,000 rubles for the village administration, empty promises of job opportunities without any guarantees, and payment for the education of village youth. Other measures included in the agreement, such as the construction of a road and a temporary port, are needed for the Terneyles timber merchants themselves, and would have a harmful rather than a useful effect as far as the villagers are concerned.

Of course, the inhabitants of Agzu have no easy life in any case, all the more so since the district administration, whether intentionally or not, keeps the village on short rations. The acting head of the village administration lives in Terney (two and a half hours by air), there are no means of communication or electricity in the village, one brick costs 80 rubles, and all other prices of prime commodities are on a par with this brick. One person, with the support of Terneyles, has monopolised the village trade in necessities, and now this person has been given possession of a bench saw. It all has the appearance of premeditated economic pressure being put on the villagers.

18 months ago, 105 Agzu villagers (out of the total of 144) voted against timber felling and in favor of establishing a Territory of Traditional Nature Use. However, after two severe winters, the Agzu villagers, especially women who feel responsible for their children's future, are ready to throw themselves upon the mercy of the leaseholder. At present Agzu looks like a nature preserve – forty houses on the bank of a beautiful river surrounded by mountains overgrown with woods. What will happen to this village and the surrounding nature when the road and the port are constructed and the felling starts? What will be the future of Agzu's children? It is difficult and even unpleasant to imagine.

At the village meeting attended by 50 villagers, no agreement was signed, although those present were coming under heavy pressure from the Terneyles company representative. He pointed out that the felling could start any time, even the next day, and that the negotiations with the villagers were being conducted simply "for ethical reasons", because Terneyles wants to help the impoverished population of Agzu. The company representative was cunning, though, since the Terneyles joint stock company has neither a feasibility study nor an environmental impact assessment to start any operation at the site - in other words, everything required by law to start felling is lacking. And the written consent of the villagers is needed not so much for carrying out an environmental impact assessment (as the company's representative tried to convince the meeting) as for the company to obtain credit from the European Bank for Development (EBD). With this aim in mind, Terneyles tries to look respectable as a company with state-of-the-art technologies and civilised methods of public relations, while at the same time doing its utmost to press an entirely uncivilised agreement on the population.

We intended to teach the six representatives of the village chosen to participate in our workshop what an agree-

ment should look like in compliance with international standards and how indigenous inhabitants could defend their rights making use of Russian legislation. The selection of representatives to join the workshop was in fact the only result of the gathering. Taking them with us, we came back to Vladivostok to meet other workshop participants who waited for us there, having arrived from Krasnyy Yar, Mikhailovka, and Gvasyugi, as well as young students from these villages studying in town. All in all, about 40 people attended the workshop.

The workshop started with an introductory speech by Pavel Sulyandziga, RAIPON's First Vice-President. The attendees were given educational textbooks and supplementary materials: collections of federal legal documents prepared by RAIPON and pamphlets interpreting legal standards prepared by the Legal Center "Rodnik". During the workshop, lectures were given on three major federal laws concerning indigenous peoples' rights, and practical lessons were organised on how to exercise the rights stipulated by these laws in real situations. The workshop participants were trained in how to write applications to obtain information from the authorities on problems pertaining to indigenous peoples' rights to defend primordial habitat and their traditional way of life, and how to draw up appeals about the establishment of Territories of Traditional Nature Use (TTNUs).

The activity of the workshop participants, who started to write numerous enquiries to the authorities, seemed to have excited a great deal of apprehension on the part of the woman representing the administration at the workshop. She recommended the region's indigenous inhabitants to direct all their enquiries to the regional association of indigenous peoples of Primorskiy Kray since, in her opinion, the applicants would undermine their Association's prestige by showering their enquiries upon the Territory's administration. The representative of the regional committee of the Ministry of Economic Development who is in charge of the implementation of the federal target programme "Socio-economic and Cultural Development of Indigenous Peoples of the North", and who appeared at the concluding evening session of the workshop, said that he "had ceased dealing with this business altogether in 1998", apparently in reference to the disbanding of the State Committee for the Affairs of the North in 1999. The true attitude of the Territory's administration to the problems facing the indigenous peoples stands out against the background of such comments made by the few representatives of the territorial authorities one way or another interested in RAIPON's activities.

Meanwhile, indigenous peoples of the villages at the workshop find themselves in similar situations. None of them knows where the money allocated to the aforementioned federal target programme goes. People residing in all the villages want to establish TTNUs but have no official information about the real status of their lands reserved for TTNUs a decade ago, and everybody is perturbed by the rumors going round about the possible transfer of their lands to other users. The example of the situation with the Samarga forests and the challenges currently facing the Agzu villagers unintentionally became a graphic example for the development of indigenous tactics under conditions

of threat to primordial habitat, in this particular case, selling or leasing their primordial lands for timber felling.

The Agzu villagers should be grateful to their fellow villager Arkadiy Kaza, leader of the *obschina* (ancestral community) “Agzu”, who, having learned about a sector of the Samarga forest being offered for tender in August 2001, initiated a meeting of the villagers, at which they voted against the felling and in favor of the establishment of a TTNU, and sent an enquiry to the Ministry of Natural Resources. They should be also grateful to another villager, Igor Kryuchkov, who filed a civil lawsuit concerning the legality of the results of the tender offer, at which the Samarga forest area reserved for the establishment of TTNU had been put out to for felling. These activities created a situation in which the leadership of Terneyles, receiving a lease on the Samarga forest, nevertheless was obliged to obtain the consent of inhabitants and engage in negotiations.

The workshop participants, including the Agzu representatives, were able to get an idea of the way an agreement between the new forest users on the one hand, and indigenous and local people on the other, should look in accordance with international standards. Such an agreement should propose a long-term, wide-scale programme that creates alternative subsistence sources for the local population, provides for the creation of job opportunities through training and certification of local inhabitants to

protect the nature of the territories of their traditional habitation and natural resource use, develops and provides services required for environmental and ethnographic tourism, establishes at the expense of the extractive industry new infrastructure in the village with hotels, access roads guaranteeing a way in for tourists and a way out for residents, and much more. But even in the event that such a programme is undertaken, the final decision about whether to preserve the primordial habitat and traditional lifestyle or to accept the conditions of extractive companies is to be made by indigenous and local inhabitants.

Three draft appeals regarding the establishment of Territories of Traditional Nature Use and three enquiries from the villagers requesting information on the problems of actual concern to the inhabitants were prepared by representatives of the four indigenous villages at the workshop. Making their farewell before leaving the workshop, the attendees, especially the Agzu representatives, thanked us for the information they had received during the sessions and insisted on our next visit in the near future. They expressed their regret that the workshop classes had not been taped so that all the Agzu villagers could hear what the participants discussed. Constant support, legal consultations and interaction with RAIPON are badly needed in such hot spots as Agzu, where the future fate of inhabitants isolated from information and facing extremely hard socio-economic conditions can be decided any day.

## Avert the felling of Bikin forests

*This material is prepared on the basis of a publication by N. Aleshina, “Moscow Intercedes for Bikin”, “Ezhednevnyye novosti” (Vladivostok), 24 June 2003, as well as video taped materials from the press conference on 17 June 2003 provided by the Public Television from Primorskiy Kray.*

The Verkhnebikinskiy Nature Reserve in the Primorskiy Kray was established in 1998. The decision was made as a result of the struggle waged for many years by the public environmental organisations and local, indigenous inhabitants for the preservation of forests in the upper reaches of the Bikin River. The fact that the Bikin forests were the area of habitation and traditional subsistence activities for the indigenous peoples of the Far East – the Udege, Nanai, and Orochi – played a significant role in this struggle. The upper reaches of the Bikin River is a hunting area, and therefore timber felling not only threatens to destroy the unique flora and fauna and the very existence of the river, but is likely to cause damage to the entire nature of the Sikhote Alin mountain range and deprive indigenous people inhabiting the area of their subsistence basis. In April 2003, a meeting was held at the Chief Directorate for Natural Resources and Environmental Protection (CDNR) in the Primorskiy Kray for Russia’s Ministry of Natural Resources to discuss the Verkhnebikinskiy Nature Reserve. Apart from top executives from CDNR and the Forestry Service of the Primorskiy Kray, the meeting was attended by top-level representatives from “Primorsklesprom” and “Terneyles”, the Territory’s major timber companies.

We have received the minutes of the meeting. B. V. Tsoy, Deputy Head of CDNR, emphasised in his report that the nature reserve’s territory included natural landscapes of

the Central Sikhote Alin as an area of worldwide significance from both esthetic and scientific points of view as well as homelands for endangered species of animals and plants of importance for the preservation of biodiversity. K. M. Kuchenko, another Deputy Head of CDNR responsible for the Primorskiy Kray, recalled that “while carrying out environmental expert evaluations of the documents pertinent to the alteration of the reserve boundaries it would be necessary to submit materials of discussions by citizens and social organisations”. He expressed apprehension about the idea of changing the reserve boundaries as it would not be well received by the general public or by the territory’s population.

Despite the reports of these high-ranking officials from CDNR the following decisions were made (the reasons are not reflected in the meetings minutes):

“(1) To substantiate the expediency of changing the nature reserve boundaries in accordance with the order set forth by the existing legislation;

(2) Primorskiy Kray’s CDNR State Forestry Service is to prepare a substantiated conclusion, including economic considerations, for natural resource use and the efficiency of using areas related to the forest fund of the Verkhnebikinskiy Nature Reserve within the framework of Primorskiy Kray’s timber and woodworking industry’s compre-

hensive development programme for the period up to 2010”.

This decision once again threatens both the existence of forests with the Bikin River basin itself and the possibility to preserve the primordial habitat and traditional lifestyle of indigenous people inhabiting this area. Let us remind ourselves that both issues are responsibilities of the state authorities of the Russian Federation and its subunits.

The Association of Indigenous Peoples of the North (RAIPON) has approached the state authorities with a letter demanding protection of the natural environment and the

indigenous population of Bikin, and not to permit violation of indigenous peoples' rights and environmental legislation.

The Association also appeals to all international organisations wishing to help preserve this natural area with its wild, native flora and fauna of Russia's Far East, and the unique culture of the indigenous people inhabiting the region for future generations, and requests them to send the following letter to representatives of authorities of the Russian Federation and the Primorskiy Kray.

To:

V. V. Putin, President of the Russian Federation;

M. M. Kasyanov, Chairman of the Government of the Russian Federation;

V. G. Artyukhov, Minister of Natural Resources of the Russian Federation;

S. M. Darkin, Governor of the Primorskiy Kray;

V. A. Shestun, Head, Chief Directorate for the Primorskiy Kray's Natural Resources and Environmental Protection of the Ministry of Natural Resources of the Russian Federation;

P. G. Korchagin, Head, Department of Forestry Sector of the Primorskiy Kray's Administration

As we have learned, the Directorate of the Primorskiy Kray's Natural Resources and Environmental Protection Agency (CDNR) is preparing explanatory documents to support changing the boundaries of the Verkhnebikinskiy Nature Reserve with the aim to use parts of the territory within the framework of the development programme of the Primorskiy Kray's timber and woodworking industry during the period up to 2010.

RAIPON finds the changes in the boundaries of the Verkhnebikinskiy Nature Reserve, with the exclusion of some part of the forest area for the purposes of industrial timber felling in the upper reaches of the Bikin River, unsupportable for the following reasons:

**(1) The Verkhnebikinskiy Nature Reserve is an integral part of the “Strategy to Preserve Sikhote Alin's biodiversity”.**

A large-scale block of the original cedar broad-leaved forest, which has the status of a commercial nut-gathering zone, has been preserved in this territory. There are also five standard genetic pool areas of tree species characteristic of the region.

The reproductive nucleus of the Northern subpopulation of the Amur tiger has survived in the territory of the Upper Bikin and the major part of the population of the (lepidote) fish duck and the fish owl have built their nests there as well as 60 other rare and endangered species of terrestrial vertebrates and higher vascular plants have been distributed there.

Actually, the whole territory is in a state specified as “virgin” or “deteriorated to a negligible extent”. It is that very natural “state” which should be preserved for the future irrespective of political and economic difficulties. Compared with any other regions of Russia, this territory is known to have the greatest number of rare and diminishing species with many of them (excluding large predators) having the resources within the territory sufficient to maintain minimum viable populations.

**(2) The given territory is the area of habitation and traditional subsistence activities of indigenous peoples of the**

**Russian Federation – the Udege, the Orochi and the Nanai.**

The above-mentioned unique features of the natural environment and resource potential of the Verkhnebikinskiy Nature Reserve have been conducive to preserving the territory as an area of habitation and traditional subsistence activities of the Udege, Orochi and Nanai (included in the “Unified List of Indigenous Numerically Small Peoples of the Russian Federation”) whose traditional way of life is protected by the state in compliance with the Constitution of the Russian Federation, and the federal laws “On Guarantees of the Rights of Indigenous Numerically Small Peoples of the Russian Federation”, and “On Territories of Traditional Natural Use”. A distinctive way of life and pattern of economic activities have taken shape in the basin of the Middle and Upper Bikin. They are known to have an optimum degree of adaptation to natural conditions, which is conducive to the sustainable use of resources and the preservation of biodiversity on various levels. This territory is the subsistence basis of the largest group of the Udege people in the country.

**(3) The intentions to use the areas of the forest fund for industrial timber felling are in conflict with all the environmental efforts which have been carried out in the territory for many years.**

The attempt of the territory's administration to hand over this area to timber merchants in the late 1980s triggered a powerful public protest campaign. This campaign was crowned by the rejection of timber cutting plans involving the upper reaches of the Bikin. It resulted in a number of enactments, including Enactment # 4537-1 dated 24 February 1992 of the Nationalities Council of the RF Supreme Soviet “Concerning the Preservation of the Natural Habitat of the Udege, the Nanai and the Orochi in the Pozharskiy District of the Primorskiy Kray”. Following Enactment # 31 dated 25 August 1992 of the Small Council of the Territory's Council of Peoples' Deputies, the territory of the upper and middle parts of the Bikin River basin (totaling 1,250,000 hectares) was allocated for establishing a traditional subsistence territory of the Primorskiy Kray's

indigenous peoples. In accordance with this Enactment a special regime of forest utilisation was established, while the forests in the upper part of the Bikin River basin covering the area of 689,252 hectares of the Hunting Forestry Section of the Verkhne-Perevalninskiy state forestry station (leskhoz) were subject to be transferred to group 1. In 1991-1993, proposals were elaborated about the inclusion of the entire territory of the upper part of the Bikin River basin in the traditional subsistence territory of the Bikin indigenous population.

**(4) There are prospects for the inclusion of the entire territory in UNESCO's World Heritage List.**

In September 1995, the documents on Russia's natural features, including the forests of the Bikin River basin, were submitted to the UNESCO World Heritage Center (Letter #825 dated 18 October 1995 of Russia's Permanent Representation at UNESCO) and accepted for consideration by the World Heritage Committee. A representative of UNESCO has inspected the area, but it is essential to finalise the preparation of all the documentation before it might be included in the World Heritage List.

**(5) At the same time this territory is considered for the establishment of a Territory of Traditional Nature Use (TTNU) of indigenous peoples of the Far East.**

In accordance with the federal law "On Territories of Traditional Nature Use...", effective from 11 May 2001, indigenous peoples have convened general meetings and prepared documents concerning the establishment of the Bikin Territory of Traditional Nature Use. The establishment of the Bikin TTNU has been hindered due to the re-

quired legislation and procedures which are still being worked out by the government of the Russian Federation.

The alteration of the boundaries of the Verkhnebikinskiy Nature Reserve and the subsequent utilisation of sections of it within the framework of a comprehensive development programme of the Primorskiy Kray's timber and wood-working industry will be a violation of environmental legislation of the Russian Federation prohibiting timber cutting in the areas of rare species of flora and fauna. Timber cutting on the above territory will also be an infringement of the rights of indigenous peoples inhabiting the territory to use its natural resources for the purposes of traditional subsistence, as guaranteed to these peoples by federal law.

**In connection with the aforementioned, we demand:**

- (1) rejection of the idea of revising the boundaries of the Verkhnebikinskiy Nature Reserve and using sections of forest within the framework of the comprehensive development programme of the Primorskiy Kray's timber and woodworking industry;**
- (2) reinforcing the protected status of this unique natural territory by setting up administration of the nature reserve and a public board of trustees;**
- (3) continuing the efforts to include this territory in UNESCO's World Heritage List, and establishing a traditional subsistence territory for indigenous people inhabiting the area.**

Respectfully yours,  
S. N. Kharyuchi,  
President of RAIPON

**The editorial board's note:**

The Directorate of the Primorskiy Kray's Natural Resources and Environmental Protection Agency (CDNR) of Russia's Ministry of Natural Resources and representatives of environmental organisations and indigenous peoples' organisations of the territory held a press conference on 17 June 2003 entitled "Bikin should be preserved". Various, including conflicting, opinions were heard at the press conference.

Boris Tsoy, CDNR Deputy Head, a chief executive of the CDNR, stated his Directorate's position: "We are in favour of a comprehensive utilisation of this territory. However, the decision about the economic development of the nature reserve should be well-balanced and scientifically substantiated". According to the representative of the territory's administration, some part of the nature reserve can be utilised: forestry work should be carried out there; otherwise there would be no one to put out forest fires.

Denis Smirnov, WWF's Far Eastern section's project coordinator for sustainable forest utilisation, said that more than one million cubic meters of felled timber rot in the felling areas: "If more procured timber were processed in the Primorskiy Kray than the mere 10 percent or so as it happens today, there would be no need to fell the remaining virgin forests... As to forest fires and poachers, they follow timber cutters who build roads and make the territory accessible."

P. V. Sulyandziga, President of the Primorskiy Kray's Association of Indigenous Peoples, said: "The indigenous population of Bikin knows quite well that it will survive as an ethnic unit only if the taiga is preserved. Therefore, if the authorities ignore the opinion of indigenous peoples regarding the problems of preserving the Bikin forests, then the residents of Krasnyy Yar<sup>1</sup> will uphold firmly and strictly their rights to preserving Bikin for its inhabitants, for our children and our descendants... In the opinion of RAIPON there is an alternative way of Bikin's development quite able to improve the socio-economic position of indigenous peoples – the development of their traditional natural resource use and occupations".

The attendees failed to agree, but the public organisations did not allow the problem of encroachment on the nature reserve to be hushed up.

According to the report of the newspaper "Ezhednevnye novosti" (Vladivostok) published on 24 June 2003 Victor Shastun, Head of Primorskiy Kray's CDNR, had received a letter from Russia's Ministry of Natural Resources signed by Deputy Minister K. V. Yankov with the instruction not to permit the abolition of the state nature reserve Verkhnebikinskiy and timber felling on its territory.

<sup>1</sup> The centre of the Udege population in the Bikin River basin (–The editor)



## ANGARSK-DATSIN PIPELINE CONSTRUCTION PROJECT:

### 1. Assessment of the situation in the Zakamenskiy District arising from the YUKOS oil pipeline construction project

#### Aggravation of the problems prevailing in the district

*“Gornaya Zakamna – XXI vek”*

*V. D. Sharaldaeva, Candidate of Sciences (Biology), Senior Teacher of the Ecology & BVA Chair of ESSTU, Deputy Chairperson of the UF Council*

The district residents have learned a sad, negative lesson with regard to the closure of the Dzhidinskiy tungsten-molybdenum enterprise. These problems are not only of an environmental nature, but also of a socio-economic nature. No land has been restored to a usable condition after the shutdown of the plant. Trenches, pits, quarries and the earth turned upside down are all that has been left to remind us of the operations of the former industrial giant. The tailing dump of the enrichment plant is a constant source of environmental pollution. The slightest breath of air would bring clouds of sand from the plant to pour all over the town of Zakamensk. The Modonkul River running across these sands is the most polluted river in the Lake Baikal basin. The content of high-density metals exceeds the maximum permissible level by dozens of times. Subsequently, not a single advance survey group has undertaken restoration activities.

The danger of the recurrence of such an experience during the pipeline construction is quite real. Apart from ecological problems, the district population has inherited an impressive number of pending socio-economic issues, such as the loss of jobs, and disintegration of the infrastructure of the entire town of Zakamensk built around the plant to provide the services required. The residents of Zakamensk have been left alone facing these challenges, with neither the federal nor the Republic's government offering any help. As is known, the “life” of a pipeline is not a long one, and what would happen to the local population then? Another tragedy and devastation? Therefore, the question of closing down the pipeline is crucial. It is vital to envisage a fund for the closing down of the pipeline.

The territory of the Zakamenskiy District is notable for its undisturbed ecosystems, which have survived due to accessibility problems and efforts of the local population and administration which prevented the Zabaikalles production association from felling industrial timber in the area in the late 1980s. As of today, calculations by the scientists show that the value of ecological functions of our biological resources is almost four times higher than that of their potential use in the economy. The construction of the oil pipeline violates the integrity of forest ecosystems in the district, and makes the access to the area easier, since a technological road will be built directly from the Irkutsk region to the district. In this regard, the risk of forest fires and the number of cases of illegal hunting and fowling (poaching) will increase dramatically, both at the stage of the pipeline construction and during its operation. Surely, there is a tremendous negative impact on the natural environment during construction operations: outright destruc-

tion of habitat of animals and vegetation, noise effect, pollution as a result of emission of harmful substances, and disturbance caused by man. Since the major part of the planned pipeline is to run across the highlands, the probability of erosion processes is quite probable. It is unknown, therefore, how many years the restoration of the abused lands, including agricultural lands (pastures, hay fields), would take. The route of the pipeline goes through the commercial nut gathering and hunting zone of the district. The majority of the rural population lives at the expense of traditional subsistence activities – animal breeding, hunting and use of non-ligneous resources of forests (berries, mushrooms, pine nuts). The local population's apprehension and negative attitude towards the pipeline construction project is understandable. The very foundations of a traditional lifestyle of the local population are affected (the estimated income of the local population from pine nut gathering).

Besides, there is a strong probability that social tensions will mount between the local residents whose material standard of living is not very high and the incoming specialists who would have quite a different level of wages.

It is vital, therefore, to work out the mechanisms and ascertain social guarantees to protect the interests of the local population, since today the rank-and-file local people have only disadvantages from the pipeline construction: environmental, social, economic, and ethnic. The financial resources, which are to be transferred to the federal and local budgets, hardly play any tangible role today for the villager. Less than one third of the total number of the rural population is financed from the budget at present – teachers, medical servants and pensioners. Some people get various negligible subsidies, and the rest, the majority of the population, makes a living independently.

The next real threat is related to the religious feelings of local residents. The pipeline is in the vicinity of many sacred sites: kinship, family *obos* (sites of worshipping, praying, sacrificing), which have been protected from times immemorial by taboos forbidding intrusion. Nothing is allowed to move at these locations, it is forbidden to break tree branches and twigs, and pluck grass, or else the spirits – masters of the areas – would become angry. Practically every mountain top in the district is known to be a sacred place. For example, every mountain is sacred in the Utaa Nyurgan ridge, which is to be crossed by the pipeline. Besides, the route of the pipeline intrudes the area of local salubrious springs – *arshans* in the vicinity of the villages of Dalakhai, Yengorboi, Mikhaylovka, Bortoi, Bayangol, Khurtaga, Ulekchin, which are also cherished as sacred

sites. Construction operations may change the hydrological pattern of springs, the content of waters, and they will be, most likely, lost for us for good. *Arshans* are, as a rule, small springs coming up from the ground, and any blasting and construction operations would be disastrous for them. In the district, at the same time, 56 out of every hundred people go to these springs to restore their health, while 26 more do not travel to any other place for a holiday<sup>2</sup>. The local people keep asking the vexed question: will the result of the pipeline construction be health detriment or improvement?

However, it is the pipeline itself that is fraught with the greatest danger. In case of an accident at the pipeline the soil and water resources around would be polluted. Bearing in mind that all the rivers crossed by the pipeline flow down to the Lake Baikal the spilled oil in any case, sooner or later, would reach the lake. But even during the routine operation of pipelines an immense quantity of oil pollutes the environment. Russia is the only country with “normative losses of oil” (Standards of natural wastage of delivered oil products... RD 153-39. 4-033-98). In the rest of the world the accepted standard is the absence of leakages. Even the approximate calculations of the so-called “normative losses” would show that the estimates for the Zakamenskiy district alone are quite grave – about 19,000 tons annually per 100 kilometers of the pipeline. According to experts, the forest vegetation covered with a 4-centimeter layer of oil perishes in the first place; young trees are killed even when covered with a thinner layer. One gram of oil once in water medium makes 100 liters of water unfit for use. The fish industry indicator of the maximum permissible level of oil and oil products in water is 0.05 milligram per liter. 100 tons of oil can pollute 2 square kilometers of water up to the maximum level. These are the losses nobody notices; and, accordingly, no efforts are made to do away with the environmental oil pollution. It is essential to consider all cases of the pipeline’s negative impacts of the pipeline on the environment, human life and health when making calculations of the amount of compensations. It is also expedient to set aside an insurance fund and separately stipulate mechanisms to execute examinations.

The acquaintance with the environmental impact assessment (EIA) makes one feel perplexed: what is it, some kind of misunderstanding? A piece of work badly done without any embarrassment? Or a formality? An impression is created that the company has no respect for anybody’s interests, except its own. There is no common marten in the Baikal region, nor is there any American mink as the EIA materials are claiming. This is an indication of the competence of specialists compiling this chapter. The references are basically dating back to publications made in 1970s – 1980s, which have become antiquated, though new research has been carried out in the region since then and its results have been published. Not all the criteria have been taken into consideration by the calculated compensation for the environmental damage, though there are modern systems of methods to calculate the damage caused to environment as a result of man-made activities. For in-

stance, timber valuation is made only as the value of standing timber without taking into account other, more important forest functions (see “The Buryat scientists have calculated the real value of the Baikal forests” in “Number One” by R. Galimov). The amount of with regard to fishing resources has been calculated for the Republic of Buryatiya at 24,000 rubles, so for the Zakamenskiy District it would be mere 6,000 rubles, though the rivers crossed by the pipeline are known to have the taimen ( ) included in the Red data book. (All the EIA-related comments by the specialists have been made at public hearings and recorded in the minutes). I believe that to prepare an environmental impact assessment of the pipeline construction project “Russia-China” it would have been essential first to preliminarily carry out surveys, specify the pipeline route, hold consultations or invite competent specialists who have already investigated the district to participate in the efforts or at least get acquainted with the latest scientific publications about the research carried out in the area chosen for the pipeline construction.

The YUKOS Company is not eager to make contact with local public, environmental organisations and the public in general. The social foundation “*Gornaya Zakamna – XXI vek*” (“*Zakamna Highlands – 21<sup>st</sup> Century*”), in particular, has made numerous inquiries in order to obtain EIA materials, which have never been provided. There has been no answer so far to letter # 25 of July 31, 2002 addressed to Mr. Yu. D. Ivanov. This kind of internal focus creates certain tension paving the way for suspicions of unscrupulous methods and non-transparency of the project.

It is essential to identify as early as possible all the issues and try and iron them out. Representatives of the company should meet the local villagers; bring all the truthful, unbiased information to their attention, answer the questions they are anxious about and listen to their opinions. It is also necessary to take into account that the opinions and position of the local population do not always coincide with those of the authorities. The people inhabiting the Zakamenskiy District intend to stand up for their interests to the last if they do not coincide with the official ones. This again is fraught with an emerging social tension in the district.

As is known, the construction project of the oil pipeline is running side by side with a construction project of a gas pipeline initiated by the RUSIA-Petroleum (RP) Company. Discussions of the latter have been convened in the district. Compared with YUKOS, RP is distinguished for its more appropriate methods of work, its greater openness and desire to find and eliminate the emerging differences. The environmental impact assessment of the gas line is done competently, avoiding the gross errors which are found in the YUKOS project’s EIA. On a preliminary basis, RP has been engaged in surveys and other efforts to make the route of its gas line better mapped out.

Why was Slovakia chosen for becoming familiar with the operation of oil pipelines, and not Western Siberia where YUKOS is in fact operating?

<sup>2</sup> The quoted data are from the survey of Lena Dashiyeva, a tenth-form pupil of the district grammar school, who carried out a yearlong research into the district springs.

## 2. Meeting in the village of Mylo, Zakamenskiy District, Republic of Buryatiya

A. P. Naikanchina

The village of Mylo in the Zakamenskiy District of the Buryat Republic has a majority indigenous population. 428 people out of the total of 670 of its inhabitants belong to a special branch of the Evenk people, the Khamnigan Evenks. They are basically engaged in hunting, and subordnarily forest-related commercial occupations, gathering and fishing. They came here in the 17<sup>th</sup> century from the banks of the Lena River and settled on the banks of the Khamnya (Zakamna) River. In the 18<sup>th</sup> century the services of these Tungus people (the old name for the Evenks) and the neighbouring Terkes Mongolians sharing the same area used to be enlisted as border guards of the Zakamna territory. A hundred and fifty years ago the Khamnigan Evenks' ancestors spoke the Evenk language, but having lived a long time in the Buryat encirclement they have gradually adopted the Buryat language, while preserving many words of Evenk origin in their vocabulary. The data concerning the history of this group have been quoted from a paper prepared by S. D. Babuev, Candidate of Sciences (Philology), research associate of the Institute of Mongolian Studies, Buddhism and Tibetology of the Siberian Section of the Russian Academy of Sciences.

Language adoption in a dominant foreign environment is occurring everywhere. Likewise, for example, many Evenk groups of Yakutiya have gradually adopted the dominating Yakut language, but this does not deprive them of the right to consider and call themselves Evenks.

The Mylo villagers would like to establish a Territory of Traditional Nature Use, but this right is not recognised, since their majority have never been registered as Buryats. During the last census the Khamnigan Evenks requested the authorities to register them according to their self-assessment as guaranteed by Article 26 of the Constitution of the Russian Federation, but it did not happen. Their ethnic affiliation was classified as "Other".

The Mylo villagers have maintained an active civil position with regard to the oil pipeline construction running across their traditional territories. In September 2002 they convened a general meeting to discuss this problem; 148 people attended the meeting (almost half of the total adult population of the village).

The following opinions were voiced during the gathering (quoted from the minutes):

*"206 kilometers of the envisaged pipeline would go across our district. Its operational period is estimated at only 25-30 years only.*

*The threat of negative environmental impacts is immense:*

- *Pipeline construction, blasting operations unavoidable on every kilometer of the mountain slopes, would*

*cause disturbances of the productive soil layer; the elimination of vegetation – tree felling, etc. – and may lead to landslides, rock avalanches, and gullyng.*

- *The map showing the 206-kilometer stripe of the pipeline corridor contains 40 names of rivers and creeks, hundreds of nameless streamlets, temporary water flows and springs filling the numerous valleys of the Zakamna highlands and eventually running into Lake Baikal. The pipeline alone requires a minimum of 853 hectares of alienated land.*
- *Expected forest fires resulting from accidents will cause air pollution and destruction of biosphere including patches of larch and cedar forest – the basis of the local inhabitants' life. This will result in most acute and challenging problems.*
- *The participants of the meeting raised their voice against the oil pipeline construction on the territories of their traditional subsistence activities: 'our upcoming generations will be left with neither vegetation not animal life, these cannot be restored in any way, we do not need millions and billions of dollars'. There are more than a hundred sacred sites and natural monuments in the area, which must not be destroyed.*

*The attendees suggested consideration of another pipeline lane going along the Baikal-Amur railway and round Buryatiya all the way to Nakhodka".*

The Zakamenskiy district council of deputies of the local self-government passed the following decision on 5 November 2002: "On holding a referendum on the issue of allotting land in the territory of the Zakamenskiy district for the construction of the "Angarsk-Datsin" oil pipeline by the YUKOS Company. The date for the local referendum on the question 'Do you agree with allotting lands on the territory of the Zakamenskiy district for the construction of "Angarsk-Datsin" oil pipeline by the YUKOS Company?' is 22 December 2002".

Unfortunately, the referendum did not take place. At the last moment the responsible authorities found some kind of legal discrepancies in the documents submitted by the Zakamenskiy district council of deputies. However, the Buryat Republic's Association of Indigenous Peoples believes that sooner or later the referendum on the problem of the oil pipeline construction should be held bearing in mind that meetings on the issue are still held in indigenous villages. People are anxious about the future of their lands and, ultimately, the future of the entire population whose interests would be affected by the project. The "Angarsk-Datsin" pipeline project needs an ethnological assessment.

### 3. Public environmental expert evaluation of the project “Substantiation of investments into construction of the ‘Russia-China’ oil pipeline by the open joint-stock oil company YUKOS”

During the preparation of this issue of our journal the editorial board received information about a public environmental expert evaluations carried out to appraise the project of “Substantiation of investments into construction of the “Russia-China” oil pipeline by the open joint stock oil company YUKOS”.

An expert commission was formed by the Baikal Center for Public Environmental Expert Evaluations attached to the Buryat Regional Association dealing with the problems of the Baikal area. Highly skilled specialists from Eastern Siberia’s research and development institutions as well as industrial entities, scientists from Moscow and international experts were invited to join the commission. The appraisal of the project was carried out at a high scientific and professional level. Experts discovered discrepancies between the project, the Constitution, and Russian legislation. The Technical Assignment of the Environmental Impact Assessment (TA EIA) identified environmental and economic threats concealed in the project and presented recommendations how to eliminate them.

General conclusion of the public expert evaluations:

On the basis of the above, the expert commission recommends the following:

By the majority of votes (eight out of eleven) to reject the project of “Substantiation of investments into construction of “Russia-China” oil pipeline by the open joint stock oil company YUKOS” on the basis of conclusions made by the majority of experts of the public ecological expertise.

The proposal was put forward to work out the project to completion with due account of the comments and proposals, and to submit it again for another assessment. This was supported by the votes of three experts.

On the basis of the assessment of social and ethnocultural aspects of the project made by Ms. N. L. Zhukovskaya, (Doctor of Sciences [History], Professor, Head of the Department of Asian and Pacific Studies of the

Institute of Ethnology and Anthropology, Russian Academy of Sciences) the expert commission came to the following conclusions:

With regard to the impact of the envisaged activities, the project documents at the stage of “investment substantiation” have been submitted incompletely and do not correspond to the approved technical assignment of EIA,

In particular, the assessment of the impact of the intended activities on the culture of the indigenous groups, the identification of possible conflict situations pertaining to the changes in the traditional lifestyle of the local population along the designed route of the pipeline, as well as the investor’s obligations to eliminate such conflict situations, are all missing.

The proponents of the project have failed to submit substantial information about socio-economic conditions of the life of indigenous peoples and local communities, which would objectively assess their traditional lifestyle, culture and traditional economic activity.

The conclusion of the project elaborators stating that “the infringement of the established way of life will be of a temporary and reversible nature” seems to be ill founded. The forecasted impact of the contemplated economic activity on the traditional lifestyle and culture of indigenous groups practically has not been assessed, though there have been factual materials available.

A sound evaluation of the impact on the indigenous environment and socio-cultural situation as a result of the intended actions is feasible within the framework of an ethnological assessment, which should precede the stage of “investment substantiation”.

The fact that this assessment was made gives definite proof of a high civil engagement regarding the problems of preservation of human habitat and protection of human rights. This is an important step forward on the way to building a civil society in Russia.

### Oilmen again violated the rights of Sakhalin’s indigenous peoples

The history of interaction between Sakhalin’s Association of Indigenous Peoples and oil companies has lasted for as many years as the companies have operated on the shelf of Sakhalin.

We have tried various methods to influence the oil companies, so that their operations would be carried out, not only on a state-of-the-art technological level, but also according to international rules and standards with regard to the rights of the indigenous peoples and local population of Sakhalin.

The Sakhalin Association of Indigenous Peoples and RAIPON, hand-in-hand with environmental organisations, used to convene workshops inviting representatives of oil

companies engaged in Sakhalin offshore operations to participate in joint sessions. We used to organise seminars on legal education together with the *Rodnik* Legal Center. We participated in initiating court cases pertaining to illegality of the permission to dump drilling mud in the sea given by the Provisional Ordinance of the RF Government, as well as to the protection of the habitat of grey whales.

We have been searching for mutual understanding with companies and signed cooperation agreements. One of the paragraphs of such agreements would demand from the companies the provision of information concerning all their projects, results of environmental expert evaluations and impact assessments. But so far, apparently, the companies

have not become mature enough for civilised cooperation with Sakhalin's indigenous peoples. As soon as the drilling season starts people signal about the resumed operations, but the Sakhalin Association of Indigenous Peoples once again is left without the promised information.

To:

*RAIPON President S. N. Kharyuchi*

*Dear Sergey Nikolaevich!*

On 6 April 2003 the Rosneft-Sakhalinmorneftegaz oil company set about its seismic prospecting (blasting operations) by the method of reflected waves, of the general depth point MRDP-3D in the Kaurunanskaya area situated in the Noglikitskiy District of Sakhalin. This has triggered protest from the indigenous peoples as well as other inhabitants of the Noglikitskiy District, since the Nyiskiy Bay (the Kaurunachinskaya area) is the primordial habitat and traditional subsistence territory of 90 percent of the indigenous population of Northeastern Sakhalin.

Rosneft-Sakhalinmorneftegaz using this method has caused tremendous damage to the fish stocks in the Nabilskiy and Lunskiy Bays, and today there is no traditional commercial fishing of salmon and Polar cod in these bays once known to have rich fish resources.

In reply to this appeal, RAIPON promptly approached the Procurator-General of the Russian Federation on 7 April with the following letter. Copies were sent to the RF Ministry of Natural Resources and the office of Rosneft-Sakhalinmorneftegaz in Yuzhno-Sakhalinsk.

To:

*V. V. Ustinov, Procurator-General of the Russian Federation*

*Dear Vladimir Vasilevich!*

The Association of indigenous peoples of the North, Siberia and the Far East of the Russian Federation has received an appeal from the Sakhalin Association of Indigenous Peoples stating that on 6 April 2003 the Rosneft-Sakhalinmorneftegaz open joint stock oil company set about its seismic prospecting (blasting operations) in the Kaurunanskaya area situated in the waters of the Nyiskiy Bay off the Northeastern coast of Sakhalin. The beginning of these operations has caused great anxiety among the indigenous and local population since the subsistence of 90 percent of this population depends on fishing, while the Company's seismic prospecting carried out by similar methods have already caused enormous damage to fish resources in the Nabilskiy and Lunskiy Bays, where the traditional commercial fishing of salmon and navaga had to be stopped after the seismic operations.

On 29 January 2003 the Sakhalin Association of Indigenous Peoples sent a letter to the company's management with a request for information about the planned operations, including the enquiry about whether the conclusion of an environmental expert evaluation and minutes of public hearings and coordination discussions with the region's indigenous population were available. However, the company has not replied to this enquiry, which suggests that the above operations started in violation of federal environmental legislation.

The case described in the appeal to S. N. Kharyuchi, RAIPON President, published herein, which we sent right after the resumed seismic prospecting, is an appropriate example. We believe that RAIPON in Moscow will find methods to influence the company and help suspend the illegal actions.

On 29 January 2003, the Sakhalin Association of Indigenous Peoples sent a letter to the company's management emphasising the idea that seismic prospecting in this area should be carried out only after the conclusion of the public environmental expert evaluation and after discussions in agreement with the indigenous peoples. However, the company – ignoring this appeal and violating federal legislation and international legal standards – set about using this outdated and barbarous method of seismic prospecting.

The Sakhalin Association of Indigenous Peoples requests your support in sorting out the conflict which becomes unavoidable, and in protecting the rights of Northern indigenous peoples.

*A. Limanzo, President,  
Sakhalin Association of Indigenous Peoples*

Before the production operations started in the area the indigenous and local population had not been informed about the decision to set about the work, about who had made this decision, or about the contents of the conclusion of the public environmental and ethnological assessments of the development project, or about the very existence of such evaluations which are demanded by Russian environmental legislation.

Thus Rosneft-Sakhalinmorneftegaz and, possibly, the RF Ministry of Natural Resources, if it already has granted the license for seismic prospecting in the Kaurunanskaya area, have violated a number of standards of the federal legislation, namely:

Article 72. 1 "m" of the Constitution of the Russian Federation about the protection of primordial habitat and a traditional way of life of numerically small ethnic communities;

Article 8. 1, paragraphs 5 and 6 of the Federal law "On guarantees of rights of indigenous numerically small peoples of the Russian Federation" stipulating the following:

"Article 8. The rights of numerically small peoples, associations of numerically small peoples and individuals related to numerically small peoples to protection of their primordial habitat, traditional lifestyle, economic activities and occupations:

(1) To protect their primordial habitat, traditional lifestyle, economic activities and occupations numerically

small peoples, associations of numerically small peoples have the right:

- (5) to participate via authorised representatives of numerically small peoples in preparation and approval by the bodies of state power of the Russian Federation, bodies of state power in the subunits of the Russian Federation and bodies of local self-governance in decision-making concerning questions of protection of primordial habitat, traditional lifestyle, economic activities and occupations of numerically small peoples;
- (6) to participate in environmental and ethnological assessments during the elaboration of federal and regional state programmes of natural resource development and environmental protection in the localities of traditional habitation and economic activities of numerically small peoples”.

According to Articles 12, 13 of the law “On protection of the natural environment” citizens and social organisations have the right to demand the following information:

- (1) on the basis of which instructions of the RF Government and other state departments the development of gas deposits is carried out;
- (2) when and in which official publications the regulations of the RF Government about the beginning of natural resource development have been made public;
- (3) whether or not a public environmental expert evaluation of such natural resource development projects has been carried out in accordance with the requirements of Article 11 of the Federal law “On environmental expert evaluations”.

Besides – having in mind that the said district is a traditional residence and subsistence area of indigenous peoples – the beginning of such operations should be preceded by an additional ethnological assessment. This means, in other words, an assessment of the impact of planned operations on the primordial habitat and traditional lifestyle of indigenous peoples and ethnic communities inhabiting the impact

zone of the planned operations. A special programme of compensation for damage caused to traditional subsistence activities should be worked out in cooperation with representatives of the indigenous population, which here has not been done.

Therefore, in accordance with Article 3 of the Federal law “On protection of the environment ...”

“Article 3. The basic principles of environmental protection...

- the presumption of environmental impact of planned economic and other activities;
- the priority of preservation of natural ecological systems, natural landscapes and natural complexes;
- preservation of biological diversity;
- prohibition of economic and other activities with unpredictable consequences for the environment as well as projects which may lead to degradation of natural ecological systems, alteration and/or elimination of the genetic pool of vegetation, animals and other organisms, depletion of natural resources and other negative environmental changes;
- participation of citizens, social and other non-commercial associations in sorting out the problems of environmental protection”

RAIPON requests you to interfere, and to check by way of supervision by the Procurator’s Office, the observance of environmental legislation of the Russian Federation by federal authorities during initiation of the activities of the “Rosneft-Sakhalinmorneftegaz” Open Joint Stock Oil Company in the Kaurunanskaya area, as well as the legality of granting the license for these operations, if there is any, and to suspend the above operations during the verification period.

S. N. Kharyuchi, RAIPON President

The Association received the following answer to the above letter from the RF Procurator-General’s Office dated June 3, 2003:

“Your request concerning the observance of environmental legislation while carrying out prospecting, search and other operations by the “Rosneft-Sakhalinmorneftegaz” Open Joint Stock Oil Company in the Kaurunanskaya area off the coast of the Sakhalin Island has been considered.

It has been proved that license YuSH 00225 NE for geological prospecting and subsequent extraction of hydrocarbons on the Kaurunanskaya structure was granted in 1993 by the territorial body for the management of natural resources in the Sakhalin Oblast to the oil and gas production amalgamation “Sakhalinmorneftegaz” (at present “Rosneft-Sakhalinmorneftegaz” Open Joint Stock Oil Company) for the period until 2018.

To carry out the above operations the enterprise received the required permissive documents, including the available positive conclusion of a state environmental expert evaluation with regard to project materials to proceed with seismic prospecting in the Kaurunanskaya area of the Noglikskiy District, the Sakhalin Oblast, approved by Order # 223 dated April 17, 2003 of the department for natural resources and environmental protection in the Sakhalin Oblast, the Ministry of Natural Resources, according to

which the expected impact on the natural environment is permissible; the documentation substantiating the seismic prospecting operations is in compliance with the requirements of environmental legislation and is directed at the observance of environmental safety.

During the verification procedure carried out by the Procurator’s Office of the Sakhalin Oblast, no facts suggesting damage to the primordial habitat of indigenous peoples of the North in the Noglikskiy district have been discovered.

At the same time, the verification has revealed that the “Rosneft-Sakhalinmorneftegaz” Open Joint Stock Oil Company set about a seismic prospecting project on 14 March 2003, i. e. prior to the approval from the conclusion of the state environmental experts. In this connection, the Sakhalin inter-district procurator in charge of environmental protection issued representation to the chief executive officer of the enterprise calling attention to inadmissibility of such illegalities in future.

V. S. Fomichev, Senior Assistant to the Procurator-General of the Russian Federation”

## Comments by the Rodnik Legal Centre

*E. Khmeleva, M. Sc. (Law)*

The availability of a positive conclusion made by the state environmental expert evaluation with regard to seismic prospecting referred to in the reply of the Procurator-General's Office, confirms the observance of environmental legislation. However, closer scrutiny of the text reveals a number of contradictions throwing doubts upon this impression.

In accordance with Article 3 of the Federal law "On Environmental Expert Evaluations" one of the principles of ecological expert evaluation is the principle of openness, participation of social organisations, and giving proper consideration to public opinion. In accordance with Article 14 of this law, the materials reflecting discussions of the development project with citizens and social organisations constitute an obligatory component of the package of materials to be submitted to the public environmental experts.

If the project received a positive conclusion from the state environmental experts it can be assumed that such documents had been duly included in the submitted project materials.

However, according to the letter written by A. G. Limanzo, President of Sakhalin's Association of Indigenous Peoples, neither the Association itself nor representatives of Sakhalin's indigenous peoples whose rights were directly affected by the seismic prospecting operations had been informed about the preparation of the project. None of them participated in its discussion and their opinion was not taken into consideration.

Hence, it is doubtful if the positive conclusion produced by the state environmental experts has been well grounded.

The very form of acknowledgment of the beginning of seismic prospecting prior to obtaining a positive conclusion of the public examination is remarkable. In accordance with Article 30 of the Federal law "On Environmental Expert Evaluations" an environmental expert evaluation without a positive conclusion of a public expert commission is a serious violation of legislation on environmental expert evaluations. The letter says that the presentation was issued to the chief executive officer of the enterprise about inadmissibility of such violations in the future.

The fact that the Company started operations prior to obtaining a positive conclusion of the state environmental commission is also remarkable. In other words, the Company was evidently confident of the outcome, and rather a soft reaction of Sakhalin's environmental inter-district procurator to this action proves that. In accordance with the paragraph of Article 8. 4 of the RF Code of Administrative Infringements of the Law, such an offence "entails imposition of an administrative penalty on legal entities to the extent of 400 to 500 minimum wages".

To sort out these problems RAIPON is planning to send a letter to the RF Ministry of Natural Resources and its department for natural resources and environmental protection in the Sakhalin Oblast with a request for information in the hope of obtaining comprehensive answers.

## *A real Die-Hard*

or

## **How a persevering Khant woman has defended her kinship land. As yet...**

*Albina Glukhikh, Surgutskiy District, Khanty-Mansi Autonomous Okrug*

*The kinship land happened to be in a locality rich in oil. How can one extract "black gold" without causing harm to the Khants inhabiting the region from time immemorial? This task is not to be sneezed at. It should be dealt with, though.*

*The upper reaches of the Pikhtovaya brook in the Northeastern corner of the Surgutskiy District form the scene of action. It takes one hour and a half to reach the town of Surgut by helicopter. The tundra is all around here already, and parcel No. 31 of kinship pasture is situated right on the border with the Yamalo-Nenets Autonomous Okrug. The Tevlin and Pokachev families live here. The Tevlins keep about three hundred reindeer and the Pokachevs keep almost as many. Both families are not of the poor sort; they can afford a diet of venison even in summer, since the permafrost provides ample storage for future use. Besides, the sons of Mrs. R. Tevlina shot a hundred and twenty wild geese also to be kept in store, so there isn't any problem with meat or fowl.*

### **Disturbing start**

The nomad camps on the No. 31 pasture area are of traditional type: a wooden hut and stores, caches nearby. There is also a sanctuary, of course. The place for reindeer calving is quite near, next-door, though not everyone is allowed to go there so as not to frighten the animals and so as not to trample down the cup moss unnecessarily. Actually, the Tevlins used to live in another area and were forced to mi-

grate over here since their former kinship lands had been taken over by oil companies for prospecting and development. By the way, they were driven away and had to move from place to place for the third time. One of their former kinship pasture-grounds is now known as the Tevlinkoye oil deposit. At first, they lived here, on the border with Yamal, peacefully, though keeping a cautious eye on Trom'yegan where the aborigines' resistance had already

been crushed and drilling and oil production had started. Despite the special development regime of the territory stretching along the divine Trom'yegan River there have been cases of oil leakage and soil pollution. What if the oilmen would come to the Pikhtovaya too? How would they live then and herd the reindeer?

The Khants were not scared for nothing. The resource developers have in fact shown interest in these pasture-grounds too. Seismic prospecting has proved the existence of an oil reservoir; now drilling of test wells is required to outline the reservoir. The oil reservoir goes further on to the Yamal territory. The famous "Surgutneftegaz" Company has acquired this licensed section of the Verkhne-Nadymskaya area for ten million dollars as a result of winning the tender. In reaction, the proposed erection of two test wells have become a stumbling block with the indigenous inhabitants refusing to give the go-ahead for the drilling for almost two years.

Mrs. R. Tevlina has become the initiator of the protest. She wrote letters, camped on the doorstep of various authorities making a fuss at all levels: the last place for reindeer calving and their year-round pasture happens to be taken over by drilling rigs. The elderly courageous woman acted on legal grounds.

The Edict of Russia's President "On urgent measures to defend the localities of habitation and economic activities of numerically small peoples of the North" states that "without their consent traditional subsistence territories... are not subject to alienation to industrial... development".

However, the forces are unequal: on the one hand, there are mighty oil kings, on the other – a handful of semi-literate Khants led by a woman. For the executives of "Surgutneftegaz" she has become an odious figure. In their turn, the oilmen have also approached the head of the district administration, Mr. A. Sarychev, and the Governor of the Khanty-Mansi Autonomous Okrug, Mr. A. Filipenko: "The state task of the development of our Okrug's natural resources for which both the natural resource user and all the levels of authority are equally responsible is being hampered in this sector". This is a quotation from their letter. And how many visits there have been to Mrs. Tevlina's nomad camp, how many efforts at persuasion and promises have been made! But Raissa Ivanovna would not give up. At long last, the Governor of the Okrug set up a conciliation board instructed to sort out this critical situation. It was headed by the Deputy Chairman of the Okrug's government, Mr. V. Bobylev.

### ***It was you who came to our threshold***

The conciliation board consisting of two Deputies of the Khanty-Mansi Autonomous Okrug's government, V. Bobylev and A. Raishev, specialists of the Okrug's land committee, the department of oil, gas and mineral resources, the environmental protection board, executives of "Surgutneftegaz" and the Surgutskiy District administration decided to visit the conflict area. They reached the nomad camp flying in two helicopters. All the members of the Pokachevs and Tevlins clans made up their minds to take part in the solution of this crisis situation. Young women covering their faces with shawls to hide from the eyes of unfamiliar men examine the map spread on the table as closely and carefully as their husbands do. There is

neither argument nor hysterics. However, the situation is calm but on the brink of a stalemate.

As far back as in 1997, Raissa Tevlina gave her verbal consent to the development of the oil deposit, and now she is reminded of that without stopping. For some unknown reason, however, no documents have remained to prove that, but she would not take back every word she said, making a stipulation, though, that there has been nothing said about taking over the reindeer calving place for industrial development.

The oilmen keep reminding the nomad camp owner: "We have built a house for you in Russkinskiye and have fulfilled the conditions of the economic agreement". Not once was mentioned the Russkinskiye apartment in their reasoning, while the phrase "the state task is being hampered through your fault" appeared repeatedly. They kept saying that no one in the country worked at such a fast pace as "Surgutneftegaz", and that conditions of the license agreement should be observed rigorously, and so on and so forth.

Raissa Ivanovna kept silence. Yes, the house was in fact built for her, thanks a lot, but it was on condition of putting the licensed land out to tender. By the way, according to this agreement, "Surgutneftegaz" had to build four apartments for the inhabitants of kinship land area No. 31. In Mrs. Tevlina's apartment her daughter, a teacher at the local school, lives and other members of her family are put up when on a visit to Russkinskiye. But other paragraphs of the agreement have been fulfilled only partially. Immediately she was given assurances that the clan members would get the promised "Buran" sledges and boat engines.

Raissa Ivanovna loses her temper: "It was you who set foot on our doorstep, not us crossing the threshold of your house, why don't you take any account of us?" Tired of yet another attempt to persuade her, she cries out in a fit of anger: "It's no longer our land – do your job". – "But the drilling operations will go on under your full control and when they are over you will personally accept the restored land", the oilmen keep persuading.

A deadlock. The test well can be shifted aside for not more than a kilometer. Would it really be unavoidable to exclude rigs 86 and 92 from the prospecting scheme? "We'll be drilling at the time you give us; if need be, we'll have the development area guarded or register you as watchmen in our employment".

There was a case like that before, when at the demand of Raissa Ivanovna the resource extractors put off a well drilling operation not to disturb the raising of young deer.

The map has already become a sore in everybody's eye but once again they all put up with it. The kinship land is in common use but oilrig No. 86 is planned for the area owned by Valeriy Pokachev, what would he say? The young man takes his time over the decision, thinks for a long time biting his lips. Stepan Kechimov, President of the Private Reindeer Herders Union, also attending the meeting tells him something in the native language. The Khants often communicate like that: either they find it easier or they do not want to let others understand their thinking aloud. The case in question is not only one drilling well, No. 86. The Khants rejected the second well outright. There is a fishing area in one spot, the "facility" cannot be moved elsewhere, a sanctuary is in another sector and the



reindeer herd will come up closer to yet another spot in spring... The Khants measure off the distances on the map literally inch by inch. Where could that darn drilling rig be moved to so as not to cause damage for the taiga-based natural economy and at the same time to help the oilmen solve the production problem?

Still, why do the natural resource extractors call the indigenous people extortionists and blackmailers? Can't they put themselves in the place of those for whom the taiga is a native home and whose entire life is connected with it? They do not want to empathise. That is why they are not willing to understand their demands, while the taiga inhabitants do not want much in fact: they want the drilling operations in the pasture grounds to be carried out in winter only; the reindeer moss not to be destroyed; the land not to be polluted; and they themselves not to be cheated as still happens. "What's our way of doing things? – We would live in one place for some time, then roll up the chum and move to another place without hurting the nature", - the Khants explain their viewpoint to their opponents.

Nevertheless, the sides have managed to come to an agreement: one drilling rig will be installed on their kinship land but the land owners demand maintenance of special operating conditions including the construction of a high fence around the facilities of the working site... The subject of the drill operators bringing in dogs, weapons is not even discussed, it's out of the question. As to the size of compensation for the use of the land particularly valuable for the development of the taiga subsistence activities, the family members will notify the oil developers in a month after having weighed these conditions in their mind. The oilmen have felt their spirits rise: "If we work out this rig normally we might be allowed to install the second one".

The owners of the No. 31 land section walked silently towards the helicopters. They did not expect anything good from the future. The prospecting operations will assess the oil reserves. Operational wells and other oil installations will mushroom around. What would happen to them, taiga dwellers, what would they subsist on?

### ***The green colour of the taiga freedom***

The Surgutskiy District has more kinship lands than any other district of the Okrug. There are about 200 nomad camps where people adhere to a traditional lifestyle. At the same time it is the biggest oil-bearing province in this country. There is a map on the wall in the office of the deputy head of the Surgutskiy District administration, S. Cherkashin, showing the position of inhabited localities, oil-bearing areas and nomad camps. Its colouration is amazing: the oil deposits are painted brown, the prospecting areas are yellow, the licensed sectors of land not yet distributed are rose-coloured, the nature reserve "Yuganskiy" is dark-green and the kinship lands free from natural reserve users are light green. It is just precious little what is left of the latter.

Those indigenous peoples who happened to be in luck and have won the favor of signing economic agreements

with oilmen receive compensation and are comparatively well off, while those with no "black gold" under the surface of their kinship lands are deprived of such financial wealth and live from hand to mouth.

I have tried to compare the income of oilmen with that of kinship landowners. The Khants have told me that now they will get the amount of 20 minimum wages per each family member every quarter of a year (it used to be ten wages until recently). Not much.

According to "Surgutneftegaz" data submitted to the Okrug's committee of indigenous peoples the total of 13,000 rubles was spent in 2000 per person (fuel, food-stuffs, transport facilities, etc. ) including all types of material compensation expenses. Here is the entire annual income of an indigenous person.

The oilmen, in their turn, when asked about their wages, would laugh the matter off telling me that they didn't earn much, though giving no figures. We would let it lie on their conscience. We know quite well at what price oil is exported abroad and gasoline is sold at filling stations.

Later, a hard process of working out a document in Cherkashin's office took place calling it prudently "The conclusions and proposals of the conciliation board on the construction of test well Nos. 92R and 86R at the Verkhne-Nadymskiy licensed area". It is stated there that all the outstanding debts to kinship members on economic agreements will be paid. With regard to the drilling operation of test well No. 86 a separate agreement has been concluded while the question of installing oilrig No. 92 should be submitted for consideration at the meeting of the government of the Khanty-Mansi Okrug. Will the Tevlins and Pokachevs attend the meeting to defend their interests?

As to the legal aspect of relations between the aborigines and natural resource users, again the conditions are unequal. "Surgutneftegaz" has its own agency of legal services. The lawyers of this agency work off their bread fair and square defending the oil industry's interests. There is no one for the aborigines to lean on. The agency of legal services is just emerging in the Okrug's committee of the indigenous peoples. As a matter of fact, quite an extensive aborigine-oriented normative and legal system has been established but the people have not learned yet how to use it. Cherkashin said that we were all to be blamed for the arising situation because there were no documents regulating the relations between the indigenous people and natural resource developers. That is why conflicts do occur from time to time paving the way for mistrust of each other. In this instance, two officials in the rank of deputy chairman of the Okrug's government have spent three days trying to sort out the dispute. They traveled to hold outdoor meetings with owners of nomad camping areas, but would it be always the case? Apparently, it is essential to make the conciliation board a permanent body. That is as clear as day. Such conflicts are not a rarity; their numbers are increasing. They should be solved with due regard to the interests of both natural resource developers and indigenous inhabitants.

## “Asphalt Koryaks”: How this problem came about and who is to sort it out

Olga Murashko

More than once has M. B. Mashkovtsev, Governor of Kamchatka Oblast, pronounced resolutions against “the asphalt Koryaks”. And yet again I have received word from several Kamchatkan friends about another of M. B. Mashkovtsev’s recurrent appearances on the subject, this time on television. I quote it word for word:

*“Live broadcast of the “Prichal” television company featuring the Governor of Kamchatka Oblast, M. B. Mashkovtsev on April 21, 2003 (rebroadcast on April 26, 2003).*

*A telephone call comes in to the TV studio with a question about fishing quotas for indigenous people residing in Petropavlovsk.*

*M. B. Mashkovtsev’s answer: “There will be no superiority based on blood for receiving quotas (limits) as long as I am your Governor. I have already said this, probably a hundred times. Because the asphalt Koryaks who have worked all their lives as policemen, bus drivers, teachers and now, all of a sudden, have remembered that somewhere in their lineage is a Koryak and therefore say ‘let me lead a traditional way of life in town’ -- this is nothing but profiteering from one’s ethnic origin.*

*The Koryaks who live there... not Koryaks, another nationality of ours is there... in the Bystrinskiy district, they indeed lead a traditional way of life, they set up nomad camps, pitch their chums, drive dog sledges and subsist only on what they get from the forest. That’s to whom we shall give as much as they need to lead a traditional way of life.*

*I have seen dozens of companies, when I was still a deputy, that had a Koryak as a stand-in-chairman, often not even knowing of what or where he was a chairman. They took his passport, gave him a crate of vodka, and that was it. While the real owners of the company were gangsters from Peter, I mean, Saint Petersburg gangsters. And this was formally for the benefit of the ethnic groups. We’ll tolerate nothing of the kind any more. As to personal consumption, including the townsfolk, representatives of the local population are allotted 50 kilograms (of fish) per person. That is to say, we allot 50 kilograms per inhabitant in the regions and villages. The townsfolk will get 30 kilograms each. This fish will be caught by the fisheries and these plants will distribute the catch among the population”.*

How well pronounced are the Governor’s care for and knowledge about indigenous peoples of the region he’s been entrusted to look after in this statement! He failed to remember even the name of “another nationality of ours... in the Bystrinskiy district” – the Evens.

Generosity was displayed as well. In one of his phrases there is a promise “to give as much as they need for a traditional way of life”, while another phrase makes this promise definite: “that is to say, we allot 50 kilograms per inhabitant in the regions and villages”. On the other hand, vivid impressions of the soap opera “Petersburg Gangsters” and novels by Ilf and Petrov helped the Governor to create a loathsome criminal picture out of the life of the indige-

nous peoples of his region and, by so doing, to “play down” the problem of indigenous peoples’ access to traditional natural resources.

But let’s sort the things out one by one. Does the Kamchatkan Governor understand who and what he is talking about when he declares: “*the fact that the asphalt Koryaks who have worked all their life as militiamen, bus drivers, teachers and now, all of a sudden, have realised that once there was a Koryak grandmother in their family and, therefore say ‘let me lead a traditional way of life in town’ -- this is nothing but profiteering from one’s ethnic origin*”?

Firstly, by no means have all the Koryaks, Itelmens, Evens, or Kamchadals residing in town “worked as policemen, bus drivers, teachers”. The majority of indigenous peoples’ representatives residing in town are unemployed.

Secondly, they have not “all of a sudden” remembered their ethnic origin. They have always remembered it, especially when their native villages were abolished without their consent and they were banished to a obscurity.

Governor Mashkovtsev is a Communist, and, therefore, we might rightfully recall Kamchatka’s Soviet past. The 1926 census registered 122 villages with more than 11,000 indigenous inhabitants within Kamchatka Oblast. There were only 70 indigenous residents in the town of Petropavlovsk-Kamchatskiy at the time. According to the “More precise list of districts and dense settlements inhabited by indigenous less-numerous peoples of the North” for 1998 there were only 22 such villages left in Kamchatka Oblast.

Out of 13,201 Northern peoples, 5,912 reside in Petropavlovsk-Kamchatskiy and Yelizovskiy district. The majority of them found themselves in towns and suburbs as a result of the CPSU policy of consolidating rural settlements into larger units, which ended up as the hasty shutting down of the majority of villages without giving any particular thought to what would become of the fishermen, hunters, teachers, doctors, doctors’ assistants and the rest of the villagers.

Those who still remember those 40-year old resettlement operations shudder with horror and bitterness recalling how, for example, prior to the 7<sup>th</sup> of November (which apparently had to be done in time for the Party bosses to make their Revolution Day holiday report) they were driven out of their native houses, not allowed even to take down their window curtains, to gather up their meager possessions or their stores of fish for the winter, and took them away to a new locality. According to statistical data, the greatest number of suicides among the Kamchatka indigenous population occurred during the 1960s and 1970s.

That is how the “asphalt Koryaks” came to be, forcibly resettled from their native lands, people maladapted to urban life, so hated and despised by Governor Mashkovtsev. These people have retained throughout their lifetime a love for their native rivers and a yearning for their former life. They have passed these feelings on to their children.

They have also passed on the inherent bent for catching and eating fish, you won’t drive out of them for two generations. I visited Kamchatka in 1979 for the first time and

I still remember how astonished I was to see the dwellings of the Northern peoples within the town precincts permeated with the smell of fish from the garlands of dried salmon hanging right in their living rooms.

There were other ways to end up in town. People came to study, to get medical treatment, were inducted into the army; and not everybody managed to gather enough money and strength to travel back.

Later, at the beginning of the *perestroyka*, they were enticed by the state programme to revive the previously closed villages. They were enticed, but not given any money to come back, while the villages by that time had already been destroyed and looted. The descendants of these resettled indigenous peoples residing in town now have the highest rates of unemployment, mortality and morbidity.

Why, then, doesn't it come into the Governor's head that it is the duty of the region's top official to carry out a programme to provide the descendants of indigenous peoples, who have against their will found themselves on the asphalt, with education and job opportunities, or to secure the possibility of carrying out traditional subsistence activities for those willing to do so? Doesn't the Governor understand that it is not through the fault of indigenous peoples that "Petersburg gangsters" make use of the indigenous peoples' rights? The weakness of legislation and judicial power is to blame. And in every region that is in such a situation, blame can be placed on the top official – the Governor.

It is a great pity that the Governor has enough resoluteness only to make accusatory speeches against those for whom Kamchatka has been and remain their only motherland, but, thanks to many generations of bosses like Governor Mashkovtsev, she has become for them an evil stepmother who, in the person of the authorities insults them and turns them out.

It is true that some indigenous peoples have managed to get adjusted to urban life and acquire a profession and a job. And some of them have learned how to defend their own kith and kin. They deserve honor and praise for this. And it is exactly upon the heads of these people, known to the Governor, that he brings down his wrath. One can count

on one hand such people, and perhaps for them personally the free fish and the right to fish are not that important, but the Governor should not forget about thousands of other people residing below the poverty level in the city and on the outskirts of towns, forced out of the hunting and fishing business by incomers. It should not be forgotten that they have been turned into a *lumpen* proletariat owing to ruthless interference in their life, interference lasting for centuries already, owing to the fact that they were forcibly pushed aside from and are still being pushed aside from the traditional way of life, occupations, culture. We are all to blame, including myself, for what has happened to indigenous peoples. It was not they who came to our house, it was we who came to theirs, violating our own rule: "Every land has its law, and every corn has its chaff".

The problem of "asphalt aborigines" exists everywhere in the world. And in every country it is handled differently. Primary attention is paid to the task of providing indigenous peoples with education and jobs. To do so, programmes are elaborated and special funds are set up to finance these programmes. There are other programmes and money for those who have so far remained on the land of their ancestors and preserved their traditional culture. And not only in countries like the United States or Canada, whose immigrant population came from overseas comparatively recently – as many centuries ago as the Russians came to Siberia. In Scandinavian countries where the European population forced the Saami to the North almost two thousand years ago, the dominating European population, nevertheless, recognises the Saami's rights, and the states accept it as their duty to finance the Saami Parliaments, and development programmes for Saami culture and traditional subsistence activities.

In Russia, though, this problem is not being dealt with and is not even discussed: everyone is bad off, and there is no money. Yes, for some reason the government has no money for its people. But shouldn't we have our conscience? Every one of us a personal conscience. The kind of conscience which should not allow such statements like the one above, especially when made by officials live on the air.

## Yuriy Ayvaseda's nomad camp besieged

*E. N. Khmeleva, M. Sc. (Law), Rodnik Legal Center*

RAIPON has received a letter from Yu. K. Ayvaseda, a well-known poet and reindeer breeder from the Khanty-Mansi Autonomous Okrug with a request to assist in solving an old conflict between one of the subdivisions of the LUKOIL company and his family.

In this letter Yu. K. Ayvaseda recalls bitterly all the stages of his desperate struggle with oilmen for his family's kinship lands when he blocked the illegal attempts to seize the pasture grounds. His neighbours apparently were not as persistent as he was in the struggle for their lands, and at present the pasture grounds of the Ayvasedas have been encircled by licensed oil development sections of land. He

is writing now about his family's mishaps encountered in the recent months.

Below is a passage from his letter.

*"The obstacles put by LUKOIL blocking the abovementioned road and preventing our movement from the nomad camp to the native village still prevail.*

*After all the latest settlement efforts concerning the destruction of bridges and road beds (see the enclosed documents) LUKOIL continues to block us.*

*Thus, on 30 May 2003 I took my family in our UAZ jeep to the village to do some shopping, have a medical examination, draw my pension and get my wage. My wife, daugh-*

ter and three grandchildren (the eldest grandson is 13 and the youngest one is 18 months) were in the car with me. In the summer of 2002, LUKOIL destroyed a bridge across the Kushattyakha River. After the interference of the Governor the Company restored it so poorly that the spring flood washed away the bridge abutments on both ends, though the flood level this year was the lowest in the last five years. We tried to make a detour round the Lake Settei (we used to take this road during heavy floods in the past) by an old winter trackway but ran up against 5 (five) newly dugout ditches blocking the way to the village. Anyhow, we managed to build crossings over two of them with difficulty, but weren't able to cross the rest of the ditches.

Exhausted, we came back to the camp, spent the night there and started our trip to Varyegan by a roundabout, long way (700 kilometers) via the towns of Pokachi, Langepas, Megion, Nizhnevartovsk, Raduzhnyi. We managed to return to our camp first on 6 June.

Mr. Leighfrid, General Director of "Kogalymneftegaz", mentioning another, 230-kilometer long road in his letter, gives false evidence. There used to be a winter trackway with river crossings on ice some time in the past but it exists no longer.

All in all, counting the first day, we covered 1,530 kilometers burning 230 liters of gasoline instead of using a straight 120-kilometer road. I take this kind of ill-treatment as a violation of my family's constitutional rights".

Yu. K. Ayvaseda attached copies of his correspondence on this subject with the Okrug's and district administrations, the inspection report on the winter trackway and river crossings, and the reply of Mr. A. V. Leighfrid, General Director of the "LUKOIL-Zapadnaya Sibir" limited company to the enquiry of A. I. Raishev, Deputy Chairman of the Khanty-Mansi Autonomous Okrug's government in charge of indigenous peoples' problems.

All the documents have been handed over by RAIPON to the Rodnik Legal Center whose lawyers have already defended Yu. K. Ayvaseda's rights in court handling the case also connected with the destruction of a road by the "LUKOIL-Zapadnaya Sibir" employees.

The assessment of the situation by the Rodnik lawyers is given below:

"The 5<sup>th</sup> issue (2001) of the journal "Mir korennikh narodov" ("The Indigenous Peoples' World") contained the materials about legal actions taken by the public and lawyers to defend civil rights of a representative of indigenous peoples and the Taiga Nenets' leader, Yu. K. Ayvaseda.

In September 2001, the "LUKOIL-Zapadnaya Sibir" limited company destroyed the only road connecting the nomad camp with the village of Varyegan known to have a hospital, a school, a post-office and a store. At that time Yuriy Ayvaseda had to cut the wheels of an excavator into pieces to prevent the road destruction and curb the illegal activities of the oilmen. A criminal case on ridiculous and farfetched grounds was initiated against Yu. K. Ayvaseda. The public came out in his defense from the illegal criminal persecution. Thanks to the joint competent and active ef-

forts of the public and lawyers the criminal case was dismissed.

Unfortunately, this question has to be raised once again. Yu. K. Ayvaseda has sent an appeal to RAIPON with a request to help him: the "LUKOIL-Zapadnaya Sibir" company again (twice) destroyed the road between the nomad camp and the village in the spring of 2003.

The Company's actions exasperate the family of Yu. K. Ayvaseda by their total disregard of the rights of the indigenous people's representatives –not only from a legal point of view but also simply from the standpoint of the ordinary human being.

Having destroyed the only road between the nomad camp and the village the oil company has deprived Ayvaseda's family members of the chance to receive medical treatment, to go to school, the post-office, the village store, in other words, leaving them bereft of all the minimum conditions required for life and breaking off the only link between the reindeer herders and the "Big World".

The hypocrisy the executives of the "LUKOIL-Zapadnaya Sibir" company resort to while explaining their actions provokes indignation: "On 8 January 2003 the "LUKOIL-Zapadnaya Sibir" limited company signed economic agreements with heads of kinship land entities Nos. 47 and 39 I. P. Ayvaseda and I. N. Kechimov along with the attached operating Regulations of presence on the territory of a kinship land... By the installation of artificial obstacles on the way of the abovementioned leaders of kinship entities to the oil fields our Company has restricted non-sanctioned entry of non-authorised persons to the territory of licensed areas of the "Kogalymneftegaz" trust of production establishments. By doing so, we have been guided not only by the principle of defense of our enterprise's interests but also by the principle of complete fulfillment of obligations undertaken with regard to the heads of kinship entities under the Economic Agreements" (letter No. 15-48/243 dated 10 April 2003 from the General Director of the "LUKOIL-Zapadnaya Sibir" company to the Deputy Chairman of the KMAO Government in charge of indigenous peoples' problems, A. I. Raishev).

As a result of such a casual interpretation of "the fulfillment of obligation" on the part of the executive officers of the "LUKOIL-Zapadnaya Sibir" company Ayvaseda's family is unable to leave their kinship land to draw their pensions, to visit a doctor or to do necessary shopping.

The "LUKOIL-Zapadnaya Sibir" company, therefore, hampers realisation of the basic constitutional rights of Yu. K. Ayvaseda's family members and, above all, the right to life (Article 20 of the RF Constitution), to medical care (Article 41 of the RF Constitution), and to education (Article 43 of the RF Constitution).

Having given the legal assessment of the prevailing situation, it should be emphasised that practically all the pre-court methods of defense have been exhausted, and Yu. K. Ayvaseda will have to defend his constitutional rights in court.