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## **Problems of Economic Rights of the Indigenous Small-Numbered Peoples in the Krasnoyarsk Territory**

**Semen Ya. Palchin\***

*Office of the Commissioner for Human Rights  
in the Krasnoyarsk Territory  
122 Karl Marx Str., Krasnoyarsk, 660021, Russia*

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*Keywords: north and arctic territories, the Krasnoyarsk Territory, legal and regulatory acts, indigenous small-numbered peoples in the Krasnoyarsk Territory, the Commissioner for rights of the indigenous small-numbered people, law enforcement practice.*

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Providing real economic rights directly affects the well-being of both individuals and entire ethnic groups. Realization of economic rights of the indigenous small-numbered peoples enables practicing the traditional economic activities. Below there will be presented specific experience of the Commissioner for Rights of the Indigenous Small-numbered Peoples of the Krasnoyarsk Territory (hereinafter referred to as the Commissioner), law enforcement practice of both federal and regional normative and legal documents governing the rights of

indigenous small-numbered peoples of the Krasnoyarsk Territory (Evenki, Ents people, Nganasans, Chulym, Dolgans, Selkups, Kets, Nenets people). These peoples occupy quite a small area in the Evenkiysky Municipal District, Taimirsky Dolgano-Nenetsky Municipal District, Turukhansky District, Severo-Yeniseysky District of the Krasnoyarsk Territory.

*Heads of eight economic entities involved in traditional economic activities of the indigenous small-numbered peoples of the North asked the Commissioner to pay attention to the lack of*

*implementation of their economic rights to fishing and hunting due to the inability to participate on the equal terms with other competitors in distribution of fishing and hunting lands, as well as to facilitate the territory organization of traditional natural resource management of the indigenous small-numbered peoples.*

The Commissioner states the existence of systemic problems in ensuring economic rights. To understand this issue, he uses a systematic approach to it for identifying the major components of this issue, impeding the implementation of these economic rights.

The first set of problems is imperfection of the federal legislation.

The second set – imperfection of the regional legislation.

The third set – poor law enforcement practices in the existing federal and regional legislation.

#### **The right to protection of peoples' original habitat, traditional lifestyle and traditional natural resource management**

Considering the first set of problems, it is necessary to turn to competent lawyers, experts on these issues, among which the Commissioner reckons V.A. Kriazhkov, Professor, Doctor of Juridical Science, and Counselor in the Constitutional Court of the Russian Federation. His comprehensive review of the existing federal legislation brings to light the following weaknesses and vulnerable points of this issue:

- lack of implementation of the indigenous peoples' rights to get lands for lifetime inheritable possession and free use of them;
- inability to obtain land spots for the traditional hunting and fishing on non-competitive basis;
- absence in the federal legislation of required standard assessment of the possible negative impact of industrial

projects on the traditional lifestyle and natural resources management of the indigenous peoples;

- imperfection of tax laws permitting the RF subjects to use mineral resources payments for social and economic development of the indigenous peoples;
- “removal” of the right of the indigenous peoples to higher priority in natural resources management from the federal legislation;
- legal uncertainty as to the ethnic identity of people belonging to the peoples of the North;
- declarative character of the series of federal laws, including the Law “On territories of traditional natural resources management of the indigenous small-numbered peoples of the North, Siberia and Far East of the Russian Federation”.

**The Commissioner addressed the deputies of the Legislative Assembly of the Krasnoyarsk Territory, referring to them as holders of a right to introduce legislative initiative into the Federal Assembly of the Russian Federation. The Commissioner recommended the deputies to prepare legislative initiatives that may deal with the revealed shortcomings.**

**The second set of the problems** is connected with the imperfection of the regional normative and legal framework. The main legislative acts of the Krasnoyarsk Territory regulating the sphere of economic rights of the indigenous peoples are:

- Charter of the Krasnoyarsk Territory of 05.06.2008 № 5-1777 (as amended on 20.06.2012);
- Law of the Krasnoyarsk Territory of 25.11.2010 № 11-5343 (as amended on 24.05.2012) “On protection of the original habitat and traditional lifestyle of the indigenous small-numbered peoples of the Krasnoyarsk Territory”;

- Law of the Krasnoyarsk Territory of 01.07.2003 № 7-1215 (as amended on 25.11.2010) “Fundamentals of legal guarantees for the indigenous small-numbered peoples in the Krasnoyarsk Territory”;
- Law of the Krasnoyarsk Territory of 18.12.2008 № 7-2660 (as amended on 01.11.2012) “On the social support of citizens living in the Taimirsky Dolgano-Nenetsky Municipal District of the Krasnoyarsk Territory”;
- Law of the Krasnoyarsk Territory of 18.12.2008 № 7-2658 (as amended on 24.05.2012) “On the social support of citizens living in the Evenkiysky Municipal District of the Krasnoyarsk Territory”;
- Provision of the arrangements to create the federal importance territories of traditional nature resource management of the indigenous small-numbered peoples in the Krasnoyarsk Territory (item “з” of article 8);
- Approval procedure of established by federal authorities in the Krasnoyarsk Territory restrictions of non-traditional for the indigenous small-numbered peoples activity of organizations (all forms of federal ownership) in places of original habitat and traditional nature resource management of the indigenous small-numbered peoples (item “и” of article 8);
- Regulation determining the list and terms of economic activity restrictions for organizations of all forms of ownership in places of original habitat and traditional nature resource management of the indigenous small-numbered peoples in the Krasnoyarsk Territory (item “л” of article 8);
- Provision of ethnological expertise (item “д” of article 8);
- Provision of procedure of granting inventory to people exposed to the law (item “в” of article 16);
- Provision of organization of training, retraining and advanced training in occupations necessary to the indigenous small-numbered peoples’ communities for the implementation of traditional economic activity (item “з” of article 16).

The article 12 of the Krasnoyarsk Territory’s Charter declares protection of the rights to traditional land use, management and crafts for the indigenous small-numbered peoples of the North. This law proclaims that the main way for organizing and ensuring the protection of the original habitat and traditional lifestyle of the indigenous peoples is to create, protect and use territories of traditional nature resource management. The formation of such territories would provide the most efficient realization of economic rights of the indigenous peoples, but for that it is necessary to develop and approve a number of subordinate legislative acts, namely:

- Provision of the regional importance territories of traditional nature resource management of the indigenous small-numbered peoples (item “б” of article 8);
- Procedure of creating the territories of traditional nature resource management of the indigenous small-numbered peoples and list of documents that are necessary for making a decision on the creation of these territories (item “ж” of article 8);

**The Commissioner appealed to the Government of the Krasnoyarsk Territory to accelerate the development and adoption of these legal and regulatory acts. Otherwise, violations of economic rights of the indigenous small-numbered peoples will go on.**

The Commissioner promotes consistently the issue of creating the territories of traditional nature resource management. Thus, this issue was raised at a meeting with the Governor of the Krasnoyarsk Territory L. Kuznetsov in October 2011. After the meeting, certain instructions were given to the Ministry of Natural Resources and Forestry of the Krasnoyarsk Territory. In April 2012 the Commissioner received a letter from the First Deputy of Minister S. Yu Vasin. This letter revealed a decision to support offered by the administration of the Taimirsky Dolgano-Nenetsky Municipal District proposition to create the **local** importance territories of traditional nature resource management. The district administration has appointed a working group to review the preliminary proposals for creating the territories of traditional nature resource management of the indigenous small-numbered peoples (hereinafter referred to as Territories) in this municipal district. The Commissioner, his public representatives and other public figures suggested the creation of cluster Territories within the rural settlements Karaul and Khatanga, as well as within the urban settlement Dudinka, except for the territory of the city itself. However, these proposals were not supported by the local administration. The proposal of the district authorities includes creating Territories only in places of deer farming.

Submitting some proposals the Commissioner relied on the opinion of the indigenous population, expressed in their appeals and personal conversations. He is not the one who defends this plan. In October 2012, it was held the joint meeting of the Public Council under the chairmanship of Head of the Taimirsky Dolgano-Nenetsky Municipal District and Coordinating Council of the Association of Indigenous Peoples of Taimyr (Krasnoyarsk Territory). At this meeting the Head of the rural settlement Khatanga A. Kuleshov publicly expressed a

request of Khatanga residents to create around each village these Territories.

Representatives of the indigenous small-numbered peoples' communities, who work in the central part of Taimyr, where hunting and fishing are popular activities, made similar requests to the Commissioner.

**The Commissioner appealed to the local authorities of Taimirsky Dolgano-Nenetsky Municipal District with recommendation to expand the geography of Territories or at least reserve land for them in territorial planning scheme till 2030.**

Territories' organization is topical in terms of formation of compensatory mechanisms in the case of industrial development of natural resources of these Territories.

One of the most important steps in this direction has already been made: methodology for calculating the amount of damages inflicted to the indigenous small-numbered peoples living in the Krasnoyarsk Territory and to their associations, as a result of economic and other activities of both organizations of all forms of ownership and individuals in places of original habitat and traditional economic activities of these peoples (hereinafter – Methodology) was approved on December 11, 2012.

Adoption of Methodology indicates consistent recognition by the authorities of the Krasnoyarsk Territory of rights of the indigenous small-numbered peoples and also emphasizes the role of the Commissioner in defending these rights, as the requirement to develop and approve this Methodology was made in the report of the Commissioner of 2011. Following the hearings of the report by the Legislative Assembly of the Krasnoyarsk Territory on June, 20, 2012, the authorities adopted a regulation No. 2-350II, item 3.11 of which recommends the Government of the Krasnoyarsk Territory to develop and test the above-mentioned Methodology.

Another argument in favour of Territories' organizations might be the obligation of the Russian Federation to contribute to the International Decade of Biodiversity, as proclaimed by the United Nations in 2011.

One of the goals of the Federal Law "On the traditional nature resource management territories of the indigenous small-numbered peoples of the North, Siberia and Far East of the Russian Federation" is **preservation of biological diversity on the traditional nature resource management territories.**

Thus, the Territories' organization in the Krasnoyarsk Territory and in Taimirsky Dolgano-Nenetsky Municipal District in particular will become a contribution of the Krasnoyarsk Territory to the International Decade of Biodiversity of the UN.

**The Commissioner appealed to the Government of the Krasnoyarsk Territory with the recommendation to include in the regional plan of preparation for and implementation of the International Decade for Biodiversity under the aegis of the UN necessary creating the regional importance traditional nature resource management territories for the indigenous small-numbered peoples of the North.**

**The Commissioner appealed to the representatives from business sphere, who work in places of original habitat and economic activities of the indigenous small-numbered peoples with the recommendation to actively cooperate with these indigenous peoples, to assist them in their development, and to encourage their biodiversity conservation programs.**

Activities of industrial companies in this way will correspond to the Guidelines on Business and Human Rights, adopted by the Human Rights Council of the UN, which, in turn, are incorporated into international standards of

social responsibility. For example, the ISO 26000 standard, adopted in 2010 by the International Organization for Standardization, has a dedicated to human rights chapter, which establishes corporate responsibility to respect human rights and rights of the indigenous peoples.

These Guidelines are set in the UN Global Compact, one of the signatories of which is the company "Rosneft".

The European Commission on Corporate Responsibility last October made a statement, in which it expressed its wish that all businesses would take responsibility for the respect of human rights as defined in the Guidelines. After this statement, the European Commission initiated development projects based on the widely used regulations of the Guidelines for three industrial sectors, including oil and gas industry. In addition, the European Commission announced its intention to issue periodic progress reports on the implementation of the Guidelines.

Sustainable development and conservation of biodiversity are human rights. Today, a sign of good manners in the world is the publication of reports of companies on Sustainable Development. And in some countries it is a mandatory requirement of the rules of stock exchanges.

Given the close integration between Russia and the EU, as well as the increasing role on the European market of large industrial companies operating on the territory of the region, establishing civilized relationships with the indigenous peoples will be a strategically correct step.

Making proposals and recommendations, the Commissioner relies on the approved on April 30, 2012 Fundamentals of state policy in the field of environmental development of the Russian Federation until 2030 (hereinafter – Fundamentals).

The most important points of Fundamentals are given below.

- A strategic aim of state policy in the field of environmental development is to solve social and economic problems, **ensuring environmentally correct economic growth**;
- Realizing **every human right to healthy environment**, strengthening the legislation in the field of environmental protection;
- Priority of **conserving natural ecological systems**, natural landscapes and natural systems;
- **Participation of citizens, public and other non-profit organizations** in solving problems in the field of environmental protection and ecological safety;
- **Consideration of the views of citizens and NGOs** in decision-making on planning and **implementation of economic activity**, which can have a negative impact on the environment.

The last words of Fundamentals cover public organizations of the indigenous small-numbered peoples of the North. Their involvement in discussing issues of environmental safety is a strategic matter that affects the future of the fragile Arctic ecosystem.

**The third set of issues** concerning economic rights' realization include insufficient law enforcement practice of the existing federal and regional legislation.

Unfortunately, it is one of the pet peeves.

The chairman of the Legislative Assembly of the Krasnoyarsk Territory A.V. Uss somehow brought these words: *“Even Catherine II said: ‘If a statesman gets confused, if he thinks badly and takes the wrong steps, the whole nation experiences the adverse effects of this’”*. The Commissioner agrees 100% with A.V. Uss.

Officials often interpret existing regional and federal legislation on the basis of life experience in central Russia and meager knowledge about

the indigenous small-numbered peoples. Their decision-making is guided by stereotypes and prejudices about them which sometimes lead to mishaps. So according to some pseudo-experts a term “fisheries to meet personal needs” is perceived solely as a requirement to eat fish. It is good, however, they do not require people to eat fish right from the fishing nets. Any truly educated professionals understand that personal needs (requirements) are not limited to food. These are complex needs including physiological, spiritual and moral needs, as well as material needs for life activities.

Activities to meet personal needs (requirements) are regulated by the “National Classification of Occupation. OK 010-93” (adopted by Decree of the State Standard of the Russian Federation of 30.12.1993, № 298) (hereinafter – Classification).

In 62<sup>nd</sup> subgroup of Classification there are skilled agricultural workers, as well as employees of hunting and fishery, **producing goods for personal consumption**. And here it is said that skilled workers producing goods for personal consumption, among other things, hunt wild animals and fish for food, shelter and a **minimum cash income** for themselves and family members. To achieve these goals the workers carry out the following duties: hunt wild animals and birds in order to obtain meat, fur and other products; fish and collect other species of aquatic flora and fauna; made simple tools, as well as carry out **the sale of agricultural products on the market or via procurement organizations**.

Therefore, the sale of hunting and fishing products to meet personal needs (requirements) is not only possible, but absolutely legitimate.

Classification of occupations separates a class of skilled workers, involved in agricultural production, hunting and fishing **for personal consumption**, and a class of skilled workers doing the same activities (agricultural production,

hunting and fishing) **with a market orientation**. That means that members of the community, having these types of economic activity, can produce and sell products for personal consumption and in this case, their income is not taxed in accordance with the paragraph 16 of Article 217 of the Tax Code of the Russian Federation:

*“... revenues (excluding remuneration for employees), received by members of duly registered kinship and family communities of the small-numbered peoples of the North, engaged in traditional sectors of management, including selling products of traditional harvesting and hunting”*. They also have the right to sell their products as specially hired skilled workers, if this is part of their duties. They can sell these to procurement centres, wholesalers, sales organizations, since they act as commodity producers on behalf of their employers, i.e. communities themselves.

Someone may be misled by the term “skilled workers”. Usually it is used in relation to some profession. Classifier in the preamble gives an explanation along the following lines: *“In contrast to the term profession, the term occupation means any kind of activities, **including requiring no special training**, which brings any earnings or income”*. And further on: *“In the classification of occupations one takes into account that a certain level of qualification can be achieved not only thanks to vocational education or special training, **but often enough it is achieved in the course of practical experience”***.

And we should give the latest addition to this part: All-Russian Classifier of occupations corresponds to the International Standard Classification of Occupations. Many regulatory and legislative acts have been built on its very basis.

According to the Commissioner, the words of Head of Taimyr S.V. Baturin have no grounds. The latter stated in a written response to S.S. Chuprin,

a public representative of the Commissioner as such (verbatim): *“Implementation of a tender for the contract for the provision of fishing land to sustain the traditional way of life and traditional economic activities of the indigenous small-numbered peoples **will lead to a redistribution of existing fishing lands, competition among the indigenous peoples and social unrest”***.

Following the logic of the mal-officials, the indigenous small-numbered peoples are not allowed to have fishing areas to ensure their traditional way of life and exercise their economic development. Therefore, we will continue to “push” the indigenous peoples in commercial fishing, expose them to deliberately unrealistic conditions, for example, the obligatory presence of a fish processing plant, and to refuse to conclude contracts with them, since they do not have these fish processing plants for some reason. The situation is not a fictional one, it took place in 2011, when a variety of fishing lands were asked for by 74 households and 73 of them have got refusal to conclude contracts because of the lack of this very plant, this situation occurred also even in those areas where there was no competition.

Practice of generating different excuses is still here.

*S., the head of household, addressed the Commissioner. She told indignantly about the new initiative of the Taimyr authorities to require the presence of snowmobile’s and boat motors’ inspections when fixing quotas for aquatic biological resources. This is an obviously impossible condition as there are no specialized inspection centres on the territory of Taimyr, she said. Neither are registration bodies of snowmobiles in the settlements of the area. This means, people will be forced to go to Dudinka or Norilsk, to spend tens of thousands rubles, to live in these cities for weeks, instead of keeping traditional economic activities.*

The Commissioner notes a manic aspiration of some officials to create barriers to the economic development of the indigenous peoples by using the red tape method. People who are involved in traditional harvesting, fishing and hunting are forced to travel regularly to Dudinka because of paperwork.

For example, the Rules of Fishery for the West Siberian Fishery Basin demand to present data of production (catch) of aquatic biological resources according to the areas of production (catch) and (or) fishery sites to relevant territorial fishery organs no later than the 18<sup>th</sup> and 3<sup>rd</sup> days of each month stating the condition for the 15<sup>th</sup> day and the last day of the month, i.e. every two weeks. There is a dilemma: either to catch fish, or to be engaged in paperwork in the regional centre.

The 19<sup>th</sup> century conspicuous statesman M. M. Speransky in the Charter on Management of Foreigners of 1822 introduced such a norm: § 254. *“Opposite to that, we shall penalize the officials for a delay of nomads or for calling them from the far”*.

Besides, according to the Rules of fishery fishermen have to keep separate account of production (catch) and reception by types of aquatic biological resources taking into account weight, dimensional ratio of fish types in a catch. That is each fisherman has to have scales and roulette, and therefore light. But it is a problematic issue in tundra or taiga conditions.

**The Commissioner appealed to the Ministry of Natural Resources and Forestry of the Krasnoyarsk Territory with a recommendation to initiate amendments to the Rules of Fishery for the West Siberian Fishery Basin to simplify fishing regulations for people engaged in fishing in order to keep traditional way of life and traditional economic activities of the indigenous small-numbered peoples of the North.**

Article 25 of the Federal law “On fishery and preservation of aquatic biological resources” entitles the indigenous people to fish without permission and without fishing sites. However, members of society regularly indicate that the indigenous peoples are exposed to administrative penalties carrying out fishery without permissions. “No representative of the indigenous small-numbered peoples of the North on the territory Taimyr was fined in 2012, answered the territorial body of Federal State Institution “Rosrybolovstvo” at working conference with the senior managers of “Yeniseyrybolovstvo” at the beginning of December, 2012. An additional question was asked about how to determine a nationality of Rules of fishery violators; the answer was that the inspectors do not keep records according to the nationality and that their duties do not include definition of an ethnic origin. Thus, it turns out that the inspectors fine citizens, without determining their nationality, and, accordingly, the indigenous representatives fall in the category of citizens exposed to this penalty. Furthermore, distorted, or rather incomplete data are transferred to the Ministry of Natural Resources and Forestry of the Krasnoyarsk Territory. So a blissful picture is painted in such a way.

**The Commissioner pleaded the heads of Federal State Institution “Yeniseyrybvod” to recommend inspectors supervising the preservation of aquatic biological resources to introduce in the protocols on administrative violations additional records of nationality of people who broke the Rules on fishery, with their consent.**

Analysis of existing legal and regulatory acts suggests that Taimyr permits traditional fishing without obtaining special permits (documents) only within the limits established by the Decree of Government of the Krasnoyarsk Territory of 20.04.2009, № 210-П. At the same time representatives of the indigenous small-

numbered peoples have the right to carry out this type of traditional fishing in any water basin, even if it has been transferred for further use to someone else. According to the order of the Russian Federation Federal Agency for Fishery of 04.03.2009 № 166, Decree of the Government of the Krasnoyarsk Territory dated 07.12.2009, №632-П, contains a provision on the need for applications to sign up until September 1. From the analysis of the above regulations, it follows that this procedure, including a requirement for admission documents until September 1, may concern only traditional fishery, carried out in case of the provision of a fishing site. Thus, the systematic interpretation of the law implies that current collection of applications for quotas to traditional fishery is not based on any law. In particular, the Resolution of the Taimirsky Municipal District Administration of 27.01.2012 “On granting aquatic biological resources to use for keeping the traditional economic activity of the indigenous small-numbered peoples living in the Taimirsky Dolgano-Nenetsky Municipal District for 2012” is illegal and revocable.

Economic empowerment of the indigenous peoples is implemented by public organizations. Thus, on 19 March 2012, in Dudinka there was held a round table on “Efficiency of state support measures aimed at keeping traditional economic activities of the indigenous small-numbered peoples of Taimyr” due to the initiative of the Association of the Indigenous Small-numbered Peoples of Taimyr (the Krasnoyarsk Territory). The roundtable participants adopted the resolution, one of item of which condemned the position of the district administration, having taken no part in the round table. Also it was noted that the heads of several business entities abused the financial support paid them from the regional budget; they use trust funds for reaching questionable goals. Examples were given of agricultural production cooperative “Iara-Tanama”, which *three years*

*ago acquired \$4 million ruble wing-in-ground effect vehicle, but still has not put it on its balance sheet and has not presented it to the members of the agricultural cooperative that raises doubts to its presence, and numerous questions arise for a significant monetary maintenance for the administrative and managerial staff, as subsidies are targeted at reindeer husbandry and are focused on breeding domestic reindeer, but not on financing the administrative and managerial staff.*

It was also noted that the company “Piasino Limited” (its founder is the Administration of Taimyr) received in 2011 6.010.055 rubles by the resolution of the Government of the Krasnoyarsk Territory dated February 8, 2011, № 79-П, which regulates the provision of financial support for production from traditional economic activities of the indigenous small-numbered peoples, **which is almost 22 % of the total allocated funds for financial support in the district**, at the same time it was pointed out (literally), that “*the purpose of providing financial support is to solve the problems of employment of the indigenous small-numbered peoples, the promotion and support of different types of traditional economic activities of the indigenous small-numbered peoples of the North*” (paragraph 1.2. Procedure of resolution). *And if the household does not solve these problems, it shall not receive financial support, and, according to our data, there are no any indigenous peoples in the company “Piasino Limited”, and hunting and fishing carried out by people of other nationalities do not match the category “traditional economic activity of the indigenous small-numbered peoples”.*

General Director of the company “Piasino Limited” does not work in this position anymore, and the company has been sold by Taimyr’s authorities to the businessmen from Norilsk. I would not like to think that Taimyr’s authorities cover their tracks in such a way, but rather I

would like to see that law enforcement bodies will clarify this case.

Peculiar interpretation of the Federal Law “On hunting and the preservation of hunting’s resources and introduction in certain legislative acts of the Russian Federation” has given rise to a precedent in the Evenkia. Association of the indigenous small-numbered peoples of the North of Evenkiysky Municipal District of the Krasnoyarsk Territory “Arun” (“Revival”) announced that it has some data on citizens who do not belong to the indigenous small-numbered peoples of the North, who **have been given the right to free taking of wildlife** by the representatives of local governments and officials of service for the protection, control and regulation of use of wildlife and its environment in the Krasnoyarsk Territory (**81 citizens in the settlements of Baykit’s group only**). According to the views of leaders of this public organization, this right has been granted illegally. The public prosecutor’s office of the Krasnoyarsk Territory responded by Submission of 07.09.2012, № 7/1-09-2012, “On elimination of violations of legislation on hunting and preservation of hunting’s resources” being sent to the head of service for the protection, control and regulation of use of wildlife and its environment. Officials of service were brought to administrative responsibility.

However, this has not brought clarity to this matter. Does every person who goes hunting with a rifle to taiga or tundra should be treated as equal to the indigenous small-numbered peoples of the North? Does hunting serves him as the basis of the existence? Many people do not distinguish between hunting for sustaining the traditional way of life from amateur, sports and even commercial hunting.

Hunting for keeping the traditional way of life of the indigenous small-numbered peoples plays a saving role for the whole ethnos. Exactly the same can be said about as the reindeer

husbandry. Only reindeer husbandry has a more powerful ethnos-saving factor. That is due to the traditional hunting the indigenous peoples of tundra or taiga retain their native languages, special culture of use of wildlife. These people accompany their actions while hunting with rites and rituals, according to the tradition the first take is shared with the elderly, single mothers, disabled and poor relatives. The purpose of profit, as a rule, is not a key factor. Hunting products are sold to cover costs related to the maintenance of traditional hunting, and for the formation of financial and material stocks for the next hunt.

Unsatisfactory law enforcement practice has such an aspect. The Commissioner was given the information from non-profit organization of traditional trades and crafts subjects “Union of the indigenous small-numbered peoples’ communities of the Krasnoyarsk Territory” about difficulties with the registration of leases of forest lands. As explained by the non-governmental organization leaders, currently legal entities of the indigenous small-numbered peoples having long-term licenses for the use of wildlife and leases of forest lands due to the inactivity of the Forest Agency of the Krasnoyarsk Territory:

- can’t produce the state registration of these contracts;
- can’t get conclusion of the state expertise on forest development projects, which are required to develop and submit under lease contracts, as specified by the aforesaid agency;
- can’t record the leased land in state cadastral registration lists.

By the Decree of the Krasnoyarsk Territory Arbitration Court, 29 March 2010, case number A33-22160/2009, inactivity of the Krasnoyarsk Territory Forest Agency was declared unlawful. It is expressed in the non-preparation and non-publication of any legal act which is required for state registration of lease agreement of forest

area, which should have been concluded between the Krasnoyarsk Territory Forest Agency and the community of the indigenous small-numbered peoples.

Until now the Krasnoyarsk Territory Forest Agency has not eliminated the revealed violations of the rights and legitimate interests of the community of the indigenous small-numbered peoples and it does not even perform the decision of the Krasnoyarsk Territory Arbitration Court.

In accordance with paragraphs 1 and 2 of Article 72 of the Forest Code of Russian Federation from 04.12.2006 № 200- ФЗ, by lease agreement of a forest area, which is in state or municipal property, the landlord gives the tenant a forest area for one or more purposes.

An object of lease can only be forest areas owned by the state or municipality and having state cadastral registration.

On behalf of the Ministry of Economic Development of the Russian Federation of 27.07.2010 № 20321- ИМ/Д23 on the Krasnoyarsk Territory a forest area as a part of forest lands are subject to state registration. But cadastral information about the coordinates of the characteristic points of the boundaries is absent, i.e. the territories are enlisted in cadastral registration only declaratively. Territories that are provided for the use of the indigenous small-numbered peoples are registered as being in the ownership of the Russian Federation.

In addition, the Federal Law “On the Federal Budget for 2011 and the planning period of 2012 and 2013” from 13.12.2010 № 357 – ФЗ did not allocate funds for activities to implement state cadastral registration. As a result, in the next two years the executive authorities of the Krasnoyarsk Territory won't register forest areas as part of forest lands in due order.

**Thus, the legal entities of the indigenous small-numbered peoples, having long-term licenses for wildlife use and lease agreements**

**on forest areas, will not be able to get state registration of lease agreement on forest areas, whereby such contracts will be recognized as not concluded, thus not there will not be fulfilled obligations for long-term licenses for wildlife use in full.**

**The Commissioner addressed A.A. Klishas, the senator from the Krasnoyarsk Territory, chairman of the Federation Council Committee on Constitutional Legislation, Judicial and Legal Affairs, Development of Civil Society, with a request to get involved in this problem, given that its solution is impossible without the execution of the financial obligations of the federal budget.**

Violation of the economic rights of the indigenous small-numbered peoples is fostered by the reduction in staff number of employees supervising the state of the environment.

Insufficient number of inspectors of hunting and fishing, their inability to make regular visits to the places where fish is caught; and also weak interaction at the municipal level between local governments, law enforcement agencies, veterinary service representatives and representatives of the territorial service for the protection, control and regulation of the use of wildlife and its environment of the Krasnoyarsk Territory while organizing seasonal hunt in public areas and in the territories where the indigenous small-numbered peoples' communities perform their traditional economic activities. The compliance with the requirements of legislation in the sphere of nature land management is poor too, which ends up in encouraging malevolent citizens to start illegal hunting and illegal use of aquatic biological resources. As a consequence, sable and wild reindeer are wildly shot; catch of valuable fish species is done fast and loose.

We should mention the fact that bad performance of official duties by employees from law enforcement agencies and territorial

service for the protection, control and regulation of the use of wildlife and its environment in the Krasnoyarsk Territory regarding the elimination of illegal acts of citizens in hunting and making sustainable documentation on witnessing the circumstances of the administrative offenses in the territories, where the indigenous small-numbered peoples perform their traditional economic activities.

According to the information obtained from the non-profit organization of traditional land management, harvesting, hunting and fishing “Union of the communities of the indigenous small-numbered peoples of the North of Evenkiysky Municipal District of the Krasnoyarsk Territory”, the authorized officials during their trip to the place of an offense in the territory of traditional economic activities of the community of the indigenous small-numbered peoples “Kunnoir” (translated as “Crying out”) for some unknown reason did not prevent the illegal acts committed by those citizens, who do not belong to the indigenous small-numbered peoples. These offenders were witnessed as illegal hunting without proper documents. The authorities only made a protocol about administrative offense”.

Besides that, offenders were not arrested and were not delivered to law enforcement agencies, they were allowed to keep their gun (traps). Even their rifled firearms were not withdrawn despite the absence of the licensing documents.

Illegal activities concerning hunting sable were qualified as an administrative offense by local authorities. One should take into account that the protocol has not specified by some unknown reason a number of the found harvested sable skins.

According to the protocol the period, within which the detected violations should be eliminated, shall not exceed 14 days from the moment of issuing the corresponding

regulation. Thus, citizens who were carrying out illegal hunting were allowed to continue illegal activities on the unknown grounds for more than two calendar weeks, i.e., they were permitted to complete their criminal actions (illegal hunting). One of the so-called offenders during 2012 was twice prosecuted for offenses in the sphere of the hunting, which are enlisted in by Code of Administrative Offences of the Russian Federation.

*Authorized representatives of the Commissioner became aware of the mass shooting of wild reindeer right in Khatanga rural settlement. Hunters threw insides, blood and guts off right into the river, and we need to note that downstream there is the water intake of the settlement.*

Such barbaric attitude to nature has become possible partly because in the Taimirsky Dolgano-Nenetsky Municipal District has a reduced structure of “Rospririodnadzor” (Russian Federal Service for Supervision of Natural Resource Usage). According to the Commissioner, the reduction of this structure at the Taimyr Peninsula is a mistake. Dozens of large industrial companies are already operating in the area and conducting their activities in 26 licensed areas. The whole territory of the region is defined as the place of original habitat and traditional economic activities of the indigenous small-numbered peoples of the North. Uncontrolled activity of industrial companies sometimes causes serious damage to the original habitat of the indigenous peoples.

*The Commissioner was asked by the Noskov settlement in tundra reindeer herders V. and Ia. to react to this ecological character crime. The herders attached to their application photos and videos showing the large-scale soil cover disturbance of tundra stretching for tens of kilometers, near the river Iakovlevka. According to them, in the summer time the whole neighboring*

*region of the tundra was traveled through by heavy crawler tractors and cross-country vehicles serving the licensed oilfield mined by the company "Rosneft".*

For the Commissioner, who grew up in a family of reindeer herders, images of the blasphemous attitude to the nature, the ruthless destruction of reindeer moss and lichens have become the best proof of ineffectiveness of the authorities assigned to monitor compliance with the constitutional rights of citizens to the safe environment. Relevant materials were then sent to the Public Prosecutor of the Krasnoyarsk Territory.

**The Commissioner appealed to the heads of the territorial department of the Federal Service for Supervision of Natural Resources of the Krasnoyarsk Territory, with a recommendation to recreate their department in Taimirsky Dolgano-Nenetsky Municipal District, taking into account the availability of staff units in the rural settlement of Karaul and Khatanga.**

The original habitat of the indigenous peoples as a result of the activities of industrial companies is getting unsafe for reindeer herders, hunters and fishermen.

In October 2012, near the village Tukhard a tragic accident happened to citizen P. Two children were left without a single parent, i.e. they became orphans. The inhabitants of Tukhard stated that a young father was a non-drinker, hardworking man of respect among fellow countrymen. Citizen P. was returning from fishing home on his boat by the Bol'shaya Kheta river in the dark and came across a taut rope, which made him thrown out of the boat into the cold water, where he drowned eventually. The taut rope was pulled by the professional divers to produce necessary repairs in the gas pipeline running along the bottom of the river. A few days earlier the rope had almost hit two people, returning by boat to their village,

they got safe only because it was still light. K. citizen testified to the Commissioner for he asked the repairers to mark the rope with light lights or by other means and they just laughed in response. The Prosecutor's department of Taimirsky Dolgano-Nenetsky Municipal District has not seen in this death any components of the crime and refused to start a criminal case.

The Commissioner makes here a statement that he will seek further review of the investigation materials, insist on beginning criminal case and find real perpetrators, guilty in the death of citizen P.

### **Right to Work and Decent Life**

Right to work and decent life for the indigenous peoples is associated with their rights to protection of their original habitat and to undertake entrepreneurial activity through keeping the traditional economic activities of the indigenous peoples. The existence of problems in the implementation of these rights entails a reduction of income, impairment of life standard, an increase in injuries, sometimes fatal ones.

The materials of the Accounts Chamber of the Krasnoyarsk Territory have witnessed a recent years' trend of the increased number of citizens with incomes below the minimum subsistence level. In Evenkia this number went up from 1,283 people in 2009 to 4,668 people in 2011. Figures are common, they do not take into account the national characteristic of the district inhabitants, but there is no doubt that the number of the indigenous peoples falling in this category is sufficient. According to the same year materials, the average monthly salary of the fishermen, who are almost 100% representatives of the northern ethnic groups, was 3,900 rubles. The average monthly salary of hunters was 5,200 rubles. The subsistence minimum level in the Evenk region for able-bodied population is 14,705 rubles. The average monthly salary of reindeer herder

in Evenkia was higher than that of hunters and fishermen, but, unfortunately, it also fell short of the minimum subsistence level, it was only 8,100 rubles.

At the Taimyr Peninsula the situation is no better, although the local authorities are trying to sugarcoat it. Thus, the achievements there included the situation on the labor market, namely the reduction of unemployment: as for 01.01.2011 645 people were registered in employment services and by 01.01.2012 this number fell to 586 people.

However, we know that **the citizens, who preserve traditional lifestyle and (or) carry out different kinds of traditional economic activities of the indigenous peoples, receive compensation in the amount of 4000 rubles a month and they are not registered in the employment services as unemployed.**

In 2009, the number of such people was 1,941, in 2010 – 1,963, in 2011 – 1,842. Revenues of these citizens are 3-3.5 times lower than the minimum subsistence level in the area (for the able-bodied population it is 12,573 rubles, in the rural settlement of Khatanga – 14 608 rubles). These people do not registered in employment services due to the necessity to go on the dole once in two weeks, which is impossible in their living conditions. In fact, it is hidden unemployment; if we take it in consideration with the situation on the labor market will be fundamentally different.

According to the report of the administration of Taimirsky Dolgano-Nenetsky Municipal District, the average monthly wage of fisherman (they are primarily the indigenous people) is 3,632 rubles 90 kopecks.

Average monthly wage of reindeer herders in Khatanga is 2,570 rubles. Given the benefits (4,000 rubles per month) the total income of herders is 6,570 rubles, which is two and a half times less than minimum subsistence level.

Average monthly wage of reindeer herders living in Noskov and Tukhard, according to the data of agricultural production cooperatives “Tara-Tanama” and “Suzun”, also does not reach minimum subsistence level, although households’ owners are making efforts to rectify the situation. Unfortunately, these measures are not sufficient; instead, the government should make more meaningful and effective efforts to remedy the situation.

For example, S.A. Sizonenko, the head of reindeer herding cooperative “Suzun” has taken all the critical remarks with positive and constructive attitude. Thus, two years ago the Commissioner analyzed the applications from workers and cooperative members, in which they asked for proper documentation of their property shares by cooperative’s heads. S.A. Sizonenko, being the chairman of the cooperative, eagerly eliminated these discrepancies and, moreover, introduced into his daily routine regular consultations with experienced workers – former heads of reindeer farms in the times of the Soviet Union. The result of these measures is a steady increase in the number of domesticated reindeer and the highest salary in the herder industry at the Taimyr Peninsula. Although, consider it again, it is not equal to 12,573 rubles, which is minimum subsistence level in the district.

Heads of deer farms offer to increase compensation (benefits) for herders up to 6,000 rubles per month, as reindeer herding is critical for the development of some ethnic groups. **The Commissioner agrees with them and recommends the Government of the Krasnoyarsk Territory to seek the possibility of increasing the amount of compensation to a specified amount.**

This measure will reduce social tension in the area.

It may be interesting to see the dynamics of the number of applications for social support

received from the citizens, who are the indigenous small-numbered peoples of Taimyr.

2009	2010	2011
2 641 (26,2 %)	3 146 (31,1 %)	3 408 (33,6 %)

Conclusions of the Accounts Chamber of the Krasnoyarsk Territory: every third indigenous resident of the region has the right to get social support, while this right arises due to insufficient funds of these people to cover their basic expenditures.

**The Commissioner repeatedly called on the authorities to Taimyr with the recommendation to cease violations of the indigenous peoples' rights to have access to hunting and fishing lands. The indigenous people should also a priority while using aquatic biological resources, as well as getting licenses on wildlife. They should not overcome bureaucratic obstacles to carrying out their traditional economic activities. The authorities must create areas of traditional use of natural resources. All these measures will improve the socio-economic situation.**

However, local authorities prefer only to increase the burden on the regional budget in the case of provision of social support. The Krasnoyarsk Territories' authorities fulfill their obligations, but the district authorities are obliged to create conditions to ensure the rights of the indigenous peoples to their economic development, community activities for the indigenous peoples, especially since they are endowed with the state power by the law of the Krasnoyarsk Territory.

Article 132 of the Constitution of the Russian Federation in terms of control over the implementation of delegated state powers can become the reason for claim to the public authorities of the Krasnoyarsk Territory, who work ineffectively.

Violation of labor rights of the northern ethnic groups happens partly due to the reduced number of bodies, assigned to implement control in the field of labor relations.

*A female citizen T., the worker of municipal housing and maintenance utilities enterprise "Taimyr", located in the settlement of Ust'-Avam, referred to the Commissioner requesting for her labor rights' protection. T. is pregnant, she has two minor children at the age of 3 and 6 years old. The employer made her quit of her own accord. The Labor Code of the Russian Federation protects her rights and bans to dismiss pregnant women by the will of employers.*

In order to protect the female citizen T. labor rights, letters were sent to the Prosecutor's Office of Taimirsky Dolgano-Nenetsky Municipal District and to State Labor Inspection Service in the Krasnoyarsk Territory, which is directly responsible for Taimirsky Dolgano-Nenetsky Municipal District. Both bodies did not determine the infringement of rights. The Prosecutor's Office of the District wrote back an excuse that the complainant is on vacation now, any evidence of making her quit of her own accord have not been discovered, the prosecutor's response measures are not planned. In the opinion of the Commissioner, the Prosecutor's Office exhibits only formal control of the violation of rights. There are some reasons for this anyway. It is an unaffordable luxury both for the employees of the Prosecutor's Office and for the employees of State Labor Inspection Service to visit a remote Ust'-Avam settlement by a helicopter and to live there about one-two weeks while waiting for the next helicopter to get them back home.

Soon there was received one more employees' complaint from the same enterprise of this remote area. Now people blamed the heads of municipal enterprise "Taimyr" for inappropriate conditions of work. It turned out impossible to restore citizen's labor rights with the help of government

bodies. State Labor Inspection Service honestly replied in their letter (literally): “Bearing in mind that municipal housing and maintenance utilities enterprise “Taimyr”, located in the settlement of Ust’-Avam, is to be reduced in staff and as the routine audit of municipal enterprise “Taimyr” is not planned in 2012, it is impossible to organize the unscheduled inspection of the information got”.

Some worrying news came from Turukhansky District. Being anxious about their probable dismissal, the employees of the Ket language laboratory referred to Office of the Commissioner for Human Rights in the Krasnoyarsk Territory.

*A female citizen M. informed the Commissioner of her acquaintance with the order of new staff list, which has no her position. The female citizen M. raises her five years old minor daughter alone. The situation is made worse by a possible eviction from corporate housing in the case of her position is reduced. In the view of M. she would be fired because of her nationality.*

The Commissioner for Human Rights in the Krasnoyarsk Territory addressed the Ministry of Education and Science of the Krasnoyarsk Territory with the request to pay attention to this

case. S.I. Makovskaia, First Deputy Minister, assured the Commissioner and M. that “at present time a procedure of personnel and staff reduction is not being made”. Moreover, M. was given guarantees of compliance with the Labor Code of the Russian Federation if the procedure of personnel and staff reduction takes place.

**Conclusions:** in the Russian Federation and one of its subjects – the Krasnoyarsk Territory – there is an extensive normative and legal framework, the task of which is to create legal mechanisms to implement the rights of the indigenous peoples prescribed by the Russian Constitution. However, this legislation and its enforcement practices are to be amended. Numerous examples from the work of the Commissioner for rights of the indigenous small-numbered peoples in the Krasnoyarsk Territory suggest that in the Krasnoyarsk Territory there is a need in the Commissioner for effective realization of the rights of the indigenous small-numbered peoples. It is necessary to develop further the normative and legal framework to solve the real problems of the indigenous small-numbered peoples of the Krasnoyarsk Territory more quickly and with greater social response.

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## **Проблемы реализации экономических прав коренных малочисленных народов Красноярского края**

**С. Я. Пальчин**

*Аппарат Уполномоченного по правам человека  
в Красноярском крае  
Россия, 660021, Красноярск, ул. Карла Маркса, 122*

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*Настоящая статья представляет собой вторую часть материала, основанного на Докладе Уполномоченного по правам коренных малочисленных народов в Красноярском крае «О проблемах реализации конституционных прав и свобод коренных малочисленных народов на территории Красноярского края в 2012 году». В статье подробно анализируются проблемы реализации экономических прав коренных малочисленных народов Красноярского края. В частности, речь идет о следующих правах: право на защиту исконной среды обитания, традиционного образа жизни и традиционного природопользования; право на труд и достойную жизнь. В статье не только раскрываются проблемы федерального и регионального законодательства, а также недостаточность правоприменительной практики, но и формулируются рекомендации и просьбы, которые выдвигает Уполномоченный орган исполнительной власти и местного самоуправления для решения существующих проблемных ситуаций.*

*Ключевые слова: северные и арктические территории, Красноярский край, нормативно-правовая база, коренные малочисленные народы Красноярского края, Уполномоченный по правам коренных малочисленных народов, правоприменительная практика.*

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