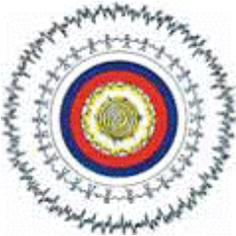


NGO Submission to the Human Rights Council Universal Periodic Review Mechanism

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Submitted on behalf of the following organisations:



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Introduction

1. This joint submission has been prepared by RAIPON, the Russian Association of Indigenous Peoples of the North, an indigenous peoples' organisation in consultative status with ECOSOC, representing 41 indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation, in collaboration with IWGIA, the International Work Group for Indigenous Affairs, an NGO in consultative status with ECOSOC that supports indigenous peoples' organisations globally, and with assistance from the Institute for Ecology and Action Anthropology (INFOE), Cologne, Germany. In this submission, we look into the situation of Russia's indigenous small-numbered peoples, which while together numbering only approximately 260,000 people, traditionally inhabit around two thirds of the land mass of the Russian Federation.

2. Even though the indigenous peoples are highly diverse in terms of descent, history, language, ethnicity and culture, they have some important aspects in common, such as the prevalence of traditional subsistence-oriented ways of life based on fishing, hunting/gathering or reindeer husbandry. A profound knowledge of and relationship with the territories which they have traditionally used or occupied are deeply engrained in their cultures, which are finely adapted to their fragile environments, often marked by extreme climatic conditions.

3. The main focus of this submission is the developing human rights situation of the indigenous small-numbered peoples of the North, Siberian and the Far East of the Russian Federation during the review cycle and the extent to which recommendations accepted by the State during the review process have been implemented. Overall, the state has failed to live up to its own voluntary pledges, most notably to implement CERD's recommendations from 2008 (CERD/C/RUS/CO/19) with regard to indigenous peoples. In key areas such as land rights, the rights to self-determination, food, education, health and work, the situation has failed to improve. Some important policy measures were adopted, including the action plan for the implementation of the Concept paper on sustainable development of the indigenous small-numbered peoples of the North for 2009-2011; however, its key components have not been implemented.

4. In particular, the state has failed to follow recommendations by the UN Special Rapporteur on the Rights of Indigenous Peoples to "bring coherence, consistency and certainty to the various laws that concern the rights of indigenous peoples and particularly their access to land and resources"ⁱ i.e. to eradicate the legal inconsistencies which currently render many legal guarantees of indigenous rights ineffective.

Follow-up on recommendations, accepted by the Russian Federation

5. During the fourth UPR session, Russia accepted recommendations by the governments of Denmark and Mexico to "implement the recommendations raised by CERD as to how to improve the situation of the indigenous communities" (Denmark) and to "comply with the principles contained in the Declaration on the rights of indigenous people" (Mexico). As demonstrated below, during the review cycle, neither recommendation has been given effect.

implement the recommendations raised by CERD as to how to improve the situation of the indigenous communities (Denmark)ⁱⁱ

6. CERD's concluding observations of 2008 (CERD/C/RUS/CO/19 20 August 2008) contain recommendations pertaining to indigenous peoples in para 15, 20, 24 and 30. These touch upon a wide array of issues. Below, we assess the level of progress achieved in several key areas identified by CERD: land rights, access to resources, Free, Prior and Informed Consent, adequate compensation and political representation of indigenous peoples.

Land rights

7. Para. 24 of the CERD recommendations touches upon issues related to indigenous peoples' rights to land and resources. The vital importance of land rights is grounded in the fact that activities such as reindeer herding, hunting and gathering constitute major sources of food and income for the indigenous peoples of the Russian North and, at the same time, inform their cultures and social institutions. Guaranteed access to traditional land thus constitutes an indispensable precondition to the enjoyment of indigenous peoples' right to food and to an adequate standard of living (CESCR, Art. 11), to cultural identity, self-determination (CESCR, Art. 1, CCPR, Art. 1) and development (UNDRIP, Art. 23).

8. During the review cycle, Russia has failed to take effective measures to create a coherent and functioning land rights regime consistent with Russia's obligations under international law. In most regions, indigenous communities therefore have no guaranteed and sustainable access to those territories and resources on which they depend for their collective survival. They have no effective remedies against encroachment by third parties and no guarantee of adequate compensation for damages suffered as a result of third-party activities. Furthermore, several legal initiatives currently underway threaten to further undermine protection of indigenous peoples' land rights.

9. In 2001, Russia adopted the law "On Territories of Traditional Nature Use of Indigenous, Small-Numbered Peoples of the North, Siberia and the Far East of the Russian Federation" (7 May 2001, № 49-FZ). This law stipulates the creation of so-called Territories of Traditional Nature Use (TTNU), which would allow them to pursue their self-government, their development with identity, let them freely exercise their traditional economic activities and enjoy a certain level of protection from third parties such as extractive industries. It constitutes the only serious attempt by the state to establish a federal-level system guaranteeing to indigenous peoples those land use rights on which they depend for their subsistence.

10. More than a decade after the law's adoption, not a single federal TTNU has been established, even though the government action plan for the implementation of the Concept paper on sustainable development of the indigenous small-numbered peoples of the North for 2009-2011 stipulates the establishment of a model TTNU by 2011.ⁱⁱⁱ Similar pledges had already been made in Russia's 19th periodic report to CERD, written in 2006 (CERD/C/RUS/19, para 52). In failing to implement the law on TTNU, the State has failed to implement recommendations made by CESCR, CERD and the UN Special Rapporteur on the Rights of Indigenous Peoples as well as failed to give effect to the recommendations it accepted under the UPR process.

11. At the time of writing, the revised version of the Law on TTNU, drafted by the federal government, which is supposed to allow for its practical enforcement, has still not been submitted to the State Duma. Neither has an alternative draft developed by a group of experts been considered by the State Duma. Meanwhile, requests from indigenous peoples for the establishment of federal TTNUs continue to be denied, while ever more indigenous territories are being alienated for business purposes, such as long-distance pipeline construction, hydroelectric dams, oil and gas extraction, mining and commercial logging.

12. Even if the draft law proposed by the federal government adopted, it is unlikely to improve - and may even jeopardize - the land rights situation of indigenous peoples, as it removes the definition of TTNU as "especially protected environmental territories" (*osobo okhranyaemye prirodnye territorii*), a term rooted in environmental legislation and implying a certain level of protection from third-party activities such as extractive industries operations.

13. Additionally, the existence of several hundred TTNUs with regional status is under threat due to government's failure to comply with a provision of the Federal Land Code which stipulates that the borders of TTNUs have to be confirmed by the federal government, something which it has not done. As the governmental draft only provides for the creation of federal TTNU, the regional and local TTNU are not covered by the law. For instance, in Khanty-Mansi Autonomous Okrug

(district), the traditional territories of hundreds of indigenous families have been awarded regional TTNU status without ever having been recognised by the federal government.

14. Furthermore, the proposed revision greatly limits the possibilities for creating TTNU by confining them to territories included in the State “register of places of traditional inhabitation or traditional economic activity of indigenous small-numbered peoples of the Russian Federation”, established in 2009 (8 May 2009, № 631-r). Entries in this register have been submitted by regional administrations, without following common criteria. While some regions have nominated entire administrative districts of indigenous settlements, 12 of 26 regions nominated individual settlements within the districts, therefore given rise to ambiguities, allowing for an interpretation of the contents of the register, which excludes the actual territories beyond the boundaries of the settlements required for reindeer husbandry, hunting, fishing and gathering. The available territories are thus insufficient for indigenous communities to pursue their traditional economic activities and thereby enjoy their right to adequate food, cultural identity, and subsistence.

15. In Primorsky Krai, the Udege community has been struggling since the dissolution of the Soviet Union to achieve due recognition and protection of their land rights by the state. The TTNU “Bikin” was intended to become the first Federal TTNU and is, as such, even mentioned as an example of the State party’s efforts to protect indigenous peoples’ rights in the Russian Federation’s 19th periodic report to CERD (CERD/C/RUS/19 , para 52). As the regional government has withheld its approval, however, the TTNU has never been established, while the Udege’s livelihood continues to be threatened by logging companies. Moreover, illegal logging is rife as no sufficient controls are in place. In Kamchatka territory, the Itelmen community of Kovran initiated the establishment of a regional TTNU “Tkhsanom” in December 1998, which was dissolved by order of the regional governor in March 2001. The community therefore has no protection against the extensive commercial fishing activities in the vicinity of their village, which seriously impacts the food and income opportunities in this very remote and inaccessible part of Russia. Their traditional fishing grounds have, in the end, been licensed to commercial fishing companies, something which would not have been possible had TTNU status been in place.^{iv}

The State should, as quickly as possible, take all necessary steps to the maximum of its available resources to ensure that Territories of Traditional Nature Use (TTNU) with federal status can be established for the Indigenous Peoples of the North in due time, in all regions traditionally inhabited or used by indigenous peoples, with an adequate level of protection and a viable territorial and resource base, and with full and effective participation of the indigenous communities affected. Existing contradictions between various federal and regional laws, regulations and policies should be resolved to the benefit of indigenous peoples’ interests. Eligibility for TTNU status should not depend on inclusion in the State register of places of traditional inhabitation or traditional economic activity of the indigenous small-numbered peoples of the Russian Federation, established in 2009. The continued existence of TTNU with regional and local status should also be guaranteed.

Access to hunting and fishing resources

16. Guaranteed and free access to viable and accessible fishing and hunting grounds, as well as to other biological resources, is a fundamental requirement for indigenous peoples’ full enjoyment of their right to adequate food, subsistence and cultural identity. As pointed out by CERD, these human rights must take precedence over other considerations such as business interests. During the review cycle, however, the State has failed to take legal measures to embed indigenous communities’ priority right of access into the federal Forest, Land and Water codes and other relevant legal acts governing management and access to biological resources, even though these steps were set as targets in the action plan for the implementation of the federal Concept paper on

the sustainable development of the indigenous peoples of the North (2009-2011).^v

17. By January 2008, the Russian federal law “On Fishery” was amended and Art. 39, Para 2 voided, which had stipulated that indigenous individuals and *obshchinas* (indigenous peoples' cooperatives) should be granted use rights to fishing grounds without requiring them to submit their bid in a commercial tender. A large number of indigenous *obshchinas* have reportedly lost their fishing grounds because of this change. While CERD asked Russia in 2008 to reinsert the concept of “preferential, non-competitive access to natural resources” (CERD/C/RUS/CO/19 Para 24) into legislation, measures taken during the review cycle have had the opposite effect, leading to the erosion of the economic base and decline of indigenous *obshshinas*. Many fishing grounds previously designated for fishing for the purpose of pursuing the indigenous peoples' traditional ways of life and economic activities were re-classified as industrial fishing grounds (*rybopromyslovyye uchastky, RPU*) and leased to third parties through commercial tenders.

18. Para. 279 of Russia's latest periodic report to CERD notes that Russia is developing legislation that would permit indigenous individuals to carry out traditional fishing for personal consumption free of charge and without volume restrictions. However, an amendment to the federal law “On fauna” (“*o zhivotnom mire*”) removed the provision of priority access to fishing grounds for indigenous peoples and their communities. It will, in practice, be virtually impossible for indigenous peoples to enjoy their legal right to traditional fishing because most viable fishing grounds close to indigenous settlements have been put on tenders and leased out to private businesses under long-term lease contracts. The lease holders have the legal right to deny third parties the right to fish in their lease area and are, as experience shows, prepared to do so.

19. Furthermore, the legislation proposed by the Russian Government stipulates that indigenous peoples have only for the right to fishing for personal needs. It excludes indigenous cooperatives (*obshchinas*) from the realm of traditional fishery. *Obshchinas* are, however, typically the only providers of employment and income in indigenous territories. Since 2008, many *obshchinas* have lost their fishing grounds to commercial competitors. If adopted, the proposed legislation will aggravate this tendency, as the only remaining way for *obshchinas* to obtain fishing rights will be through commercial auctions, and these require financial and logistical resources that are typically beyond their capacity. As experience shows, bids submitted by *obshchinas* are very rarely successful.

20. In excluding indigenous *obshchinas* from the sphere of traditional fishing, the draft law directly contradicts the federal law on indigenous *obshchinas* (Law № 104-FZ of 2001), Art. 1 of which stipulates that *obshchinas* are created for the purpose of “protecting the traditional settlement areas, traditional ways of life, rights and legal interests of the indigenous small-numbered peoples” as well as the law on non-commercial organisations (Law № 7-FZ), which explicitly permits entrepreneurial activities by *obshchinas*, as long as they remain in line with the purpose and statutes of the given *obshchina*.

In order to respect and protect the indigenous peoples' right to adequate food, work and subsistence, the State should create the legal prerequisites to ensure that indigenous communities dependent on fishing as a source of food and income have permanent and guaranteed priority access to accessible and viable fishing grounds and that indigenous *obshchinas* enjoy guaranteed access to fishing grounds designated for traditional fishing, allowing them to carry out their functions. Conflicting provisions in fishing-related laws should be resolved in favour of indigenous peoples' subsistence rights.

21. Not only *obshchinas* but also indigenous families and individuals that seek to enjoy their right to adequate food face disproportionate bureaucratic obstacles to obtaining the necessary permits. For indigenous people living in remote settlements or leading a nomadic or transhumant way of life in particular, obtaining these permits is often impossible, and this exposes them to the risk of severe fines. These groups typically have very limited cash income, if any.

22. A decree by the Federal government stipulates that the indigenous population to submit their applications for fishing permits for the next year by 1 September. Applications have to be sent to the authorities in the regional capitals, which for instance in the case of Kamchatka is very difficult as the regional capital has only irregular connection with the northern part of the peninsula where the majority of indigenous Koryak and Itelmen live. On 22 August 2010, the village administration of Tymlat in Northern Kamchatka submitted applications for 717 indigenous inhabitants. They were not received by the regional administration in Petropavlovsk-Kamchatski until 2 September 2010. Consequently, the entire population was denied fishing rights for the whole of 2011. Such denial of the human right to feed themselves has been reported from many settlements in Northern Kamchatka, in clear violation of Russia's obligations under Art. 11 of the ICESCR.^{vi} In 2012, figures show that the regional administration has continued to withhold fishing rights from the indigenous population. For instance, for 2,762 indigenous peoples living in Olyutorski district, in which Tymlat is located, only 42 permits were issued. Indigenous peoples in Ust-Kamchatski district, which had received fishing permits, were denied the mandatory accounting sheets as they were unable to produce documentary proof of their indigenous identity, something very difficult to provide since the “nationality” entry was removed from Russian passports.^{vii}

The State should take immediate steps to ensure that fish-dependent indigenous communities have full and sustainable access to viable fishing grounds and that they are able to fully enjoy their right to feed themselves in accordance with Art 11 of the CDESCR without risking fines or prosecution. The human right of indigenous communities to feed themselves in accordance with their customs and traditions cannot, under any circumstances, be prejudiced by overly bureaucratic and inaccessible administrative procedures.

Cooperation, good faith consultations and free, prior and informed consent

23. During the review cycle, the State has not taken steps to ensure that third-party activities such as extractive industries operations affecting indigenous peoples, their territories and their livelihoods are subject to cooperation and good faith consultation in order to obtain the affected peoples' free, prior and informed consent.

24. The federal Land Code (Art. 31, Para 3) provides for the possibility of referenda or village gatherings (*skhody*) on the part of affected communities in cases of expropriation of territories for various purposes, including construction. However merely stipulates this possibility, without actually obliging the authorities to inform affected communities of impending expropriation and to actually organize such referenda or gatherings. It therefore falls short of complying with the right to Free, Prior and Informed Consent, as stipulated by the UN Declaration on the Rights of Indigenous Peoples.

25. While public hearings are a mandatory element of environmental impact assessment procedures, these hearings are often poorly publicised, held in places inaccessible to the indigenous communities affected and held in such a way that the information provided is incomplete and objections are not duly registered.

The state should take immediate measures to ensure that consultations held in connection with extractive industry and other third-party operations are substantive, fair, transparent and accessible, in line with CERD's recommendation 24 of 2008 and the principles enshrined in the UN Declaration on the Rights of Indigenous Peoples. Indigenous communities should be provided the support necessary to ensure that they are able to participate fully and effectively. The state should create a regulatory framework providing legally binding mechanisms regulating relations between businesses and indigenous peoples, based on the concept of Free, Prior and Informed Consent as enshrined in the DRIP.

Lack of adequate compensation for damage to livelihood

26. During the review cycle, no sufficient action has been taken to ensure that damage to indigenous peoples' territories and livelihoods caused by third-party activities is adequately compensated for. In 2009, the federal Ministry of Regional Development did approve a "methodology for the assessment of the amount of damage caused to associations of indigenous peoples by economic and other activity"^{viii}. However, its application by companies is entirely voluntary. It has had a very limited impact, as those corporations who used it typically were already bound to carry out social impact assessments by the rules of international financial institutions or their home governments.

27. Norilsk Nickel is one of Russia's largest industrial conglomerates and at the same time one of the country's largest polluters. During 80 years of its existence, the company's operations have had a devastating effect on the traditional territories of the Nenets, Enets and Dolgan indigenous peoples, many of whom engage in nomadic reindeer herding. Vast stretches of reindeer pasture as well as many sacred sites were irretrievably destroyed. However, Norilsk Nickel's contribution to the socio-economic development of the indigenous population is virtually non-existent. While federal legislation stipulates, that indigenous peoples' associations are entitled to compensation for damage inflicted on their traditional territories^{ix}, there has not been even a single instance of compensatory payments by Norilsk Nickel to any indigenous peoples' association.^x

The State should make application of the approved methodology for assessing and identifying damages inflicted on indigenous communities by third parties such as extractive industries a binding requirement for the approval of any projects that are potentially damaging to the livelihood of indigenous communities and ensure that compensation is adequate and in keeping with the principles set out in the UN Declaration on the Rights of Indigenous Peoples. For the sake of sustainability, the State should enable the negotiation of proper benefit-sharing agreements between corporations and indigenous communities.

Political representation of indigenous peoples

28. During the review cycle, no progress has been made with regard to implementing the recommendation to ensure representation of indigenous peoples in legislative bodies, the executive branch or public service (CERD/C/RUS/CO/19 Para 20). The State Party has developed neither policies nor programmes aimed at implementing said recommendation. The Committee of the Federation Council on Northern Affairs and Affairs of Indigenous Small-numbered Peoples, the only federal legislative body specializing in indigenous affairs, was dissolved in November 2011. In several regions, specialized government bodies were also dissolved and their responsibilities transferred to other bodies who reportedly fail to adequately carry out these tasks.

29. RAIPON, the national umbrella organisation of indigenous peoples is subject to increasing pressure from the Federal Government. Currently, the Ministry of Justice is pursuing in court the cancellation of RAIPON's status as an All-Russian NGO, in clear violation of the indigenous peoples' right to self-identification and self-governance.

30. On the positive side, three regions (Khabarovsk, Kamchatka and Krasnoyarsk) have appointed Ombudsmen on the rights of indigenous small-numbered peoples. Furthermore, two indigenous individuals were elected to the State Duma in the 2011 elections, although this is of course unrelated to any policy measures taken by the State.

31. With the handover to a new governor in Khanty-Mansi autonomous okrug (district), the Department of Indigenous Affairs was dissolved and its responsibilities transferred to the Office of the Vice-Governor. Indigenous peoples' appeals to the regional government to reverse this decision have not been heeded.^{xi} In Taimyr district, the position of the Vice Chief of Administration on Indigenous Affairs was dissolved but later reinstated due to public pressure.^{xii} Similar developments

are reported i.a. from Amurskaya and Irkutsk oblasts (areas).

The State Party should adopt measures to ensure that indigenous peoples are duly represented at all levels of government and administration, as recommended by CERD in its 2008 concluding observations.

Provide disaggregated data on socio-economic conditions of indigenous peoples

32. In 2008, CERD asked the Russian Federation to provide data disaggregated by ethnicity with regard to I.a. the rights to work, housing, health, social security and education (CERD/C/RUS/CO/19, para 10). The action plan for implementing the Concept paper on the sustainable development of the indigenous small-numbered peoples of the North for 2009-2011 stipulates that a system of indicators measuring life quality of indigenous small-numbered peoples should be developed and incorporated into the state statistics system; however, while the Ministry of Regional Development commissioned a study for the development of such indicators, they have not been applied in practice. In its report published in late 2011, the Federal Accounts Chamber (*schetnaya palata*) identifies this failure as one of the causes of the limited effect that the socio-economic measures taken by the Ministry of Regional Development to support indigenous peoples are having.^{xiii}

33. In a written reply dated 29 December 2011 to an inquiry from RAIPON, the Ministry for Regional Development declared that, because Art. 29 of the Russian Constitution stipulates that ethnic affiliation is determined through self-identification, no ethnic statistics are kept. Therefore, no official data is available on the status of health, employment, income or education of indigenous peoples. This also means that the effectiveness and adequacy of any state policy measures aimed at improving the socio-economic situation of indigenous peoples cannot be objectively assessed and nor can adjustments to those measures made.

The state should comply with CERD's recommendation in CERD/C/RUS/CO/19, para 10 to compile and provide detailed data regarding the socio-economic status of the country's population, disaggregated by ethnicity, in order to ensure that the effectiveness and adequacy of its measures can be objectively verified and these, if necessary, adjusted.

34. Data which, nevertheless, is available suggests that, during the review cycle, the indigenous peoples of the Russian North have remained one of the most disadvantaged population groups within the state and that their level of well-being remains significantly below the national average. According to the Federal Accounts Chamber, unemployment among indigenous peoples is 1.5-2 times above the Russian average, with 24.5% unemployment among indigenous peoples of Yamal-Nenets okrug and 47.8% among the indigenous population of Amur oblast.^{xiv} Incomes of indigenous peoples are 2-3 times lower than the Russian national average. According to reports, in Khabarovsk krai just 16% of the indigenous population of working age are in regular employment.^{xv} In May 2011, 93 indigenous people from Taimyr published an open letter noting that the regional administration was pursuing a discriminatory policy that was preventing indigenous people from obtaining employment. Of approximately 6,000 indigenous people of working age, 1,500 were in regular employment, some 2,000 were maintaining traditional nomadic or semi-nomadic ways of life, and the remaining 2,500 were virtually excluded from the labour market.^{xvi} In the Evenk district of Krasnoyarsk krai (territory), 43% of pensioners are living below the poverty line. Between 2009 and 2011, the number of inhabitants with incomes below the poverty line almost quadrupled from 1283 to 4668.^{xvii}

35. Indigenous peoples' demographic trends are marked by extremely high mortality rates among adults. While almost three quarters of men and over 80% of women among the Inuit natives of Greenland live beyond 60 years, just over one third of indigenous men (37.8%) and less than two thirds of indigenous women (62.2%) in Russia reach this age. The national average is 54% for men

and 83% for women. Thirty-six percent of northern indigenous peoples die prematurely from unnatural causes, which is more than double the national average of 15%. Between 1998 and 2002, the incidence of suicides among northern indigenous peoples totalled over 100 per 100,000, more than double the national average of 38 per 100,000. In Koryak district, this figure has been established as 133.6 per 100,000. This state of affairs has been labelled a demographic crisis by Russian demographers.^{xviii}

36. Infectious diseases such as tuberculosis, a typical indicator of extreme poverty, cause 60 deaths per 100,000, which is almost three times the national average of 23 per 100,000.^{xix} Furthermore, maternal deaths and child mortality are significantly above the national average. The Indigenous Rights Ombudsman of Krasnoyarsk krai links this state of affairs to the low quality of public health services in indigenous settlements as well as to a lack of clean drinking water and adequate food as well as insufficient housing, such that those suffering from open forms of tuberculosis cannot be separated from other family members, including children.^{xx}

37. The poor state of health care in remote villages is exemplified by the death of a girl from Chumikan village who died of tuberculosis in a hospital in Khabarovsk in April 2012. Her parents had taken her to the polyclinic in her native village as early as November 2011, where she was diagnosed with TB. However, no adequate treatment was available locally and she was not transported to the regional centre of Khabarovsk until February, by which time doctors were unable to save her life.^{xxi} As reported by the Khabarovsk association of indigenous peoples, mortality in the Tuguro-Chumikanski district exceeds the birth rate several times over. Doctors are working only in the district centre of Chumikan and will not risk the journey to other settlements.^{xxii}

38. Alcoholism constitutes a major component of the indigenous peoples' acute demographic crisis. The Federal Assembly's Committee on Northern and Indigenous Affairs has established that, over the course of the last ten years, alcoholism has increased by 20 times, mostly due to increased alcohol consumption among women and children. This increase is attributed to an uncontrolled flow of alcohol into the regions inhabited by indigenous peoples and to the lack of opportunities, as indigenous peoples have neither sufficient rights to land and resources to pursue their traditional occupations nor do they have access to the regular labour market.^{xxiii}

In order to protect and implement the right of indigenous peoples to the highest attainable standard of health, the State should take measures towards eliminating discrimination against indigenous peoples in the labour market, ensure that wages and pensions of indigenous peoples are above the subsistence minimum, support indigenous peoples' initiatives aimed at combating alcohol and tobacco abuse and, if necessary, initiate them, in close cooperation with indigenous peoples' organisations. The State should ensure that all indigenous peoples, including inhabitants of remote settlements and groups leading a nomadic or semi-nomadic way of life, have access to free healthcare of sufficient quality, including annual health check-ups.

Comply with the principles contained in the Declaration on the Rights of Indigenous Peoples (Mexico)^{xxiv}

39. As demonstrated above, during the review cycle, the state has failed to comply with the very core principles of the UNDRIP, including the principle of Free, Prior and Informed Consent, the right of indigenous peoples to freely dispose of their resources, their right to cultural identity and to adequate compensation. In addition, recent policy measures constitute a serious threat to indigenous peoples' ability to represent their interest in the public sphere.

Access to International financial & technical assistance (UNDRIP, Art. 9)

40. In July 2012, the State Duma adopted legislation designating non-profit organisations

accepting foreign funding and engaging in activities falling under a very broad definition of “political” as “foreign agents”. Protecting and promoting indigenous peoples' rights will very likely fall under this definition, and indigenous peoples' organisations will therefore be forced to either register as “foreign agents” and comply with a multitude of additional reporting obligations or decline further funding from international sources. Failure to comply is punishable with fines of up to one million roubles and prison terms of up to three years. Furthermore, the designation as “foreign agents” is likely to stigmatize indigenous peoples' organisations and thus jeopardize partnerships with regional authorities and other partners. This legislation enters into force on 1 November 2012, in clear violation of a principle enshrined in Art. 9 of the UN Declaration on the Rights of Indigenous Peoples, according to which indigenous peoples have the right “to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.”

The State should revoke legislation designating non-profit organisations, including indigenous peoples' organisations that accept foreign funding, as “foreign agents” in order to ensure that indigenous peoples can freely enjoy their right to to access financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in UN Declaration on the Rights of Indigenous Peoples. If the stated law is not revoked, a clear exception should be made for indigenous peoples' organisations in order to comply with this provision of the UNDRIP.

Indigenous children

41. Indigenous children are an especially vulnerable subgroup within the indigenous peoples of the North, and towards whom Russia as a State Party to the CRC bears particular responsibility with regard to respecting, protecting and realising their human rights. As the Committee on the Rights of the Child notes in its General Comment regarding indigenous children, states should take special measures to ensure that “indigenous children enjoy their right to education on an equal footing with non-indigenous children” and “that school facilities are easily accessible where indigenous children live” (CRC/C/GC/11, para 61). However, during the review cycle, the State has continued a policy of school closures in indigenous settlements, forcing parents to send their children to distant boarding schools, threatening family bonds, intergenerational transfers of culture, knowledge, language and skills. Such schools are, for the most part, poorly attuned to indigenous children's cultural needs. According to Russia's 4-5th periodic report to CRC, 567 schools in indigenous territories were closed between 2003 and 2009 (CRC/C/RUS/4-5, para 296), a trend which, according to the information available, is still continuing. Indigenous communities have attempted to compensate for the closures by establishing their own small ungraded schools; however, many of these schools are unable to cover their expenses and inevitably close down again.

The State should take immediate and effective measures to safeguard the Best Interest of the Child, as defined by the CRC's General Comment on indigenous children. In particular, it should take special measures to ensure that indigenous children can fully enjoy their right to education. Closures of village schools in indigenous settlements should be halted and reversed, and special measures taken to ensure that indigenous children in remote areas, including nomadic and semi-nomadic, communities can enjoy at a minimum primary education without being separated from their families and communities. The State should also support community-supported small ungraded schools in order to ensure their continued operation.

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- ii Accepted recommendation by Mexico and Denmark to Russia UPR 4th session, UN Doc A/HRC/11/19 at para: 85.56;
- iii See: *Plan meropriyatii po realizacii v 2009-2011 godakh koncepcii ustoychivogo razvitiya korennykh malochislennykh narodov Severa, Sibiri i Dal'nego Vostoka Rossijskoj Federacii* (utv. rasporjazheniem Pravitel'stva RF ot 28 avgusta 2009 g. N 1245-r) http://raipon.info/Documenty/zakony/Plan_kocept.rtf
- iv cf. *Khronologiya sudebnogo dela - Osnovaniya dlya obrashheniya v Evropejskiy sud - Otvet Evropejskogo suda* <http://rodnikcenter.ru/ru/Evrosud.shtml>
- v See: *Plan meropriyatii*, ibd.
- vi Informatsionnaya rassylka «Lach» # 5 (409), 02 February 2011
- vii Published on fishkamchatka.ru, 7 August 2012
- viii Cf. *Ob utverzhdenii metodiki ischisleniya razmera ubytkov, prichinennykh ob"edineniyam korennykh malochislennykh narodov Severa, Sibiri i Dal'nego Vostoka Rossijskoj Federacii* <http://archive.minregion.ru/WorkItems/DocItem.aspx?DocID=1098&PageID=147>
- ix Federal Law "On Guarantees of the Rights of indigenous small-numbered peoples of the North, Siberia and the Far East", No 82-FZ, 30 April 1999, Para 5
- x Letter by the Taimyr association of indigenous peoples to Norilsk Nickel, dated 31 August 2012, see also "Noril'skiy nikel" sobiraetsya zalozhit' novyj rudnik, Associaciya korennykh narodov Tajmyra protestuet, 4 September 2012, <http://www.raipon.info/component/content/article/1-novosti/3352-q-q-----html>
- xi See: Vlasti HMAO ne podderzhivajut narody Severa imet' nacional'nogo ombudsmena <http://www.raipon.info/component/content/article/1-novosti/3336-2012-08-28-05-56-30.html>
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- xiii Federal Accounts Chamber of the Russian Federation: Otchet o rezultatakh kontrolnogo meropriyatiya «Proverka ispolzovaniia budzhetnykh sredstv, napravlennykh na podderzhku ekonomicheskogo i sotsialnogo razvitiya korennykh malochislennykh narodov Severa, Sibiri i Dal'nego Vostoka Rossijskoj Federatsii za 2009-2010 gody», pp 82-83 http://www.ach.gov.ru/userfiles/bulletins/2012-07-05-buletен_doc_files-fl-2246.pdf
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- xviii United Nations in the Russian Federation : *Climate Change Impact on Public Health in the Russian Arctic*. Moscow, 2008, <http://www.unrussia.ru/sites/default/files/doc/Arctic-eng.pdf>, pp. 12-14
- xix Climate Change Impact on Public Health, ibd.
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- xxi <http://amurmedia.ru/news/khabkrai/22.05.2012/207067/habarovskaya-shkolnitsa-skonchalas-ot-otkrytoi-formi-tuberkuleza.html>
- xxii <http://www.raipon.info/component/content/article/1-novosti/3089-2012-05-25-14-09-05.html>
- xxiii Cf. "Ratifikatsiya konventsii 169 – nazrevshaya neobkhodimost" <http://severcom.ru/analytics/item11-3.html>
- xxiv Mexican recommendation accepted by Russia, UPR 4th session, UN Doc A/HRC/11/19 at para: 85.56;