

RECOGNITION AND SUPPORT OF ICCAs IN RUSSIA

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Case study for:
RECOGNISING AND SUPPORTING
TERRITORIES AND AREAS CONSERVED BY INDIGENOUS PEOPLES
AND LOCAL COMMUNITIES
Global Overview and National Case Studies

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List of acronyms

CBD	Convention on Biological Diversity
EIA	Environmental Impact Assessment
EPNT	Especially Protected Natural Territories
ICCA	Indigenous Peoples' and Local Community Conserved Territories and Areas
KMAO	Khanty-Mansi Autonomous Okrug (territory)
RAIPON	Russian Association of Indigenous Peoples of the North, Siberia and Far East
TTUN	Territories of Traditional Use of Nature

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Summary

The Russian Federation, located in the Eastern Europe and Northern Asia, is the world's largest country in terms of area. The current system of 'Especially Protected Natural Territories' (EPNT) – areas protected by the State – has been established for about 100 years (since 1916) and is now composed of over 13,000 sites, covering about 11% of the Russian territory. The legislation provides a legal base for EPNT activities. The term 'indigenous peoples' in Russia only applies to peoples with a limited population (up to 50,000). Only 45 peoples in Russia are recognized as indigenous under the official list of indigenous peoples, and 40 of them live in the North, Siberia and the Far East, spreading over the territories of 28 provinces of the Russian Federation. Other five are located in central and southern parts of European Russia.

The term 'ICCA' (Indigenous Peoples' and Local Community Conserved Territories and Areas) is never used in Russia. Instead the term 'Territories of Traditional Use of Nature' (TTUN) is widely used in this country. The Russian Federation appears to have the only law within the entire Arctic that could protect ICCAs/TTUNs *de jure* (Ferguson & Viventsova 2007): the Federal Law On Territories of Traditional Use of Nature of Indigenous Peoples of the North, Siberia and the Russian Far East was adopted in 2001, and its Article 4 expressly states that one of the goals of TTUN creation is "*conservation of biological diversity in the territories of traditional nature use*". Yet, there is no TTUN at the *federal* level in Russia so far (Yakel 2010). The majority of officially registered TTUNs in Russia are situated in Khanty Mansy Autonomous *Okrug* ('territory'), which comprises 475 TTUNs and includes about 4000 communities. This figure is constantly changing (Anonymous 2011). TTUNs range from a few hectares to hundreds of thousands of hectares, but there is no database with precise figures available.

Unfortunately, at the *regional* level, TTUNs have received little attention in the legislation. Lands allocated to indigenous peoples were considered primarily as lands for traditional economic activities, not for nature conservation. Accordingly, *provincial* acts that exist in several regions of Russia often did not have regulations aimed at protecting the biological diversity of these areas with the participation of indigenous peoples or those rules were not sufficient. This approach gave negative results. Many so-called ancestral lands were left for industrial development of natural resources in various ways.

If adequately implemented, TTUNs would have the capacity to legally protect most *de facto* ICCAs in Russia. Indeed, according to the federal law, their purposes are:

- Protection of the traditional environment and livelihood of indigenous peoples;
- Protection and development of traditional culture; and
- Protection of traditional ways of using natural resources and biodiversity.

The sizes and borders of TTUNs must be sufficient:

- To support reproduction and protection of the biodiversity of plants and animals;
- For local/indigenous people to utilize nature;
- To protect historically developed social and cultural relationships of indigenous peoples; and
- To protect the integrity of objects of historical, cultural inheritance.

The borders must be determined by federal, regional and local organizations.

The federal law gives a clear role to the indigenous members and organizations of the local communities in establishing laws or regulations for each TTUN. Although the laws

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governing the use of resources within a TTUN must be in agreement with the laws of the Federation and regional governments, the regulations of the TTUNs are to be based on the traditions of the local indigenous communities. The clauses on the legal regime governing TTUNs seem to allow for either community management of resources or co-management with regional governments, depending on agreements that may be reached with those governments. Other residents, businesses and organizations may also use a TTUN as long as that use is permitted by regulations of the TTUN. Ownership of the lands and waters within TTUNs is not given to the indigenous peoples; nevertheless, the use of resources within the TTUNs is given freely to members of the concerned indigenous people.

Over the past decade, it has become clear that TTUNs were created reluctantly, because this process encountered a lot of difficulties. The main problems concern the growing economic crisis, the suspension of subsidies, and the unprofitability of traditional economy. Many indigenous people drop the traditional nature uses and move to towns and other settlements in order to get a job as a maintenance worker and to earn any salary. Many indigenous people used to work in reindeer state farms for a low salary. Nowadays, the majority of indigenous people do not have enough resources, in many places up to 60-70% of the population is unemployed. The impoverishment of indigenous peoples is connected not so much with the 'economic crisis', but with the fact that over the last 10 years indigenous peoples were deprived of the access to the traditional natural resources in the places of their traditional settlements and land use. This happened due to the government selling these resources to the commercial structures. Therefore, the unwillingness of the government to establish TTUNs is linked with the fact that the status of TTUNs – established according to claims by indigenous peoples – would have prevented the unlimited sales of licenses on the use of land, forest and marine resources on those territories.

In the legislation of the Russian Federation, the role of indigenous peoples in the conservation has not yet found sufficient reflection. The role of indigenous peoples with the executive government authorities and environmental agencies is poorly understood. In this context, a set of measures is required to improve the legislation of the Russian Federation, to prepare a public education program for TTUNs, and to attract indigenous peoples to participate in the practical solution for conservation and sustainable development. TTUNs should be included in the Federal Law On Specially Protected Natural Areas. The Federal Law On Ecological Expertise (EIA) should make additions related to the necessity of ethnological expertise in areas inhabited by indigenous minorities. In the Regulations on Environmental Impact Assessment of Planned Economic Activities on the Environment in the Russian Federation it is necessary to make additions or special provisions on impact assessment of planned economic activities in the original environment and traditional lifestyles of indigenous peoples. It should also develop a system of government measures to prevent or significantly restrict the use of land in the territories of traditional use of nature for mining. The review of previous claims by indigenous communities on the creation of TTUNs demonstrate their understanding of conservation goals of biodiversity and cooperation in the field of nature protection in their territories of traditional residence and economic activity.

1. Country description and context

1.1. Key features of Russia

The Russian Federation, located in the Eastern Europe and Northern Asia, is the world's largest country (1,709,761,000 ha). Russia can be divided in broad geographic regions, from east to west: the European plain, the Ural Mountains, the mountain systems and ranges along much of Russia's southern border and the lowlands and uplands of Siberia, including the West Siberian Plain, the Central Siberian Plateau, and the mountain ranges of north-eastern Siberia and the Russian Far East. Russia has many rivers, the longest of which – the Lena River – lies in Siberia and is 4,400 km long. The Lena, like the Ob and Yenisey rivers, empties into the Arctic Ocean. The Volga River – the longest river in European Russia – originates north-west of Moscow and flows 3,531 km to the Caspian Sea.

Russia is a federation that consists of 83 federal ‘subjects’ (members of the Federation): 21 republics, 9 *krais*, 46 *oblasts*, 2 federal cities, 1 autonomous *oblast*, and 4 autonomous *okrugs*. These federal subjects are of equal federal rights: they have equal representation in the Federal Council. They do, however, differ in the degree of autonomy they enjoy. Autonomous *okrugs* are the only ones that have a peculiar status of being federal subjects in their own right, yet at the same time they are considered to be administrative divisions of other federal subjects. The modern administrative-territorial structures of the federal subjects vary significantly from one federal subject to another, however, the following types of high-level administrative divisions are recognized: *raions* (administrative districts); cities/towns and urban-type settlements of federal subject significance; closed administrative-territorial formations. Autonomous *okrugs* are intermediary units of administrative divisions, which include some of the federal subject's *raions* and cities/towns/urban-type settlements of the federal subject significance. Autonomous *okrugs*, while being under the jurisdiction of another federal subject, are still constitutionally recognized as federal subjects on their own right. Typical lower-level administrative divisions include: *selsoviets* (rural councils); towns and urban-type settlements of the administrative district significance; city districts. To facilitate governing, all of the federal subjects are grouped into eight federal *okrugs*, each administered by an envoy appointed by the President of Russia (Wikipedia).

Two-thirds of the forests are available for wood supply, most of the remainder being not available for economic reasons due to lack of accessibility. The Russian Federation is one of the largest producers and exporters of industrial round wood in the world. The country also exports significant volumes of sawn wood, plywood, pulp and paper. Total forest product exports valued almost US\$3.9 billion in 2001 (Anonymous 2002). The Russian forest industry is almost completely privatized, while the forests remain state-owned. Hunting and the collection of a wide range of non-timber forest products are very important for local populations. The Russian forests are an invaluable source of wild fruits and berries, nuts and mushrooms, medicinal plants and herbs, honey, fodder and forage, resins, oils and game meats that support subsistence of indigenous peoples and local communities (FAO official website).

The Russian Federation accounts for more than one-fifth of the world's total area of forests (851 million ha). Many of them are inhabited by indigenous people, with a very small density. The major tree species that make up the forests in the Russian Federation are larch, pine, Siberian pine, spruce, oak, beech, birch and aspen. A large part consists of the northern

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boreal forest, with mixed and broad-leaved forest to the south. Coniferous species make up 80% of the volume of growing stock, with larch being the predominant species over much of Siberia; other important species are Norway spruce and Scots pine to the west, and other species of spruces, pines and firs in Siberia. Within the coniferous group, the greatest area of land and growing supply belongs to the larch predominant stands of Siberia and the Far East (more than half of the total area of the coniferous group). Pine trees occupy 23% and spruce trees - 15% of the area. The above species constitute some 90% of all the forested area of the Russian Federation. All of the forests forming species are clustered into three groups: the coniferous group (79%), deciduous group (19%), and hardwoods (2%). Taken as a whole, these areas, which are covered by these major tree species, have remained quite stable during the last decades. The decrease in forest area for Oak stands in the European part of Russia is the only exception. The decrease was caused by unsatisfactory pathological conditions resulting from natural processes and also by anthropogenic factors (Anonymous 2003).



Pine forest and Siberian taiga
© Andrey Laletin

More than half of all the forests in the Russian Federation are growing on the permafrost soils of Siberia and the Far East, which is a fact that contributes to the rather low productivity of timber-producing areas of the forests. Only 55% of the total forested area of the Russian Federation is considered to be potentially accessible ecologically or economically. A major part of these forests are located in the North European region and along the Trans-Siberian railway. These are areas that already were intensively logged during the past decades. According to the 2001 state Forest Fund account, the growing stock of major tree species, which make up the forests in the Russian Federation, is 74.5 billion m³, including 41.5 billion m³ of so called ‘mature’ and ‘over mature’ tree stands with an average growing reserve of some 137 m³ per hectare. The annual mean volume increment for the total forested area of the entire Russian Federation is estimated to be 871.45 million m³ (1.34 m³ per hectare) (Anonymous 2003).

In Russia, the term ‘indigenous peoples’ applies only to peoples with a limited population (up to 50,000). Only 45 peoples in Russia are recognized as indigenous under the official list of indigenous peoples, and 40 of them live in the North, Siberia and the Far East, spreading over the territories of 28 provinces of the Russian Federation. Other five are located in central and southern parts of European Russia. Many representatives of the indigenous peoples have already lost the close link with their traditional culture. The traditional cultures have been under such pressure for many years – especially in the Soviet Union – that they underwent

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significant transformations (Bocharnikov 2011a). The map of ethnic groups (including indigenous ones) distribution in Russia is shown in the Figure 1.

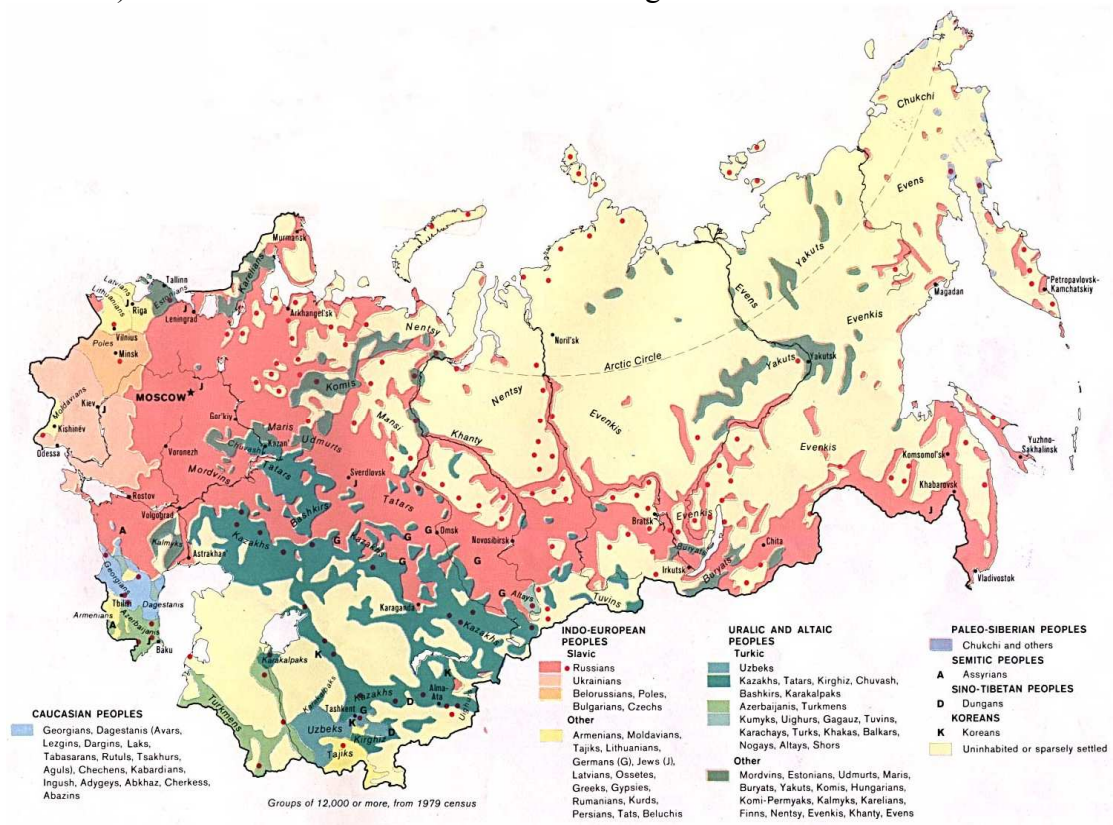


Figure 1: Distribution of ethnic groups in Russia
(Source: www.freelang.net/families/maps/russia-ethnic-plurality-82.png)

1.2. Brief history of conservation, state- and community-based

Already in the earliest stages of Russian territory development, the various tribes inhabiting it paid attention to water sources with high-purity or healing water, wood patriarchs, areas of concentration of useful plants and animals. Understanding and knowing their value, they were caring for them and declaring them sacred (indigenous peoples do the same today, but such sacred sites are not recognized officially as protected areas). Later there was another form of protection: a ban on hunting and the use of vegetation in the graves of their ancestors.

The Middle Ages gave rise to three new forms of protected areas. The first was the feudal landlords' organization closed hunting grounds. Princess Olga chronicles mention the presence of such territories in the Kiev principality. The second was estates of monasteries, where collecting plants and hunting animals were banned in many cases. The third was the border of the forests.

In 1638, a royal decree established that no one had the right to attend forests under threat of death. Peter the Great then adopted a decree on the establishment of 'protected areas' and declared 'protected trees', which violation was also punishable by death. Russian tzars established protected areas for logging of forests within 55 km distance from the shores of large rivers and 16.5 km for the small rivers. Catherine the Second issued a fifth of all factory

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forest ditches and digged around to create ‘custom-made trees’ to save the best trees for shipbuilding.

The concept of nature protection throughout the 19th century was mainly focussed on the protection of forests, which created favourable conditions for wildlife. The decree of the Russian Senate on November 10, 1832 allocated as emergency supply of forest state the best reserved groves. The idea of nature protection became widespread. With private funds, in 1882 the first local nature reserve was created in Kamchatka peninsula in the Far East.

A strict nature reserve is called in Russia *zapovednik*. The first national *zapovednik* (Barguzinsky) was created in 1916 near lake Baikal in Siberia by the Decree of the last Russian tzar Nikolai the Second, as an attempt to save Siberian sables. Then, Soviet government created 99 more *zapovedniks* and 35 national parks. There were no community based protected areas in the Soviet Union.

The Russian National Biodiversity Conservation Strategy (for 2002-2017) and Action Plan (for 2002-2007) were completed in 2001 and started to be implemented in 2002. They include the following actions:

- Development of the system of protected areas in the Russian Federation (RF);
- Development of the system of protected areas in the borders of the RF;
- Generation of the integral system of biodiversity conservation management;
- Improvement of the legislative base;
- Improvement of Russian international activities in the biodiversity conservation;
- Development of ideas of the openness of biodiversity status information, and provision of equal access to biological resources;
- Creation of the informational space for biodiversity conservation management;
- Improvement of biodiversity conservation economic and financial mechanisms.

According to CBD’s official website, the current system of Especially Protected Natural Territories (EPNT) in Russia – areas protected by the State –, has been expanding for 100 years (since 1916) and is now composed of over 13,000 sites, covering about 11% of the Russian territory. There is a legislative base to establish EPNT in Russia. The Russian Federation Government has laid down provisions for creating reserves and national parks in its Special Order N 725-r dated 23/05/2001. A number of constituent entities of the Russian Federation are expanding regional systems of EPNT. The Russian Federation system of EPNT is effective enough to perform global ecosystem functions (CBD official website).

2. Features of ICCAs

2.1. Range, diversity, and extent of ICCAs

The term ICCAs (Indigenous Peoples’ and Local Community Conserved Territories and Areas) is never used in Russia. Instead the term ‘Territories of Traditional Use of Nature’ (TTUNs) is widespread. As a synonym to the term ‘TTUN’, some authors (Ferguson & Viventsova 2007) use the term ‘CCA’ that means ‘areas conserved by local communities’ (both indigenous or non indigenous).

Distribution of indigenous peoples in Northern and Eastern Russia is shown in Figure 2.
□The indigenous peoples of the North currently amount to about 300,000 people. These

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people are dispersed and compact groups live in vast areas of the historical settlement of their ancestors, constituting as much as 50% of the territory of the Russian Federation.

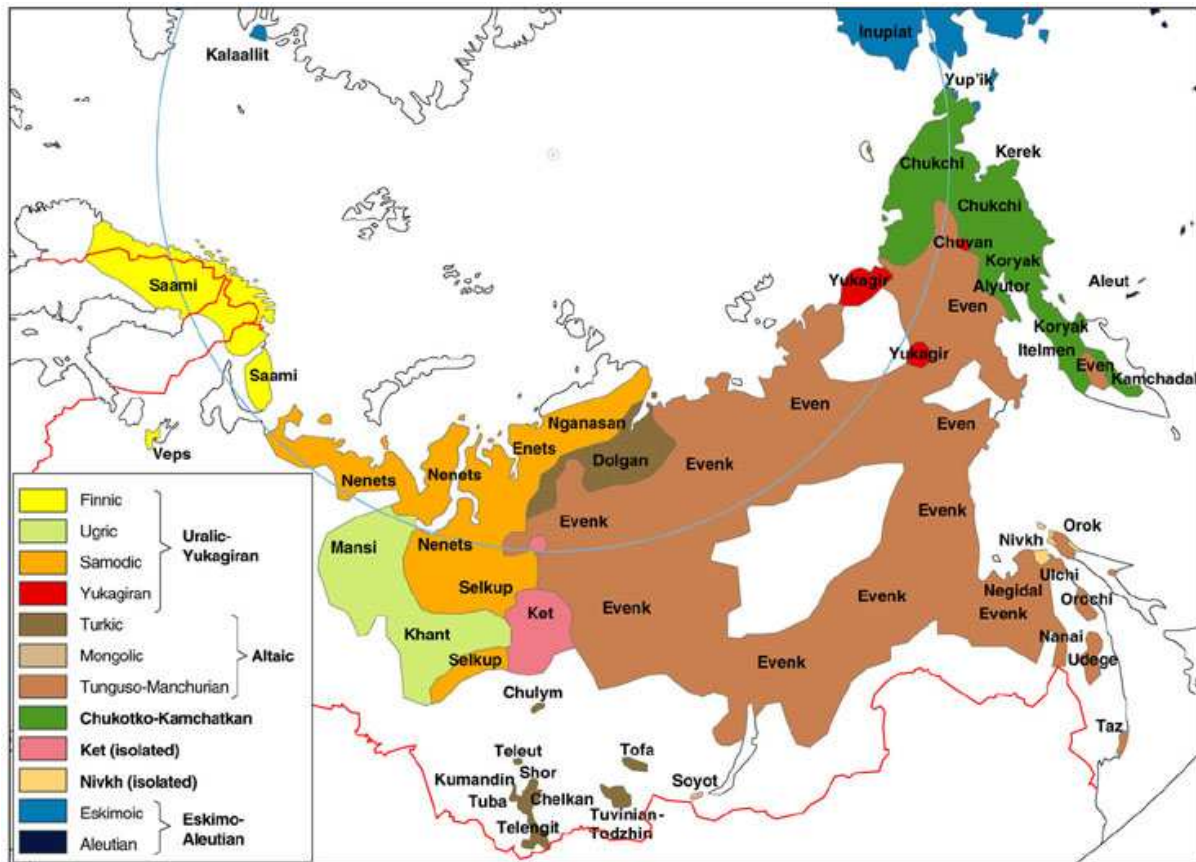


Figure 2: Distribution of indigenous peoples in Northern and Eastern Russia
(Source: <http://ansipra.npolar.no>)

The majority of registered TTUNs in Russia are situated in Khanty Mansy Autonomous Okrug, comprising 475 TTUNs and about 4000 communities; although this figure is constantly changing (Anonymous 2011). TTUNs range from a few hectares to hundreds of thousands of hectares, but there is no database with precise figures available.

TTUNs host historical uses of natural resources and economic activities of indigenous peoples and ethnic communities of the North, which are characterized by:

- Reindeer and other northern forms of rearing local and aboriginal breeds of domestic animals;
- Fishing, sea mammal hunting, meat hunting and trapping;
- Gardening and gathering wild plants;
- Areas of biological resources, populations of domesticated animals;
- A system of seasonal and spatial distribution of stationary and fishing villages, camps, routes, migrations;
- Methods of economic development in different parts of the territory and climatic zones;
- A traditional system of government and economic organization, providing long-term use of renewable natural resources and transfer of environmentally and ethnically sensitive information (traditional economic calendar, methods of fishing, gathering and processing of products, skills in the manufacture of tools and household items,

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commercial prohibitions, knowledge of edible and medicinal plants, home crafts, child rearing). □□

Traditional lifestyles of the indigenous peoples of the North can be subdivided into two main – existing for thousands of years – models of life support: a) fishermen, hunters, collectors; and b) nomadic herders. □Between these two seemingly polar patterns – settled and nomadic – there are a lot of in-betweens:

- Reindeer herders have thousands of deers and make secular migrations from south to north and back. These include the following groups: Nenets, Nganasan, Dolgan, Chukchi, and Koryak. For them, the deer is everything: food, transportation, clothing and housing.
- Reindeer herders with only 50-100 deers, which are used mostly as a mean of transport.



Traditional way of transportation of Khanty people

© Eugeny Bakharev (<http://foto.mail.ru/bk/ctdth/Yugra/335.html#336>)

- Forest dwellers: Evenki, Forest Nenets, Enets, Evens, Orok, and Orochi, whose main source of food is hunting and fishing. □□
- Peoples whose main subsistence activity is fishing, specifically found in the Pacific Basin. Called ‘salmon civilizations’ by western scholars, they live near rivers and climb them up following the fishes’ migration. These are Itelmen, Koryak, Nivkh, Ulchi, Nanai, and others. They are engaged in fishing mainly in the summer and fall. In winter they hunt with dog sledding. □Eskimos and Aleuts are sea hunters, mainly engaged in hunting sea mammals. But there are representatives in Chukotka Inuit who have switched to reindeer husbandry.

2.2. Key ecological, cultural, socio-economic and political values of ICCAs

TTUNs have special natural, historical and cultural value, due to the fact that the populations inhabiting these territories have had a historically long-term ecologically-balanced way of development of the environment. These sites are particularly valuable for all mankind as the last refuges of specific forms of human culture, the preservation of which is essential to maintain the diversity of forms and ways of human development over various natural niches.

However, it should be noted that traditional practices – which have limited the impact on the environment in the past and have been based on the unity of economic and cultural life of

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indigenous peoples – nowadays have eased or even disappeared in many places (Tishkov 2003).

Nevertheless, in recent years, indigenous peoples of Russia have been trying to restore their traditional livelihoods through legal efforts, including by claiming TTUNs. Nature protection legislation of the Russian Federation enacted since the mid-1990s takes into account the rights of indigenous communities to use nature resources in ways that are sustainable and consistent with their traditional livelihood practices. The Russian Federation’s Federal Law #49 of May 7, 2001 – ‘On Territories of Traditional Nature Resource Use of the Indigenous Peoples of the North, Siberia, and the Far East of the Russian Federation’ – includes specific provisions (in Article 15) on environmental protection within the TTUNs. According to these provisions, environmental protection is to be ensured by executive authorities of the Russian Federation, executive authorities of the regions of the Russian Federation, local governments, indigenous people and communities. According to this law, TTUNs are designated so as to ensure environmental protection and to support indigenous livelihoods, religion, and culture. The legal norms for these TTUNs are related to the various natural resource uses (such as reindeer breeding, hunting, fishing, and non-traditional forest product collection) within different landscapes of each territory, and they recognize the concept of sustainable resource use for indigenous peoples in complex natural ecosystems (Bocharnikov et al. 2011).

2.3. Main threats to ICCAs

Unfortunately, the experience of the last decade has shown that the creation of TTUNs – and the use and protection of natural resources in these areas – has often been underestimated at the regional level, and would require a proper awareness-raising and strategy. TTUNs often overlap with existing protected areas, and at the same time they often coincide with zones rich in natural resources valued for commerce (Murashko 2010).



Logging truck
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Box 1: Industrial development and conflicts with indigenous peoples

Official issues with the establishment of TTUNs are solved differently in the various Russian regions, most of the time at the detriment of indigenous peoples.

For example, in 1992, in Amurskii and Khabarovskii regions, TTUNs were established at the community level, but the attempt to withdraw tenant rights on forest from logging enterprises and to transfer them back to Udege, Ulchi, Nanai, and Orochi indigenous peoples for preferential use failed.

In Primorskii region, TTUNs were allocated only on paper; and after the Primorskii regional election, the authority changed and the new authority decided that it was better to use these territories for profit. A joint enterprise with the South Korean corporation Hyundai was established in the Terneiskii area, and despite the negative decision made by a state expert's examination, Koreans decided to start cutting trees. Udege people came to defend their territories with weapons, and impeded South Koreans to start cuttings. But attempts to implement large-scale cuttings in this area are still not over (Bocharnikov 2011a).

Similar events are taking place in Western Siberia, where it was been decided to allocate the territories of ancestral lands in the Yamalo-Nenetskii and Khanty-Mansiiskii autonomous districts, but with the need to determine the boundaries of these lands. Indeed, these areas – in which oil and gas companies are interested – are not fully demarcated. Conflicts arose when the Khantys – knowing where oil rigs would be installed – settled with their whole nomad camp at this place, and did not allow to exploit oil; or when the digger-ship ladled out sand/gravel aggregate from the bottom of the sacred Khanty river Sob and Khantys blocked the river with their boats to impede the ship to pass; or when they protested in the district centre with the installation of tents near the offices of oil companies. Unfortunately, such struggle for the right to live in their own territory by their way of life does not always lead to success.

One other story about counter-actions to gas companies is also known in Sakhalin Island.

Another variant of the integration model is in the Sakha Yakutia province, where the concept of national statehood and the independent access to the external market for the sale of diamonds with getting large profits dominate. The Sakha province is very centralized, the president has a strong power, and profit is not distributed to the lower administrative levels; the district administration therefore not being able to successfully support people who still follow a traditional lifestyle (Bocharnikov 2011a).

The industrial development in the North – due to their low-density population and the organic connection of ethnic cultures with traditional reindeer and commercial farm – impacts indigenous people with cultural, linguistic and ethnic assimilation as well as genetic cross-breeding. But the new numerical dominance of alien population in these areas is not the only factor. Also to blame is the destruction of traditional exploitation of natural resources and lifestyles of indigenous peoples, literally throwing them out into multi-ethnic and large settlements. In the 1990s, this happened due to the fundamental change in government economic policy in the North (suspension of financing for reindeer breeding, hunting and fishing products), the reduction of biological productivity of large areas because of the industrial pollution and other forms of anthropogenic transformation of natural environment,

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and the alienation of part of lands for the development of mineral and hydrocarbon raw materials and transport infrastructure (Bocharnikov 2011a).

Land rights, land use and efficient management of natural resources remain the most important issues for indigenous peoples around the world. Construction projects, mining, deforestation and agricultural programs still lead to the expulsion of indigenous peoples from their lands.

Moreover, environmental damage to traditional lands can have serious impacts on indigenous peoples: species of flora and fauna are disappearing or are at risk, unique ecosystems are being lost, and rivers and other water reservoirs are becoming polluted. Many species of plants used for commercial purposes displace native species that have been used in the traditional farming systems. The result is an expansion of the usage of industrial farming methods.

Today, 10 of the indigenous communities who live in northern Russia are on the brink of extinction, and conditions of physical and psychological health are poor in most of Russia's indigenous communities. Russia's indigenous and local communities who continue to practice traditional natural resource management based on their traditional knowledge face a number of growing social, economic and political challenges and obstacles to sustainable development. Their general health conditions are poor, due to diseases such as alcoholism and tuberculosis, decreases in social welfare, disharmony in family relations, etc.

While indigenous peoples and many historical residents of the Arctic region have knowledge, skills and traditions of sustainable natural resource management, these are not properly recognized by the State. Yet, the preservation of culture and language is crucial aspect of the deeper challenge of conservation of non-industrialized awareness, traditional lifestyles and social structures. Many indigenous people live in traditional houses and the loss of lands in which they have been living since the time of their ancestors is a major threat. This situation is not specific to Russia; similar problems exist in Scandinavia for the indigenous Saami people in Norway, Finland, and Sweden (as well as in Russia's Kola peninsula), who are being negatively affected by the expansion of tourism (Bocharnikov 2011a).

The reflexion on alternatives to animal husbandry should be decided not at the state level, but at the community level. It is important to aim at the maximum autonomy of these communities, which can be achieved mostly with planning for sustainable development. It is no coincidence that the issue of sustainable development of peoples, including indigenous small ethnic groups, is a recent focus of attention of many scientists, politicians, non-governmental organizations, and the subject of national strategies for sustainable development. For the implementation of a model of sustainable development in the Arctic region – which occupies nearly a third of Russia's territory and experiences today a rapid aggravation of social and environmental conditions threatening the very existence of several ethnic groups – it is essential to preserve the natural environment of the North. In the TTUNs, this should be done in accordance with the needs of the traditional economy (i.e. to preserve biodiversity at the level of commercial species and utilized ecosystem types). Outside TTUNs, preservation of all types of ecosystems should be done through the zoning of the North, differentiating between areas of natural protected ecosystems, areas for priority of industrial development (in the large settlements, where it is necessary to provide good conditions for normal life and work of the indigenous population), and areas for priority of traditional use of natural resources. In the latter, it is essential to provide conditions for the

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preservation of game animals and for the traditional exploitation of natural resources by indigenous peoples of the North, providing there are also acceptable living conditions. The territories of nature reserves should be granted a special and separate place outside these zones (Bocharnikov 2011a).



Traditional house of Saami people

(<http://www.mininarod.ru/wp-content/uploads/2011/07/2a9562f3f37534201b6ace9951383ffd.jpg>)

3. Governance and management of ICCAs

3.1. How are ICCAs governed and managed?

The organization of natural resources management in TTUNs in the Arctic region is collaborative management or co-management (in the sense of combining local traditional knowledge with modern knowledge). Natural resources co-management is a system of measures developed through an agreement between government agencies – with relevant authority – and representatives of various groups of biological resources users, including in this case the indigenous northern peoples. The basic idea of co-management is the integration of two approaches to resource management: ‘western’, based on public administration and scientific knowledge; and traditional, with a varied array of practices – as illustrated here after.

Interesting patterns of land use are implemented in the Buryat Republic, in the relatively densely populated Tunka valley in the Tunkinsky National Park. Here there are villages inhabited by both descendants of the Cossacks – who settled in the basin of Tunka for guard duty – and representatives of the Buryat families – who have moved from different places in the 18th century. The first group is involved in arable farming, the second - in sedentary livestock breeding, where pastures and hayfields are communal. In this place, we can see different understandings and approaches of the use and status of the land. A decent share of the household budget of many local people is occupied with collection of wild plants (pine nuts, mushrooms and berries) and medicinal plants, which are sold to Irkutsk firms specializing in the pharmaceutical business.

In the neighbouring mountain village of Zakamenka – belonging to rural areas where local people live in small villages – the descendants of the Buryat and Evenk clans implement a different type of management, where the leading role is played by livestock grazing with

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seasonal change. Until recently, the Zakamentsy (a local people) distilled cattle to summer pastures in the Tunka valley and even in neighbouring Mongolia. Evenk people tend to be more game hunters. They have their own lands, which are jealously guarded from outsiders. In good years, a decent share of the budget of Zakamensk district comes from gathering of pine nuts; but it became more and more problematic with the status of pine nut production zones, which are used with unwritten rules and divided according to territorial and family and tribal lines.

Some attempts were made to revive the herding communities in the Oka area by Soyot people, which received the status of the entire national area of Soyots in 2000. Reindeer and yak breeding play significant role in Soyot villages (Shaphayev 2006).

Indigenous hunters in the Russian Federation are well adapted to life in the forests of Siberia and the Far East, and have long depended on hunting to provide not only food, but also materials for clothes, the home, and transport. Sustainable hunting and fishing play a key role in the economy of local and indigenous communities and have contributed to the conservation of the region's unique biodiversity. The indigenous communities of the Amur River area in particular have developed sound traditions of environmental conservation, which has played a key role in their forest related resource use and livelihoods. These traditions had a noticeable impact on the conduct and culture of hunters, fishers, gatherers, dog handlers, and reindeer keepers (Bocharnikov et al. 2011).



Hunter's hut

© Andrey Laletin

Several different scenarios were developed in the traditional form of management in the north-eastern regions of the former Republic of Evenkia (now central part of Krasnoyarskii krai), where traditional economic activities were reindeer herding and hunting. In Soviet times, they were always supported by the state through donations.

Sustainable natural resource management practices by indigenous peoples of the North have a long history in the wilderness of the tundra, mountains, taiga, and coastal regions. The monitoring system used by traditional sea hunters of the Eastern Chukotka peninsula, characterized by a high degree of organization and equity among groups, involves active use of traditional knowledge and practices of indigenous populations and consultative processes for decision-making among resource users. Knowledge of surrounding vegetation and methods of rational utilization has been consistently reflected in the hunting, fishing and gathering activities of traditional communities in the past.

Indigenous peoples' knowledge acquires exceptional importance nowadays in the context of biodiversity preservation. Unfortunately, in Russia, as elsewhere worldwide, the loss of traditional knowledge and skills is widespread. The reduction of the traditional activities of indigenous peoples and the commercialization of NTFPs for trade is a serious contemporary problem in most parts of Russia inhabited by indigenous peoples. Urgent action, including economic, social, environmental and legal measures, is needed to help address these problems.

3.2. Key issues faced in governing and managing ICCAs

Over the past decade, it became clear that TTUNs were created reluctantly, this process encountering a lot of difficulties. The main problems for managing and governing TTUNs arise from the growing economic crisis, the suspension of subsidies, and the unprofitability of traditional economy. This is why many indigenous people drop the traditional nature uses and move to towns and other settlements in order to get a job as a maintenance worker and to earn at least any salary. For many years, many indigenous people used to work in reindeer state farms for crummy salary. Nowadays, the majority of indigenous people do not have enough resources, and in many places up to 60-70% of the population are unemployed. Less and less indigenous people go into taiga, where they are engaged in traditional lifestyle.

The impoverishment of indigenous peoples is not so much connected to the 'economic crisis', than to the fact that over the last 10 years indigenous peoples were deprived of the access to the traditional natural resources in the places of their traditional settlements and land use. This happened due to the government selling these resources to the commercial structures. The unwillingness of the government to establish the TTUNs is connected with the fact that the status of TTUNs – established according to the claims of the indigenous peoples – would have prevented the unlimited sales of licenses on the use of land, forest and marine resources on those territories (which has started in the 2001). Regrettably, the state policy on the territories of traditional settlement of indigenous peoples of the North, Siberia and the Far East is aimed not at biodiversity conservation, but at getting fast profit from selling the natural resources.

Some other problems on governing and managing TTUNs were described above in the section 2.3.

Box 2: Difficulties faced by communities to maintain their traditional activities

In Yamalo-Nenetskii Autonomous Okrug, oil exploration began in the 1960s, which disturbed the traditional pastures and migration routes of the reindeer. Oil workers poached some reindeer. Exploration sites were not cleaned up, which resulted in long-term damage to habitats and hazards on the tundra. In the late 1990s, major activities in oil and gas started in the *okrug* with increased exploration, new fields coming into production, development of a oil sea terminal and pipeline construction. The *okrug* receives compensation from the oil companies for the lands that they use, but little of it is distributed to the farms. On the other hand, some reindeer herding groups have signed their own agreements with oil companies. Despite the generally improved economy in the *okrug*, collective farms are still facing significant problems. Herders are not being paid and are losing interest in tending their herds. As a result, the number of reindeers continues to decline. Since 2000, there has been some evidence of an increasing resurgence in more traditional family-based structures for reindeer herding. In Nelmin Nos, two family communes emerged and later merged into one. They then secured rights to use a territory for herding, fishing and hunting. Despite their small herd of reindeer, they have managed to live on the production of the herd and their territory. At least one other commune has emerged, after having left a farm (Ferguson & Viventsova 2007).

After the economic crises of the 1990s, the national and regional governments are starting to increase financial support for reindeer herding. In the Nenetskii Autonomous Okrug, the government has supported reindeer herding farms for 80% of their costs to move their herds to the central slaughtering facility in Naryan-Mar.



Nenets family eat raw reindeer meat

(http://mariuver.files.wordpress.com/2008/09/korennnye_narody1.jpg)

Unfortunately, this support has not been sufficient to make herding a profitable industry in the Okrug. When pasturelands are withdrawn for oil and gas exploration and development, companies usually negotiate compensation with the administration of the *Okrug*. In the current situation, herding enterprises receive little of the compensation. In future, the herders or the representatives need to be able to negotiate directly with the companies. The Russian Union of Reindeer Herders has a team of lawyers and other experts that could assist local enterprises in negotiating the best forms and amounts of compensation (Ferguson & Viventsova 2007).

4. Recognition and support to ICCAs

4.1. Government recognition and support to ICCAs

(i) Legislative

A first step towards supporting indigenous peoples was taken in 1991, when all people engaged in traditional economic activities in the areas of the indigenous numerically small peoples of the North were exempted from land tax by the Federal Law ‘On Payment for the Land’.

The first mention of the term ‘Territory of Traditional Use of Nature’ (TTUN) in the official regulations occurred in the Russian Federation Presidential Decree of 22 April 1992 ‘On Urgent Measures to Protect Habitat and Economic Activity of Minorities in the North’.

The first definition of the TTUN in the federal legislation is given in the 1996 Federal Law “On the Basis of State Regulation of Social and Economic Development of the Russian North”, which considers TTUN at the same time as the basis of livelihood of indigenous peoples, and as a territory with a special regime of use and protection of natural resources for the conservation of biodiversity.

This approach to TTUN was further developed by the *federal* legislation with the adoption of the 2001 Federal Law ‘On Territories of Traditional Use of Nature of Indigenous Peoples of the North, Siberia and the Russian Far East’ (2001); Article 4 of which expressly states that one of the goals of TTUN creation is “*conservation of biological diversity in the territories of traditional nature use*”.

With this law, the Russian Federation appears to be the only country in the entire Arctic with a legislation that could protect ICCAs/TTUNs *de jure* (Ferguson & Viventsova 2007).

Unfortunately, the TTUNs have received little attention in the *regional (provincial)* legislation. This can be explained by the fact that provincial authorities in Russia always rely on the federal government and do not like to initiate anything. Lands allocated to indigenous peoples were considered primarily as lands for traditional economic activities. Accordingly, provincial acts that exist in several regions of Russia often did not have regulations aimed at protecting the biological diversity of these areas with the participation of indigenous peoples or those rules were not sufficient. This approach soon gave negative results. Many so-called ancestral lands were left to industrial development of natural resources in various ways.

The evolution of legal issues for TTUNs in Russia is well illustrated by the case of the Khanty-Mansiiskii Autonomous Okrug (KMAO) – described in Box 3 – a pioneer territory for the creation of TTUNs.

Box 3: the Khanty-Mansiiskii Autonomous Okrugs

(Source: Internet publication of Vice Governor of Khanty-Mansiiskii Autonomous Okrug, A. Raishev, 2002)

In 1992, both the presidential decree – ‘On the Urgent Measures to Protect Places of Residence and Economic Activities of Numerically Small Peoples of the North’ – and the regional decision of the Council of People’s Deputies of the KMAO adopted on its basis – ‘Regulations of the Status of Communal Lands in the KMAO’ – became effective. Communal lands were granted to communities for life as inheritable possessions, and 507 communal areas were organized in the KMAO, totalling 13.5446 million hectares. Both the presidential edict and the KMAO regulations identified the lands used for traditional subsistence activities as traditional/priority subsistence territories (territories of traditional/priority natural resource use). The novelty of this approach was mainly the fact that – apart from the exemption from payment for land – the lands incorporated in the TTUNs were transferred to indigenous peoples on the basis of inheritable life interest, which ensured them a *special* right based on their relations with the land plots and natural resources therein (Raishev 2002).

Unfortunately, as a whole, the presidential edict did not grant indigenous peoples *general* rights that would enable the right of inheritable life interest to become effective. Therefore, and since then, there have been gaps in the federal legislation, notably regarding the regulation of industrial activities, and further regulation of relations between indigenous peoples and other users (in particular, the of mineral deposits and other natural resources).

At the same time, the KMAO regulations envisaged regulation of these relations via binding contractual relations in the form of agreements between the owners of communal lands granted as TTUNs and, for example, users of mineral deposits and other natural resources. The fundamental features of these template forms of agreement approved by the government of the KMAO included:

- Agreement of the owner of the communal lands regarding the locations of industrial facilities as a condition to carrying out industrial operations within the boundaries of a TTUN;
- The fulfilment of financial and other obligations aimed at the socio-economic development of the indigenous inhabitants of the commune concerned;
- The identification of the status and types of communal lands, the system for granting the right to use the communal lands, cessation of the right to use them, etc.;
- The control over the fulfilment of conditions stipulated by the agreement on the part of the state, municipal authorities and indigenous peoples themselves.

The above regulations have been incorporated into the Charter of the KMAO and into regional laws – including the Regional Law ‘On the Use of Mineral Resources’, the Regional Law ‘On Land’, and the Regional Law ‘On Dispossession and Granting of Land Plots on the KMAO Territory’. Acting on the basis of these laws, representatives of the *okrug*’s government have become members of the commissions that supervise the compliance with the conditions of license agreements and the regulation of disputes over mineral resource use within the boundaries of TTUNs. Notably, there is a permanent interdepartmental commission on licensing mineral deposits and water resources. However, the given authority is carried out via special governmental bodies and services: forestry, management of land

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resources, water protection, ecology, etc. (Raishev 2002).

On the federal level, after the presidential edict of 1992, the laws dealing with TTUNs did not change for 7 years. However, from 1999, changes occurred, with the following laws being adopted: Federal Law 'On Guarantees of the Rights of Indigenous Numerically Small Peoples of the Russian Federation' (1999); Federal Law 'On General Principles to Organize Communities of Indigenous Numerically Small Peoples of the North, Siberia and the Far East of the Russian Federation' (2000); and, mainly, Federal Law 'On Territories of Traditional Nature Use (Territories of Traditional Natural Resource Use) of Indigenous Numerically Small Peoples of the North, Siberia and the Far East of the Russian Federation' (2001).

Apart from precisising the status of TTUNs, the 2001 federal law secured the Russian Federation as the TTUNs' owner and indigenous peoples as their users. While the owner and user of mineral deposits used to be the main contractual parties in cases of mineral resource exploitation of communal lands, the Russian Federation is now the owner of such lands, becoming the supervisory body monitoring their use as well as the guarantor of the indigenous peoples' rights.

Nevertheless, the implementation of this law has been intentionally slowed down by the government, which is not satisfied with the provisions it contains. This reluctance is expressed in the texts of the laws and bills it proposes. In 2006, there was removal of the provision for lands and other natural resources in the TTUNs to indigenous peoples.

Thus, the indigenous peoples' rights stipulated by the KMAO (provincial/regional) regulations about the status of communal lands, providing for 'semi-proprietary' contractual relations based on the right of inheritable life interest, have failed to acquire legal status in the federal legislation. Moreover, the Federal Land Code (2001) has stipulated that individuals (including indigenous peoples) shall not be granted land plots for gratuitous use. In this context, the implementation of all the KMAO regulations contradicting the Land Code has been suspended, including the suspension of the regulations about the status of communal lands.

The KMAO then took the initiative of creating TTUNs. The KMAO government issued in 2002 its enactment No.192 – 'On Territories of Traditional Use of Nature' – to recognize communal lands as TTUNs. But the introduction of TTUNs in the KMAO has not sorted out the main problems of: a) the status of indigenous peoples as land users; and b) the lack of a clearly defined legislative mechanism to defend the economic interests of indigenous peoples when mineral resources are being extracted.

Regarding the latter, the 1992 presidential decree – 'On Urgent Measures to Protect the Places of Residence and Economic Activities of Indigenous Numerically Small Peoples of the North' – and the 1991 – 'On Payment for Land' –, and the 1999 – 'On Guarantees of the Rights of Indigenous Numerically Small Peoples of the Russian Federation', – and the 2001 – 'On Territories of Traditional Nature Use of Indigenous Numerically Small Peoples of the North, Siberia and the Far East of RF' – federal laws all have established the right of indigenous peoples to gratuitous use of their lands, to compensate for damages resulting from a different use of TTUNs.

However, it should be emphasized that nothing new has been introduced into the federal legislation on TTUNs in this direction, although it was required to consolidate and develop

the above provisions; while the provision about the protection of economic interests of indigenous peoples through compensation for damages caused to traditional economy is not even mentioned. In addition, the 2001 Land Code has made it likely that land users will have to pay for the use of land (which will be leased) to carry out traditional economic activities. The lack of an efficient mechanism to protect indigenous economic interests in the process of mineral deposits exploitation has been caused by the lack of the above provisions in the federal law on TTUNs, as well as by the precedents set by the law 'On Guarantees of the Rights of Indigenous Numerically Small Peoples of the Russian Federation'. The payment of compensations should be ensured by the very fact that non-traditional methods of natural resource use are being practiced within the boundaries of TTUNs. Such compensation should be determined by the size of lands that will be industrially developed and thereby not available for traditional indigenous activities. The problem is aggravated by the fact that as of now there is no appropriate system of rules adopted in due order even with regard to damages to nature. Therefore, the above compensation payments are subject to taxation due to the lack of corresponding federal enforceable enactments. From the point of view of taxation laws, the amounts paid as damages to the owners of communal lands in accordance with economic agreements are not subject to any preferential treatment whatsoever (Raishev 2002).

Debate goes on within the KMAO about moving forward towards the introduction of TTUNs or preserving the institution of communal lands. The land status is a crucial issue indigenous peoples depend on, with ensuing rights and relations. While determining this status, the earlier developed indigenous economic activities should be taken into consideration. For example, if indigenous peoples used to carry out their economic activities within the same territories as non-indigenous users of mineral and other natural resources, these mutual relations should be maintained within the TTUNs and be regulated on a legislative basis including appropriate normative acts. Otherwise, the fundamental rights of indigenous peoples to traditional economic activities and the preservation of traditional ways of life would be undermined. Unfortunately, the current – 2001 – law cannot guarantee such rights since it gives non-indigenous users of mineral and other natural resources a legal possibility to operate freely within traditional indigenous territories, employing non-traditional methods of natural resource use, irrespective of the costs this entails for traditional land users. If indigenous peoples are not granted the right to independently dispose of their lands, including in TTUNs, it is just a matter of time and price before these are transferred to outside mineral and other natural resource users. Moreover, there is no room for state authorities in these property relations, although – in accordance with federal legislation and international principles – they should be a guarantor of indigenous peoples' rights (to carry out traditional economic activities and a traditional lifestyle).

In what way would the institution of TTUN sort out these problems? It seems essential to conduct an inventory zoning TTUNs in order to determine the status of each and every zone. Non-traditional activities would then be totally (e.g. in reindeer pastures) or partially restricted (with the observance of environmental protection and other conditions). These measures should be adopted with regards to the major challenge of preserving reindeer pastures (the basis for traditional economic activities and lifestyle of the local indigenous people). The achievement of this objective depends on the will of the State rather than on the results of individual agreements between the users of mineral deposits and the owners of communal lands. At the same time, the normative basis of the communal land institution also contains a number of vitally important provisions essential for preservation. These have been verified by practice and are ready for implementation. They include mechanisms to settle land; mechanisms to protect the economic interests of indigenous peoples in situations of

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mineral deposit extraction; the establishment of strict sanctions for non-traditional and unlawful use of communal lands by third parties, etc. The federal TTUN legislation currently in force, unfortunately, does not formulate clearly enough the above provisions and does not determine the mechanisms of their implementation, not translating theory into practice (Raishev 2002).

However, taking into account the possibility of adding amendments to the 2001 federal law on TTUNs, it seems that the institution of TTUN can be used to defend on a greater scale the rights of indigenous peoples to traditional economic activities and reindeer breeding development, to authorize the State to supervise the preservation of the legal status of these lands, to regulate their use, and to preserve the traditional lifestyle of indigenous peoples. Also, the elaboration of a new federal law on TTUNs is currently underway. In its first versions, it does unfortunately not contain zoning principles (federal, regional, local significance) and it restricts the possibilities for regional authorities to participate in the establishment and supervision of TTUNs. The prospects for the fast adoption of this new version of the law are unclear, but it is a important process to keep an eye on.

The process of creating TTUNs in the KMAO is underway, thanks to the experience gained and mechanisms based on the normative basis about communal lands to protect indigenous rights. When determining model territories and project proposals for TTUNs, the distinctive features, predefined land use conditions and traditional economic activities of indigenous peoples should be taken into account. The search for appropriate forms of land use by indigenous peoples pursuing traditional activities and users of mineral deposits and other natural resources is the key issue. Considering the representativeness of the problems faced by the KMAO, as well as the degree of its creativity and support to solve them, KMAO should be taken as a model territory for the introduction of TTUNs (Raishev 2002).



Young Khanty girl

© Eugeny Bakharev (<http://foto.mail.ru/bk/ctdth/Yugra/366.html>)

Indigenous organizations and communities in Russia have proposed to establish a significant number of TTUNs under the 2001 law; however, very few have been approved so far. Subsequently, many indigenous organizations have called for revision of the 2001 law to bring it more in line with the federal Forest and Land Codes. But the State Duma of the Russian Federation (analogue of the US Congress) is currently taking a different direction. In

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its review of the new draft of the Federal Law ‘On the Protection of Indigenous Habitat, Traditional Way of Life and Traditional Use of Nature of the Small Indigenous Peoples of the Russian Federation’, the Duma’s Committee on Natural Resources and Environment expressed concerns about the draft law, such as:

- The provisions for local indigenous communities to have preferential access to local water resources and forests, which would conflict with the Water and Forest Codes, which guarantee water and forest access to all – or many – other potential users;
- The Forest and Water Codes already protect the rights of indigenous peoples in these regards.

In September 2007, the Committee recommended against introduction of the new law for first reading until these and other issues are addressed. It seems obvious that the Committee’s view that other laws adequately protect indigenous rights differs from indigenous organizations and those who proposed the new law view.

Although the Russian Federation probably has the strongest potential law (the 2001 one) within the entire Arctic that could protect Community Conserved Areas, other laws and legal conditions largely disable actual implementation of the law that would enable legal establishment of Territories of the Traditional Use of Nature (TTUNs) by indigenous peoples, as seen above (Ferguson & Viventsova 2007).

Yet, if properly implemented, this law would provide TTUNs with the capacity to legally protect most *de facto* CCAs in Russia, since the purposes of the law are for:

- Protection the traditional environment and livelihood of indigenous peoples;
- Protection and development of traditional culture; and
- Protection of traditional ways of using natural resources and biodiversity.

It also states that the size and borders of TTUNs must be sufficient:

- To support reproduction and protection of the biodiversity of plants and animals,
- For local/indigenous people to utilize nature,
- To protect historically developed social and cultural relationships of indigenous peoples, and
- To protect the integrity of objects of historical, cultural inheritance.

The borders must be determined by federal, regional and local organizations.

TTUNs could be designated to include a wide variety of CCAs. In the legislation, the following are specifically listed:

- Inhabited areas, such as villages, houses, and temporary camps of hunters, fishers and reindeer herders.
- Lands and waters used for traditional land uses, such as reindeer herding, hunting, fishing on rivers, lakes and the sea, and gathering of wild plants.
- Properties of cultural, historical and religious/spiritual significance, such as spiritual buildings and constructions, ancient villages, burial grounds, and other heritage objects, and
- Any other potential areas or objects that may be recognized by laws of the Russian Federation or its regions.

The federal law gives a clear role to the indigenous members and organizations of the local communities in establishing laws or regulations for each TTUN. Although the laws governing the use of resources with a TTUN must be in agreement with the laws of the Federation and regional governments, the regulations of the TTUNs are to be based on the traditions of the local indigenous communities. The clauses on the legal regime governing

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TTUNs seem to allow for either community management of resources or co-management with regional governments, depending on agreements that may be reached with those governments. Other residents, businesses and organizations may also use a TTUN as long as that use is permitted by regulations of the TTUN. Ownership of the lands and waters within TTUNs is not given to the indigenous peoples; nevertheless, the use of resources within the TTUNs is given freely to members of the concerned indigenous people.

(ii) Administrative

In 2009, a Strategic Action Program for Environmental Protection of the Arctic Zone of the Russian Federation was developed (Anonymous 2009). It identifies key actions to implement the state policy in the Arctic zone, the establishment of special regimes of natural resources and environmental protection in this area, especially in areas with traditional farming of indigenous peoples. This Program improved the system of specially protected areas of regional importance and helped the creation of special economic zones to save both biological and landscape diversities, as well as gave favourable conditions for the traditional land use of indigenous peoples of the North. One of the important goals of the Strategic Action Program was to create regional systems of co-management of environment involving governments, indigenous communities and industrial companies in all Arctic regions of the Russian Federation. Achieving co-management goals is possible with the following steps forward: improving the regulatory framework for the protection of native habitats of indigenous peoples, including changes in legislation on TTUNs, introducing co-management in areas where indigenous peoples use mechanisms for integrated management of ecosystems (Anonymous 2009).

An important step towards the recognition of ICCAs was recently made with the creation of an official list of places where indigenous peoples may live and follow their traditional ways of life. The list was imposed by a Russian Governmental Edict (# 631-p) on May 8, 2009. In accordance with this Edict, the approved list of activities that are considered as traditional included:

- Animal husbandry, including migratory husbandry practices (reindeer breeding, horse breeding, yak breeding, sheep breeding);
- Processing of animal products, including collection, and curing of hides, wool, hair, ossified horns, hooves, antlers, bones, endocrine glands, meat, and by-products;
- Dog breeding (sled and hunting breeds, and dogs for driving reindeers);
- Animal breeding, processing and selling of animal breeding products;
- Wild-honey farming, bee-keeping;
- Fishing (including sea hunting) and selling of aquatic and marine biological resources;
- Commercial hunting, processing and sale of hunting products;
- Agriculture (market gardening), and also breeding and processing of valuable medicinal plants;
- Harvesting of timber and non-timber forest resources for personal use;
- Gathering (harvesting, processing and selling of wild food forest resources, collection of medicinal plants);
- Extraction and processing of common minerals for personal use;
- Art crafts and folk-crafts, including: blacksmithing, iron and steel trade, manufacture of utensils, equipment, boats, sledges and other traditional vehicles, musical instruments, birch bark products, stuffed animals and birds, fishing, souvenirs made of fur of deer and hunting animals and birds, and other materials, plaiting with grasses and other

plants, knitting of nets, bone and wood engraving, sewing of national clothes and other crafts and folk-crafts related to the processing of fur, hide, bone and other materials;

- Construction of national traditional dwellings and other buildings necessary for implementation of the traditional economic activities (Bocharnikov 2011b).

4.2. Civil Society recognition and support to ICCAs

It is essential to separate – by law – the competences of the government and the ones of active NGOs representing the interests of indigenous peoples in the sphere of environmental management.

RAIPON³ has been actively participating in this process since 2000, when it was asked by international NGO Earth Council to draw up a report on indigenous peoples' issues in Russia. When RAIPON found out that a national report on sustainable development in Russia was prepared by Russian NGOs, it proposed them to include a section on Indigenous Peoples of the North, Siberia and Far East Russia (Bocharnikov 2011a).

In 2001, at the IV Congress of Indigenous Peoples of the North, Siberia and the Far East, 326 delegates and over 200 participants from the regions discussed and adopted the Charter for Indigenous Peoples of the North. The section on indigenous peoples was included in a national report from the Government of Russia to the World Conference on Sustainable Development 'Rio + 10' in Johannesburg in 2002. On the two subsequent congresses, this unique ethnic association has considerably strengthened its position in the conduct of a balanced policy in all regions of Russia, which have preserved traditional natural management (Turaev et al. 2005).

Indigenous peoples' claims for the creation of TTUNs in 2001-2004 were massive. These included not only planning of the development of traditional subsistence activities, but nature protection measures as well. But many proposed TTUNs were not established and the recognition of indigenous peoples in the area of biodiversity conservation was not reflected in the laws. RAIPON tried many times to push the projects aimed at the protection of the ancestral lands, traditional subsistence lifestyle and land use of indigenous peoples through various committees of the State Duma, as well as published special issues dedicated to this problem in the almanac 'The World of Indigenous Peoples – the Living Arctic', as well as in other publications (see references).

4.3. Key issues for the recognition and support to ICCAs

As we have seen, creation of TTUNs is inhibited by the fact that so far the Russian government has not approved the Model Regulations on the TTUN at the federal level, which would make possible the development of TTUNs at the regional and local levels. Recently, the work plan of the People's Hural (Parliament) of Buryat Republic to review the bill on

³ RAIPON was created in 1990 at the First Congress of Indigenous Peoples of the North. It is a public organization that aims at the protection of human rights, defence of the legal interests of indigenous peoples of the North, Siberia and the Far East, and the assistance in solutions to environmental, social and economic problems, and the problems of cultural development and education. RAIPON works to guarantee the protection of native homelands and traditional way of life as well as the right to self-governance according to the national and international legal standards. It unites 41 indigenous groups whose total population is around 250,000 people, represented by 34 regional and ethnic organizations that have the authority to represent these groups both in Russia and in the international community (for further information, see <http://www.raipon.org/RAIPON/tabid/302/Default.aspx>).

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TTUN is of importance. However, as the experience in other regions of Russia shows (Khanty-Mansiiskii Autonomous Okrug, Khabarovskii Krai), in spite of the gaps in federal legislation, the ability to create TTUNs of regional and local levels exists (Shaphayev 2006).

Despite this unique legislation revealing the intent of the Russian Federation to recognize the special role and resource needs of its indigenous peoples, several complex issues have largely prevented its successful implementation on the ground. Some of the issues worth to mention are the following:

- Yakut and Komi peoples are excluded from establishing TTUNs because they are not indigenous small peoples, having populations of more than 50,000.
- Federal law recognizing the rights of indigenous peoples do not include mechanisms for the enforcement of those rights.
- The federal Land Code excludes representatives of indigenous peoples and their communities from being holders of land tenure rights, allowing the State and others to own lands where indigenous peoples utilize the resources.
- Establishment of TTUNs is left to regional governments, which may have little interest or motivation.
- There is no legal definition of ‘traditional’, or standardized methods of establishing community membership,
- All regional governments must agree on all boundaries and regulations for any TTUN that involved more than one jurisdiction.
- The law allows state and municipal governments to withdraw both lands and natural resources from TTUNs. Although the indigenous peoples and communities are to be compensated for expenses, and with equal lands or other resources, there is little assurance that the compensation would adequately meet their traditional needs and uses.
- Within the federal Land Code, TTUNs are Specially Protected Territories, while most lands used by indigenous peoples are within land categories where development is allowed.
- Land uses by non-indigenous people and developers are not given to indigenous communities for review, and government administrations tend to promote – much needed – economic development (Ferguson & Viventsova 2007).

The problems faced by the Saami people (see Box 4) provide a good example.

Box 4: The case of the Saami people

The Saami in northwest Russia have experienced major displacement for more than 70 years. Since 1932, reindeer herding, hunting and fishing has been excluded from a 100-km wide zone along the Finnish and Norwegian border zone. The Arctic tundra coastal zone remains closed to reindeer herding. After World War II, the Skolt Saami – who occupied an area that straddled the boundary with Finland – were forced to chose to live either in Russia or in Finland, when the border closed. Within Russia, the Soviet government closed 22 Saami villages in the Murmansk Oblast and forced all residents to move to Lovozero. As a result, the Saami of northwest Russia have lost much of their cultural and knowledge connections with their former lands. Unfortunately this trend has not stopped (Ferguson & Viventsova 2007).

The Murmansk Oblast has been a major mining and smelting centre since the 1930s, and is

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subjected to some of the most intense heavy metal pollution in the world. Visible damage to vegetation, including near total loss of vegetation and soil, has been documented up to 50 km from smelters at Nikel and Monchegorsk, with non-visible damage to vegetation documented up to 150 km from the smelters. The area of lichen-dominated habitat, critical for reindeer herding by Saami, declined from 3,000 km² in 1973 to only 500 km² in 1988. A new platinum, palladium and gold mine on the Kola Peninsula about 50 km from Lovozero is in early development by the Canadian company Barrick Gold near an important salmon river, the Ponoï. The *oblast* has one of the two highest cancer incidence rates in the Russian Federation (Ferguson & Viventsova 2007).

Russia's only profitable reindeer herding operation is threatened with a new potential hardship. The Murmansk Oblast is proposing to relocate funds given to reindeer herders to other agricultural users. V. Startsev, Director of 'Tundra' company in Lovozero, wondered, "*How can the reindeer breeding – the only preserved traditional industry of the regional indigenous people – survive with this kind of financing?*" (Anonymous 2007). 'Tundra' uses its profits to maintain other employment activities in the community (e.g., making traditional clothing). Reindeer herders and their families are economically poor compared to industrial and other workers in the Murmansk Oblast, despite a 34% increase in the average salary of 'Tundra' 's employees in 2000 compared to 1999. Reindeer herders earn more than other workers, but it also depends on the production of each brigade; herders in one brigade averaged \$110 USD per month, while herders in another one averaged only \$90 in 2000. Tchum-workers make and sell reindeer clothing and footwear for the cooperative, and average \$60 USD per month (Ferguson & Viventsova 2007).

The Saami of Kola Peninsula have lost access to their traditional salmon fishing areas that they had used in sustainable ways for 1000s of years on rivers, like the Ponoï. Local regulations implemented by the *oblast* government favour international sport fishing operations which have exclusive rights to fish major sections of rivers formally used by Saami. Despite the recognition of traditional use of natural resources in Russian legislation, reality of the ground threatens to erode that use, which is the basis of continuing the societal relevance of the underlying indigenous knowledge and customary practices. In recent times, the Saami have become poachers within their traditional fishing areas, and in some cases blamed for the past decline of salmon. At the same time, international sports fishers have been taking credit for working with the *oblast* government to rebuild salmon stocks. In the Soviet era, the environmentally and culturally important area of Seidjarv was a federally recognized protected area for community use. However, after 1991, it lost this status. In 2003, the community negotiated to have the area recognized as a state nature reserve under the administration of the Murmansk Oblast. The *oblast* administration believed that this action would save the area. However, there have been significant tourism impacts on the site subsequently, so that the community now regrets having made the agreement (Ferguson & Viventsova 2007).

In the 1990s, the economy of the mining town Revda, about 18 km from Seidjarv, went into a downturn, resulting in people from that area poaching fish in Seidjarv. Poachers also illegally built houses in the area. The media started reporting about the Saami sacred aspects of Seidjarv, leading to a large number of 'scientific expeditions' into the sacred area, and the destruction of trees and other features. Through a 2003 agreement between the *oblast* and the Saami, the area has been protected as a state nature reserve. International volunteers have done some restoration work in the area. Nevertheless, since the 2003 agreement, tourists have been trampling, littering and otherwise damaging this important environmental and cultural

area, which has caused much concern among the Saami. Both Saami and non-indigenous peoples have harvested the mountain birch ecotone forests of the Kola Peninsula, the latter lacking an intimate understanding of the fragility of these northern forests and the methods for ensuring their sustainability based on Saami experiences over the millennia. Saami access to the wood of the boreal forest to the south – that they used to augment their harvest of birch – has been greatly reduced, putting the birch forests under increased pressure and competition from the Saami themselves. Continued use of these forests by Saami is required to maintain some level of related knowledge and cultures (Ferguson & Viventsova 2007).

The Saami need to negotiate a new agreement of the Seidjarv area in order to have more direct control over tourism of the area, because the area's cultural and environmental features are not being adequately protected by the State. The Saami are not opposed to tourism *per se*, but they need to control and manage tourism and other activities to protect the areas of cultural and biodiversity value. In 2003 and 2004, an international environmental organization, KARP, arranged for youth to dismantle illegally built houses in the Seidjarv area. Now the community is asking for the public to stay out of the area to prevent doing more damage. The Saami have had to resort to protecting other important sites by keeping their locations secret from the remainder of Russian society; however, this is a very insecure method as developers could damage these sites inadvertently. Recognition of Saami methods of sustainable management birch forests through the establishment of a TTUN/CCA could potentially lead to the use of Saami traditional management to supply wood products to non-indigenous residents of the Kola Peninsula (Ferguson, Viventsova 2007).

With some support, the Saami could take their cause to re-establish their salmon fishing rights to the international arena. Through the internet, it is relatively easy to document the international tourism agencies and fishers who are taking advantage of the imbalance in Saami – foreign fishing access. Letter writing and foreign press campaigns could be used to embarrass both foreign companies and individual fishers who proudly display their rewards from such imbalances within Russia. Given that the Saami are open to tourism in general if done in ways compatible with their values and with benefits going to their communities, then the international fishers could continue to harvest salmon on the Kola Peninsula if managed within the context of recognized TTUNs/CCAs (Ferguson & Viventsova 2007).

5. The Future

5.1. Future activities planned by the communities, the government, and the civil society; especially in relation to issues of recognition and support

The following proposed bills might seriously modify national legislation on TTUNs:

- Bill to the Federal Law 'About the application of changes into the Federal law 'On the Protected Areas' and some other legislative acts of the Russian Federation' (Bill #97705-5 in the second hearing): it suggested the exclusion of TTUNs off the list of the Protected Areas (art. 93), which would deprive the TTUNs of nature protection.
- Bill to the Federal Law 'About the application of changes into the Federal Law 'On TTUNs of the Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation'⁴: it might significantly change the entire approach to the concept of TTUN. Earlier, TTUNs were defined as the Territories of traditional land use; now they would be called as parts of land and water areas where natural complexes and objects are

⁴ Published at: http://www.minregion.ru/documents/draft_documents/827.html

located, which have special significance for conducting traditional subsistence activities with a special regime of protection and economic activities. This amorphous definition does not offer TTUNs the status of a protected area that stimulates the biodiversity conservation. On top of that, the existing and future TTUNs automatically are excluded out of the list of objects that go under the state ecological expertise (EIA).

5.2. Recommendations

The maintenance of traditional livelihoods for indigenous peoples of the North requires natural resource management through traditional values and knowledge. While traditional management practices may provide financial incomes, the emphasis should remain on use of resources for personal and family consumption rather than for profit maximization. To be sustainable, natural resource use should be based on traditional values, special skills and comprehensive knowledge about the local environment, using appropriate technologies, with the distribution of final products through traditional systems of exchange, i.e. among a large group of relatives and friends. In contrast to the industrial production that is based on a division of labour, traditional natural resource management may be considered as a special kind of craft, i.e. an activity in which each practitioner is involved in the whole production cycle, which requires a broad perception of the environment. With these features, traditional natural management and livelihood may be considered as an ecological basis for sustainable development of northern peoples. Sustainable natural resource management within traditional societies has been possible where the size and density of the population remain within certain limits, and when individual consumption of natural resources is also limited. It also requires the survival of sufficient knowledge about nature and the utilization of natural resources, and the social regulation of resource utilization based on spiritual beliefs and attitudes.

Ferguson and Viventsova (2007) identified the following needs to encourage development of TTUNs/CCAs in Russia, moving from the more specific and urgent to the more general and long term ones:

- ✓ The Saami of Lovozero require urgent assistance to re-negotiate a better agreement with the administration of the Murmansk Oblast to protect important traditional sites with high cultural and biodiversity values. The Saami community needs control of tourism and other activities within and surrounding the site, as well as capacity building to enable it to participate fully in protected area planning and management, and tourism development.
- ✓ The attempt by the community to ask the public to stay away from Seidjarv⁵ could potentially be supported through expertise for other communities who have successfully undertaken such campaigns.
- ✓ The Saami of Lovozero may want help to start letter writing and foreign press campaigns to inform the international public, tourism companies and individual fishers about the imbalance in access to Saami traditional fishing areas. The Saami could solicit international support from fishers themselves to negotiate with the Murmansk government, to establish an extensive TTUN/CCA structure for local Saami management of sustainable traditional and tourist fishing throughout the Kola Peninsula and elsewhere on Saami traditional lands.

⁵ See: www.ruslapland.ru/seida_news2.htm

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- ✓ The Saami of Lovozero could be given assistance to clearly document and demonstrate their traditional sustainable management of birch and boreal forests and develop proposals to establish a CCA forest system, with a view to supplying wood products to other residents in the Murmansk Oblast. This could result in a new relationship between the Oblast, the Saami and the general public by which they could re-establish Saami management the forest.
- ✓ The Tundra Reindeer Cooperative may benefit from developing a long-term marketing strategy to rationalize its reindeer business, especially in relation to its high cost, low return beef business.
- ✓ The Saami of Lovozero may want to initiate negotiations with the Russian Federation to open up the 100-km-wide border zone for low intensity resource utilization on these ancestral lands. There are currently few if any competing interests in this zone. They could offer to have their movements within this area tracked by satellite telemetry to soothe the concerns of the State.
- ✓ Nenets herding enterprises need to be able to negotiate compensation directly with oil and gas companies for loss of their pastures to exploration and development, with legal and other support from the Russian Union of Reindeer Herders.
- ✓ Existing and new laws in Russia need to be explained to, and reviewed by, local herders, potentially following the public education and consultation process. Once herders have a better understanding of the laws, they will be able to take better advantage of them and to propose improvements.
- ✓ Networks of reindeer herders and their enterprises could enable on-going exchange of expert traditional knowledge, up-to-date status of range conditions and other information through improved access to the internet in villages.
- ✓ Russian government should establish laws that protect the intellectual property rights of indigenous peoples and their communities to their knowledge and practices of customary resource management practices. If the government become open to allowing use of indigenous management systems to conserve biodiversity and indigenous cultures, they have to ensure that profits from use of these systems should flow directly back to the communities.
- ✓ Legislation is urgently required in Russia to recognize inalienable rights of indigenous peoples to land and resources.
- ✓ It is critical that indigenous peoples in Russia are given the resources to document the knowledge of their few remaining elders who stayed on the land until fairly recently. This should include the information and skills needed for traditional teaching systems, and the mental skills and discipline needed to transmit decades-old information accurately and appropriately, as well as the basic knowledge and skills related to animal behaviour and anatomy, herding and hunting skills, and indigenous conservation strategies and methods. Indigenous communities should determine the extent and effort that they wish to spend on 'written' methods (e.g., on paper, video, computer and other fixed media) of conserving their knowledge, compared to conserving the traditional

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‘oral’ methods of their knowledge systems. Elders themselves have recommended the use of videos to preserve not only the oral knowledge and physical skills, but also to illustrate the methods used in traditional teaching. This would be important to do in small family groups on the land, as was done before elders started lecturing to large classes in schools.

- ✓ Written guidelines should be made available based on traditional hunting rules, practices and standards of conduct for each species and community. These could include proper harvesting and butchering procedures, safety protocols, use of appropriate traditional and modern weapons, and other procedures, largely aimed to minimize loss and wastage and to maximize safety.
- ✓ *De facto* CCAs can continue to enhance the fragile biodiversity and cultural diversity only by increasing their status as irreplaceable international, national and local cultural treasures. Such status could be conferred in today’s world through international and national public educational programs, combined with *de jure* confirmation that indigenous peoples can continue to manage these CCAs whether they be hunters, trappers, fishers, gatherers or herders. Such *de jure* recognition, coupled with local training of indigenous youth in traditional knowledge and customary practices, will help engender local pride and status that will encourage indigenous communities to remain involved and active in traditional activities.
- ✓ Indigenous knowledge needs to be incorporated into measures of both biodiversity and ecosystem health, as well as into measures of successful management of protected areas.
- ✓ Indigenous communities, research institutions and other organizations need financial support and capacity building to ensure effective implementation of CCA systems.
- ✓ Indigenous communities need to be able to develop their own sources of revenues from CCAs and other resources to ensure that their communities may move towards self-sufficiency.
- ✓ Indigenous communities need to be free to adapt their traditional systems to modern circumstances, without state governments or bureaucratic determining what is or is not ‘traditional’. Traditions have always evolved and should be expected to do so in the future.

The above suggestions are in line with RAIPON’s views, but – due to the recent legislative tendencies – RAIPON sees them as ‘unreal and inconsistent’. In the legislation of the Russian Federation, the role of indigenous peoples in the conservation has not yet found sufficient reflection. The role of indigenous peoples with the executive government authorities and environmental agencies is poorly understood. In this context, a set of measures to improve the legislation of the Russian Federation, the preparation of public education program for TTUNs, and the participation of indigenous peoples in the practical solutions of conservation and sustainable development are required.

TTUNs should be included into the Federal Law ‘On Specially Protected Natural Areas’. According to Article 95 of the Land Code of the Russian Federation, the planned territory of traditional nature use should be considered as reserved land that can be included into the

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network of protected areas. Some changes and additions to this law should also create conditions for the study, preservation and dissemination of indigenous knowledge and traditional knowledge in the field of conservation, and to attract representatives of indigenous peoples to work directly on the territories of traditional nature use.

The Federal Law ‘On Ecological Expertise’ (EIA) should make additions related to the necessity of ethnological expertise in areas inhabited by indigenous minorities. This would actually be in compliance with the planned business requirements of the constitutional protection of indigenous habitat and traditional lifestyle of ethnic minorities. In the Regulations ‘On Environmental Impact Assessment of planned economic activities on the environment in the Russian Federation’, it is necessary to make additions or special provisions on impact assessment of planned economic activities in the original environment and traditional lifestyles of indigenous peoples. A system of government measures should also be developed to prevent or significantly restrict the use of land in the TTUNs for mining. Misuse of TTUNs requires a system of government measures aimed at obtaining sufficient compensation through special development funds for future generations of indigenous peoples, and the development of special programs for indigenous peoples in TTUNs.

Programs to attract indigenous peoples to participate in the practical issues of sustainable development should include:

- ✓ Training of indigenous peoples in professions related to the protection of nature, including as inspectors.
- ✓ Providing employment quotas in institutions related to the protection of nature and located in places of traditional residence and economic activities for indigenous peoples.
- ✓ The development of ethno-ecological tourism in protected areas in places where the indigenous population prevails with the obligatory participation of representatives of indigenous peoples.

These measures will contribute to conservation and to the development of a network of protected areas, creating jobs for indigenous people that will mobilize their traditional knowledge and skills in the environmental field and not contradict their lifestyle. It should be stressed that the claims of indigenous communities for the creation of TTUNs demonstrate their understanding of conservation goals of biological diversity and cooperation in the field of nature protection in the territories of traditional residence and economic activity (Murashko 2010).

Finally, the following measures should also be of top priority (Raishev 2002):

- ✓ Amendments and supplements to the federal Land Code in order to permit indigenous peoples to use the lands of their residence on permanent and unlimited basis and to have ownership rights of their territories;
- ✓ Adoption at the federal level of a long-term system of rules to assess the damages caused to TTUNs by mineral and other resource exploitation by non-indigenous parties, with the aim of designing a financial compensation mechanism to indigenous peoples (and these amounts should be tax-exempt);
- ✓ Work out corresponding laws and provisions on TTUNs at the regional level with the inclusion of the above-mentioned standards and provisions; Develop more definite and consolidated standards in the federal law on TTUNs.

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